

*South Dakota*  
Department of Environment  
& Natural Resources  
Protecting SD's Tomorrow... Today

## WATER MANAGEMENT BOARD

October 7 - 11, 2013  
Best Western Ramkota  
Sylvan I and II Room  
2111 N. LaCrosse  
Rapid City SD

Scheduled hearing times are Central Time

### AGENDA

8:30 AM MDT October 7, 2013

Call to Order

Preliminary Matters

Sworn Testimony for Interveners that Elected Participation Status "B"  
in the matter of Water Permit Application Nos. 2685-2 and 2686-2, Powertech (USA) Inc and  
Ground Water Discharge Permit Application (GWD 1-13)

Upon Completion of Sworn Testimony by "B" Status Interveners, the Board will proceed with the  
contested case hearing involving Powertech, "A" Status Interveners and DENR

Meeting will continue throughout this week beginning at 8:30 AM MDT each day through Friday,  
October 11, 2013. At the conclusion of testimony on Friday, the hearing will be continued until  
the week of October 28 through November 1, 2013. Meeting will reconvene at 8:30 AM MDT on  
October 28, 2013, at this same location unless otherwise designated by the Board

NOTE: Scheduled times are estimates only. Breaks and recess will be at the discretion of the chairman.

### ADJOURN

"B" status interveners are individuals that filed a timely petition to intervene and have elected to provide  
sworn testimony at the beginning of the contested case hearing. Due to the large number of parties, each "B"  
status intervenor is limited to 15 minutes of testimony

"A" status interveners are individuals that filed a timely petition to intervene and have elected to participate  
as a fully party in the proceeding by presenting testimony, offer exhibits, cross examine other witnesses, make  
and defend objections, address legal argument and have the option to appeal to the courts

## **TABLE OF CONTENTS OF WATER MANAGEMENT BOARD PACKET**

**In the matter of Water Permit Application No. 2685-2 and 2686-2 and  
2012 Groundwater Discharge Plan Application Submitted by Powertech (USA), Inc.**

- 1. General Index of Pleadings contained in packet**
- 2. Report and Recommendation on Water Permit Application No. 2685-2**
- 3. Report and Recommendation on Water Permit Application No. 2686-2**
- 4. Affidavits of Publication of Notice of Hearing in the matter of Water Permit Applications**
- 5. Petition to Intervene in the matter of Water Permit Applications**
- 6. Notice of Recommendation on Application for a Groundwater Discharge Plan**
- 7. Affidavits of Publication of Notice of Hearing in the matter of Groundwater Discharge Plan**
- 8. Petitions for a Contested Case Hearing in the matter of the Groundwater Discharge Plan**
- 9. Orders Issued by Prehearing Chairman Everett Hoyt (see Section 11 for motions)**
- 10. Notices sent to Parties**
- 11. Filings by Parties -- Notices of Appearance, Powertech's Answer to Petitions and various Motions**

GENERAL INDEX OF PLEADINGS CONTAINED IN PACKET

Date Rec'd	DESCRIPTION
11-6-11	Staff Report and Chief Engineer's Recommendation (Madison Application), and Staff Report and Chief Engineer's Recommendation (Inyan Kara Application), filed by G. Erbele
11-2012	Published Notices of Hearing (WR Applications)
11-2012	Petitions to Intervene, Letters of Concern, and Requests for Delay (WR Applications)
11-28-12	Notice of Delay, filed by G. Erbele
	Notice of Recommendation on an Application for a Ground Water Discharge plan filed by Powertech (USA), Inc., filed by S. Pirner
	Publication of Notice of Recommendation
1-2013	Requests for Contested Case Hearing Ground Water Discharge
1-26-13	Notice of Appearance, filed by M. Main (Water Permits)
1-26-13	Notice of Appearance, filed by M. Main (Groundwater Discharge Plan)
1-30-13	Appointment of Prehearing Chairman dated 10-3-12, Notice of Hearing on Groundwater Discharge Plan Application, Motion to Consolidate and Motion for Procedural Order( with Proposed Procedural Order and Election of Participation form), Notice of Procedural Hearing (Prehearing Conference) and Answer of DENR Groundwater Discharge Program, filed by R. Giedd
1-31-13	Corrected Certificate of Service, filed by R. Giedd
2-6-13	Powertech's Answer to Petitions to Initiate Contested Case , filed by M. Main
2-14-13	Procedural Order (with Election of Participation form), filed by E. Hoyt
2-15-13	Notice of Procedural Order, filed by G. Erbele
2-22-13	Notice of Appearance, filed by M. Hickey (with Supplemental Declaration of Robert E. Moran)
3-26-13	Notice of Establishment of Hearing Date, filed by G. Erbele
3-26-13	Order Granting Intervenors Wilson, Meyers, Barnes and Custer Conservation District
4-25-13	Motion of Fall River County to Dismiss its Petition to Intervene, filed by M. Ortner
5-24-13	Order Granting Fall River County's Motion to Dismiss, filed by E. Hoyt
5-31-13	Notice of Order Granting Fall River County's Motion to Dismiss, filed by J. Goodman
7-25-13	Request to Intervene as a Party, filed by Linsey McLean
8-12-13	Request by Sylvia Lambert to Change Election Status to "B"
8-7-13	Notice of Change in Election of Sylvia Lambert ("A" to "B") , filed by J. Goodman
8-9-13	Order Granting In Part and Denying in Part McLean Petition to Intervene, filed by E. Hoyt.
8-13-13	Notice of Order Granting In Part and Denying in Part McLean Petition to Intervene, filed by J. Goodman
8-20-13	Notice of Prehearing Conference and Motions Hearing, filed by JP Hallem
8-26-13	Motion of Brenda Gamache, filed by B. Gamache (Re: Surface Water Quality Program)

GENERAL INDEX OF PLEADINGS CONTAINED IN PACKET

<b>9-4-13</b>	DENR WR and GWQ Response to Gamache Motion, filed by R. Giedd, D. Best
<b>9-9-13</b>	Powertech Motion to Allow Narrative Testimony, filed by M. Main
<b>9-10-13</b>	Letter and Order Denying Motion of Brenda S. Gamache, filed by JP Hallem
<b>9-10-13</b>	Memorandum for Prehearing Chair Hoyt to "B" Participants, filed by JP Hallem
<b>9-11-13</b>	Black Hills Wild Horse Sanctuary, Susan Watt, and Dayton Hyde's Motion to Disclose, Brief in Support and Affidavit of M. Hickey, filed by M.Hickey
<b>9-11-13</b>	Black Hills Wild Horse Sanctuary, Susan Watt, and Dayton Hyde's Motion to Continue, filed by M.Hickey
<b>9-11-13</b>	Black Hills Wild Horse Sanctuary, Susan Watt, and Dayton Hyde's Motion to Disclose (and Brief in Support), filed by M.Hickey
<b>9-11-13</b>	CWA Joining Motions of Black Hills Wild Horse Sanctuary , filed by B. Ellison
<b>9-13-13</b>	Objection to Powertech Motion to Allow Narrative Testimony, filed by S. Henderson
<b>9-13-13</b>	Sabrina King's Objections to Applicant's Motion, filed by S. King
<b>9-13-13</b>	Gardner B. Gray Objection to Applicant's Motions, filed by G. Gray
<b>9-13-13</b>	Gena M. Parkhurst Objections to Applicant's Motions, filed by G. Parkhurst
<b>9-13-13</b>	Rebecca Leas Objections to Applicant's Motions, filed by R. Leas
<b>9-13-13</b>	Black Hills Wild Horse Sanctuary, Susan Watt, and Dayton Hyde's Response to Powertech's Motion for Narrative Testimony, filed by M.Hickey
<b>9-13-13</b>	Gamache Request to Reconsider (surface water quality)
<b>9-16-13</b>	Powertech's Response to Wild Horse Santuary's Motion to Disclose and Request for Protective Order, filed by M. Main
<b>9-16-13</b>	Powertech's Response to Motion to Continue, filed by M. Main
<b>9-16-13</b>	CWA Objection to Powertech's Motion to Allow Narrative Statement, filed by B. Ellison
<b>9-23-13</b>	Order Denying Powertech's Motion to Allow Narrative Testimony
<b>9-23-23</b>	Order Upon Reconsideration Denying Motion of Brenda S. Gamache
<b>9-23-13</b>	Order Denying Black Hills Wild Horse Santuary, Susan Watt & Dayton Hyde's Motion to Continue
<b>9-23-13</b>	Notice transmitting Order to Fully Party Participants, filed by Jeanne Goodman

REPORT TO THE CHIEF ENGINEER  
ON  
WATER PERMIT APPLICATION NO. 2685-2  
POWERTECH (USA) INC.  
November 2, 2012

Powertech (USA) proposes to recover uranium by a method known as in-situ recovery, or ISR, in which groundwater from the formation containing uranium (the Inyan Kara Group) is pumped to the surface from a field of wells, fortified with oxygen and carbon dioxide, and recirculated through the formation. The oxidized groundwater changes the uranium to a soluble form and is pumped to the surface, where uranium is removed from the solution. ISR circulates water through the uranium ore zone. Only a small fraction of the water is a net withdrawal because most water is recirculated back through the ore zone. A portion of the water extracted from the Inyan Kara Aquifer will be "bled off" to maintain a cone of depression so native groundwater continually flows toward the center of the production zone. Production bleed rates may vary in the range of 0.5 to 3 percent over the life of the project. If necessary, a bleed of up to 17 percent will be used briefly during aquifer restoration. The ISR process is repeated until the economic reserves of uranium are fully removed from that particular well field. The process moves to another well field, and the uranium depleted well field is restored by continuing to circulate clean water through the wells until the water is similar in quality to the water that existed in the formation prior to the ISR operations. Most of the water removed from the Inyan Kara Aquifer during the ISR process is recirculated and re-injected through the well field, resulting in the net consumptive use of water being a small portion of the gross withdrawal rate. Most of the water used in the ISR operations will be obtained from the Inyan Kara Group. However, Powertech (USA) plans to use water from the Madison Aquifer to make up for water that is not provided from the ISR process. The amount of "make-up" from the Madison Aquifer will depend upon the water disposal method which is either deep disposal well or land application. The use of water from these two formations necessitates obtaining water permits from each source. The eastern portion of the project area is known as the Burdock area. It will include a series of ISR well fields and a central processing plant. The western portion of the project areas is the Dewey area which will include ISR well fields and a satellite processing plant.

Water Permit Application No. 2685-2 proposes to appropriate up to 888.8 acre-feet of water annually at an instantaneous peak diversion rate of 1.228 cubic feet of water per second (cfs) (551 gallons per minute (gpm)), from two wells 2,700 – 3,400 feet deep, completed into the Madison aquifer. The wells are to be located in the NW¼ NW¼ Section 32, T6S, R1E and the NW¼ NE¼ Section 11, T7S, R1E. The water is to be used primarily for aquifer restoration following in-situ recovery (ISR) mining but may also be used to supply the facility including the central processing plant, satellite plant and for domestic and livestock use for area landowners inside and near the project area. The amount of water that will be diverted from the Madison aquifer for this project depends on the water disposal method that will be used as part of the ISR process. The disposal method has not been determined but will be either through deep disposal wells or land application. The use of land application disposal will require a diversion rate of 551 gpm, and using deep disposal wells will require a diversion rate of 160 gpm from the Madison aquifer.

## AQUIFER: MADISON (MDSN)

### GEOLOGY AND AQUIFER CHARACTERISTICS:

The Madison aquifer is a major regional aquifer that underlies parts of Montana, North Dakota, South Dakota, Wyoming and Canada. The aquifer underlies most of western South Dakota and a small part of Eastern South Dakota (Figure 1).

The Madison aquifer contains an estimated 644,827,200 acre-feet of recoverable water in storage in western South Dakota (Allen and others, 1985) and 51,512,300 acre-feet of recoverable water in storage in eastern South Dakota (Hedges and others, 1982).

The Madison aquifer occurs within the Mississippian aged Madison Limestone which is locally known as the Pahasapa Limestone. The Madison Limestone is a massive limestone and dolomite with relatively low primary permeability and porosity. Extensive secondary porosity and permeability occur within the Madison in the form of fractures and solution openings. The upper portion of the Madison Limestone in particular is karstic with caves, solution collapse features and enlarged conduits. A number of high yield wells have been developed in the Madison aquifer where these enhanced porosity and permeability features are favorable. The average porosity of the Madison is estimated to be 11% and the effective porosity from which recoverable water can be obtained by wells is assumed to be 5% (Rahn, 1979). The Madison Limestone is estimated to be between 300 feet thick (Carter and Redden, 1999a; and Carter and Redden, 1999b) and 400 feet in this area (Gries, 1981). The Madison dips to the southwest in this area at approximately 200 feet per mile (Carter and Redden, 1999a). The top of the Madison is estimated to be approximately 3,130 feet below ground surface at the "Dewey" well site and approximately 2,715 feet below grade at the "Burdock" well site (Carter and Redden, 1999a).

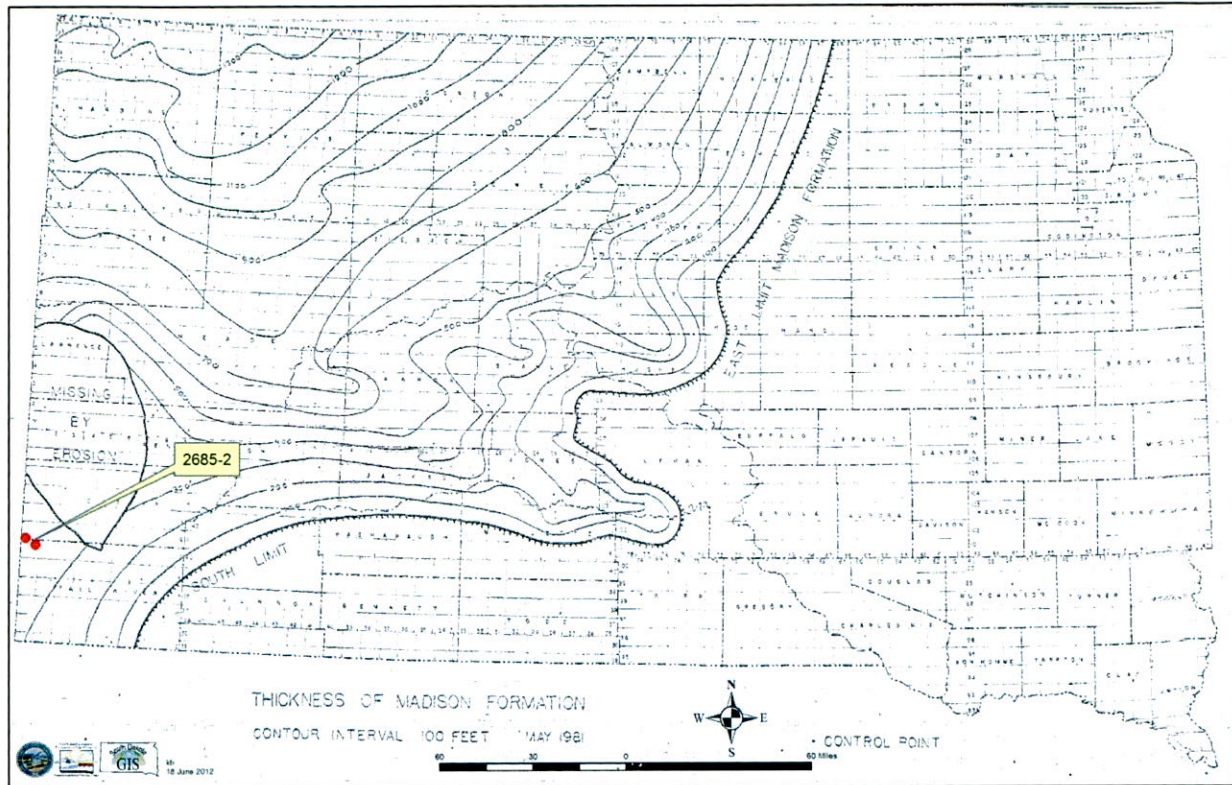


Figure 1. Areal Extent of the Madison Formation in South Dakota and the location of Water Permit Application No. 2685-2: (modified from Gries, 1981)

The well sites, “Dewey” and “Burdock” proposed by this application are located approximately two and one-half, and five and three-fourths miles south, respectively of the Dewey Fault and Structural Zone (DeWitt and others, 1989; and Brobst, 1961). Directly north of the proposed “Dewey” well, the Madison has been displaced approximately 300 feet vertically by the fault and north of the “Burdock” well site the vertical displacement at the fault is approximately 500 feet (Carter and Redden, 1999a). Southwest trending folding (an anticline and syncline) has been identified approximately five miles east-northeast of the proposed well sites and the north-south trending Sheep Canyon monocline is located approximately 11 miles east of “Burdock” well site (Strobel and others, 1999). A generalized stratigraphic column for this area is shown in Figure 2.

The Madison is generally considered an excellent aquifer in terms of its potential to supply good quality water to relatively productive wells, especially near the outcrop (recharge area). The well sites proposed by this application are located 18-20 miles southwest of the Madison outcrop (Strobel and others, 1999).

ABBREVIATION FOR STRATIGRAPHIC INTERVAL	GEOLOGIC UNIT		
Kps	GRANEROS	MOWRY SHALE	
		MUDDY SANDSTONE	NEWCASTLE SANDSTONE
		SKULL CREEK SHALE	
		FALL RIVER FORMATION	
Kik	NYAN KARA GROUP	LAKOTA FORMATION	
		MORRISON FORMATION	
Ju	SUNDANCE FORMATION		
	GYPSUM SPRING FORMATION		
TPs	SPEARFISH FORMATION		
Pmk	MINNEKAHTA LIMESTONE		
Pa	OPECHE SHALE		
PIPm	MINNELUSA FORMATION		
MDme	MADISON (PAHASAPA) LIMESTONE		
	ENGLEWOOD FORMATION		
Od	DEADWOOD FORMATION		
pCu	UNDIFFERENTIATED IGNEOUS AND METAMORPHIC ROCKS		

Figure 2. Generalized stratigraphic column for this area (modified from Carter and others, 2003)

The lower portion of the Madison and the underlying Englewood Formation form a lower confining zone (Strobel and others, 1999). The Minnelusa Formation unconformably overlies the Madison aquifer and generally serves as an upper confining layer. However, “The hydraulic connection between the Madison Limestone and Minnelusa Formation is spatially variable and may result from faults, fractures, and breccia pipes. Collapse features ... may be pathways for vertical movement of water between these two units.” (Putnam and Long, 2007). The water levels of DENR-Water Rights’ observation wells in the area indicate very distinct potentiometric surfaces in the Minnelusa and Madison, and suggest the aquifers are hydraulically separated.

**SDCL 46-2A-9**

Pursuant to SDCL 46-2A-9, a permit to appropriate water may be issued only if there is reasonable probability that there is unappropriated water available for the applicant's proposed use, that the proposed diversion can be developed without unlawful impairment of existing rights and that the proposed use is a beneficial use and in the public interest.

**WATER AVAILABILITY:**

The probability of unappropriated water available for appropriation can be evaluated by considering SDCL 46-6-3.1 which requires that:

“No application to appropriate groundwater may be approved if, according to the best information reasonably available, it is probable that the quantity of water withdrawn annually from a groundwater source will exceed the quantity of the average estimated annual recharge of water to the groundwater source.”



**Water Balance:**

Recharge to the Madison aquifer occurs through streamflow losses and direct infiltration of precipitation at the outcrop area. “Precipitation recharge [in the Black Hills] is consistently larger than streamflow recharge; however, the relative proportion of streamflow recharge increases as combined recharge decreases” (Carter and others, 2001a). Recharge to the Madison aquifer in South Dakota has been estimated to range from 140,000 to 400,000 acre-feet per year (Woodward-Clyde, 1981). Woodward-Clyde however, essentially defined the Madison aquifer as everything between the Precambrian and the Cretaceous shales. As part of the Black Hills Hydrology Study, the average annual recharge to the Madison aquifer from 1931-1998 was estimated to be approximately 137,000 ac-ft/yr (Carter and others, 2001a).

The high cost of Madison wells, except very near the outcrop, and the availability of groundwater from shallower sources, has limited domestic development from the aquifer. Carter and others, (2001b) estimate “Self-supply Domestic” and “Livestock Watering” only account for approximately 2.25% of the water use from the Madison aquifer. In general, well withdrawals from the Madison are for uses which require water rights/permits. The majority of the water rights/permits from the aquifer are from Butte, Lawrence, Meade, Pennington and Fall River Counties. The Madison supplies water for irrigation, geothermal, industrial, and commercial uses. However, by far the major use of the aquifer is for water distribution systems (suburban housing development and municipal use). The cities of Spearfish, Belle Fourche, Sturgis, Rapid City, Box Elder, and Edgemont all depend on water from wells completed into the Madison aquifer.

There have been a total of 213 applications made for appropriations from the Madison; the statuses of these applications are shown in table 1.

STATUS	NUMBER
Approved and licensed	94
Approved and not licensed	63
Future Use reservation	7
Incorporated into a license	28
Cancelled	17
Denied	1
Deferred	1
Withdrawn	2

Table 1. Water permit applications from the Madison aquifer in South Dakota

There are currently a total of 164 appropriations plus one deferred application from the Madison aquifer in South Dakota. Assuming that: (1) future use permits will be fully developed; (2) appropriations with a specified annual volume limitation will divert to their maximum limit; and (3) appropriations limited by diversion rate only, will be used at 60 percent of full time usage at their maximum diversion rate; the appropriations represent a potential maximum annual withdrawal from the Madison aquifer of approximately 55,000 ac-ft/yr. The assumptions used to estimate the potential maximum withdrawal from the aquifer are extremely conservative and represent a “worst case scenario.”

Almost all of the water use from the Madison aquifer in South Dakota is from the Black Hills area. The withdrawals from all wells completed into the Madison aquifer in the Black Hills of

South Dakota and Wyoming, were estimated to average 12,310 acre-feet annually from 1987-1996 (Carter and others, 2001b). The “potential maximum annual withdrawal” from the aquifer for 1996, using the assumptions given above for the appropriations in 1996 is 35,831 ac-ft/yr. Applying the 1996 “potential maximum annual withdrawal” to the estimated average annual use ratio, the average annual withdrawal corresponding with a potential maximum annual withdrawal of 55,000 ac-ft/yr would be less than 20,000 ac-ft/yr.

The quantities of both the average annual recharge and the average annual use for the Madison aquifer are both small percentages of the amount of water stored in the Madison aquifer so the aquifer can actually withstand several years of drought conditions with only minimal impact to wells or springs. Comparison of average annual recharge and average annual withdrawal estimates for the Madison aquifer indicate that unappropriated water is available from the Madison aquifer. The simple water budget comparing the estimated average annual recharge and the potential withdrawal by existing wells and current appropriations is not intended to suggest that all of the water that is in storage in the Madison or that all of the recharge to the aquifer is available for this appropriation, merely to demonstrate that in general the Madison aquifer is an immense resource that is relatively untapped.

**Localized Hydrologic Budget:**

Carter and others (2001b) developed a hydrologic budget for the Madison and Minnelusa aquifers combined, for a subarea based on the hydrogeology, which includes this project area. The hydrologic budget for this subarea balanced from 1987-1996, by estimating that water enters the subarea through streamflow recharge, precipitation recharge and groundwater inflow from the northwest and from the west. Water was assumed to exit this subarea through groundwater outflow to the east, artesian springflow and well withdrawals (see table 2).

Stream-flow recharge	Precipitation recharge	Minnelusa ground-water inflow	Madison ground-water inflow	Minnelusa ground-water outflow	Madison ground-water outflow	Artesian spring-flow	Well withdrawals
4.4 cfs	6.1 cfs	24.5cfs	23.2cfs	8 cfs	4 cfs	44.3 cfs	1.8 cfs

Table 2. Hydrologic budget for the subarea that includes the project area proposed by Application No. 2685-2 for Water Years 1987-1996. Modified from (Carter and others, 2001b).

It is clear that in this subarea most of the recharge to the Madison aquifer is through groundwater inflow, and water leaves this subarea primarily through artesian springflow and groundwater outflow. There are only 27 wells on file with the DENR-Water Rights Program that appear to be completed into the Madison aquifer in the subarea that includes this proposed project (Water Rights, 2012c) and as shown in table 2, well withdrawals are a minor component. Springflow, groundwater inflow and groundwater outflow are all dependent on the groundwater gradient at the subarea boundaries or near the springs. As the aquifer is stressed by changing one or more of the variables in the hydrologic budget, the other interdependent variables adjust until the system equilibrates. Obviously, a new hydrologic budget can balance for this subarea (i.e. a new condition of dynamic equilibrium) with an increase of well withdrawals through a decrease of the natural discharge from the aquifer or an increase of groundwater inflow from adjacent subareas. It can be assumed that with a very subtle change in the hydraulic gradient at either the

inflow zone or the outflow zone, a new dynamic equilibrium would be established in this area with virtually immeasurable impacts to the amount of water in transient storage. Therefore, there is a reasonable probability that unappropriated water is available from this subarea for this proposed use.

**Observation Well Data:**

Administrative Rule of South Dakota Section 74:02:05:07 requires that “the Water Management Board shall rely upon the record of observation well measurements to determine that the quantity of water withdrawn annually from the aquifer does not exceed the estimated average annual recharge to the aquifer.”

The Water Rights Program monitors 26 observation wells completed into the Madison aquifer in the Black Hills area (Water Rights, 2012a). This project area is located within approximately 15 miles of two Water Rights’ Observations completed into the Madison aquifer. Hydrographs for the wells show the aquifer’s response to climatic conditions and clearly demonstrate the system is recharged, (see figures 3 and 4).

The analysis of the DENR-Water Rights Program observation well data provides a qualitative means of assessing the aquifer and provides the best information reasonably available to evaluate the hydrologic budget for the Madison aquifer. Observation well data showing a steady, continual decline of the aquifer’s water level or artesian pressure could indicate that withdrawals from the aquifer were exceeding recharge. In addition, water level fluctuations in an aquifer dominated by the influences of well withdrawals, or a change in the gradient of the potentiometric surface could indicate that well pumping is a significant component in the system relative to recharge and/or natural withdrawals.

Observation well data for the Madison aquifer documents: 1) upward trending water levels; 2) that at the current level of development, climatic conditions greatly mask any temporal effects of well withdrawals thus the combined recharge to and natural discharge from the Madison aquifer significantly exceeds long term well withdrawals; and 3) the potentiometric surface of the aquifer has been relatively unchanged over time. Therefore, the observation well data shows that unappropriated water is available from the Madison aquifer.

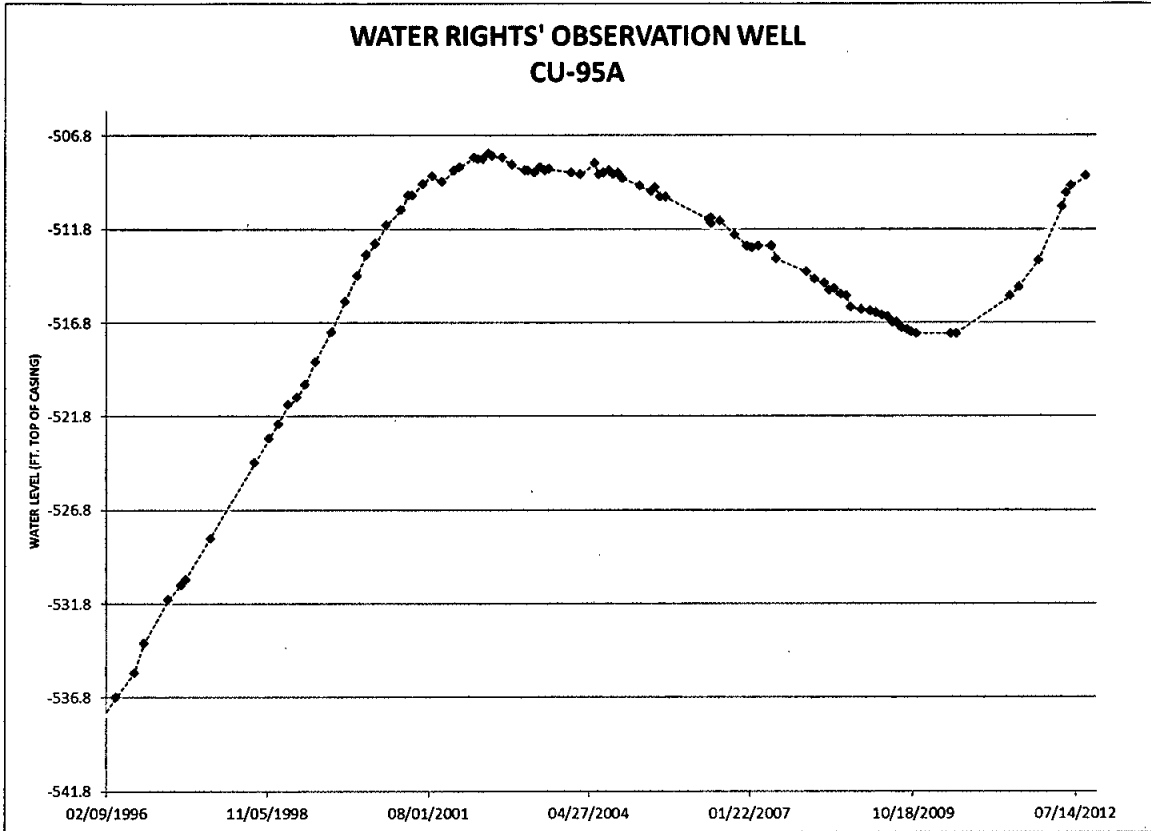


Figure 3. DENR-Water Rights observation well completed into the Madison aquifer located approximately 10 miles northeast of the project area proposed by Application No. 2685-2.

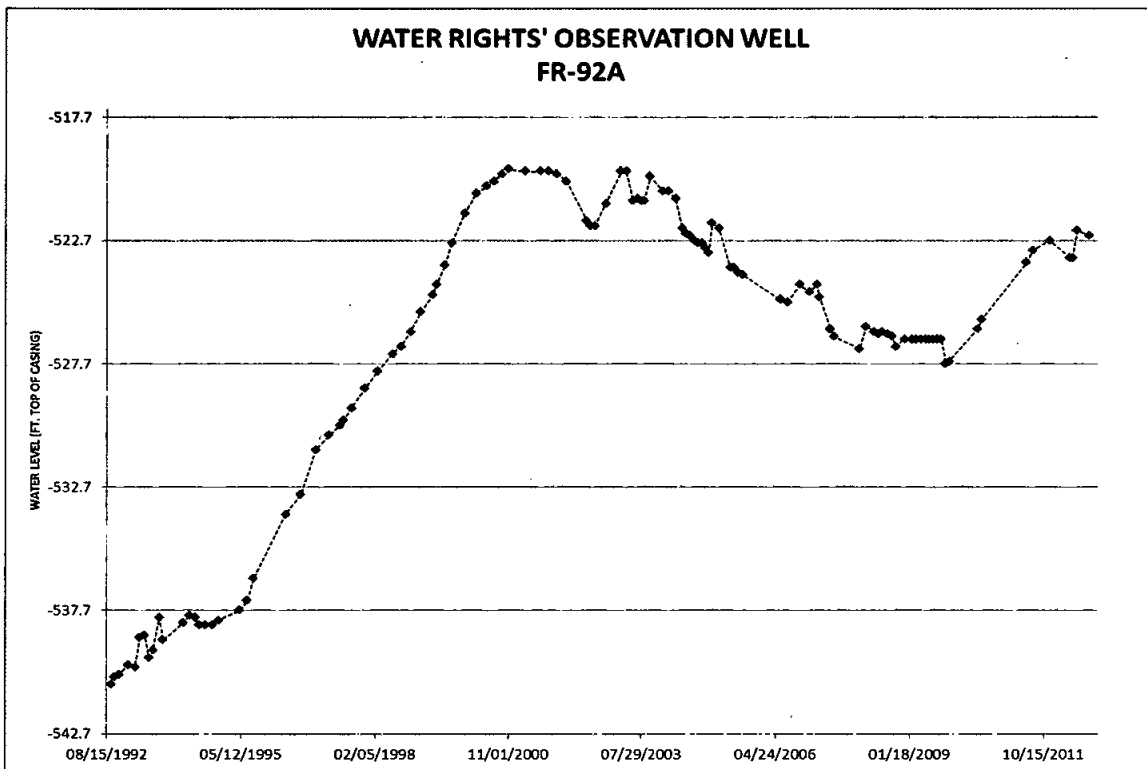


Figure 3. DENR-Water Rights observation well completed into the Madison aquifer located approximately 15 miles east of the project area proposed by Application No. 2685-2.

**AFFECTS ON EXISTING RIGHTS:**

Water Rights/Permits supplied by wells completed into aquifers that are stratigraphically above or below the Madison are not expected to be affected by Madison aquifer withdrawals since the lower Minnelusa Formation and the lower Madison Limestone generally serve as upper and lower confining units for the Madison aquifer. The displacement of the Madison Limestone caused by the Dewey Fault likely provides a north-south groundwater barrier for most of the length of the fault and drawdown from wells south of the fault is not expected to extend to the north of the fault.

It is difficult to precisely estimate the amount and extent of drawdown that will result from pumping a well completed into the Madison aquifer since the well conditions are site specific. The transmissivity of the aquifer is very heterogenous with values that range over several orders of magnitude (Putnam and Long, 2007). In addition the aquifer characteristics of the Madison can vary considerably within a short distance (Greene, 1993). The transmissivity of the Madison at flow zones into and out of this subarea was estimated at between 732 and 7,393 feet squared per day (ft<sup>2</sup>/d) (Carter and others, 2001b). The hydraulic gradient of the Madison aquifer in this area appears to be very low which generally indicates high transmissivity (Water Rights, 2012a; Water Rights, 2012b and Water Rights, 2012c). The transmissivity for this subarea is expected to be as high as 7,393 ft<sup>2</sup>/d in this area (Carter and others, 2001b) therefore drawdown could be even less than predicted by the Theis equation.

Applying the transmissivity and storage coefficient (i.e. T= 3,000 ft<sup>2</sup>/d; and S= 2x10<sup>-4</sup>) estimated for the Madison aquifer in this area (Woodward-Clyde Consultants, 1980), the drawdown 1,000 feet

from a well pumping 551 gpm would be less than 35 feet after twenty years of continuous pumping based on the Theis Equation (see Figure 4) (“Theis Equation Calculator”). Since the transmissivity for this area is likely higher than 3,000 ft<sup>2</sup>/d, drawdown would be less than predicted by the Theis Equation. The Theis equation requires a number of simplifying assumptions, some of which may not apply in this case however, the solution is still useful.

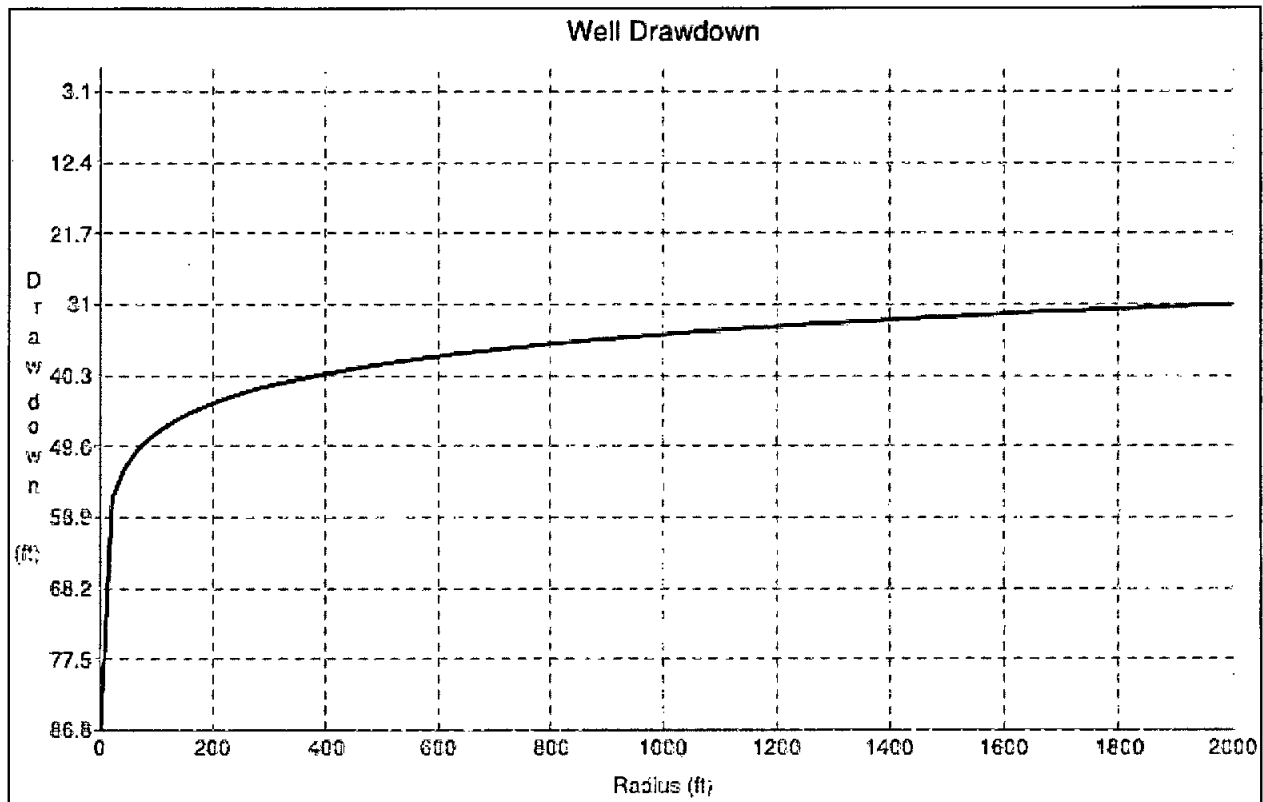


Figure 5. Drawdown predicted from a well pumping 551 gallons per minute from the Madison aquifer, continuously for one year, assuming  $T= 3,000 \text{ ft}^2/\text{d}$ ,  $S= 2 \times 10^{-4}$ ,  $t=20 \text{ yrs.}$  (modified from (“Theis Equation Calculator”))

There are only 16 wells on file with the DENR-Water Rights Program that appear to be completed into the Madison aquifer within approximately 16 miles of this project area. Only one of these wells, a domestic well for Steve Casters, located in the SE $\frac{1}{4}$  SW $\frac{1}{4}$  Section 14, T5S-R1E (i.e. approximately nine miles north-northeast of the “Dewey” well proposed by this application), is within 10 miles of this project area. If this application is approved, drawdown from either or both wells is not expected to be significant to existing wells. Well interference is not expected to be significant.

If this application is approved, the drawdown caused by pumping a well or wells at a rate of 551 gallons per minute is not expected to adversely impact domestic wells or wells supplying prior appropriation. This is especially the case when considering the Madison is under artesian conditions with several hundred feet of head pressure at the documented natural fluctuation in this area (see figure 3 and 4). Wells supplying existing Water Rights/Permits and domestic uses are protected from adverse impacts per Water Management Board rules 74:02:04 and 74:02:05, which were promulgated pursuant to SDCL 46-6-6.1. These rules provide for the regulation of

large capacity wells to the degree necessary to maintain an adequate depth of water for a prior appropriator in wells that have the ability to produce water **independent of artesian pressure**. Simply put, the pump placement in a prior appropriator's well is not necessarily protected.

If the water levels in the Madison aquifer were to decline, owners of existing wells bear the responsibility of lowering the pump inlet in the well to the top of the aquifer, if necessary. Increased lift would decrease the pump discharge; or require a larger pump or a different type of a pump to maintain the same output.

An increase in operating expenses that may result from interference between wells is not necessarily an adverse impact. The Water Management Board considered this situation in the matter of Water Permit Application 2313-2, Coca-Cola Bottling Company of the Black Hills (Water Rights, 1995). The Board adopted findings of fact and conclusions of law that basically state that if the increased cost or decreased production is considered an adverse impact, it could be in conflict with SDCL 46-1-4, which requires South Dakota's water resources to be put to beneficial use to the fullest extent of which they are capable.

It should be noted however, that well interference (drawdown) measured at Water Rights' observation wells located near high capacity municipal wells in Spearfish, Sturgis and Rapid City has never been significant (i.e. drawdown of only a few feet or tens of feet) (Water Rights, 2012a).

Given the distance between the well that is to supply this appropriation and existing Madison wells, well interference is not expected to be adverse.

**BENEFICIAL USE OF WATER:**

In the past, the Water Management Board has determined that the use of water for mining purposes is a beneficial use of water. The Water Management Board has not yet considered if in situ recovery is a beneficial use of water.

**PUBLIC INTEREST:**

Historically, "public interest issues" have been raised by the public during Water Management Board hearings. However, the Chief Engineer has raised the question of whether the Board should consider a large decrease in spring output as a public interest issue if such a decrease would occur. The Water Management Board accepted that SD Water Law does not protect artesian head pressure as a means of diversion and determined that well interference resulting in decreased discharge from these "artesian" springs likely could not be considered an adverse impact. The Board concluded that "The only protection South Dakota law provides when considering an application for an underground water permit for flow from an artesian spring is under the public interest criteria" (Water Management Board Findings dated 19 March 2007 (Paragraph 11)). Consequently, the Board has conditioned a number of recent water permits appropriating water from the Madison aquifer with a qualification such as:

"The Permit Holder shall control withdrawals from the well so there is not a significant adverse effect on the water flow from area springs or a significant adverse effect on the water quality and character in area springs."

Rahn and Gries, (1973) identify four springs in the subarea defined by Carter and others (2001b) in which this proposed project is to be located. The springs are shown in Table 3.

SPRING	DISCHARGE (cfs) *	APPROXIMATE DISTANCE FROM 2685-3 (miles)	LIKELY SOURCE
Cold Brook	0.66	≈23 miles	Partly evolved Minnelusa**
Hot Brook	1.98	≈24 miles	Distinct Madison**
Fall River	22.92	≈25 miles	Madison and Partly evolved Minnelusa**
Cascade	23.65	≈21 miles	Madison***

\* (Rahn and Gries, 1973) \*\* (Whalen, 1994) \*\*\* (Hayes, 1999)

Table 3. Springs located within the subarea defined by Carter and Driscoll (2001) in which 2685-2 is located.

A fairly large change in the hydraulic gradient in the vicinity of the springs would be necessary to significantly affect the groundwater flow rates and consequently the spring's discharge. Given the distance involved and the relatively low diversion rate proposed by this application, (551 gpm maximum), it is unlikely that drawdown from this well would have a measurable impact on the spring discharge.

During the public hearing to consider Water Permit Application No. 2585-2, the National Park Service contended that the possibility of an impact on the park may exist if the water levels in the underground caves were lowered. Geochemical data indicates that water at Wind Cave sites has contributions from recharge that occurred on the western outcrop of the Madison aquifer (Long). Again, since a fairly large change in the hydraulic gradient in the vicinity of Wind Cave National Park would be required to affect the water levels in the park, it is unlikely that drawdown from this proposed appropriation would be measurable at Wind Cave National Park due to the distance involved.

**TERM LIMITATION:**

SDCL 46-2A-20 requires that "... no water permit for construction of works to withdraw water from the Madison formation in Butte, Fall River, Custer, Lawrence, Meade and Pennington counties may be issued for a term of more than twenty years, unless the water management board determines, based upon the evidence presented at the hearing that:

- (1) Sufficient information is available to determine whether any significant adverse hydrologic effects on the supply of water in the Madison formation would result if the proposed withdrawal were approved; and
- (2) The information, whether provided by the applicant or by other means, show that there is a reasonable probability that issuance of the proposed permit would not have a significant adverse effect on nearby Madison formation wells and springs."

Pursuant to SDCL 46-2A-21, "at the end of the twenty-year limitation, the board may cancel a permit or amend the permit with a new term limitation of up to twenty years, if the board is unable to make a finding after notice and hearing that sufficient information is available to delete the term limitation."



Although the criteria for approval of a water permit established by SDCL 46-2A-9 are met, (i.e., there is a reasonable probability that unappropriated water is available for the applicant's proposed use, and this proposed diversion can be developed without unlawful impairment of existing rights); evidence is not available to justify issuing this permit without a term limitation of 20 years.

**CONCLUSIONS:**

1. The Madison aquifer is a major regional aquifer and a viable source of water for this proposed appropriation.
2. This application proposes to appropriate 1.228 cubic feet of water per second. There is no limit to the annual volume of water that can be diverted other than the physical constraints of the maximum diversion rate.
3. There is a reasonable probability that unappropriated water is available in the Madison aquifer to supply this appropriation.
4. Approval of this application will not result in average annual withdrawals from the Madison aquifer to exceed the average annual recharge to the aquifer.
5. There is a reasonable probability this appropriation can be made without adversely impacting existing water rights including domestic users.
6. Information is not available to justify issuing these permits without a term limitation of 20 years.
7. Following notice and a public hearing, the Water Management Board may cancel this permit or amend it with a new term limitation after twenty years.



Ken Buhler  
Natural Resources Engineer

**REFERENCES:**

- Allen, J.C., Iles, D.L., and Petres, A.K., 1985, Analysis of Groundwater and Streamflow Data, Western Dakotas Region of South Dakota, Tasks 3A.B.C. and 4A.B: Groundwater Resources Inventory: US Army Corps of Engineers Contract DAWC 45-82-C-0151, SD DENR-Geological Survey, Vermillion SD
- Brobst, D.A., 1961, Geology of the Dewey Quadrangle Wyoming-south Dakota: U.S. Geological Survey Bulletin 1063-B, 60 p.
- Carter, J.M., Driscoll, D.G., and Hamade, G.R., 2001a, Estimated Recharge to the Madison and Minnelusa Aquifers in the Black Hills Area, South Dakota and Wyoming, Water Years 1931-98: U.S. Geological Survey Water-Resources Investigations Report 00-4278, 66 p
- Carter, J.M., Driscoll, D.G., Hamade, G.R., and Jarrell, G.J., 2001b, Hydrologic Budgets for the Madison and Minnelusa Aquifers, Black Hills of South Dakota and Wyoming, Water Years 1987-1996: Water-Resources Investigations Report 01-4119, U.S. Department of the Interior, U.S. Geological Survey, Rapid City, SD



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

PMB 2020  
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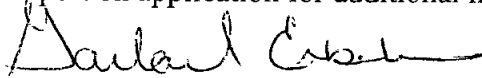
**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT  
APPLICATION NO. 2685-2, Powertech (USA) Inc.**

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Permit Application No. 2685-2, Powertech (USA) Inc., c/o Richard Blubaugh, 5575 DTC Parkway, Suite #140, Greenwood Village CO 80111.

The Chief Engineer is recommending Approval of Application No. 2685-2 for a 20 year term pursuant to SDCL 46-1-14 and 46-2A-20 because 1) although evidence is not available to justify issuing this permit without a 20 year term limitation, there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use, and 4) it is in the public interest with the following qualifications:

1. The permit holder shall report to the Chief Engineer annually, the amount of water withdrawn from the Madison Aquifer. This annual reporting shall report separately the amount of water use for the insitu mining operation and water supplied for domestic/livestock use in the area.
2. The wells approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
3. The wells authorized by Permit No. 2685-2 shall be constructed by a licensed well driller and construction shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
4. In accordance with SDCL 46-1-14 and 46-2A-20, Permit No. 2685-2 is issued for a twenty year term. Pursuant to SDCL 46-2A-21, the twenty year term may be deleted at any time during the twenty year period or following its expiration. If the twenty year term is not deleted at the end of the term, the permit may either be cancelled or amended with a new term limitation of up to twenty years. Permit No. 2685-2 may also be cancelled for nonconstruction, forfeiture, abandonment or three permit violations pursuant to SDCL 46-1-12, 46-5-37.1 and ARSD 74:02:01:37.
5. The Permit holder under this permit shall control withdrawals from the wells so there is not a significant adverse effect on the water flow from area springs or a significant adverse effect on the water quality and character in area springs.

See report on application for additional information.

A handwritten signature in black ink, appearing to read "Garland Erbele". The signature is fluid and cursive, with a long horizontal stroke at the end.

Garland Erbele, Chief Engineer

November 6, 2012

NOTE: In addition to obtaining water right permits, Powertech (USA) is subject to compliance with all other state of South Dakota and federal government regulations relating to water use and insitu mining.

- Carter, J.M., Driscoll, D.G., Sawyer, J.F., 2003, Ground-Water Resources in the Black Hills Area, South Dakota: Water-Resources Investigations Report 03-4049, U.S. , U.S. Department of the Interior, U.S. Geological Survey, Rapid City, SD, 36 p.
- Carter, J.M., and Redden, J.A., 1999a, Altitude of the Top of the Madison Limestone in the Black Hills Area, South Dakota: U.S. Geological Survey Hydrologic Investigations Atlas HA-744-D, 2 sheets, scale 1:100,000
- Carter, J.M., Redden, J.A., 1999b, Altitude of the Top of the Deadwood Formation in the Black Hills Area, South Dakota: U.S. Geological Survey Hydrologic Investigations Atlas HA-744-E, 2 sheets, scale 1:100,000
- DeWitt, E., Redden, J.A., Buscher, D.P., and Wilson, A.B., 1989, Geologic Map of the Black Hills Area, South Dakota and Wyoming: U.S. Geological Survey IMAP-1910, scale 1:250,000
- Greene, E.A., 1993, Hydraulic Properties of the Madison Aquifer System in the Western Rapid City Area, South Dakota: U.S. Geological Survey Water-Resources Investigations Report 93-4008, 56 p.
- Gries, J.P., 1981, unpublished maps prepared for the Office of Drinking Water, South Dakota Dept. of Water and Natural Resources for the Underground Injection Control Program.
- Hayes, T.S., 1999, Episodic Sediment-Discharge Events in Cascade Springs, Southern Black Hills, South Dakota: U.S. Geological Survey Water-Resources Investigations Report 99-4168, 34 p.
- Hedges, L.S., Burch, S.L., Iles, D.L., Barari, R.A., and Schoon, R.A., 1982, Evaluation of Ground-Water Resources Eastern South Dakota and Upper Big Sioux River, South Dakota and Iowa, Task 1: Bedrock Topography [Sic.] and Distribution, Task 2: Extent of Aquifers, Task 3: Ground-Water Storage, Task 4: Computerized Data Base. Prepared for U.S. Army Corps of Engineers, contract DACW 45-80-C-0185
- Long, A.J., Research Hydrologist, U.S. Geological Survey. Personal interview. 21 Aug. 2012
- Rahn, P.H., 1979, Ground Water Resources of Western South Dakota: U.S. Army Corps of Engineers, SDSM&T Project #2533
- Rahn, P.H., and Gries, J.P., 1973, Large Springs in the Black hills, South Dakota and Wyoming: South Dakota Geological Survey Report of Investigations 107, 46 p.
- Putnam, L.D., and Long, A.J., 2007, Characterization of Ground-Water Flow and Water Quality for the Madison and Minnelusa Aquifers in northern Lawrence County, South Dakota: U.S. Geological Survey Scientific Investigations Report 2007-5001, 61 p.

Strobel, M.L., Jarrell, G.J., Sawyer, J.F., Schleicher, J.R., and Fahrenbach, M.D., 1999, Distribution of Hydrogeologic Units in the Black Hills Area, South Dakota: U.S. Geological Survey Hydrologic Investigations Atlas HA-743, 3 sheets, scale 1:100,000

“Theis Equation Calculator.” [i·calcul<sup>8</sup>](http://www.icalcul8.com/theis.php) 7 Aug. 2012<<http://www.icalcul8.com/theis.php>”

Whalen, P.J., 1994, Source Aquifers for Cascade Springs, Hot Springs and Beaver Creek Springs in the Southern Black Hills of South Dakota: South Dakota School of Mines and Technology Master of Science Thesis, Rapid City, SD, 299 p.

Water Rights Program, 1995, Findings of Fact, Conclusions of Law and Final Decision in the Matter of Water Permit Application No. 2313-2, Coca-Cola Bottling Company of The Black Hills , SD DENR-Water Rights Program, Joe Foss Building, Pierre, SD 57501

Water Rights Program, 2012a, Observation Well Files, DENR-Water Rights Program, Joe Foss Building, Pierre, SD 57501

Water Rights Program, 2012b, Water Permit/Right Files, DENR-Water Rights Program, Joe Foss Building, Pierre, SD 57501

Water Rights Program, 2012c, Well Completion Report Files, DENR-Water Rights Program, Joe Foss Building, Pierre, SD 57501

Woodward Clyde Consultants, 1981, Well Field Hydrology Technical Report, for the ETSI Coal Slurry Pipeline Project, U.S. Dept. of the Interior, Bureau of Land Management

REPORT TO THE CHIEF ENGINEER  
ON  
WATER PERMIT APPLICATION NO. 2686-2  
POWERTECH (USA) INC.  
NOVEMBER 2, 2012

Powertech (USA) proposes to recover uranium by a method known as in-situ recovery, or ISR, in which groundwater from the formation containing uranium (the Inyan Kara Group) is pumped to the surface from a field of wells, fortified with oxygen and carbon dioxide, and recirculated through the formation. The oxidized groundwater changes the uranium to a soluble form and is pumped to the surface, where uranium is removed from the solution. ISR circulates water through the uranium ore zone. Only a small fraction of the water is a net withdrawal because most water is recirculated back through the ore zone. A portion of the water extracted from the Inyan Kara Aquifer will be “bled off” to maintain a cone of depression so native groundwater continually flows toward the center of the production zone. Production bleed rates may vary in the range of 0.5 to 3 percent over the life of the project. If necessary, a bleed of up to 17 percent of 500 gpm will be used briefly during aquifer restoration. The ISR process is repeated until the economic reserves of uranium are fully removed from that particular well field. The process moves to another well field, and the uranium depleted well field is restored by continuing to circulate clean water through the wells until the water is similar in quality to the water that existed in the formation prior to the ISR operations. Most of the water removed from the Inyan Kara Aquifer during the ISR process is recirculated and re-injected through the well field, resulting in the net consumptive use of water being a small portion of the gross withdrawal rate. Most of the water used in the ISR operations will be obtained from the Inyan Kara Group. However, Powertech (USA) plans to use water from the Madison Aquifer to make up for water that is not provided from the ISR process. The amount of “make-up” from the Madison Aquifer will depend upon the water disposal method which is either deep disposal well or land application. The use of water from these two formations necessitates obtaining water permits from each source. The eastern portion of the project area is known as the Burdock area. It will include a series of ISR well fields and a central processing plant. The western portion of the project areas is the Dewey areas which will include ISR well fields and a satellite processing plant.

Water Permit Application No. 2686-2 proposes to appropriate up to 274.2 acre feet of water annually (ac-ft/yr) from wells completed into the Inyan Kara aquifer at depths between 200 – 800 feet. The wells will be located within a project area that encompasses approximately 10,580 acres located in portions of Sections 1-5, 10-12, and 14-15 in T7S-R1E and Section 20-21, and 27-35 in T6S-R1E, Black Hills Meridian. This application proposes a gross withdrawal (flow) rate of 18.938 cubic feet of water per second (cfs) which is equivalent to approximately 8,500 gallons per minute (gpm). A “net” or consumptive use of water will be a small portion of the gross withdrawal rate. Approximately two percent of the water is “bled off” during the process in order to maintain flow gradients toward the center of the well field. The remaining approximate ninety eight percent of the water is recirculated and continuously re-injected into the Inyan Kara aquifer as part of the In-Situ Recovery (ISR) process. Approval of this permit would authorize a maximum net (consumptive) withdrawal rate from the Inyan Kara aquifer

limited to 0.38 cfs (170 gpm) and limit the net (consumptive) withdrawal volume from the Inyan Kara aquifer to 274.2 acre feet of water annually.

Uranium recovery operations will continue for approximately 7 to 20 years. A typical well field grid of Inyan Kara wells consists of a 100 by 100 foot grid with one production well in the center and four surrounding wells for injection into the ore body. The well pattern may differ from well field to well field and be modified as needed to fit the characteristics of each ore body. Well fields will be completed along the various uranium zones. Current development plans include the construction of approximately 600 ISR production wells in the "Dewey" portion of the project area and approximately 900 ISR production wells in the "Burdock" portion of the project area. The maximum number of production wells in operation at any one time within the entire project area during production and restoration is 1,000 wells. Based on the project life and number of production wells scheduled as the well fields are developed, Powertech (USA) anticipates requesting a permit amendment in the future for an extension of the five year construction period pursuant to SDCL 46-2A-8. Powertech (USA) will provide an annual diversion report to DENR describing the number and location of pumping production wells. This report will include a request for change in the number and designated locations of pumping wells pursuant to SDCL 46-5-13.1. This statute allows for the location of point of diversion or additional points of diversion to be approved without application or publication if the wells are completed into the same source, no additional water is appropriated and the Chief Engineer makes a finding that the change does not increase the potential for interference with existing diversions.

#### **AQUIFER: INYAN KARA (INKR)**

#### **GEOLOGY AND AQUIFER CHARACTERISTICS:**

The Inyan Kara aquifer is composed of the portions of the Lower Cretaceous aged Inyan Kara Group that contain sufficient saturated permeable material to yield quantities of groundwater to wells. The Inyan Kara Group was deposited in shallow waters along the eastern shore of the Skull Creek Sea (Merewether, 1975) and in general, consists of a sequence of interbedded sandstones, siltstones, and mudstones of fluvial, lacustrine, and possibly eolian origin (Schnabel, 1963). The Inyan Kara Group is made up of two geologic formations: the Fall River formation and the underlying Lakota formation. The Fall River formation, which is about 150 feet thick in the Burdock quadrangle (Schnabel, 1963) and has an average thickness of 125 feet in the Dewey quadrangle (Brobst, 1961), has been mapped as three units in this area: an upper unit composed of interlayered mudstones and fine to very fine-grained sandstones; a middle unit of interbedded sandstone and mudstone with massive, medium-grained sandstone; and a lower unit of siltstone and thin beds of sandstone (Brobst, 1961; and Schnabel, 1963)). The Lakota formation has been divided into three units that in descending order are: the Fuson member, which is a sequence of sandstone and mudstone; the Minnewaste member, which is a series of impure limestones; and the Chilson member, which consists of thick channel sandstone interbedded with sandstone and mudstone (see figure 1). The Lakota formation ranges in thickness from about 200 feet to about 350 feet in the Burdock quadrangle (Schnabel, 1963). In the Dewey quadrangle, the average thickness of the Lakota formation is estimated to be 225 feet (Brobst, 1961).



Figure 1. Generalized stratigraphic column for the Inyan Kara Group

The applicant contends that the Fuson member of the Lakota formation is an aquitard between a “Fall River aquifer” and a “Lakota aquifer” and data submitted with this permit application suggest distinct potentiometric surfaces with slightly different groundwater flow directions between the two “aquifers”. However, the Fusion member consists of a sequence of sandstone and mudstone and “Locally, the sandstone beds reach varying degrees of prominence, and in some places form the whole Fuson member” (Schnabel, 1963). Although it is possible that the Fuson member of the Lakota formation is an aquitard in the vicinity of this project, on a regional scale the degree to which the Fall River and Lakota formations are hydraulically connected or separated is unclear and the two formations are typically considered parts of a single Inyan Kara aquifer (e.g. Driscoll and others, 2002; Galloway, 1999; and Strobel, et. al., 2000). For the purpose of appropriations, the DENR-Water Rights Program and the Water Management Board consider the Inyan Kara a single aquifer.

The Inyan Kara aquifer occurs at a regional scale, extending into Wyoming, North Dakota and Nebraska as well as a major portion of South Dakota (see figure 2). The Inyan Kara underlies over 36,000 square miles and contains over 324 million acre-feet of recoverable water in storage in western South Dakota alone (Allen and others, 1985). Although the Inyan Kara is areally extensive, only a portion of the water it contains is fresh. More than one-half of the water in the Inyan Kara is moderately saline, and the water is saline to brine in parts (Driscoll and others, 2002). The Inyan Kara Group outcrops in the eastern portion of the project area proposed by this application and the top of the Inyan Kara is approximately 600 feet below grade at the western edge of the project area (Carter and Redden, 1999). The potentiometric surface of the Inyan



Kara aquifer ranges from around 3,800 feet mean sea level elevation (msl) to 3,600 feet msl in this area (Strobel and others, 2000). The aquifer is under unconfined conditions in the eastern portion of the proposed project area and under confined conditions in the western portion of the area. Water levels of wells in the project area reportedly range from approximately 140 feet below grade to over 74 feet above ground surface (i.e. flowing wells with up to 32 psi shut-in pressure).

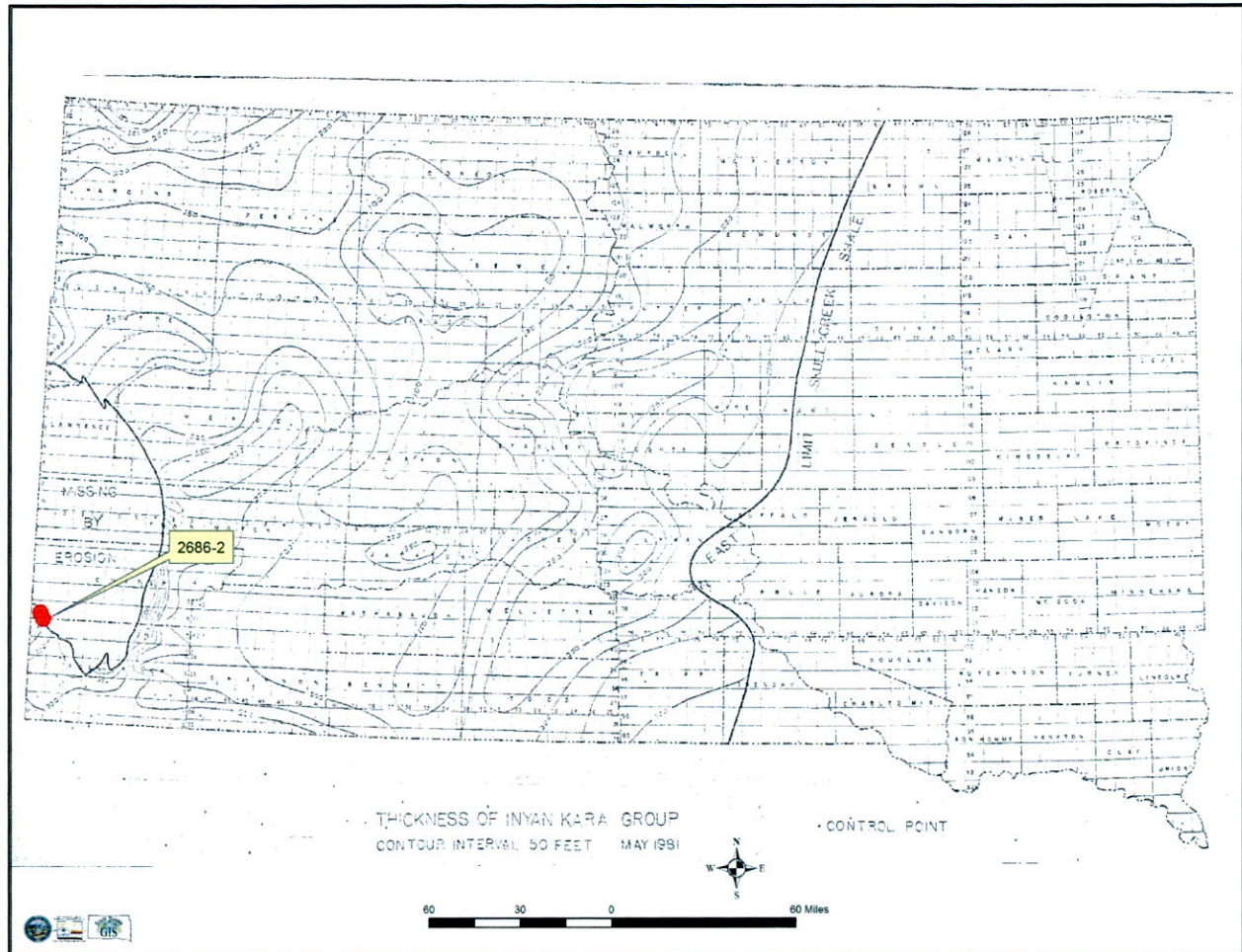


Figure 2. Areal extent of the Inyan Kara aquifer and the location of Water Permit Application No. 2686-2: (modified from Gries, 1981)

#### **SDCL 46-2A-9**

Pursuant to SDCL 46-2A-9, a permit to appropriate water may be issued only if there is reasonable probability that there is unappropriated water available for the applicant's proposed use, that the proposed diversion can be developed without unlawful impairment of existing rights and that the proposed use is a beneficial use and in the public interest.

#### **WATER AVAILABILITY:**

The probability of unappropriated water available for appropriation can be evaluated by considering SDCL 46-6-3.1 which requires that:

“No application to appropriate groundwater may be approved if, according to the best information reasonably available, it is probable that the quantity of water withdrawn annually from a groundwater source will exceed the quantity of the average estimated annual recharge of water to the groundwater source.”

### **Water Balance:**

#### Recharge:

Recharge to the Inyan Kara aquifer is through infiltration of precipitation at the outcrop and the aquifer also appears to be receiving water from the underlying Paleozoic aquifers (Schoon, 1971; Gott and others, 1974; Lobmeyer, 1985). An average annual recharge rate has not been quantified for the Inyan Kara aquifer. However, annual recharge to the portion of the Inyan Kara aquifer that outcrops in South Dakota alone, from the precipitation component only, was estimated for 1950-1998 to be 11,600 acre-feet per year (Driscoll and Carter, 2001).

#### Withdrawals:

There are a total of 185 Water Rights/Permits appropriating water from the Inyan Kara aquifer in South Dakota. In addition, Future Use Permit 1780-2, Town of New Underwood, reserves 142 ac-ft/yr from the Inyan Kara aquifer for future use. The estimated average annual withdrawal of appropriations is 10,700 ac-ft/yr. This estimate is based on: 1) annual water use reported in the latest public water system survey for municipal, suburban housing development and rural water system appropriations where applicable (DENR-Drinking Water Program, 2009-2012); 2) calculated annual use based permitted animals and rates of 20 gallons per day for beef cattle, 5 gallons per day for swine, 15 gallons per 100 turkeys, and 9 gallons per 100 chickens for large confinement operations permitted by DENR (Roth); 3) irrigation questionnaire reporting for irrigation permits when available (DENR-Water Rights Program, 2012a); 4) the most current water use reported for non-irrigation appropriations that are required to report (DENR-Water Rights Program, 2012b); 4) assuming unreported water rights/permits limited to an annual volume will be used to the maximum and water rights/permits limited by diversion rate will be used 60% of continuous pumping at the maximum diversion rate for their annual use period.

The estimated average annual withdrawal from the Inyan Kara (10,700 ac-ft/yr) is less than the precipitation recharge component alone for the aquifer (11,600 ac-ft/yr). Therefore, there is a reasonable probability that there is 274.2 acre-feet of unappropriated water available annually to supply this proposed appropriation. The quantities of both the average annual recharge and the average annual use for the Inyan Kara aquifer are both small percentages of the amount of water stored in the Inyan Kara aquifer so the aquifer can actually withstand several years of drought conditions with only minimal impact to wells.

The simple water budget comparing the estimated average annual recharge and the potential withdrawal by existing wells and current appropriations is not intended to suggest that all of the water that is in storage in the Inyan Kara aquifer or that all of the recharge to the aquifer is available for this appropriation, merely to demonstrate that in general the Inyan Kara aquifer is an immense resource that is relatively untapped.

**Localized Hydrologic Budget:**

A separate hydrologic budget was developed for a subarea of the Inyan Kara aquifer that includes the project area proposed by this application. The subarea was identified based on the structural geology of the area with the Dewey Fault and Structural Zone considered the northern boundary, and the Cottonwood Anticline and/or the Sheep Canyon Monocline considered the southern boundary (see Figure 3). (Note: the Cottonwood Anticline is just southeast of the area shown in figure 3).

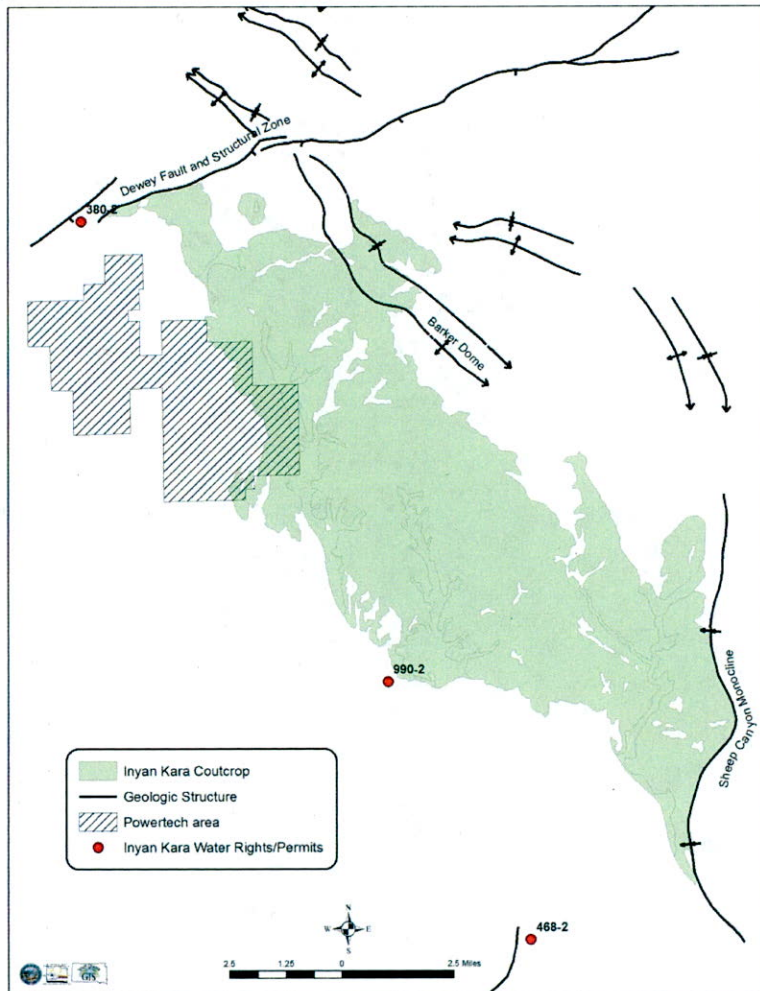


Figure 3. Subarea of the Inyan Kara aquifer including the Powertech project area and major structural features.

“The Dewey Fault begins in the Elk Mountains, about 2 ½ miles northeast of Dewey. The fault appears to be continuous for at least 6 ½ miles. Measurable vertical displacement on the fault is about 60 feet on the dip slope of the mountain but is at least 200 feet in Secs. 21, 22, and 28, T. 41 N., R. 60 W.” (Brobst, 1961). Although the entire thickness of the Inyan Kara aquifer is not offset by the displacement of the fault, assuming the fault is a hydrologic barrier produces a more restrictive area and consequently produces a more conservative subarea.

Likewise, assuming the Cottonwood Anticline and/or the Sheep Canyon Monocline, the first major structural feature southeast of this project area, as a southern hydrologic barrier produces a conservative subarea.

The Inyan Kara Group outcrops over approximately 41,800 acres of the subarea shown in Figure 2. Precipitation recharge to the subarea estimated using the yield-efficiency algorithm developed by Driscoll and Crater (2001) is approximately 1,400 acre-feet per year. There are three existing water rights appropriating water from the Inyan Kara in this area (see table 1).

PERMIT NO	NAME	STATUS	USE	CFS	ACRES	APPROPRIATION (AC-FT/YR)
380-2	HENRY C HOLLENBECK	LC	IRR	0.85	60	180
468-2	CITY OF EDGEMONT	LC	MUN	0.2	0	86.88
990-2	EFFIE M GOW	LC	IRR	0.13	20	60
LC= Water Right, IRR= Irrigation, Appropriation based on three acre-feet/acre per year for irrigation and 60% of full time pumping for municipal use						

Table 1. Water Rights within the subarea of the Inyan Kara aquifer that includes the project proposed by Application No. 2686-2

The estimated annual withdrawal from the subarea of Inyan Kara aquifer (<326.88 ac-ft/yr ) is less than the precipitation recharge estimated for subarea (1,400 ac-ft/yr) and there is a reasonable probability that there is 274.2 acre-feet of unappropriated water available annually to supply this proposed appropriation. (Incidentally, even if only the portion of the Inyan Kara outcrop that is directly up dip of the project area is considered, the precipitation recharge to the area can be expected to be at least 564 acre-feet per year using the yield-efficiency algorithm.)

**OBSERVATION WELL DATA:**

Administrative Rule of South Dakota Section 74:02:05:07 requires that “the Water Management Board shall rely upon the record of observation well measurements to determine that the quantity of water withdrawn annually from the aquifer does not exceed the estimated average annual recharge to the aquifer.”

The DENR-Water Rights Program monitors nine observation wells completed into the Inyan Kara aquifer statewide. Eight of these wells are located near the perimeter of the Black Hills (see Figure 4). Hydrographs for the observation wells are shown in Figures 5-12.

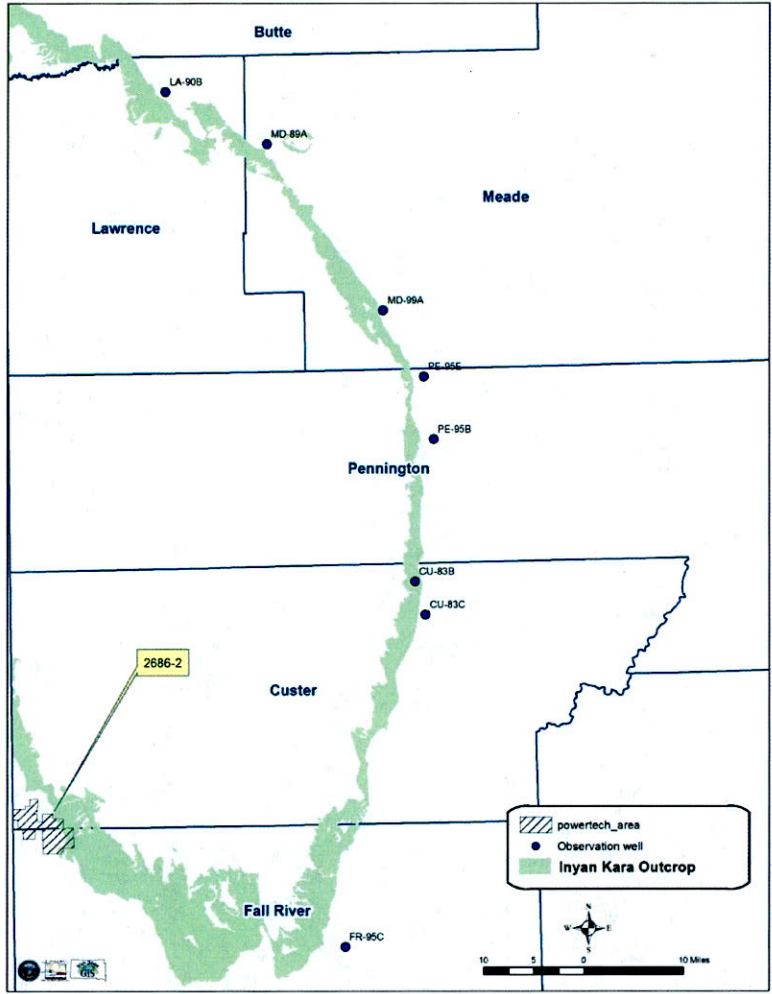


Figure 4. Location map of DENR-Water Rights' observation wells completed into the Inyan Kara aquifer

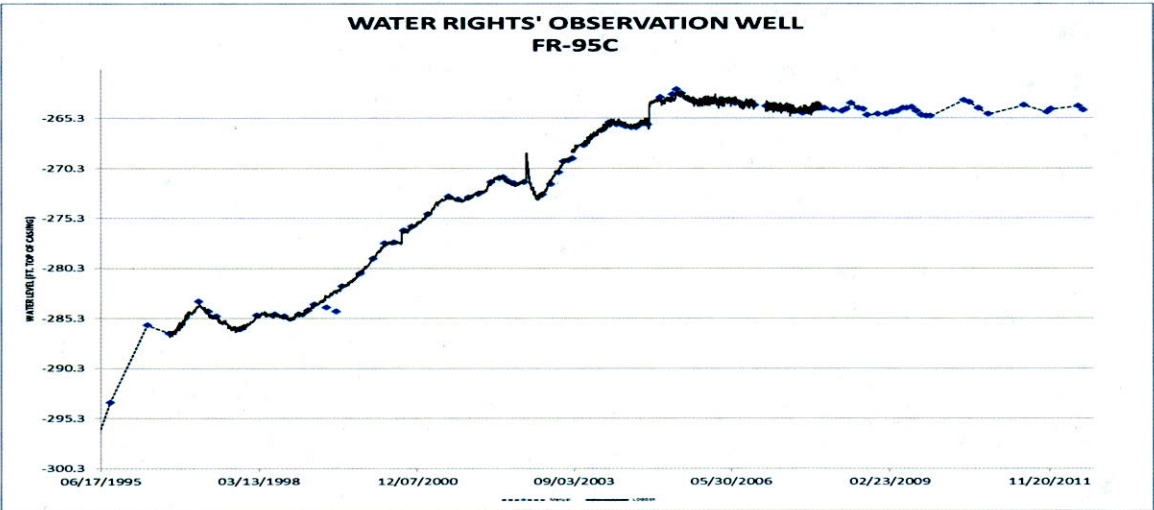


Figure 5. Hydrograph of Inyan Kara aquifer observation well, see figure 4 for location.

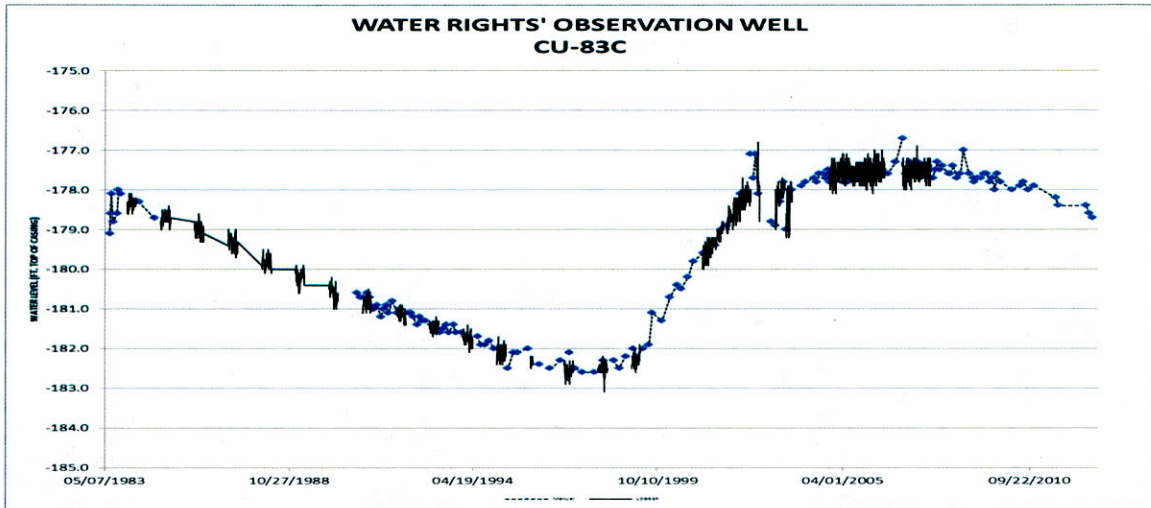


Figure 6. Hydrograph of Inyan Kara aquifer observation well, see figure 4 for location.

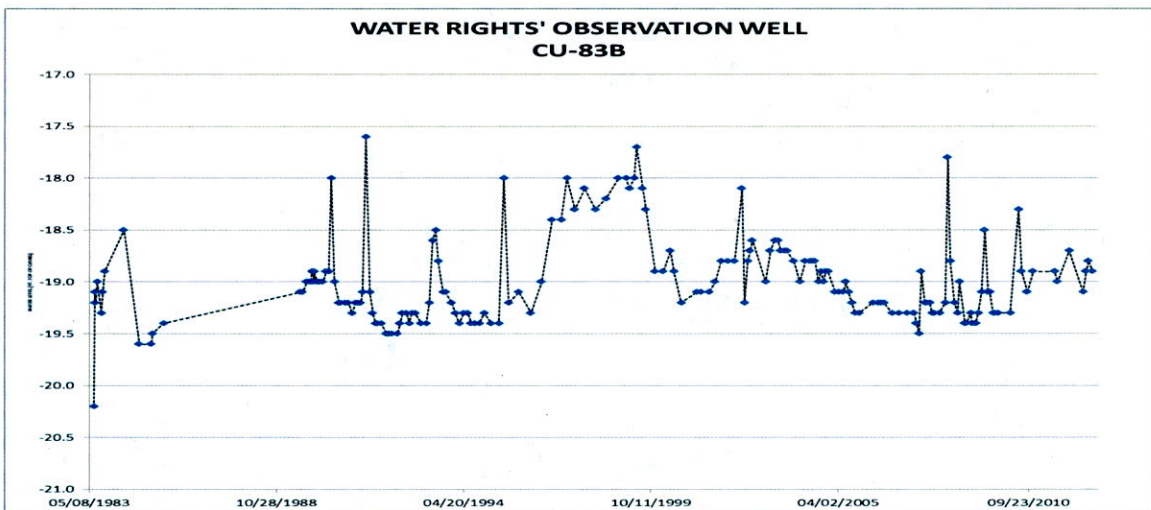


Figure 7. Hydrograph of Inyan Kara aquifer observation well, see figure 4 for location.

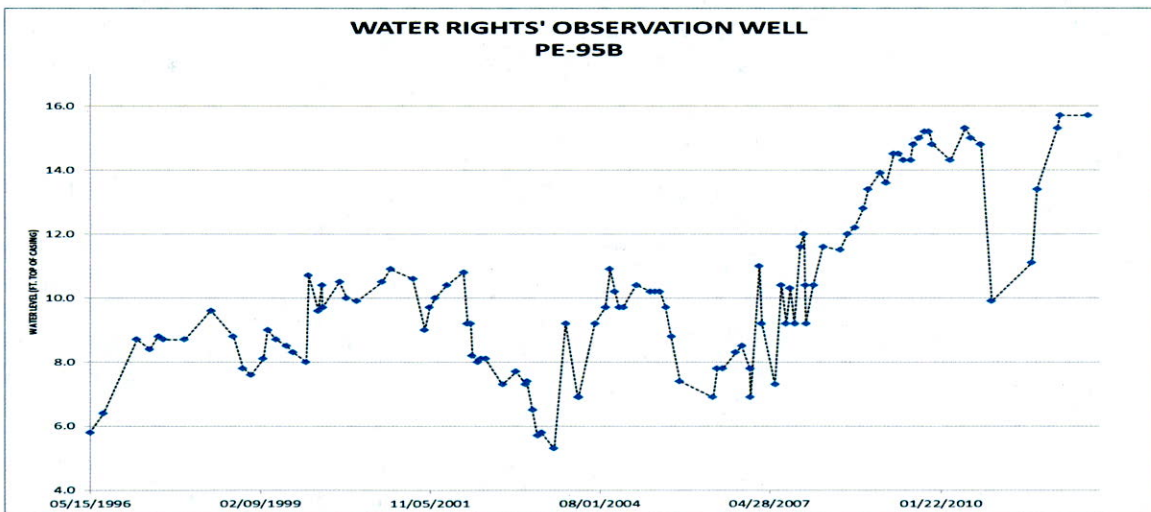


Figure 8. Hydrograph of Inyan Kara aquifer observation well, see figure 4 for location.

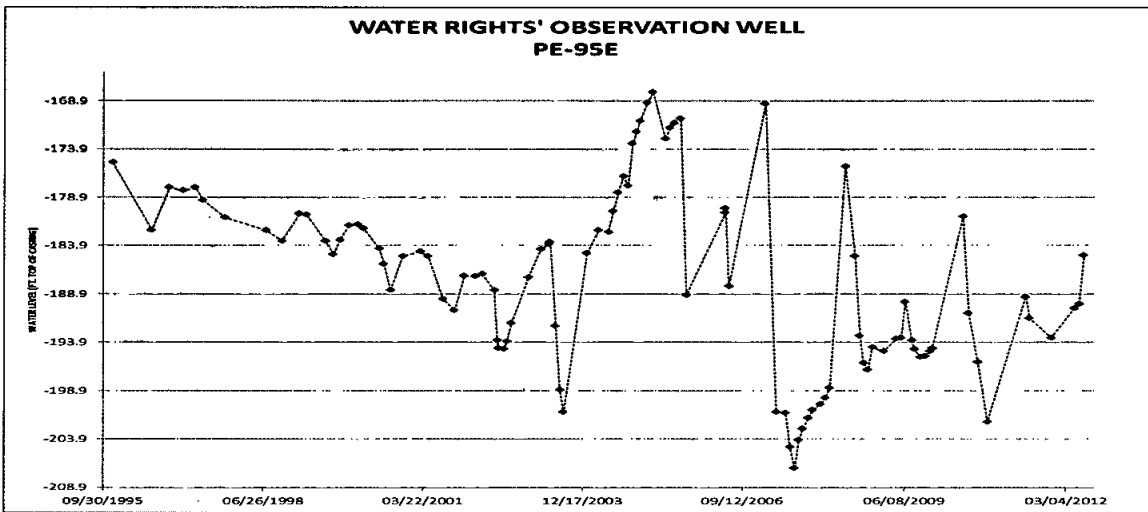


Figure 9. Hydrograph of Inyan Kara aquifer observation well, see figure 4 for location.

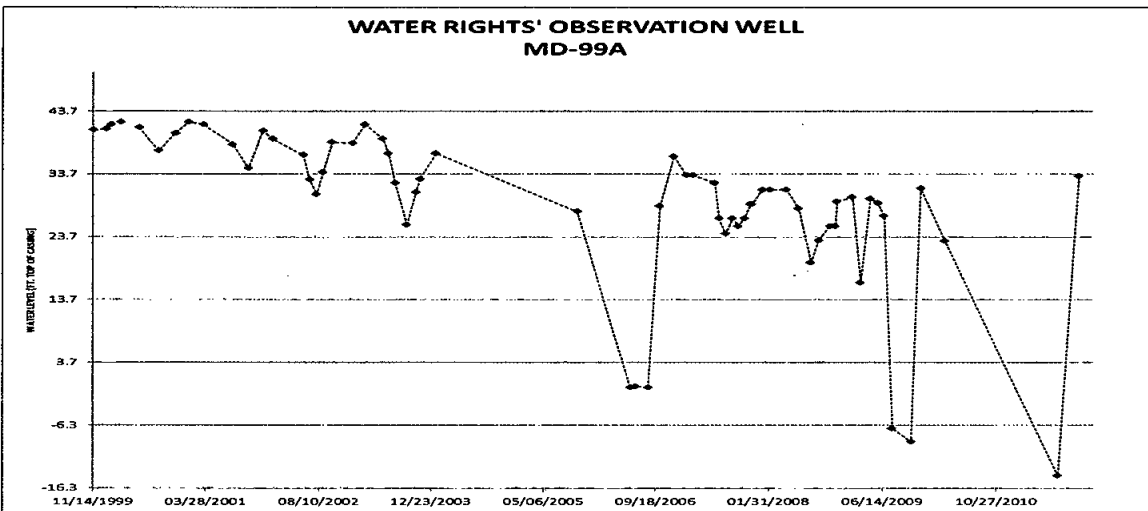


Figure 10. Hydrograph of Inyan Kara aquifer observation well, see figure 4 for location.

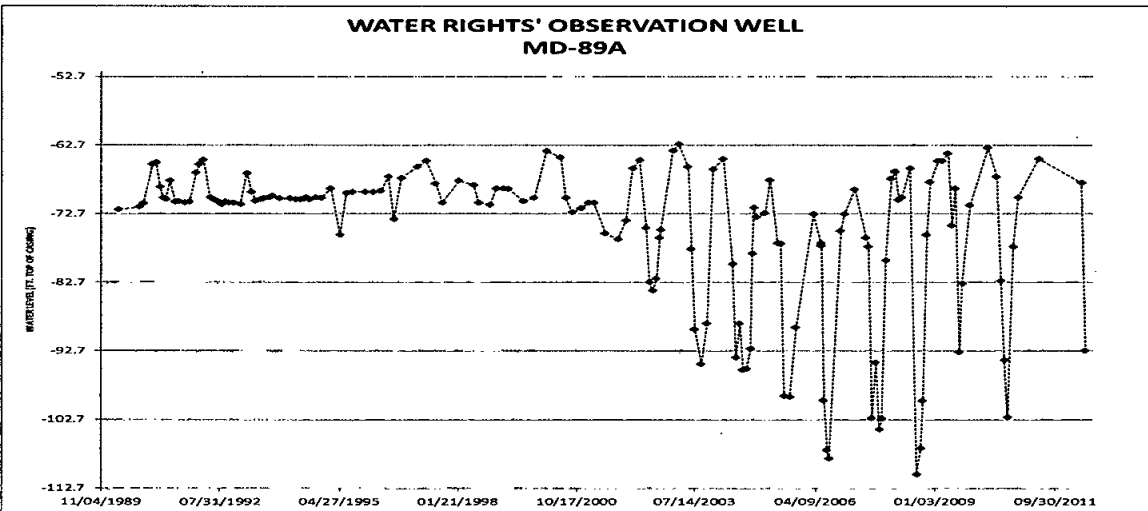


Figure 11. Hydrograph of Inyan Kara aquifer observation well, see figure 4 for location.

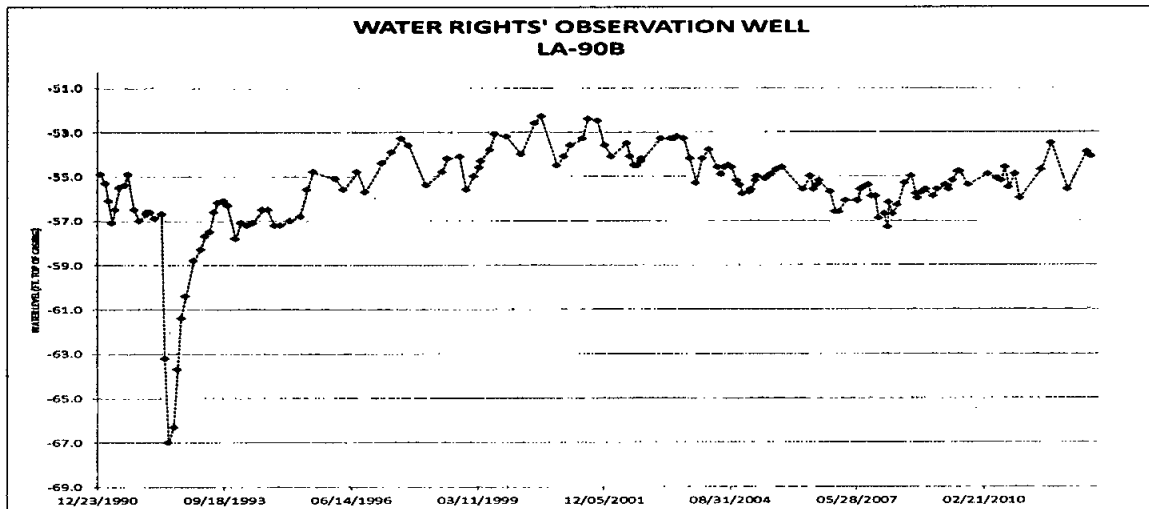


Figure 12. Hydrograph of Inyan Kara aquifer observation well, see figure 4 for location.

The observation well data for the Inyan Kara aquifer documents: 1) upward trending water levels; 2) that at the current level of development, climatic conditions greatly mask any temporal effects of well withdrawals thus the combined recharge to and natural discharge from the Inyan Kara aquifer significantly exceeds long term well withdrawals; and 3) the potentiometric surface of the aquifer has been relatively unchanged over time. Therefore, the observation well data shows that unappropriated water is available from the Inyan Kara aquifer.

**AFFECTS ON EXISTING WATER RIGHTS:**

Water rights/permits supplied by sources other than the Inyan Kara aquifer are not expected to be affected by Inyan Kara aquifer withdrawals since the aquifer is confined by the overlying Skull Creek shale and the underlying Morrison formation separates the aquifer from lower aquifers in this area.

The nearest water right to the project area proposed by this application that appropriates water from the Inyan Kara aquifer is Water Right No. 380-2 for Henry C. Hollenbeck. The water right authorizes the irrigation of 60 acres using a free flowing well located in the approximate center of the NW¼ of Section 17, T6S-R1E (i.e. approximately 0.6 miles north of the project area proposed by this application). Based on the Brobst (1961) delineation of the Dewey Fault and location of the well, the well that supplies Water Right No. 380-2 appears to be on the opposite side of the Dewey Fault from the Powertech project area. The displacement of this fault between the Hollenbeck well and the Powertech area is approximately 120 feet (Brobst, 1961). Since the fault does not completely offset the Inyan Kara Group in this area, the extent that the fault serves as a flow boundary is not clear. Earlier in this report, for the purpose of evaluating the availability of unappropriated water, the Dewey Fault was considered the northern extent of a subarea. Considering the fault as a flow barrier for the purpose of assessing water availability provided a “most conservative” analysis. For the purpose of considering the impairment of existing rights however, the most conservative analysis involves assuming the fault is not a flow boundary. Even by assuming the fault is not a flow boundary, and the entire 170 gallons per minute were withdrawn at the nearest possible point in the project area from the Hollenbeck well (an approach that over-predicts the maximum anticipated drawdown and produces a worst case scenario), drawdown at the Hollenbeck well is not expected to be significant based on the aquifer



characteristics for the Inyan Kara aquifer that were obtained from pump tests conducted in the Burdock area (Boggs and Jenkins, 1980). Since the pumping proposed by this application is to be spread over numerous wells, the maximum drawdown will be significantly less than for a single well. Any drawdown that would be measurable at the well that supplies Water Right No. 380-2 is not expected to be adverse. This is particularly true since the data on file with Water Right No. 380-2 indicates there is at least 40 feet of artesian pressure at the well and SDCL 46-6-6.1 does not require the protection of artesian head pressure as a means of diversion. The next closest South Dakota water right from the Inyan Kara aquifer is Water Right No. 990-2 for Effie M. Gow. Water Right No. 990-2 uses a free flowing well located approximately five miles southeast of this project area to flood irrigate 20 acres. Given the distance between Water Right No. 990-2 and the Powertech project area, adverse impacts are not likely.

The applicant has identified a water right (No. P183561W) located approximately 1.2 miles west of the project area in Wyoming. Since the drawdown caused by this proposed operation is not expected to be substantial, it is unlikely that the water right would be adversely impacted (at least by South Dakota standards).

The DENR-Water Rights Program has several completion reports on file for domestic wells in the vicinity of the proposed Powertech project area. Again, with the drawdown spread over a number of wells, the maximum drawdown at any point should not be significant. However, pursuant SDCL 46-6-24,

“The failure of a well to meet standards established pursuant to § 46-6-6.1 is not a defense in any action or proceeding regarding damage, loss of water production or quality, replacement cost, or increased operating expenses incurred by a municipal or domestic use well located in a formation older than or stratigraphically lower than the greenhorn formation caused by any person using or withdrawing groundwater for mine dewatering in a formation older than or stratigraphically lower than the greenhorn formation.”

This statute may provide protection to artesian pressure in domestic and municipal wells and to domestic or municipal wells that are not “adequate wells” pursuant to ARSD 74:02:04:20(6). Powertech has submitted a water permit application to appropriate water from the Madison aquifer for purposes including “for domestic and livestock use for area landowners inside and near the project area”. A mitigating action such as supplying water from an alternative source as proposed, could resolve impairment of domestic well issues.

#### **BENEFICIAL USE OF WATER AND PUBLIC INTEREST:**

In the past, the Water Management Board has determined that the use of water for mining purposes is a beneficial use of water. The Water Management Board has not yet considered if in situ recovery is a beneficial use of water.

#### **CONCLUSIONS:**

1. Water Permit Application No. 2686-2 proposes to appropriate 274.2 acre-feet per year from the Inyan Kara aquifer.

2. Water Permit Application No. 2686-2 proposes to divert water from as many as 1,000 wells at one time and re-inject all of the water back to the Inyan Kara aquifer except for a maximum of 170 gallons per minute.
3. The location of the wells that are to be used will change over the life of this project and construction will not be completed within the five year period provided by law.
4. An extension of the five year construction period may be necessary to completely build-out this project.
5. Approval of this application will not result in average annual withdrawals from the Inyan Kara aquifer to exceed the average annual recharge to the aquifer.
6. The Inyan Kara aquifer is an extensive aquifer and there is a reasonable probability that there is at least 274.2 acre-feet per year of unappropriated water is available from the aquifer.
7. SD DENR-Water Rights Program observation well data indicates that unappropriated water is available from the Inyan Kara aquifer.
8. There is a reasonable probability that the diversion proposed by this appropriation can be made without unlawful impairment of existing appropriative rights or domestic wells.



Ken Buhler  
SD DENR-Water Rights Program

**REFERENCES:**

- Allen, J.C., Iles, D.L., and Petres, A.K., 1985, Analysis of Groundwater and Streamflow Data, Western Dakotas Region of South Dakota, Tasks 3A.B.C. and 4A.B: Groundwater Resources Inventory: US Army Corps of Engineers Contract DAWC 45-82-C-0151, SD DENR-Geological Survey, Vermillion SD
- Boggs, J.M., and Jenkins, A.M., 1980, Analysis of Aquifer Tests Conducted at the Proposed Burdock Uranium Mine Site, Burdock, South Dakota: Tennessee Valley authority, Office of natural Resources, Division of Water Resources, Water System Development Branch, Report No. WR28-1-520-109, 73 p.
- Brobst, D.A. 1961, Geology of the Dewey Quadrangle Wyoming-South Dakota: U.S. Geological Survey Bulletin 1063-B, 60 p.
- Carter, J.M., and Redden, J.A., 1999, Altitude of the Top of the Inyan Kara Group in the Black Hills Area, South Dakota: U.S. Geological Survey Hydrologic Investigations Atlas HA-744-A, 2 sheets, scale 1:100,000
- Drinking Water Program, 2009-2012 Sanitary Surveys, DENR-Drinking Water Program, Joe Foss Building, Pierre, SD 57501

- Galloway, J.M., 1999, Selected Hydrogeologic Data for the Inyan Kara, Minnekahta, Minnelusa, Madison, and Deadwood Aquifers in the Black Hills area, South Dakota: U.S. Geological Survey Open-File report 99-602, 60 p.
- Gott, G.B., Wolcott, D.E., and Bowles, C.G., 1974, Stratigraphy of the Inyan Kara Group and Localization of Uranium Deposits, Southern Black Hills, South Dakota and Wyoming: U.S. Geological Survey Professional Paper 763, 57 p.
- Driscoll, D.G., Carter, J.M., Williamson, J.E., and Putnam, L.D., 2002, Hydrology of the Black Hills Area, South Dakota: U.S. Geological Survey Water-Resources Investigations Report 02-4094, 150 p.
- Lobmeyer, D.H., 1985, Freshwater Heads and Ground-Water Temperatures in Aquifers of the Northern Great Plains in parts of Montana, North Dakota, South Dakota, and Wyoming: U.S. Geological Survey Professional Paper 1402-D, 11 p.
- Merewether, E.A., 1975, Mesozoic Rocks: Mineral and Water Resources of South Dakota, Committee on Interior and Insular Affairs, United States Senate pg. 41
- Roth, T.M. Natural Resources Engineer, SD DENR-Surface Water Quality Program. Personal interview. 16 Aug. 2012
- Schnabel, R.W., 1963, Geology of the Burdock Quadrangle Fall River and Custer Counties South Dakota: U.S. Geological Survey Bulletin 1063-F, pg. 193-214
- Schoon, R.A., 1971, Geology and Hydrology of the Dakota Formation in South Dakota: SD DENR- Geological Survey Report of Investigations 104, 55 p.
- Strobel, M.L., Galloway, J.M., Hamade, G.R., Jarrell, G.J., 2000, Potentiometric Surface of the Inyan Kara Aquifer in the Black Hills Area, South Dakota: U.S. Geological Survey Hydrologic Atlas 745-A, scale:1:100,000
- Water Rights Program, 2012a, Irrigation Questionnaires, DENR-Water Rights Program, Joe Foss Building, Pierre, SD 57501
- Water Rights Program, 2012b, Non-Irrigation User's Annual Reports, DENR-Water Rights Program, Joe Foss Building, Pierre, SD 57501
- Water Rights Program, 2012c, Observation Well Files, DENR-Water Rights Program, Joe Foss Building, Pierre, SD 57501
- Water Rights Program, 2012d, Water Permit/Right Files, DENR-Water Rights Program, Joe Foss Building, Pierre, SD 57501
- Water Rights Program, 2012e, Well Completion Report Files, DENR-Water Rights Program, Joe Foss Building, Pierre, SD 57501



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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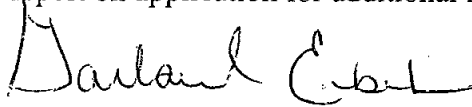
**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT  
APPLICATION NO. 2686-2, Powertech (USA) Inc.**

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Permit Application No. 2686-2, Powertech (USA) Inc., c/o Richard Blubaugh, 5575 DTC Parkway, Suite #140, Greenwood Village CO 80111.

The Chief Engineer is recommending APPROVAL of Application No. 2686-2 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use; 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) it is in the public interest with the following qualifications:

1. Water Permit No. 2686-2 appropriates and places to beneficial use up to 18.938 cfs with an annual consumptive use volume of 274.2 acre feet of water (equal to 0.38 cfs) from the Inyan Kara Aquifer for the specific purpose of the production of uranium through the insitu mining process at the legal location listed in the permit.
2. The wells authorized by Permit No. 2686-2 shall be constructed by a licensed well driller and construction shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28. Well completions report shall be submitted within one month of completing each production and/or injection well.
3. The Permit holder shall report to the Chief Engineer annually the amount of water withdrawn from the Inyan Kara Aquifer. This annual reporting shall report both the gross and net withdrawal from the Inyan Kara Aquifer.
4. The wells approved under this permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The Well owner under this permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
5. The Permit holder shall submit a planned diversion report annually setting forth the number anticipated and location of pumping wells to be constructed and/or operated during the next upcoming year.

See report on application for additional information.

A handwritten signature in black ink, appearing to read "Garland Erbele". The signature is written in a cursive style with a large initial "G".

Garland Erbele, Chief Engineer  
November 6, 2012

NOTE: DENR recognizes that the number and location of production and injection wells completed into the Inyan Kara Aquifer will vary as well fields are constructed, insitu mining is conducted, restoration is conducted and decommissioning is completed. The application states that amendments for additional wells and changes in well locations as the project progresses will be requested subject to provisions of SDCL 46-5-13.1. As Chief Engineer, all requests for changes in well location and additional wells will be reviewed as set forth in SDCL 46-5-13.1.

In addition to obtaining water right permits, Powertech (USA) will be subject to compliance with all other state of South Dakota and federal government regulations relating to water use and insitu mining.

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NOV 19 2012

WATER RIGHTS PROGRAM

# Affidavit of Publication

STATE OF SOUTH DAKOTA:

COUNTY OF LAWRENCE:

Letitia Lister of said County and State being first duly sworn, on her oath says: That the BLACK HILLS PIONEER is a legal daily newspaper of general circulation, printed and published in the City of Spearfish, in said County and State by Letitia Lister, and has been such a newspaper during the times hereinafter mentioned; and that said newspaper has a bonafide circulation of at least 200 copies weekly, and has been published within said County in the English language for at least one year prior to the first publication of the notice herein mentioned, and is printed in whole or in part in an office maintained at the place of publication; and that I, Letitia Lister, the undersigned, am the Publisher of said newspaper and have personal knowledge of all the facts stated in this affidavit; and that the advertisement headed:

Notice of Hearing on Water Permit Application Nos. 2685-2 and 2686-2

a printed copy of which is hereto attached, was printed and published in said newspaper for 1 successive and consecutive weeks, the first publication being made on the 14<sup>th</sup> day of Nov, 2012, and the last publication on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, that the full amount of fees charged for publishing same, to-wit: The sum of \$ 124.35, insures solely to the benefit of the publisher of the BLACK HILLS PIONEER, that no agreement or understanding for a division thereof has been made with any person and that no part thereof has been agreed to be paid to any other person whomsoever.

Subscribed and sworn to before me this 16<sup>th</sup> day of Nov, 2012

Rebecca Richards  
Notary Public, Lawrence County, South Dakota  
My commission expires: 10-24-2016

**NOTICE OF HEARING on Water Permit Application Nos. 2685-2 and 2686-2 to Appropriate Water for Powertech (USA) Inc.**

Notice is given that Powertech (USA) Inc., c/o Richard Blubaugh, 5575 DTC Parkway Suite #140, Greenwood Village CO 80111 has filed two applications for water permits for primarily industrial use in a uranium in-situ mining project called the Dewey-Burdock Project located in Custer and Fall River Counties. The Dewey-Burdock Project area (project area) encompasses approximately 10,580 acres including portions of Sections 1 through 5, 10 through 12, and 14 through 15 in T7S, R1E and Sections 20 through 21, and 27 through 35 in T6S, R1E, Black Hills Meridian.

Project Overview: Powertech (USA) proposes to recover uranium by a method known as in-situ recovery, or ISR, in which groundwater from the formation containing uranium (the Inyan Kara Group) is pumped to the surface from a field of wells, fortified with oxygen and carbon dioxide, and recirculated through the formation. The oxidized groundwater changes the uranium to a soluble form and is pumped to the surface, where uranium is removed from the solution. ISR circulates water through the uranium ore zone. Only a small fraction of the water is a net withdrawal because most water is recirculated back through the ore zone. A portion of the water extracted from the Inyan Kara Aquifer will be "bled off" to maintain a cone of depression so native groundwater continually flows toward the center of the production zone. Production bleed rates may vary in the range of 0.5 to 3 percent over the life of the project. Restoration bleed rates up to 17 percent may be used briefly but would be limited to well fields undergoing aquifer restoration. The ISR process is repeated until the economic reserves of uranium are fully removed from that particular well field. The process moves to another well field, and the uranium depleted well field is restored by continuing to circulate clean water

through the wells until the water is similar in quality to the water that existed in the formation prior to the ISR operations. Most of the water removed from the Inyan Kara Aquifer during the ISR process is recirculated and re-injected through the well field, resulting in the net consumptive use of water being a small portion of the gross withdrawal rate. Most of the water used in the ISR operations will be obtained from the Inyan Kara Group. However, Powertech (USA) plans to use water from the Madison Aquifer to make up for water that is not provided from the ISR process. The amount of "make-up" from the Madison Aquifer will depend upon the water disposal method which is either deep disposal well or land application. The use of water from these two formations necessitates obtaining water permits from each source. The applications listed below describe the proposed points of diversion, amount of water to be used, the maximum annual diversion rate and annual volume that may be diverted. The eastern portion of the project area is known as the Burdock area. It will include a series of ISR well fields and a central processing plant. The western portion of the project area is the Dewey area which will include ISR well fields and a satellite processing plant.

Each application, Water Rights Program staff report and Chief Engineer's recommendation may be viewed on-line at <http://denr.sd.gov/Powertech.aspx>.

Water Permit Application No. 2685-2 proposes to appropriate and place to beneficial use up to 1.228 cubic feet of water per second (cfs) with an annual consumptive use up to 888.8 acre feet of water annually from up to two or more wells completed into the Madison Aquifer at an approximate depth between 2,700 to 3,400 feet. The instantaneous peak diversion rate of 1.228 cubic feet of water per second (cfs) equates to 551 gallons per minute (gpm). The wells are to be located in the NW 1/4 NW 1/4 Section 32, T6S, R1E and the NW 1/4 NE 1/4 Section 11, T7S, R1E. Madison Aquifer water is primarily proposed for aquifer restoration fol-

lowing in-situ recovery but also may serve as the general facility water supply including the central processing plant, satellite plant and for domestic and livestock use for area land-owners inside and near the project area.

The required yield may be obtained from one Madison well or several wells dependent on a number of factors. Powertech (USA) listed two potential well locations on this water permit application, one in the Dewey portion of the project and one in the Burdock portion. The final decision as to number and location of wells will depend upon water requirements, well yield, water quality and economic factors.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2685-2 subject to a 20-year term limitation because 1) although evidence is not available to justify issuing the permit without a 20-year term limitation, there is reasonable probability that there is unappropriated water available, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) it is in the public interest.

Water Permit Application No. 2686-2 proposes to appropriate and place to beneficial use up to 18,938 cfs limited to an annual consumptive use volume up to 274.2 acre feet of water (equivalent to 0.38 cfs or 170 gpm) from multiple wells completed into the Inyan Kara aquifer at a depth between 200 to 800 feet. The wells will be located within the project area as defined in the first paragraph of this notice of hearing. The application is for a gross withdrawal (flow) rate of 18,938 cfs which equates to 8,500 gpm. The net consumptive use of water is a small portion of the gross withdrawal rate. Approximately two percent of the water is "bled off" during the process in order to maintain flow gradients toward the center of the well field. The remaining approximately ninety eight percent of the water is recirculated and continuously re-injected as part of the ISR process. The maximum net withdrawal rate equates to 0.38 cfs (170 gpm) from the Inyan

ume of up to 274.2 acre feet of water annually consumptively removed from the aquifer during the project.

Uranium recovery operations will continue for approximately 7 to 20 years. A typical well field grid of Inyan Kara wells consists of a 100 by 100 foot grid with one production well in the center and four surrounding wells for injection into the ore body. The well pattern may differ from well field to well field and be modified as needed to fit the characteristics of each ore body. Well fields will be completed along the various uranium zones. Current development plans include construction of approximately 600 ISR production wells in the Dewey portion of the project area and 900 ISR production wells in the Burdock portion of the project area. The maximum number of production wells in operation at any one time within the entire project area including production and restoration is 1,000 wells. Based on the project life and number of production wells scheduled as the well fields are developed, Powertech (USA) anticipates requesting a future permit amendment for an extension of the five year construction period pursuant to SDCL 46-2A-8. Powertech (USA) will provide an annual diversion report to DENR describing the number and location of pumping production wells. This report will include request for change in the number and designated locations of pumping wells pursuant to SDCL 46-5-13.1. This statute allows for the location of point of diversion or additional points of diversion to be approved without application or publication if the wells are completed into the same source, no additional water is appropriated and the Chief Engineer makes a finding that the change does not increase the potential for interference with existing diversions.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends Approval of Application No. 2686-2 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest.

SDCL 46-2A-4(10) provides that "if the applicant does not contest the recommendation of the Chief Engineer and no petition to oppose the application is received, the Chief Engineer shall act on the application pursuant to the Chief Engineer's recommendation and no hearing may be held before the board, unless the Chief Engineer makes a finding that an application, even if uncontested, presents important issues of public policy or public interest that should be heard by the board." In this case, the Chief Engineer finds that these applications present important issues of public interest that should be heard by the Water Management Board.

The Water Management Board will consider these applications at 8:30 AM on December 5, 2012 in the Matthew Training Center, 523 E. Capitol Ave. Pierre SD. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny these applications based on the facts presented at the public hearing.

Any interested person who intends to participate in the hearing shall file a petition to oppose or support the applications and the petition shall be filed with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by November 26, 2012. The petition may be informal, but shall be in writing and shall include a statement describing the petitioner's interest in either application, the petitioner's reasons for opposing or supporting either application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. The hearing is an adversary proceeding and any party has the right to be present at the hearing and to be represented by

a lawyer. These and other due process rights will be forfeited if they are not exercised at the hearing and decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

The December 5, 2012 hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any person who has filed a petition to oppose or support either application. The request for an automatic delay must be filed by November 26, 2012. If an automatic delay is requested, the hearing will be rescheduled for a future Board meeting and personal notice will be provided to all petitioners regarding the time, date and location.

Contact Eric Gronlund by November 26, 2012, at the above Chief Engineer's address to request copies of the staff reports, recommendations, applications or other information. Additionally each application, Water Rights Program staff report and Chief Engineer's recommendation may be viewed on-line at <http://denr.sd.gov/Powertech.aspx>. Notice is given to individuals with disabilities that this hearing is being held in a physically accessible place. Please notify the Department of Environment and Natural Resources at least 48 hours before the hearing if you have a disability for which special arrangements must be made at the hearing. The telephone number for making arrangements is (605) 773-3352.

Under SDCL 1-26-17(7) notices must state that "if the amount in controversy exceeds \$2,500.00 or if a property right may be terminated, any party to the contested case may require the agency to use the Office of Hearing Examiners by giving notice of the request to the agency no later than ten days after service of a notice of hearing issued pursuant to SDCL 1-26-17." This is a Notice of Hearing, service is being provided by publication, and the applicable date to give notice to the Chief Engineer is November 26, 2012. However, since this particular matter involves water permit applications and not a mone-

tary controversy in excess of \$2,500.00 or termination of a property right the Chief Engineer disputes the applicability of this provision and maintains that the hearing must be conducted by the Board.

The legal authority and jurisdiction under which the hearing is to be held are the following as applicable: SDCL 1-26-16 thru 1-26-28; SDCL 46-1-1 thru 46-1-9, 46-1-14 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-14, 46-2A-15; 46-5-6.11, 46-5-10 thru 46-5-13, 46-5-30 thru 46-5-30.3, 46-5-32; 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-26; and Board rules ARSD 74:02:01:01 thru 74:02:01:15.

The particular section of statutes and rules pertaining to these permit applications are, in addition to the above, the following: SDCL 46-2A-9, 46-6-3.1, 46-2A-15, 46-2A-20, 46-2A-21 46-5-10 thru 46-5-13.1, 46-5-26, 46-6-10, 46-6-26; the above listed administrative rules and the following rules pertaining to qualifications recommended by the Chief Engineer: ARSD Chapter 74:02:01 and 74:02:04.

Steven M. Pimer, Secretary, Department of Environment and Natural Resources.

Published once at the total approximate cost of \$122.99.

#228  
Nov. 14

NOV 26 2012

WATER RIGHTS PROGRAM

NOTICE OF HEARING on Water Permit Application Nos. 2685-2 and 2686-2 to Appropriate Water for Powertech (USA) Inc.

Notice is given that Powertech (USA) Inc., c/o Richard Blubaugh, 5575 DTC Parkway Suite #140, Greenwood Village CO 80111, has filed two applications for water permits for primarily industrial use in a uranium in-situ mining project called the Dewey-Burdock Project located in Custer and Fall River Counties. The Dewey-Burdock Project area (project area) encompasses approximately 10,580 acres including portions of Sections 1 through 5, 10 through 12, and 14 through 15 in T7S, R1E and Sections 20 through 21, and 27 through 35 in T6S, R1E, Black Hills Meridian.

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Group. However, Powertech (USA) plans to use water from the Madison Aquifer to make up for water that is not provided from the ISR process. The amount of "make-up" from the Madison Aquifer will depend upon the water disposal method which is either deep disposal well or land application. The use of water from these two formations necessitates obtaining water permits from each source. The applications listed below describe the proposed points of diversion, amount of water to be used, the maximum annual diversion rate and annual volume that may be diverted. The eastern portion of the project area is known as the Burdock area. It will include a series of ISR well fields and a central processing plant. The western portion of the project area is the Dewey area which will include ISR well fields and a satellite processing plant.

Each application, Water Rights Program staff report and Chief Engineer's recommendation may be viewed online at <http://denr.sd.gov/Powertech.aspx>.

Water Permit Application No. 2685-2 proposes to appropriate and place to beneficial use up to 1.228 cubic feet of water per second (cfs) with an annual consumptive use up to 888.8 acre feet of water annually from up to two or more wells completed into the Madison Aquifer at an approximate depth between 2,700 to 3,400 feet. The instantaneous peak diversion rate of 1.228 cubic feet of water per second (cfs) equates to 551 gallons per minute (gpm). The wells are to be located in the NW 1/4 NW 1/4 Section 32, T6S, R1E and the NW 1/4 NE 1/4 Section 11, T7S, R1E. Madison Aquifer water is primarily proposed for aquifer restoration following in-situ recovery but also may serve as the general facility water supply including the central processing plant, satellite plant and for domestic and livestock use for area landowners inside and near the project area.

The required yield may be obtained from one Madison well or several wells dependent on a number of factors. Powertech (USA) listed two potential well locations on this water permit application, one in the Dewey portion of the project and one in the Burdock portion. The final decision as to number and location of wells will depend upon water requirements, well yield, water quality and economic factors.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2685-2 subject to a 20-year term limitation because 1) although evidence is not available to justify issuing the permit without a 20-year term limitation, there is reasonable probability that there is unappropriated water available, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) it is in the public interest.

Water Permit Application No. 2686-2 proposes to appropriate and place to beneficial use up to 18,938 cfs limited to an annual consumptive use volume up to 274.2 acre feet of water (equivalent to 0.38 cfs or 170 gpm) from multiple wells completed into the Inyan Kara aquifer at a depth between 200 to 800 feet. The wells will be located within the project area as defined in the first paragraph of this notice of hearing. The application is for a gross withdrawal (flow) rate of 18,938 cfs which equates to 8,500 gpm. The net consumptive use of water is a small portion of the gross withdrawal rate. Approximately two percent of the water is "bled off" during the process in order to maintain flow gradients toward the center of the well field. The remaining approximately ninety eight percent of the water is recirculated and continuously re-injected as part of the ISR process. The maximum net withdrawal rate equates to 0.38 cfs (170 gpm) from the Inyan Kara Aquifer for an annual volume of up to 274.2 acre feet of water annually consumptively removed from the aquifer during the project.

Uranium recovery operations will continue for approximately 7 to 20 years. A typical well field grid of Inyan Kara wells consists of a 100 by 100 foot grid with one production well in the center and four surrounding wells for injection into the ore body. The well pattern may differ from well field to well field and be modified as needed to fit the characteristics of each ore body. Well fields will be completed along the various uranium zones. Current development plans include construction of approximately 600 ISR production wells in the Dewey portion of the project area and 900 ISR production wells in the Burdock portion of the project area. The maximum number of production wells in operation at any one time within the entire

AFFIDAVIT OF PUBLICATION

State of South Dakota ) ) ss. County of Fall River )

Brett Nachtigall of Hot Springs, Fall River County, South Dakota, being duly sworn, upon oath says that he is the publisher of the Hot Springs Star, as a legal newspaper, as defined in SDCL 17-2-2.1 through 17-2-2.4 inclusive, and is published at Hot Springs, county and state aforesaid; that the advertisement headed -

#384 Notice

a true printed copy thereof is hereunto annexed, was published in the said Hot Springs Star, in the regular and entire issue of said paper,

for one

successive issues, beginning with the

issue dated

Nov. 13, 2012

and ending with the issue dated

, 20

That the full amount of the fee charged for the publication of said notice is

\$ 129.44

and that no agreement or understanding, for the division thereof, has been made with any other person, and that no part thereof has been agreed to be paid to any person whomsoever, that the whole amount insures to the benefit of the publishers of said newspaper.

Subscribed and sworn to before me

this 20 day of Nov

20 12

Notary Public

My Commission Expires March 16, 2013



project area including production and restoration is 1,000 wells. Based on the project life and number of production wells scheduled as the well fields are developed, Powertech (USA) anticipates requesting a future permit amendment for an extension of the five year construction period pursuant to SDCL 46-2A-8. Powertech (USA) will provide an annual diversion report to DENR describing the number and location of pumping production wells. This report will include request for change in the number and designated locations of pumping wells pursuant to SDCL 46-5-13.1. This statute allows for the location of point of diversion or additional points of diversion to be approved without application or publication if the wells are completed into the same source, no additional water is appropriated and the Chief Engineer makes a finding that the change does not increase the potential for interference with existing diversions.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends Approval of Application No. 2686-2 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest.

SDCL 46-2A-4(10) provides that "if the applicant does not contest the recommendation of the Chief Engineer and no petition to oppose the application is received, the Chief Engineer shall act on the application pursuant to the Chief Engineer's recommendation and no hearing may be held before the board, unless the Chief Engineer makes a finding that an application, even if uncontested, presents important issues of public policy or public interest that should be heard by the board." In this case, the Chief Engineer finds that these applications present important issues of public interest that should be heard by the Water Management Board.

The Water Management Board will consider these applications at 8:30 AM on December 5, 2012 in the Matthew Training Center, 523 E. Capitol Ave. Pierre SD. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny these applications based on the facts presented at the public hearing.

Any interested person who intends to participate in the hearing shall file a petition to oppose or support the applications and the petition shall be filed with BOTH the applicant and Chief Engineer. The appli-

cant must also file a petition if opposed to the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by November 26, 2012. The petition may be informal, but shall be in writing and shall include a statement describing the petitioner's interest in either application, the petitioner's reasons for opposing or supporting either application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. The hearing is an adversary proceeding and any party has the right to be present at the hearing and to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised at the hearing and decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

The December 5, 2012 hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any person who has

filed a petition to oppose or support either application. The request for an automatic delay must be filed by November 26, 2012. If an automatic delay is requested, the hearing will be rescheduled for a future Board meeting and personal notice will be provided to all petitioners regarding the time, date and location.

Contact Eric Gronlund by November 26, 2012, at the above Chief Engineer's address to request copies of the staff reports, recommendations, applications or other information. Additionally each application, Water Rights Program staff report and Chief Engineer's recommendation may be viewed on-line at <http://denr.sd.gov/Powertech.spx>. Notice is given to individuals with disabilities that this hearing is being held in a physically accessible place. Please notify the Department of Environment and Natural Resources at least 48 hours before the hearing if you have a disability for which special arrangements must be made at the hearing. The telephone number for making arrangements is (605) 773-3352.

Under SDCL 1-26-17(7), notices must state that "if the amount in controversy exceeds \$2,500.00 or if a property right may be terminated, any party to the contested case may require the agency to use the Office of Hearing Examiners by giving notice of the request to the agency no later than ten days after service of a notice of hearing issued pursuant to SDCL 1-26-17." This is a Notice of Hearing, service is being provided by publication, and the applicable date to give notice to the Chief Engineer is November 26, 2012. However, since this particular matter involves water permit applications and not a monetary controversy in excess of \$2,500.00 or termination of a property right the Chief Engineer disputes the applicability of this provision and maintains that the hearing must be conducted by the Board.

The legal authority and jurisdiction under which the hearing is to be held are the following as applicable: SDCL 1-26-16 thru 1-26-28; SDCL 46-1-1 thru 46-1-9, 46-1-14 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-14, 46-2A-15; 46-5-6.11, 46-5-10 thru 46-5-13, 46-5-30 thru 46-5-30.3, 46-5-32; 46-6-3; 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-26; and Board rules ARSD 74:02:01:01 thru 74:02:01:15.

The particular section of statutes and rules pertaining to these permit applications are, in addition to the above, the following: SDCL 46-2A-9, 46-6-3.1, 46-2A-15, 46-2A-20, 46-2A-21 46-5-10 thru 46-5-13.1, 46-5-26, 46-6-10, 46-6-26; the above listed administrative rules and the following rules pertaining to qualifications recommended by the Chief Engineer: ARSD Chapter 74:02:01 and 74:02:04.

Steven M. Pirner, Secretary  
Department of Environment  
and Natural Resources.

Published once at the total approximate cost of \$129.44.

Nov. 13

RECEIVED

DEC - 3 2012

WATER RIGHTS PROGRAM

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA )  
County of Fall River ) SS

I, Annie Cassens

certify that the attached printed Notice was taken

from the Edgemont Herald Tribune

printed and published in Edgemont  
County of Fall River Co and

state of South Dakota. The notice was published

in the newspaper on the following date:

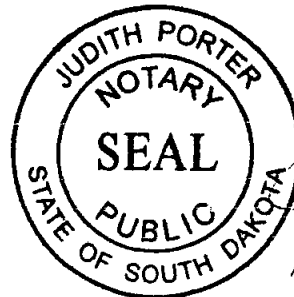
11-14-2012

Cost of Printing \$ 116.<sup>89</sup>

Annie Cassens  
(Signature)

Publisher  
(Title)

11-28-2012  
(Date Signed)



Judith Porter  
Notary Public  
My Commission Expires: 07-12-2015



RECEIVED

DEC - 3 2012

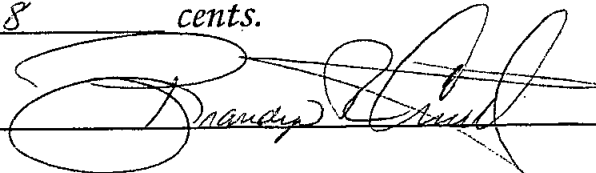
WATER RIGHTS PROGRAM

# Affidavit of Publication

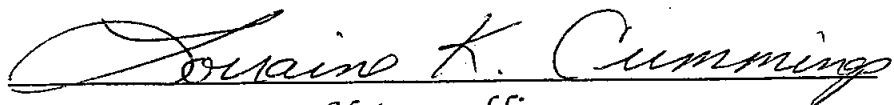
STATE OF SOUTH DAKOTA

County of Pennington                      SS:

Brandyn Crawford being first duly sworn, upon his/her oath says: That he/she is now and was at all time hereinafter mentioned, an employee of the RAPID CITY JOURNAL, a corporation of Rapid City, South Dakota, the owner and publisher of the RAPID CITY JOURNAL, a legal and daily newspaper printed and published in Rapid City, in said County of Pennington, and has full and personal knowledge of all the facts herein stated as follows: that said newspaper is and at all of the times herein mentioned has been a legal and daily newspaper with a bonafide paid circulation of at least Two Hundred copies daily, and has been printed and published in the English language, at and within an office maintained by the owner and publisher thereof, at Rapid City, in said Pennington County, and has been admitted to the United States mail under the second class mailing privilege for at least one year prior to the publication herein mentioned; that the advertisement, a printed copy of which, taken from said Rapid City Journal, the paper in which the same was published, is attached to this sheet and made a part of this affidavit, was published in said paper once each week for one successive week, the first publication there of being on the thirtieth day of November that the fees charged for the publication there of are 267 dollars and 38 cents.



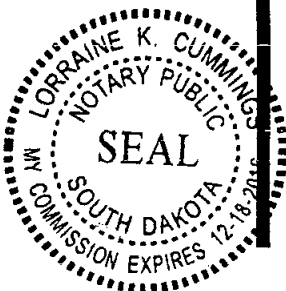
Subscribed and sworn to before me this 30<sup>th</sup> day of November, \_\_\_\_\_.



Notary public

Dec. 18, 2016

My commission expires



Nov. 14  
L20741198

### NOTICE OF HEARING

on Water Permit Application Nos. 2685-2 and 2686-2 to Appropriate Water for Powertech (USA) Inc.

Notice is given that Powertech (USA) Inc., c/o Richard Blubaugh, 5575 DTC Parkway Suite #140, Greenwood Village CO 80111 has filed two applications for water permits for primarily industrial use in a uranium in-situ mining project called the Dewey-Burdock Project located in Custer and Fall River Counties. The Dewey-Burdock Project area (project area) encompasses approximately 10,580 acres including portions of Sections 1 through 5, 10 through 12, and 14 through 15 in T7S, R1E and Sections 20 through 21, and 27 through 35 in T6S, R1E, Black Hills Meridian.

**Project Overview:** Powertech (USA) proposes to recover uranium by a method known as in-situ recovery, or ISR, in which groundwater from the formation containing uranium (the Inyan Kara Group) is pumped to the surface from a field of wells, fortified with oxygen and carbon dioxide, and recirculated through the formation. The oxidized groundwater changes the uranium to a soluble form and is pumped to the surface, where uranium is removed from the solution. ISR circulates water through the uranium ore zone. Only a small fraction of the water is a net withdrawal because most water is recirculated back through the ore zone. A portion of the water extracted from the Inyan Kara Aquifer will be "bled off" to maintain a cone of depression so native groundwater continually flows toward the center of the production zone. Production bleed rates may vary in the range of 0.5 to 3 percent over the life of the project. Restoration bleed rates up to 17 percent may be used briefly but would be limited to well fields undergoing aquifer restoration. The ISR process is repeated until the economic reserves of uranium are fully removed from that particular well field. The process moves to another well field, and the uranium depleted well field is restored by continuing to circulate clean water through the wells until the water is similar in

quality to the water that existed in the formation prior to the ISR operations.

Most of the water removed from the Inyan Kara Aquifer during the ISR process is recirculated and re-injected through the well field, resulting in the net consumptive use of water being a small portion of the gross withdrawal rate. Most of the water used in the ISR operations will be obtained from the Inyan Kara Group. However, Powertech (USA) plans to use water from the Madison Aquifer to make up for water that is not provided from the ISR process. The amount of "make-up" from the Madison Aquifer will depend upon the water disposal method which is either deep disposal well or land application.

The use of water from these two formations necessitates obtaining water permits from each source. The applications listed below describe the proposed points of diversion, amount of water to be used, the maximum annual diversion rate and annual volume that may be diverted. The eastern portion of the project area is known as the Burdock area. It will include a series of ISR well fields and a central processing plant. The western portion of the project area is the Dewey area which will include ISR well fields and a satellite processing plant.

Each application, Water Rights Program staff report and Chief Engineer's recommendation may be viewed on-line at <http://denr.sd.gov/Powertech.aspx>.

Water Permit Application No. 2685-2 proposes to appropriate and place to beneficial use up to 1,228 cubic feet of water per second (cfs) with an annual consumptive use up to 888.8 acre feet of water annually from up to two or more wells completed into the Madison Aquifer at an approximate depth between 2,700 to 3,400 feet. The instantaneous peak diversion rate of 1,228 cubic feet of water per second (cfs) equates to 551 gallons per minute (gpm). The wells are located in the NW 1/4 NW 1/4 Sec 32, T6S, R1E and NW 1/4 NE 1/4 Sec 11, T7S, R1E. Madison Aquifer water is primarily proposed for aquifer restoration following in-situ recovery but also may serve as the general facility water supply including the central processing plant, satellite plant and for domestic and livestock use for area landowners inside and near the project area.

The required yield may be obtained from one Madison well or several wells dependent on a number of factors. Powertech (USA) listed two potential well locations on this water permit application, one in the Dewey portion of the project and one in the Burdock portion. The final decision as to number and location of wells will depend upon water requirements, well yield, water quality and economic factors.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2685-2 subject to a 20-year term limitation because 1) although evidence is not available to justify issuing the permit without a 20-year term limitation, there is reasonable probability that there is unappropriated water available, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) it is in the public interest.

Water Permit Application No. 2686-2 proposes to appropriate and place to beneficial use up to 18,938 cfs limited to an annual consumptive use volume up to 274.2 acre feet of water (equivalent to 0.38 cfs or 170 gpm) from multiple wells completed into the Inyan Kara aquifer at a depth between 200 to 800 feet. The wells will be located within the project area as defined in the first paragraph of this notice of hearing. The application is for a gross withdrawal (flow) rate of 18,938 cfs which equates to 8,500 gpm. The net consumptive use of water is a small portion of the gross withdrawal rate. Approximately two percent of the water is "bled off" during the process in order to maintain flow gradients toward the center of the well field. The remaining approximately ninety eight percent of the water is recirculated and continuously re-injected as part of the ISR process. The maximum net withdrawal rate equates to 0.38 cfs (170 gpm) from the Inyan Aquifer for an annual volume of up to 274.2 acre feet of water annually consumptively removed from the aquifer during the project.

Uranium recovery operations will continue for approximately 7 to 20 years. A typical well field grid of Inyan Kara wells consists of a 100 by 100 foot grid with one production well in the center and four surrounding wells for injection into the ore body. The well pattern may differ from well field to well field and be modified as needed to fit the characteristics of each ore body. Well fields will be completed along the various uranium

zones. Current development plans include construction of approximately 600 ISR production wells in the Dewey portion of the project area and 900 ISR production wells in the Burdock portion of the project area. The maximum number of production wells in operation at any one time within the entire project area including production and restoration is 1,000 wells. Based on the project life and number of production wells scheduled as the well fields are developed, Powertech (USA) anticipates requesting a future permit amendment for an extension of the five year construction period pursuant to SDCL 46-2A-8. Powertech (USA) will provide an annual diversion report to DENR describing the number and location of pumping production wells. This report will include request for change in the number and designated locations of pumping wells pursuant to SDCL 46-5-13.1. This statute allows for the location of point of diversion or additional points of diversion to be approved without application or publication if the wells are completed into the same source, no additional water is appropriated and the Chief Engineer makes a finding that the change does not increase the potential for interference with existing diversions.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends Approval of Application No. 2686-2 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest.

SDCL 46-2A-4(10) provides that "if the applicant does not contest the recommendation of the Chief Engineer and no petition to oppose the application is received, the Chief Engineer shall act on the application pursuant to the Chief Engineer's recommendation and no hearing may be held before the board, unless the Chief Engineer makes a finding that an application, even if uncontested, presents important issues of public policy or public interest that should be heard by the board." In this case, the Chief Engineer finds that these applications present important issues of public interest that should be heard by the Water Management Board.

The Water Management Board will consider these applications at 8:30 AM on December 5, 2012 in the Matthew Training Center, 523 E. Capitol Ave. Pierre SD. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny these applications based on the facts presented at the public hearing.

Any interested person who intends to participate in the hearing shall file a petition to oppose or support the applications and the petition shall be filed with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by November 26, 2012. The petition may be informal, but shall be in writing and shall include a statement describing the petitioner's interest in either application, the petitioner's reasons for opposing or supporting either application, and the signature and mail-

ing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. The hearing is an adversary proceeding and any party has the right to be present at the hearing and to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised at the hearing and decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

The December 5, 2012 hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any person who has filed a petition to oppose or support either application. The request for an automatic delay must be filed by November 26, 2012. If an automatic delay is requested, the hearing will be rescheduled for a future Board meeting and personal notice will be provided to all petitioners regarding the time, date and location.

Contact Eric Gronlund by November 26, 2012, at the above Chief Engineer's address to request copies of the staff reports, recommendations, applications or other information. Additionally each application, Water Rights Program staff report and Chief Engineer's recommendation may be viewed on-line at <http://denr.sd.gov/Powertech.aspx>. Notice is given to individuals with disabilities that this hearing is being held in a physically accessible place. Please notify the Department of Environment and Natural Resources at least 48 hours before the hearing if you have a disability for which special arrangements must be made at the hearing. The telephone number for making arrangements is (605) 773-3352.

Under SDCL 1-26-17(7) notices must state that "if the amount in controversy exceeds \$2,500.00 or if a property right may be terminated, any party to the contested case may require the agency to use the Office of Hearing Examiners by giving notice of the request to the agency no later than ten days after service of a notice of hearing issued pursuant to SDCL 1-26-17." This is a Notice of Hearing, service is being provided by publication, and the applicable date to give notice to the Chief Engineer is November 26, 2012. However, since this particular matter involves water permit applications and not a monetary controversy in excess of \$2,500.00 or termination of a property right the Chief Engineer disputes the applicability of this provision and maintains that the hearing must be conducted by the Board.

The legal authority and jurisdiction under which the hearing is to be held are the following as applicable: SDCL 1-26-16 thru 1-26-28; SDCL 46-1-1 thru 46-1-9, 46-1-14 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-14, 46-2A-15; 46-5-6.11, 46-5-10 thru 46-5-13, 46-5-30 thru 46-5-30.3, 46-5-32; 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-26; and Board rules ARSD 74:02:01:01 thru 74:02:01:15.

The particular section of statutes and rules pertaining to these permit applications are, in addition to the above, the following: SDCL 46-2A-9, 46-6-3.1, 46-2A-15, 46-2A-20, 46-2A-21, 46-5-10 thru 46-5-13.1, 46-5-26, 46-6-10, 46-6-26; the above listed administrative rules and the following rules pertaining to qualifications recommended by the Chief Engineer: ARSD Chapter 74:02:01 and 74:02:04.

/s/ Steven M. Pirner, Secretary,  
Department of Environment and Natural Resources.

RECEIVED

DEC - 3 2012

Affidavit of Publication

WATER RIGHTS PROGRAM

State of South Dakota

) ss.

County of Custer

Charles W. Najacht of said county, being duly sworn, on oath says that he is publisher of the Custer County Chronicle, a weekly newspaper printed and published in Custer City, said County of Custer and has full and personal knowledge of all the facts herein stated; that said newspaper is a legal newspaper and has a bona-fide circulation of at least two hundred copies weekly, and has been published within said County for fifty-two successive weeks next prior to the publication of the notice herein, mentioned, and was and is printed wholly or in part in an office maintained at said place of publication: that the

PowerTech (USA) Inc.

Notice of Hearing

a printed copy of which, taken from the paper in which the same was published, is attached to this sheet, and is made a part of this Affidavit, was published in said newspaper at least once each week for 1 successive week(s), on which said newspaper was regularly published, to wit:

Nov 14, 2012

the full amount of the fees for the publication of the annexed notice is \$ 118.23

Charles W. Najacht

Subscribed and sworn to me before this 14

of November, 2012

Norma Najacht

NOTARY PUBLIC

MY COMMISSION EXPIRES: May 5, 2014

the economic reserves of uranium are fully removed from that particular well field. The process moves to another well field, and the uranium depleted well field is restored by continuing to circulate clean water through the wells until the water is similar in quality to the water that existed in the formation prior to the ISR operations. Most of the water removed from the Inyan Kara Aquifer during the ISR process is recirculated and re-injected through the well field, resulting in the net consumptive use of water being a small portion of the gross withdrawal rate. Most of the water used in the ISR operations will be obtained from the Inyan Kara Group. However, Powertech (USA) plans to use water from the Madison Aquifer to make up for water that is not provided from the ISR process. The amount of "make-up" from the Madison Aquifer will depend upon the water disposal method which is either deep disposal well or land application. The use of water from these two formations necessitates obtaining water permits from each source. The applications listed below describe the proposed points of diversion, amount of water to be used, the maximum annual diversion rate and annual-volume that may be diverted. The eastern portion of the project area is known as the Burdock area. It will include a series of ISR well fields and a central processing plant. The western portion of the project area is the Dewey area which will include ISR well fields and a satellite processing plant.

NOTICE OF HEARING ON WATER PERMIT APPLICATION NOS. 2685-2 AND 2686-2 TO APPROPRIATE WATER FOR POWERTECH (USA) INC.

Notice is given that Powertech (USA) Inc., c/o Richard Blubaugh, 5575 DTC Parkway Suite #140, Greenwood Village CO 80111 has filed two applications for water permits for primarily industrial use in a uranium in-situ mining project called the Dewey-Burdock Project, located in Custer and Fall River Counties. The Dewey-Burdock Project area (project area) encompasses approximately 10,580 acres including portions of Sections 1 through 5, 10 through 12, and 14 through 15 in T7S, R1E and Sections 20 through 21, and 27 through 35 in T6S, R1E, Black Hills Meridian.

Project Overview: Powertech (USA) proposes to recover uranium by a method known as in-situ recovery, or ISR, in which groundwater from the formation containing uranium (the Inyan Kara Group) is pumped to the surface from a field of wells, fortified with oxygen and carbon dioxide, and recirculated through the formation. The oxidized groundwater changes the uranium to a soluble form and is pumped to the surface, where uranium is removed from the solution. ISR circulates water through the uranium ore zone. Only a small fraction of the water is a net withdrawal because most water is recirculated back through the ore zone. A portion of the water extracted from the Inyan Kara Aquifer will be "bled off" to maintain a cone of depression so native groundwater continually flows toward the center of the production zone. Production bleed rates may vary in the range of 0.5 to 3 percent over the life of the project. Restoration bleed rates up to 17 percent may be used briefly but would be limited to well fields undergoing aquifer restoration. The ISR process is repeated until

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The required yield may be obtained from one Madison well or several wells dependent on a num-

NORMA NAJACHT

NOTARY PUBLIC SOUTH DAKOTA



ber of factors. Powertech (USA) listed two potential well locations on this water permit application, one in the Dewey portion of the project and one in the Burdock portion. The final decision as to number and location of wells will depend upon water requirements, well yield, water quality and economic factors.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2685-2 subject to a 20-year term limitation because 4) although evidence is not available to justify issuing the permit without a 20-year term limitation, there is reasonable probability that there is unappropriated water available, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) it is in the public interest.

Water Permit Application No. 2686-2 proposes to appropriate and place to beneficial use up to 18,938 cfs limited to an annual consumptive use volume up to 274.2 acre feet of water (equivalent to 0.38 cfs or 170 gpm) from multiple wells completed into the Inyan Kara aquifer at a depth between 200 to 800 feet. The wells will be located within the project area as defined in the first paragraph of this notice of hearing. The application is for a gross withdrawal (flow) rate of 18,938 cfs which equates to 8,500 gpm. The net consumptive use of water is a small portion of the gross withdrawal rate. Approximately two percent of the water is "bled off" during the process in order to maintain flow gradients toward the center of the well field. The remaining approximately ninety eight percent of the water is recirculated and continuously re-injected as part of the ISR process. The maximum net withdrawal rate equates to 0.38 cfs (170 gpm) from the Inyan Aquifer for an annual volume of up to 274.2 acre feet of water annually consumptively removed from the aquifer during the project.

Uranium recovery operations will continue for approximately 7 to 20 years. A typical well field grid of Inyan Kara wells consists of a 100 by 100 foot grid with one production well in the center and four surrounding wells for injection into the ore body. The well pattern may differ from well field to well field and be modified as needed to fit the characteristics of each ore body. Well fields will be completed along the various uranium zones. Current development plans include construction of approximately 600 ISR production wells in the Dewey portion of the project area and 900 ISR production wells in the Burdock portion of the project area. The maximum number of production wells in

operation at any one time within the entire project area including production and restoration is 1,000 wells. Based on the project life and number of production wells scheduled as the well fields are developed, Powertech (USA) anticipates requesting a future permit amendment for an extension of the five year construction period pursuant to SDCL 46-2A-8. Powertech (USA) will provide an annual diversion report to DENR describing the number and location of pumping production wells. This report will include request for change in the number and designated locations of pumping wells pursuant to SDCL 46-5-13.1. This statute allows for the location of point of diversion or additional points of diversion to be approved without application or publication if the wells are completed into the same source, no additional water is appropriated and the Chief Engineer makes a finding that the change does not increase the potential for interference with existing diversions.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends Approval of Application No. 2686-2 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest.

SDCL 46-2A-4(10) provides that "if the applicant does not contest the recommendation of the Chief Engineer and no petition to oppose the application is received, the Chief Engineer shall act on the application pursuant to the Chief Engineer's recommendation and no hearing may be held before the board, unless the Chief Engineer makes a finding that an application, even if uncontested, presents important issues of public policy or public interest that should be heard by the board." In this case, the Chief Engineer finds that these applications present important issues of public interest that should be heard by the Water Management Board.

The Water Management Board will consider these applications at 8:30 AM on December 5, 2012 in the Matthew Training Center, 523 E. Capitol Ave. Pierre SD. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny these applications based on the facts presented at the public hearing.

Any interested person who intends to participate in the hearing shall file a petition to oppose or support the applications and the petition shall be filed with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to the Chief

*Continued on next page -*

Engineer's recommendation. The Chief Engineer's address is "Water Rights Program; Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by November 26, 2012. The petition may be informal, but shall be in writing and shall include a statement describing the petitioner's interest in either application, the petitioner's reasons for opposing or supporting either application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. The hearing is an adversary proceeding and any party has the right to be present at the hearing and to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised at the hearing and decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

The December 5, 2012 hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any person who has filed a petition to oppose or support either application. The request for an automatic delay must be filed by November 26, 2012. If an automatic delay is requested, the hearing will be rescheduled for a future Board meeting and personal notice will be provided to all petitioners regarding the time, date and location.

Contact Eric Gronlund by November 26, 2012, at the above Chief Engineer's address to request copies of the staff reports, recommendations, applications or other information. Additionally each application, Water Rights Program staff report and Chief Engineer's recommendation may be viewed on-line at <http://denr.sd.gov/Powertech.aspx>. Notice is given to individuals with disabilities that this hearing is being held in a physically accessible place. Please notify the Department of Environment and Natural Resources at least 48 hours before the hearing if you have a disability for which special arrangements must be made at the hearing. The telephone number for making arrangements is (605) 773-3352.

Under SDCL 1-26-17(7) notices must state that "if the amount in controversy exceeds \$2,500.00 or if a property right may be terminated, any party to the contested case may require the agency to use the Office of Hearing Examiners by giving notice of the request to the agency no later than ten days after service of a notice of hearing issued pursuant to SDCL 1-26-17." This is a Notice of Hearing, service is being provided by publication, and the applicable date to give notice to the Chief Engineer is November 26, 2012. However, since this particular matter involves water permit applications and not a monetary controversy in excess of \$2,500.00

or termination of a property right the Chief Engineer disputes the applicability of this provision and maintains that the hearing must be conducted by the Board.

The legal authority and jurisdiction under which the hearing is to be held are the following as applicable: SDCL 1-26-16 thru 1-26-28; SDCL 46-1-1 thru 46-1-9, 46-1-14 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-14, 46-2A-15; 46-5-6.11, 46-5-10 thru 46-5-13, 46-5-30 thru 46-5-30.3, 46-5-32; 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-26; and Board rules ARSD 74:02:01:01 thru 74:02:01:15.

The particular section of statutes and rules pertaining to these permit applications are, in addition to the above, the following: SDCL 46-2A-9, 46-6-3.1, 46-2A-15, 46-2A-20, 46-2A-21 46-5-10 thru 46-5-13.1, 46-5-26, 46-6-10, 46-6-26; the above listed administrative rules and the following rules pertaining to qualifications recommended by the Chief Engineer: ARSD Chapter 74:02:01 and 74:02:04.

Steven M. Pirmer, Secretary, Department of Environment and Natural Resources.

Published once at an approximate cost of \$118.23.

11/14

Form 8

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DEC 12 2012

WATER RIGHTS PROGRAM

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA )  
County of Bennett )SS

I, Pera White Horse

certify that the attached printed Notice was taken

from the Lakota Country Times

printed and published in \_\_\_\_\_

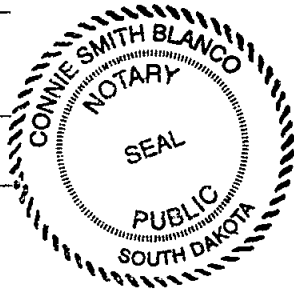
County of Bennett and

state of South Dakota. The notice was published

in the newspaper on the following date:

Nov. 14, 2012

Cost of Printing 217.60



Connie Smith  
(Signature)

owner  
(Title)

Dec. 1, 2012  
(Date Signed)

Department of Environment and Natural Resources

NOTICE OF HEARING  
on Water Permit Application Nos.  
2685-2 and 2686-2 to Appropriate  
Water for Powertech (USA) Inc.

Notice is given that Powertech (USA) Inc., c/o Richard Blubaugh, 5575 DTC Parkway Suite #140, Greenwood Village CO 80111 has filed two applications for water permits for primarily industrial use in a uranium in-situ mining project called the Dewey-Burdock Project located in Custer and Fall River Counties. The Dewey-Burdock Project area (project area) encompasses approximately 10,580 acres including portions of Sections 1 through 5, 10 through 12, and 14 through 15 in T7S, R1E and Sections 20 through 21, and 27 through 35 in T6S, R1E, Black Hills Meridian.

Project Overview: Powertech (USA) proposes to recover uranium by a method known as in-situ recovery, or ISR, in which groundwater from the formation containing uranium (the Inyan Kara Group) is pumped to the surface from a field of wells, fortified with oxygen and carbon dioxide, and recirculated through the formation. The oxidized groundwater changes the uranium to a soluble form and is pumped to the surface, where uranium is removed from the solution. ISR circulates water through the uranium ore zone. Only a small fraction of the water is a net withdrawal because most water is recirculated back through the ore zone. A portion of the water extracted from the Inyan Kara Aquifer will be "bled off" to maintain a cone of depression so native groundwater continually flows toward the center of the production zone. Production bleed rates may vary in the range of 0.5 to 3 percent over the life of the project. Restoration bleed rates up to 17 percent may be used briefly but would be limited to well fields undergoing aquifer restoration. The ISR process is repeated until the economic reserves of uranium are fully removed from that particular well field. The process moves to another well field, and the uranium depleted well field is restored by continuing to circulate clean water through the wells until the water is similar in quality to the water that existed in the formation prior to the ISR operations. Most of the water removed from the Inyan Kara Aquifer during the ISR process is recirculated and re-injected through the well field, resulting in the net consumptive use of water being a small portion of the gross withdrawal rate. Most of the water used in the ISR operations will be obtained from the Inyan Kara Group. However, Powertech (USA) plans to use water from the Madison Aquifer to make up for water that is not provided from the ISR process. The amount of "make-up" from the Madison Aquifer will depend upon the water disposal method which is either deep disposal well or land application. The use of water from these two formations necessitates obtaining water permits from each source. The applications listed below describe the proposed points of diversion, amount of water to be used, the maximum annual diversion rate and annual volume that may be diverted. The eastern portion of the project area is known as the Burdock area. It will include a series of ISR well fields and a central processing plant. The western portion of the project area is the Dewey area which will include ISR well fields and a satellite processing plant.



Each application, Water Rights Program staff report and Chief Engineer's recommendation may be viewed on-line at <http://denr.sd.gov/Powertech.aspx>.

Water Permit Application No. 2685-2 proposes to appropriate and place to beneficial use up to 1.228 cubic feet of water per second (cfs) with an annual consumptive use up to 888.8 acre feet of water annually from up to two or more wells completed into the Madison Aquifer at an approximate depth between 2,700 to 3,400 feet. The instantaneous peak diversion rate of 1.228 cubic feet of water per second (cfs) equates to 551 gallons per minute (gpm). The wells are to be located in the NW 1/4 NW 1/4 Section 32, T6S, R1E and the NW 1/4 NE 1/4 Section 11, T7S, R1E. Madison Aquifer water is primarily proposed for aquifer restoration following in-situ recovery but also may serve as the general facility water supply including the central processing plant, satellite plant and for domestic and livestock use for area landowners inside and near the project area.

The required yield may be obtained from one Madison well or several wells dependent on a number of factors. Powertech (USA) listed two potential well locations on this water permit application, one in the Dewey portion of the project and one in the Burdock portion. The final decision as to number and location of wells will depend upon water requirements, well yield, water quality and economic factors.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2685-2 subject to a 20-year term limitation because 1) although evidence is not available to justify issuing the permit without a 20-year term limitation, there is reasonable probability that there is unappropriated water available, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) it is in the public interest.

Water Permit Application No. 2686-2 proposes to appropriate and place to beneficial use up to 18.938 cfs limited to an annual consumptive use volume up to 274.2 acre feet of water (equivalent to 0.38 cfs or 170 gpm) from multiple wells completed into the Inyan Kara aquifer at a depth between 200 to 800 feet. The wells will be located within the project area as defined in the first paragraph of this notice of hearing. The application is for a gross withdrawal (flow) rate of 18.938 cfs which equates to 8,500 gpm. The net consumptive use of water is a small portion of the gross withdrawal rate. Approximately two percent of the water is "bled off" during the process in order to maintain flow gradients toward the center of the well field. The remaining approximately ninety eight percent of the water is recirculated and continuously re-injected as part of the ISR process. The maximum net withdrawal rate equates to 0.38 cfs (170 gpm) from the Inyan Aquifer for an annual volume of up to 274.2 acre feet of water annually consumptively removed from the aquifer during the project.

Uranium recovery operations will continue for approximately 7 to 20 years. A typical well

#### C6 WEDNESDAY, NOVEMBER 14, 2012

field grid of Inyan Kara wells consists of a 100 by 100 foot grid with one production well in the center and four surrounding wells for injection into the ore body. The well pattern may differ from well field to well field and be modified as needed to fit the characteristics of each ore body. Well fields will be completed along the various uranium zones. Current development plans include construction of approximately 600 ISR production wells in the Dewey portion of the project area and 900 ISR production wells in the Burdock portion of the project area. The maximum number of production wells in operation at any one time within the entire project area including production and restoration is 1,000 wells. Based on the project life and number of production wells scheduled as the well fields are developed, Powertech (USA) anticipates requesting a future permit amendment for an extension of the five year construction period pursuant to SDCL 46-2A-8. Powertech (USA) will provide an annual diversion report to DENR describing the number and location of pumping production wells. This report will include request for change in the number and designated locations of pumping wells pursuant to SDCL 46-5-13.1. This statute allows for the location of point of diversion or additional points of diversion to be approved without application or publication if the wells are completed into the same source, no additional water is appropriated and the Chief Engineer makes a finding that the change does not increase the potential for interference with existing diversions.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends Approval of Application No. 2686-2 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest.

SDCL 46-2A-4(10) provides that "if the applicant does not contest the recommendation of the Chief Engineer and no petition to oppose the application is received, the Chief Engineer shall act on the application pursuant to the Chief Engineer's recommendation and no hearing may be held before the board, unless the Chief Engineer makes a finding that an application, even if uncontested, presents important issues of public policy or public interest that should be heard by the board." In this case, the Chief Engineer finds that these applications present important issues of public interest that should be heard by the Water Management Board.

The Water Management Board will consider these applications at 8:30 AM on December 5, 2012 in the Matthew Training Center, 523 E. Capitol Ave. Pierre SD. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny these applications based on the facts presented at the public hearing.

Any interested person who intends to participate in the hearing shall file a petition to oppose or support the applications and the petition shall be filed with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by November 26, 2012. The petition may be informal, but shall be in writing and shall include a statement describing the petitioner's interest in either application, the

petitioner's reasons for opposing or supporting either application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. The hearing is an adversary proceeding and any party has the right to be present at the hearing and to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised at the hearing and decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

The December 5, 2012 hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any person who has filed a petition to oppose or support either application. The request for an automatic delay must be filed by November 26, 2012. If an automatic delay is requested, the hearing will be rescheduled for a future Board meeting and personal notice will be provided to all petitioners regarding the time, date and location.

Contact Eric Gronlund by November 26, 2012, at the above Chief Engineer's address to request copies of the staff reports, recommendations, applications or other information. Additionally each application, Water Rights Program staff report and Chief Engineer's recommendation may be viewed on-line at <http://denr.sd.gov/Powertech.aspx>. Notice is given to individuals with disabilities that this hearing is being held in a physically accessible place. Please notify the Department of Environment and Natural Resources at least 48 hours before the hearing if you have a disability for which special arrangements must be made at the hearing. The telephone number for making arrangements is (605) 773-3352.

Under SDCL 1-26-17(7) notices must state that "if the amount in controversy exceeds \$2,500.00 or if a property right may be terminated, any party to the contested case may require the agency to use the Office of Hearing Examiners by giving notice of the request to the agency no later than ten days after service of a notice of hearing issued pursuant to SDCL 1-26-17." This is a Notice of Hearing, service is being provided by publication, and the applicable date to give notice to the Chief Engineer is November 26, 2012. However, since this particular matter involves water permit applications and not a monetary controversy in excess of \$2,500.00 or termination of a property right the Chief Engineer disputes the applicability of this provision and maintains that the hearing must be conducted by the Board.

The legal authority and jurisdiction under which the hearing is to be held are the following as applicable: SDCL 1-26-16 thru 1-26-28; SDCL 46-1-1 thru 46-1-9, 46-1-14 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-14, 46-2A-15; 46-5-6.11, 46-5-10 thru 46-5-13, 46-5-30 thru 46-5-30.3, 46-5-32; 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-26; and Board rules ARSD 74:02:01:01 thru 74:02:01:15.

The particular section of statutes and rules pertaining to these permit applications are, in addition to the above, the following: SDCL 46-2A-9, 46-6-3.1, 46-2A-15, 46-2A-20, 46-2A-21, 46-5-10 thru 46-5-13.1, 46-5-26, 46-6-10, 46-6-26; the above listed administrative rules and the following rules pertaining to qualifications recommended by the Chief Engineer: ARSD Chapter 74:02:01 and 74:02:04.

Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

Published once at an approximate cost of \$217.60

**Petitions to Intervene, Letters of Concern, and Requests for Delay (WR Applications)**

<b>Page #</b>	<b>Date Rec'd</b>	<b>Name</b>
	11-26-12	Jillian Anawaty
	11-26-12	Jerri Baker (2 letters)
	11-26-12	Doris Belitz
	11-26-12	Jennifer Belitz
	11-28-12	Jennifer Belitz
	11-26-12	Larry Belitz
	11-28-12	Mark Belitz
	11-28-12	Edward Binns
	11-26-12	Cindy Brunson (2 letters)
	11-26-12	Clean Water Alliance, filed by Bruce Ellison
	11-26-12	Barbara Cromwell
	11-26-12	Jeremiah Davis
	11-26-12	Defenders of the Black Hills, filed by Charmaine White Face
	11-28-12	Fall River County, filed by Michael Ortner
	11-26-12	Gary Heckenlaible
	11-26-12	Susan Henderson
	11-26-12	City of Hot Springs, filed by D.J. DeVries
	11-26-12	Lilias Jarding
	11-26-12	Marvin Kammerer
	11-26-12	Donald Kelley
	11-26-12	Sabina King
	11-26-12	Rebecca Leas
	1-30-12	Oglala Sioux Tribe, filed by W. Cindy Gillis
	11-26-12	Gena Parkhurst
	11-28-12	Notice and Petition to Oppose signed by Karl Bothert, et. al
	11-28-12	Notice and Petition to Oppose signed by Casey Neugebauer, et. al
	11-28-12	Notice and Petition to Oppose signed by Maura Smith, et. al
	11-28-12	Notice and Petition to Oppose signed by Ronald Baker, et. al
	11-28-12	Notice and Petition to Oppose signed by Alison Swan, et. al
	11-28-12	Notice and Petition to Oppose signed by Leora Dappen, et. al
	11-28-12	Notice and Petition to Oppose signed by Jim Johnson
	11-28-12	Notice and Petition to Oppose signed by Gail Saxonis, et. al
	11-28-12	Notice and Petition to Oppose signed by BJ Hunter
	11-28-12	Notice and Petition to Oppose signed by Michelle Brock, et. al
	11-28-12	Notice and Petition to Oppose signed by Terry Hohowler, et. al
	11-28-12	South Dakota Game, Fish & Parks, filed by Leslie Murphy
	11-21-12	South Dakota Peace & Justice Center, filed by Tom Emanuel
	11-21-12	Dewane Stearns
	11-26-12	Mark Tubbs
	11-21-12	U.S. Fish & Wildlife Service, filed by William R. Hansen
	11-29-12	James B. Woodward

X  
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NOV 26 2012

WATER RIGHTS  
PROGRAM

Chief Engineer  
Water Rights Program  
Foss Building  
523 E. Capitol  
Pierre, SD 57501

Powertech (USA) Inc.  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO. 80111

RE: Water Permit Applications No. 2685-2 and 2686-2

Dear Mr. Erbele and Mr. Blubaugh:

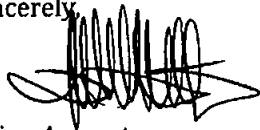
I am requesting to be an intervenor in the above water permit applications. Please regard this letter as my request for an extension of time on the hearing.

I am a member of Dakota Rural Action, Black Hills. As a citizen concerned about the harmful effects of uranium mining in the Black Hills who recognizes our water as a precious resource that needs to be preserved and protected from this dangerous contamination, I urge you to delay this hearing.

Please keep me informed of all proceedings and documents related to these applications.

Thank you.

Sincerely,



, November 19, 2012

Jillian Anawaty  
2804 Willow Ave  
Rapid City, SD 57701

X

Jerri Baker

705 North River Street

Hot Springs, SD 57747

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**Statement of Interest**

I am writing to be put on the agenda concerning Power Tech, and the Large Scale Mining Permit, including water permits, before the State of South Dakota and the boards to that over see these. I am interested in speaking on these topics, on December 5<sup>th</sup> 2012.

Please note my email to send me information or if you have any questions concerning this statement.

Jerri Baker

11-21-12

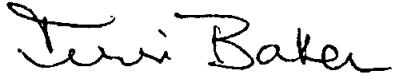
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PROGRAM

Jerri Baker  
705 North River Street  
Hot Springs, SD 57747

Reason for Opposition

To Whom This May Concern,

I worked at an UMTRA clean-up site in Colorado. I strongly oppose Power Tech mining uranium outside Edgemont, South Dakota. I am concerned about the quality of air and water that will be present if you decide to allow them to mine. I would like the opportunity to voice my opinion.



Jerri Baker

11-21-2012

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X.

12747 Oak Road  
Hot Springs, SD 57747  
November 21, 2012

Dear Lisa:

I contest the permit of  
Powertech for it would  
contaminate this area's water.  
Our water is supplied by  
the source they will deplete.

Yours truly,  
Doris Belitz

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Jennifer Belitz  
28233 Cascade Rd  
Hot Springs, SD 57747

11/24/2012

Attn: Eric Gronlund  
DENR

As a proud citizen, landowner, and mother in SD. I fervently oppose permitting Powertech Inc. any aquifer water for it's in-situ leach mining operations.

This company operated in TX where they relaxed water protection regulations.

In CO, when the state introduced legislation that would require the company to return water back to it's original condition, Powertech Inc. attempted to sue the state, then gave up and is focusing on mining operations here. (Where citizens and legislators care less about their water?)

I am originally from a small town in ND recently overrun by another dirty energy industry (OIL). I am in shock at how fast a peaceful, beautiful, healthy place can be turned upside down with seemingly little resistance by the state and no rights given landowners. Basically, if you value the beauty of your surroundings, the clean air, and water you've been accustomed to, you will LEAVE to find it again elsewhere.....please look into how many ND residents have recently move to SD (many are the "core" citizens that built the churches and schools there).

These types of mining operations should not have any priority in this state which thrives on agriculture, tourism, and a population of residents that are here because of the beauty, culture, and healthy environment SD offers.

CLEAN WATER IN AN AQUIFER .....consider our semi-arid climate, recent droughts, population growth, the amount of the earths water already polluted.....CLEAN WATER IN AQUIFERS is the last thing we should be permitting for a Candadian energy company already denied by our neighbors in CO.

How will the state of SD protect those of us who have wells in these aquifers for domestic and livestock use? How will SD ensure us our children (who absorb chemicals at a higher rate than adults) are not being poisoned and will not have a dry or polluted well in the future??

Powertech Inc. prefers to pump it's polluted water into the ground below current wells used for water. I'd like to make the point that our shallower wells have recently been found to be contaminated with farm and other chemicals. In the future we may have to go deeper for clean uncontaminated water. This out of site/ out of mind approach is nearly passing on the pollution to our children.

**This water is too precious to all of us....**

**Thankyou for protecting your fellow South Dakota families from radioactive pollution,  
destruction of cultural sites, and most of all polluted water.**

**Jennifer Belitz**



*Weld County land owner Robin Davis, a co-founder of C.A.R.D. whose ranch is adjacent to Powertech's proposed mine site, praised the ruling. "Powertech had told us from day one that they could and would restore our water. Instead of making good on that promise, the company instead sought through the courts to eliminate ground water protections and exclude the public from the process. If it can't fulfill its promises of protecting our precious water supplies, Powertech should formally abandon this risky project."*

"In-situ mining remediation not as reliable as you think" by Howard Williams, Greeley Tribune - May 21, 2009 Note: Mr. Williams gives an overview of the 2008 report by hydrogeologist Bruce Darling on 27 Texas in-situ leach uranium mines where groundwater restoration standards were relaxed by Texas environmental officials after mine operators were unable to return elevated levels of uranium and other heavy metals back to baseline pre-mining levels. As Williams points out, five of these mines are cited on Powertech's website as examples of ISL operations that successfully cleaned up the aquifers. For a posting on Dr. Darling's report and Powertech's claims, go here.

## POWERTECH FOLDS

*Canadian company doesn't appeal the dismissal of its lawsuit against new Colorado uranium mining rules; is the Centennial project dead?*

Posted August 29, 2012

Powertech Uranium Corp. has apparently decided to not appeal the July 13 dismissal of its lawsuit challenging new Colorado rules regulating in-situ leach uranium mining. Soon after announcing the proposed Centennial ISL uranium project in 2007, Powertech assured local Weld County, Colorado landowners that it could conduct ISL uranium mining and restore groundwater aquifers to pre-mining water quality.

But when northern Colorado residents and legislators sought to incorporate this concept into state law, Powertech sang another tune. The Canadian company vigorously opposed the 2008 legislation that eventually passed by overwhelming bipartisan majorities, and fought subsequent regulations drafted by the Colorado Mined Land Reclamation Board. After the MLRB unanimously adopted the rules on August 12, 2010, Powertech filed a lawsuit seeking to overturn them. After delays by Powertech, the case was finally dismissed on July 13 of this year.

The deadline for filing a notice of appeal with the district court was Monday, August 27. A second deadline for filing a notice of appeal with the appellate court is Friday, August 31. Since both filings are required in this case, one can assume that Powertech has missed the Monday deadline and therefore is not appealing the judge's dismissal order.

The decision to not appeal is one more indication that Powertech has given up on the controversial Centennial project. In the last year, Powertech has directed federal and state regulators to cease all permitting activities, closed its Wellington, Colorado project office, transferred or laid off the project manager and support staff, allowed key land options to expire, listed project real estate for sale, and announced that it is shifting its attention and resources to the proposed Dewey-Burdock project in South Dakota.

However, Powertech is unlikely to publicly admit that it has terminated the project since it wants investors, Canadian broker-dealers and hedge fund managers, and potential acquirers and "strategic partners" to think the Centennial project is still an economically-viable uranium project. JW

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Jennifer Belitz  
28233 Cascade Rd  
Hot Springs, SD 57747

11/24/2012

Attn: Eric Gronlund  
DENR

As a proud citizen, landowner, and mother in SD. I fervently oppose permitting Powertech Inc. any aquifer water for it's in-situ leach mining operations.

This company operated in TX where they relaxed water protection regulations.

In CO, when the state introduced legislation that would require the company to return water back to it's original condition, Powertech Inc. attempted to sue the state, then gave up and is focusing on mining operations here. (Where citizens and legislators care less about their water?)

I am originally from a small town in ND recently overrun by another dirty energy industry (OIL). I am in shock at how fast a peaceful, beautiful, healthy place can be turned upside down with seemingly little resistance by the state and no rights given landowners. Basically, if you value the beauty of your surroundings, the clean air, and water you've been accustomed to, you will LEAVE to find it again elsewhere.....please look into how many ND residents have recently move to SD (many are the "core" citizens that built the churches and schools there).

These types of mining operations should not have any priority in this state which thrives on agriculture, tourism, and a population of residents that are here because of the beauty, culture, and healthy environment SD offers.

CLEAN WATER IN AN AQUIFER .....consider our semi-arid climate, recent droughts, population growth, the amount of the earths water already polluted.....CLEAN WATER IN AQUIFERS is the last thing we should be permitting for a Candadian energy company already denied by our neighbors in CO.

How will the state of SD protect those of us who have wells in these aquifers for domestic and livestock use? How will SD ensure us our children (who absorb chemicals at a higher rate than adults) are not being poisoned and will not have a dry or polluted well in the future??

Powertech Inc. prefers to pump it's polluted water into the ground below current wells used for water. I'd like to make the point that our shallower wells have recently been found to be contaminated with farm and other chemicals. In the future we may have to go deeper for clean uncontaminated water. This out of site/ out of mind approach is nearly passing on the pollution to our children.

---

This water is too precious to all of us....

Thankyou for protecting your fellow South Dakota families from radioactive pollution,  
destruction of cultural sites, and most of all polluted water.

Jennifer Belitz

---

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X

WATER RIGHTS  
PROGRAM

To Eric Gronlund,

We have a ranch about a mile of the proposed  
leach uranium mining. We oppose it due to  
health hazards and lose of water.

Respectfully,

Garry Belity  
12747 Oak Road  
Hot Springs, SD 57747

28233 Cascade Road  
Hot Springs, SD 57747  
November 25, 2012

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To whom it may concern,

I am opposed to "in situ" uranium mining in the Black Hills for several good reasons, these reasons I hope you will thoughtfully consider before moving ahead with any decisions of Powertech working in our area.

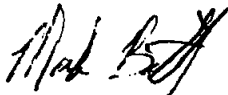
First, the amount of water projected to be consumed by the company could be as high as 12,960,000 gallons per day. This water would be coming from our treasured Madison aquifer and Inyan Kara aquifer. If they pump their radioactive wastes back into the ground (as they prefer to do) this water is forever polluted and can no longer be used by our local families and ranches for their purposes. Consider the extreme drought that we have been experiencing. Knowing that we have lost this potential reserve forever should give anyone a moment to pause and reflect the potential dire consequences for us or future generations. This is the fact: no groundwater has ever been returned to its original condition at any "in situ" leach uranium mine in the United States.

Secondly, Powertech is a Canadian company which has never mined uranium. This foreign company has no ties to our land and community and when they are done getting their profit, what incentive will they have to fix what is damaged? What recourse do we have on a foreign company?

Thirdly, I am not convinced with the argument that uranium mining in the Black Hills would boost the economy. The Canadian company would no doubt need some services from the local communities, but think about the impact the Balkan oil boom has done to our neighbors north of us. Some people get rich, while most people have to put up with the crowded towns, pothole roads, and additional crime in their once peaceful community. Isn't the Black Hills a tourist attraction? Do people really want to come to the Black Hills if the viewscape is littered with mining and radioactive materials?

Please do whatever is in your power and influence to stop the destruction of our land and water by Powertech.

Sincerely,



Mark Beitz

November 26, 2012

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NOV 28 2012

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From: Edward H. Binns  
408 N 17<sup>th</sup> Street  
Hot Springs, South Dakota 57747

To: Mr. Eric Gronlund  
Waters Program, DENR  
State of South Dakota  
Foss Building  
523 East Capitol  
Pierre, South Dakota 57501

Re: This serves as a petition in opposition to Powertech (USA) Applications 2685-2 and 2686-2, which serve to appropriate water for in situ uranium leach mining for the "Dewey-Burdock" project in Fall River and Custer Counties, South Dakota

Through this correspondence, I seek a delay in the proceedings of the water hearing on these two applications and an opportunity to speak against them.

#### **Risk Management**

I am a retired certified public accountant who served on the staff of the State Auditor of the Commonwealth of Virginia. At the end of my working career I was a senior internal auditor working directly for the Internal Auditor of Virginia, or in simpler terms, a state fraud examiner.

In addition to being a CPA, I have a master's degree in business administration. I am familiar with the concepts and standards of risk management, particularly since I worked literally right next to the risk management section of Red Cross headquarters for nearly twelve years from early 1990 to late 2001. There are serious financial risks and cautions involved in the Dewey-Burdock Project. These have a distinct possibility of impacting the safety of the project itself as well as the financial health of Fall River County, the town of Edgemont and the city of Hot Springs.

#### **Financial Stability**

Powertech is a Canadian corporation with a marginal cash position and an uneven history. In the event of an error or technical difficulty, its capacity to make everyone whole and to self-insure for the risks of uranium mining appears questionable. This is true because of the nature of in situ mining, the nature of uranium and the tailings, and the existence of very dangerous buried toxins, which may be disturbed by the extensive use of water from the aquifers in the area.

Sincerely,

*Edward H Binns*

Edward H. Binns  
Retired MBA/CPA

cc: Richard Blubaugh  
Powertech (USA), Inc.  
5575 DTC Parkway, Suite 140  
Greenwood Village, Colorado 80111

X

11-23-12

RECEIVED  
NOV 26 2012  
WATER RIGHTS  
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Dear Chief Engineer

I'm filing a petition to oppose issuing water permits to Powertech out of the Madison and Inyan Aquifer. Our ranch is supplied by both of these aquifers. The vast amounts taken from Inyan Karas could the levels to a point our well could be useless. We have multiple dams on our ranch but are empty due to the reoccurring drought. Experts project more drought in 2013. If the water recedes due to water use by Powertech who would be responsible for all the ranchland that would be useless without water. If contamination would occur the research shows you have to obtain another water source. In this area there are no other sources. The Madison aquifer supplies all our rural water systems and towns.

Agriculture is our leading industry and the strongest economy why would anyone leave to chance our water supply to a foreign company. This company wants to use South Dakota water to mine uranium due to the fact it is the cheapest way to mine. The risk could result to South Dakota water shortages and contamination that might not be realized until it is irreversible.

Sincerely  
Cindy Brunson  
11622 Fort Dodge Rd  
Edgemont,  
SD 57735



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11-23-12

Hear DENR

I'm filing a petition to oppose issuing water permits to Powertech out of the Madison and Inyan Aquifer. Our ranch is supplied by both of these aquifers. The vast amounts taken from Inyan Karst could the levels to a point our well could be useless. We have multiple dams on our ranch but are empty due to the reoccurring drought. Experts project more drought in 2013. If the water recedes due to water use by Powertech who would be responsible for all the ranchland that would be useless without water. If contamination would occur the research shows you have to obtain another water source. In this area there are no other sources. The Madison aquifer supplies all our rural water systems and towns.

Agriculture is our leading industry and the strongest economy why would anyone leave to chance our water supply to a foreign company. This company wants to use South Dakota water to mine uranium due to the fact it is the cheapest way to mine. The risk could result to South Dakota water shortages and contamination that might not be realized until it is irreversible.

Sincerely  
Cindy Brunson  
11122 Fort Dodge Rd  
Edgemont,  
SD 57735

Could you please provide me with information on this application.



Kara.

5. "Only" 1000 wells would operate at any one time. According to the company, the project would consume (use up) 2.76 billion gallons of the water. This water would no longer be available to communities, ranches, and families.
6. After it is used for mining, the water that is not consumed or left in the aquifer would be treated in one of two ways: The company prefers to pump it underground -- below drinking water sources - where it would no longer be available to communities, ranches, and families. It could be sprayed on the ground, which has created a build-up of toxic materials, including selenium, at other sites.
7. Much of the water would be used repeatedly, but it would be contaminated and would not be available for other uses. Our aquifer will never be the same.
8. The federal government wants South Dakotans to pay for water from the Missouri River. We live in a semi-arid area, and droughts are a regular occurrence. If this project goes through, we will lose access to critical groundwater resources.

The CWA further objects to these applications for our water on the grounds that any well allowed by this application will interfere with and adversely affect existing water rights and is not in the public interest.

Dated this 22 day of November, 2012.



BRUCE ELLISON  
P.O. Box 2508  
Rapid City, SD 57709  
Attorney for Clean Water Alliance


**CERTIFICATE OF SERVICE**

It is hereby certified that a true and correct copy of the Clean Water Alliance's Objections were mailed this date to:

CHIEF ENGINEER  
Water Rights Program  
Foss Building  
523 E. Capitol  
Pierre, SD 57501

POWERTECH  
C/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO 80111

Dated this 23<sup>rd</sup> day of November, 2012.

  
\_\_\_\_\_

STATE OF SOUTH DAKOTA

BEFORE THE WATER MANAGEMENT BOARD

IN THE MATTER OF POWERTECH, )  
 ) MOTION FOR CONTINUANCE  
APPLICATION NOS. 2786-2 )  
 2686-2 )

The Clean Water Alliance, an interested party in the above-entitled proceeding, by and through the below-signed attorney, hereby moves the Chief Engineer to continue the hearing set for December 5, 2012, before the Water Management Board. This request is made on the grounds and for the reasons that the Clean Water Alliance needs additional time to review the application and reports prepared in this matter so that it can present evidence and testimony in opposition to the applications filed by Powertech.

Dated this 27 day of November, 2012.

Respectfully submitted,



BRUCE ELLISON  
P.O. Box 2508  
Rapid City, SD 57709  
Attorney for Clean Water Alliance

CERTIFICATE OF SERVICE

It is hereby certified that a true and correct copy of the Clean Water Alliance's Motion for Continuance was mailed this date to:

CHIEF ENGINEER  
Water Rights Program  
Foss Building  
523 E. Capitol  
Pierre, SD 57501

POWERTECH  
C/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO 80111

Dated this 27 day of November, 2012.



X

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Chief Engineer  
Water Rights Program  
Foss Building  
523 E. Capitol  
Pierre, SD 57501

Powertech (USA) Inc.  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO. 80111

RE: Water Permit Applications No. 2685-2 and 2686-2

Dear Mr. Erbele and Mr. Blubaugh:

I am requesting to be an intervenor in the above water permit applications.

Please regard this letter as my request for an extension of time on the hearing.

I am a member of the Black Hills Chapter of Dakota Rural Action. I am very concerned about the negative impact that uranium mining in the Black Hills will have on our water supply. Water is a critical resource that we must protect. An ample supply of clean water is critical to the economy of the Black Hills and should not be risked for short-term gain. For these reasons, I urge you to delay this hearing.

Please keep me informed of all proceedings and documents related to these applications.

Thank you.

Sincerely,

*Barbara Cromwell*

Barbara Cromwell  
2313 Cruz Drive  
Rapid City, SD 57702

Chief Engineer  
Water Rights Program  
Foss Building  
523 E. Capitol  
Pierre, SD 57501

Mr. Richard Blubaugh  
Powertech (USA) Inc.  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO. 80111

X

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RE: Water Permit Applications No. 2685-2 and 2686-2

Dear Mr. Erbele and Mr. Blubaugh:

I am requesting to be an intervenor in the above water permit applications. This is also my request for a reasonable extension of time on the upcoming hearing.

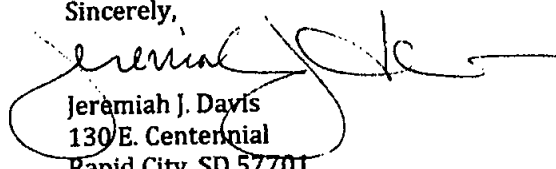
The decision to resume uranium exploration and mining in the southern Black Hills is not one that should be taken lightly. Our water resources, including the Madison Formation, are crucial to the survival of our region, including the timber, ranching, and tourism industries. The southern Black Hills have cultural resources, including the prehistoric rock art at Craven Canyon, which should be preserved for future generations. The increasing grip of drought and the on-going pine beetle epidemic are a reminder that the natural environment of the Black Hills is fragile.

Decades after the earlier uranium mining in the Black Hills, there are still unsightly pits and other disturbances, particularly in Fall River County. The negative health consequences of long-term exposure to even low level radiation is well-documented. It is not clear that the applicant has the financial wherewithal to cover the costs of the destruction of forest and water resources which may be a direct consequence of uranium mining in our region.

Please keep me informed of all proceedings and documents related to these applications.

Thank you.

Sincerely,



Jeremiah J. Davis  
130 E. Centennial  
Rapid City, SD 57701  
(605) 348.5867



Defenders of the Black Hills X  
He Sapa O'nakijin

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P. O. Box 2003, Rapid City, SD 57709

Phone: (605) 399 -1868

Nov. 23, 2012

Chief Engineer Erbele  
Water Rights Program  
Foss Building  
523 E. Capitol  
Pierre, SD 57501

Powertech (USA) Inc.  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO 80111

Re: Water Permit Applications No. 2685-2 and 2686-2

Dear Mr. Erbele and Mr. Blubaugh:

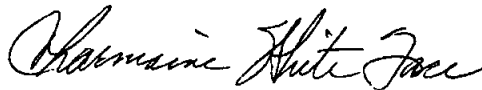
Regarding Water Permit Applications No. 2685-2 and 2686-2, on behalf of the Defenders of the Black Hills, we will be presenting testimony at the Hearing scheduled for Dec. 5, 2012. However, we are always requesting a delay of the Hearing so that more input may be made available to the South Dakota Water Board on this very serious application.

Our interest in this application is our concerns for the amount of water that will be taken out of the aquifer system; the pollution of the water, both at the surface and underground; and the far-reaching effects this project will have on the entire state of South Dakota.

Please keep us informed of all actions and documents regarding this Application.

Thank you.

Sincerely,



Charmaine White Face, Coordinator

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**SOUTH DAKOTA WATER MANAGEMENT BOARD  
STATE OF SOUTH DAKOTA  
EN RE APPLICATION #2685-2 and #2682-2**

**PETITION OF FALL RIVER COUNTY TO INTERVENE  
IN OPPOSITION TO THE APPLICATION**

COMES NOW Fall River County Commission, 906 North River Street, Hot Springs, South Dakota and makes the following Petition to oppose the two applications for water permits designated as application #2685-2 and #2682-2.

1. The Petitioner's interest in the applications are that it is a political subdivision of the State of South Dakota and it's interest in the application is to assure that any water used for mining operations in Fall River County is put to a beneficial use, does not impair existing rights and does not constitute a waste of water.

2. That the Petitioner opposes water permit applications #2685-2 and #2686-2 to appropriate water in that such applications cannot be developed without unlawful impairment of existing rights, the proposed use is not a beneficial use and the proposed use is not in the public interest and will constitute a waste of water under SDCL 46-5-46.

3. That the Petitioner does hereby request an automatic delay of the hearing scheduled for December 5, 2012.

Dated this 26 day of November, 2012.



Fall River County Commission

Michael P. Ortner

Chairman of the Fall River County Commission

906 North River Street

Hot Springs, SD 57747

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he mailed a true and correct copy of the *Petition of Fall River County to Intervene in Opposition to the application* to the individuals hereinafter next designated all on the date below shown by depositing the same in the United States mail with first class postage prepaid in envelopes addressed to:

Steven N. Pirner  
Secretary of the Department of  
Environment and Natural Resources  
Foss Building  
523 E. Capital Ave.  
Pierre, SD 57501

Chief Engineer  
Water Rights Program  
Foss Building  
523 E. Capital Ave  
Pierre, SD 57501

PowerTech (USA) Inc.  
C/O Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO 80111

On the 26 day of November, 2012.



---

James G. Sword  
Fall River County State's Attorney

X

**SAMPLE INTERVENOR LETTER - MUST BE RECEIVED IN PIERRE BY NOVEMBER 26, 2012**

**This letter must be completed if you want to testify at the hearing on the water permits in Pierre.**

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ADDRESS TO (must send to both):

Chief Engineer  
Water Rights Program  
Foss Building  
523 E. Capitol  
Pierre, SD 57501

Powertech (USA) Inc.  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO. 80111

RE: Water Permit Applications No. 2685-2 and 2686-2

Dear Mr. Erbele and Mr. Blubaugh:

I am requesting to be an intervenor in the above water permit applications.

Here -- insert your interest in the applications and your reason(s) for opposing the applications.

*Contamination of water, and the volume of water used*

Please keep me informed of all proceedings and documents related to these applications.

Thank you.

Sincerely,

*[Handwritten signature]*

*Cathy Heckenlaible  
P.O. Box 422  
Rapid City, S.D. 57709*

Here -- insert your signature, name and mailing address. Insert the name and mailing address of your attorney, if you have one.

For more information on the Clean Water Alliance's position, see [www.bhcleanwateralliance.org](http://www.bhcleanwateralliance.org)  
For more information on the state's position, see [http://denr.sd.gov/wrimage/pub/2685-2\\_app.pdf](http://denr.sd.gov/wrimage/pub/2685-2_app.pdf),  
which is Powertech's version of the applications.

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X

Susan R. Henderson  
11507 Hwy 471  
Edgemont, SD 57735  
November 19, 2012

Mr. Eric Gronlund  
Waters Program, DENR  
State of South Dakota  
Foss Building, 523 E. Capitol  
Pierre, SD 57501

Dear Mr. Gronlund:

Re: Petition in Opposition to Powertech (USA), Inc.  
Applications 2685-2 and 2686-2 to Appropriate Water  
For In Situ Leach Uranium Mining in Custer and Fall River  
Counties SD called the Dewey-Burdock Project

By this letter, I wish to request the automatic delay of at least 20 days to allow me to better prepare and opposition response to Permit Applications 2685-2 and 2686-2.

**Drought and Water Volumes:**

I am a cattle rancher in Fall River County. My ranch has been in the Henderson Family since 1902. The general area is prone to periods of extreme drought, balanced only partially by better rainfall years. Over the years our family has spent thousands of dollars building dams and dugouts, drilling two deep water wells (1710 feet deep) and developing a natural spring to water the south end of our property. We also spent thousands building pipelines to the Igloo area where we can buy water from the Provo Township Water System which uses a Madison well drilled by the US Army when the Black Hills Army Depot was in operation.

The year 2012 was marked by extreme drought and not one of the many dams and dugouts on the ranch had water for livestock use. Without the spring and the deep water well and the pipeline system we could not have run any cattle at all on this 16 square mile ranch.

Powertech plans to appropriate billions of gallons from the Inyan Kara and the Madison aquifers where the ranch gets its water. I am greatly concerned that this will draw down the water in the wells and the spring thereby irrevocably damaging our water system. Without sufficient volumes of water I could not run cattle operations on this ranch.

**Water Quality Issues:**

Powertech plans to use caustic chemicals to dissolve the ground around the wells, dissolve the ore containing uranium in water then force it to the surface under considerable pressure. In my opinion, this will also cause normally inert contaminants to dissolve in the water. These include, Arsenic, Selenium, heavy metals, sulfates, phosphates, and potentially other contaminants plus the radioactive ore itself. When they put this back into the wells under pressure, they will surely contaminate the water with these items. Given the huge volumes of these water wells and the

scope and duration of this project, I believe that over time this will cause these contaminants to appear in the water tables and contaminate our water sources. This would be catastrophic for my ranch.

**Potential Contamination from the Black Hills Army Depot:**

The Black Hills Army Depot (BHAD) was a US Army 21,000 acre site which operated as a munitions dumping ground from 1941 to 1968. The Army blew up millions of tons of munitions in open pits and dumped thousands of tons of nerve agents, blood agents, mustard gas, Lewisite, white phosphorous, phosgene, and other contaminants in some 200 miles of trenches. These terribly toxic chemical warfare agents have percolated down into the ground. They are soluble in water and oil, never decompose, and when burned at temperatures greater than those to melt steel merely produce a toxic gas also just as lethal.

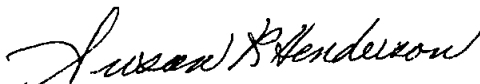
I served as the Restoration Advisory Board Chairman for 10 years beginning in 1991 and reviewed thousands of pages of documents about the military's activities at the BHAD. The site has been designated as a Super Fund Site but no clean-up has begun due to funding issues and the severe problem of how to dig up the buried agents for remediation. To date no viable or feasible means of destroying these kinds of contaminants has been designed.

I believe that if we begin to damage the underground structures in a way such as large scale in situ leach mining will do, we will ultimately cause these buried chemical warfare agents to infiltrate the water tables causing incalculable damage. We must not take this risk.

**Other Issues:**

I have other concerns about this project and reserve the right to bring these forward once I have had more time to review the water permit filings and the mineral permit filings.

Very truly yours,



Susan R. Henderson  
Owner, Henderson Ranch

Cc: Richard Blubaugh  
Powertech ( USA), Inc.  
5575 DTC Parkway Suite 140  
Greenwood Village, Colorado, 80111

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**City of  
Hot Springs**

303 North River Street

Hot Springs, South Dakota 57747

Don De Vries  
Mayor

Phone (605) 745-3135

November 20, 2012

DENR  
Water Rights Program  
Foss Building  
523 East Capital  
Pierre, SD 57501

Re: Water application for permits: 2685-2, and 2686-2

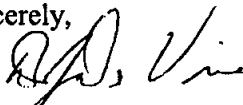
Dear Sirs:

The Hot Springs City Council has asked me to write this letter because of our concern of the groundwater in our region. The water consumption of PowerTech could cause irreparable damage to our quality or perhaps availability of water for our region. We would like to see economic growth in the area, but we are asking your consideration to be cautious in water permits, keeping our present and future needs in mind.

To proceed this project must be done with assurance that our groundwater will remain available, and the quality of our water would not be diminished. We would like to be informed of the future activities so we can inform our community if problems maybe forth coming. We feel we need to be prepared to make educated decisions.

We are planning for a representative from the City of Hot Springs to be at the meeting December 5, in Pierre. A special meeting is being held at the Fall River Court house on Monday the 26<sup>th</sup> of November and we plan to learn more about this project at that meeting. We will be better informed after this meeting, and will also be aware of our county's decisions. Thank you for lettings us express our concerns.

Sincerely,



D. J. De Vries  
Mayor

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↑

418 N. 44th Street  
Rapid City, SD 57702  
November 20, 2012

Chief Engineer  
Water Rights Program  
Foss Building  
523 E. Capitol  
Pierre, SD 57501

Powertech (USA) Inc.  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO. 80111

RE: Water Permit Applications No. 2685-2 and 2686-2

Dear Mr. Erbele and Mr. Blubaugh:

I am requesting to be an intervenor in the above water permit applications. I am interested in this application because I am interested in water allocation in western South Dakota. I oppose this application, because it is not in the public interest, the requested water use would negatively impact other water users, and the proposed use is not a beneficial use.

I request that the hearing on this matter, currently scheduled for December 5, 2012, be delayed.

Please keep me informed of all proceedings and documents related to these applications.

Thank you.

Sincerely,



Liliias Jarding, Ph.D.



Chief Engineer  
Water Rights Program  
Foss Building  
523 E. Capitol  
Pierre, S.D. 57501

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WATER RIGHTS  
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Dear Mr Erbele:

I Am requesting to be an intervener  
in the ~~blow~~<sup>below</sup> water Permit Applications.

RE: Water Permit Applications

No. 2685-2 and 2686-2

AS A lifelong resident + Rancher  
of western so. DAK. I AM opped to such  
questionable water uses-

Please Keep me informed of  
all Proceedings and documents  
related to these Applications.

Thank you sincerely,

Maxvin Kammerer

MAXVIN KAMMERER

22198 Elk Vale Rd.

Rapid city, So. DAK.

57701

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Chief Engineer  
Water Rights Program

Foss Building  
523 E. Capitol  
Pierre, SD 57501

Nov. 21, 2012

Re: Water Permit Applications No. 2685-2 and  
2686-2

Dear Mr. Ebele,

I am requesting to be an intervenor in the above water permit applications.

As a concerned physician and as a member of Dakota Rural Action, I believe the use to which these applications would be put constitutes a threat to both our local populace and our environment, endangering the health of both.

I urge you to delay this hearing in order that more complete exposition and assembly of relevant data can be achieved.

Please regard this letter as my request for an extension of the hearing, and please keep me informed of all proceedings. Thank you.

Sincerely,

Donald J. Kelley MD  
12637 Merritt + Estes Rd.  
Deadwood, SD 57732

X

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NOV 26 2012  
WATER RIGHTS  
PROGRAM

19 November 2012

Dear Mr. Erbele and Mr. Blubaugh:

RE: Water Permit Applications No. 2685-2 and 2686-2

I am requesting to be an intervenor in the above water permit applications.

I am requesting to be an intervenor as a resident of the Black Hills, as I will be directly impacted by the water usage the mine permits request.

I am also requesting that the permit hearing be pushed back from the Dec. 5, 2012.

Please keep me informed of all proceedings and documents related to these applications.

Thank you.

Sincerely,

Sabrina King  
14705 Halter Ct.  
Piedmont, SD 57767

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November 19, 2012

Eric Gronlund  
Water Rights Program, DENR  
Joe Foss Building  
523 East Capitol  
Pierre, SD 57501-3182

Mr. Richard Blubaugh  
Powertech Inc.  
5575 DTC Parkway  
Suite 140  
Greenwood Village, CO 80111

Dear Mr. Gronlund and Mr. Blubaugh,

I received the DENR notice of November 9, 2012 and am writing to request to be a citizen intervenor in Water Right Permit Application Nos. 2685-2 and 2686-2 filed by Powertech. As a health professional specializing in disease prevention and wellness spanning a career of forty years, I strongly object to the extraordinary usage of water proposed and the public health, wildlife and agricultural risks it presents for an arid climate like western South Dakota. Additionally, the EPA has not accepted ISL as an acceptable and safe technology and data on mines in many other states show failure at aquifer restoration with none having fully restored an aquifer to pre-mining water quality. Fall River County and Custer County have suffered from extreme drought and the irresponsible usage of water proposed and potential ruination of water resources for the area is a risk viewed as extremely unwise.

Lastly, due to the incredible amount of data in the scientific literature and the exponential water losses occurring nationwide due to the extraction industry, it would seem prudent to delay this hearing. I thus request that DENR postpone the December 5<sup>th</sup> hearing and that EPA experts be invited for input, that the public be given more information from scientific independent evaluators and that more intensive study be given to this very potentially toxic operation.

In Health,



Rebecca R. Leas, Ph.D.  
Professor Emeritus  
6509 Seminole Lane, Rapid City, SD 57702



- 7) The Oglala Sioux Tribe further objects to these applications for our water rights as they will interfere with and adversely affect existing water rights which is not in the best interests of the tribe and its members.

Dated this 28<sup>th</sup> day of November, 2012.

Respectfully submitted,



W. Cindy Gillis

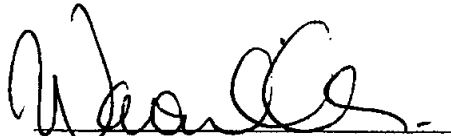
Attorney for the Oglala Sioux Tribe  
522 Seventh Street, Suite 202  
Rapid City, South Dakota 57701  
Tel: (605) 716-6355  
Fax: (605) 716-6357

CERTIFICATE OF SERVICE

The undersigned hereby certifies that she served the foregoing **PETITION TO INTERVENE AND OPPOSITION TO APPLICATION** on the 28<sup>th</sup> day of November, 2012, by email, fax and/or mailing a copy by First Class Mail, postage fully prepaid, from the United States Post Office at Rapid City, South Dakota to the following persons:

CHIEF ENGINEER  
Water Rights Program  
523 E. Capitol  
Pierre, S.D. 57501

POWERTECH  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO 80111



W. Cindy Gillis

Attorney for the Oglala Sioux Tribe

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November 21, 2012

✓ Chief Engineer (Mr. Erbele)  
Water Rights Program  
Foss Building  
523 E. Capitol  
Pierre, SD 57501

Powertech (USA) Inc.  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO. 80111

RE: Water Permit Applications No. 2685-2 and 2686-2

Dear Mr. Erbele and Mr. Blubaugh:

I am requesting to be an intervenor in the above water permit applications.


Please regard this letter as my request for an extension of time on the hearing.

I am a member of Dakota Rural Action, Black Hills. As a citizen concerned about the harmful effects of uranium mining in the Black Hills who recognizes our water as a precious resource that needs to be preserved and protected from this dangerous contamination, I urge you to **delay** this hearing.

Please keep me informed of all proceedings and documents related to these applications.

Thank you.

Sincerely,



Gena M. Parkhurst  
PO Box 1914  
Rapid City SD 57709

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11/15/2012

**NOTICE TO DENR ON WATER PERMIT APPLICATION  
NUMBERS 2685-2 AND 2686-2 TO APPROPRIATE WATER FOR  
POWER TECH (USA) INC.**

C/O

RICHARD BLUBURG

5575 CTC PKWY STE# 140

GREENWOOD VILLAGE, CO

80111

**THE PEOPLE OF FALL RIVER COUNTY SIGNING THIS PETITION OPPOSE WATER  
PERMITS TO BE GIVEN TO POWER TECH (USA) INC. DENR NEEDS TO HOLD A  
HEARING FOR THE PEOPLE OF FALL RIVER COUNTY ON WHY POWER TECH SHOULD  
BE PERMITTED THESE WATER PERMITS.**

<i>Fred W. Bohner</i>	<i>338 So. 17th Hot Springs, 890-9647</i>
<i>Guido P. Males</i>	<i>606 S River Hot Springs SD.</i>
<i>Dan Miller</i>	<i>486 Almond ST Hot Springs</i>
<i>Jewel Krown</i>	<i>410 S 4th ST Hot Springs 891-9861</i>
<i>Bonnie Sharp</i>	<i>445 S 3rd Hot Springs SD 57717</i>
<i>Mary Grotto</i>	<i>338 S. 5th ST. 745-5078</i>
<i>Wendy Richards</i>	<i>340 N. 23rd St Hot Springs 605-929-4354</i>
<i>Raymond Fisher</i>	<i>27221 Windy Rd 890-2864</i>
<i>Ang Bloomer</i>	<i>3146 Minnehaha Hot Sp. 745-7816</i>
<i>William Ang</i>	<i>1496 Evanston Ave H.S. 891-9621</i>
<i>Elise Kaneshiro</i>	<i>1446 Evanston Ave. H.S. 891-9717</i>



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**NOTICE TO DENR ON WATER PERMIT APPLICATION  
NUMBERS 2685-2 AND 2686-2 TO APPROPRIATE WATER FOR  
POWER TECH (USA) INC.**

C/O

RICHARD BLUBURG

5575 CTC PKWY STE# 140

GREENWOOD VILLAGE, CO

80111

**THE PEOPLE OF FALL RIVER COUNTY SIGNING THIS PETITION OPPOSE WATER PERMITS TO BE GIVEN TO POWER TECH (USA) INC. DENR NEEDS TO HOLD A HEARING FOR THE PEOPLE OF FALL RIVER COUNTY ON WHY POWER TECH SHOULD BE PERMITTED THESE WATER PERMITS.**

NAME	Address	phone #
<i>Egyptian</i>	PO BOX 27 HS	745 3325
Casey Neugebauer	2752 S S Buffalo Gap	424-2985
Mr. Price		745 7727
Louise Kursave	Buffalo Gap	<del>745</del> 833-2122
Beth Welch	Edgemont	662-7300
Rusty W...	301 S CHICAGO HOT SPRINGS SD 57747	745-629...
Dan W...	446 S 16 ST HOT SPRINGS SD	745-3308
Don Jensen	806 Edgemont Ave HOT SPRINGS SD	745 3373
Hanschweiger	279 S Cascade Rd.	745-3153

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11/15/2012

**NOTICE TO DENR ON WATER PERMIT APPLICATION  
NUMBERS 2685-2 AND 2686-2 TO APPROPRIATE WATER FOR  
POWER TECH (USA) INC.**

C/O

RICHARD BLUBURG

5575 CTC PKWY STE# 140

GREENWOOD VILLAGE, CO

80111

**THE PEOPLE OF FALL RIVER COUNTY SIGNING THIS PETITION OPPOSE WATER  
PERMITS TO BE GIVEN TO POWER TECH (USA) INC. DENR NEEDS TO HOLD A  
HEARING FOR THE PEOPLE OF FALL RIVER COUNTY ON WHY POWER TECH SHOULD  
BE PERMITTED THESE WATER PERMITS.**

NAME	ADDRESS	PHONE #
MAURA SMITH	306 Joplin #8 HOTSPRINGS, JD	804-1604
Keller Walker	1005 S. River St Hot Springs	891-9747
Lana Swens	Hot Springs	
B. Kline	Hot Springs	
Michelle Snags	P.O. Box 139 Hot Springs SD 57447	605-440-2310
Mui Vong	333 N River Hot Springs	745-3933
Linda J. Smith	947 So. Chicago St Hot Springs	745-3902
Terri Baker	705 North River St.	745-4420

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11/15/2012

**NOTICE TO DENR ON WATER PERMIT APPLICATION  
NUMBERS 2685-2 AND 2686-2 TO APPROPRIATE WATER FOR  
POWER TECH (USA) INC.**

C/O

RICHARD BLUBURG

5575 CTC PKWY STE# 140

GREENWOOD VILLAGE, CO

80111

**THE PEOPLE OF FALL RIVER COUNTY SIGNING THIS PETITION OPPOSE WATER  
PERMITS TO BE GIVEN TO POWER TECH (USA) INC. DENR NEEDS TO HOLD A  
HEARING FOR THE PEOPLE OF FALL RIVER COUNTY ON WHY POWER TECH SHOULD  
BE PERMITTED THESE WATER PERMITS.**

Name	Address	PHONE #
Ronald Baker	205 N. River St.	745-4420
Jeanie Liff	2342 Wilson Ave. HS SD.	745-3036
Lyle Juma	13167 Fall River Rd	745-7291
Jenni Satterlund	2022 University	890-2362
Lynda Raves	P.O. Box 1204 HS SD	605-381-3310
Brenda Gamache	2337 Wilson Ave. HS.	605-745-4726

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11/15/2012

**NOTICE TO DENR ON WATER PERMINT APPLICATION  
NUMBERS 2685-2 AND 2686-2 TO APPRORIATE WATER FOR  
POWER TECH (USA) INC.**

C/O

RICHARD BLUBURG

5575 CTC PKWY STE# 140

GREENWOOD VILLAGE, CO

80111

**THE PEOPLE OF FALL RIVER COUNTY SIGNING THIS PETITION OPPOSE WATER  
PERMITS TO BE GIVEN TO POWER TECH (USA) INC. DENR NEEDS TO HOLD A  
HEARING FOR THE PEOPLE OF FALL RIVER COUNTY ON WHY POWER TECH SHOULD  
BE PERMITTED THESE WATER PERMITS.**

*ALISON SWAN* 302 S. 16<sup>th</sup> St. Hot Springs 745-7771

*Bonnie Mantz* 545 N. River #313 Hot Springs 745-4574

*Donald C. Harsh* 545 N. River #313 Hot Springs 745-4574

*Calvin Sauer* 713 N. River St Hot Springs 745-7936

*Sham Parker* 1913 Jennings Ave Hot Springs 745-3054

*Robert Lee* 338 S. 5<sup>th</sup> St., Hot Springs 745-3688

*Gary Putman* 204 4th Ave. ~~Hot~~ Edgemont 662-7229

*Larry W. Friedshel* 27098 ELK RD Buffalo Gap 833-2000

*Dan Long* 27564 Berlin L Hatbox 745-5266

*Dayton D. Hyde* Box 932 Hot Springs 745-6339

*Susan Watt* Box 790 Hot Springs 745-7494

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11/15/2012

**NOTICE TO DENR ON WATER PERMIT  
APPLICATION NUMBERS 2685-2 AND 2686-2 TO  
APPROPRIATE WATER FOR POWER TECH (USA) INC.**

C/O

RICHARD BLUBURG

5575 CTC PKWY STE# 140

GREENWOOD VILLAGE, CO

80111

**THE PEOPLE OF FALL RIVER COUNTY SIGNING THIS PETITION  
OPPOSE WATER PERMITS TO BE GIVEN TO POWER TECH (USA) INC.  
DENR NEEDS TO HOLD A HEARING FOR THE PEOPLE OF FALL RIVER  
COUNTY ON WHY POWER TECH SHOULD BE PERMITTED THESE WATER  
PERMITS.**

NAME	Address	phone #
Leora Dappen	13174 Fall River Rd Hot Springs	605-890-0641
Joe Dappen	Hot Springs	605 890 3063
Susan Stotarch	Hot Springs	605-745-4363
Karen Henderson	11507 Hwy 491 Edgemont SD 57735	605-669-5150
Tris Williams	27662 Scenic Rd Hot Springs, S.D.	6058911967
Judith Klein	238 N 6th St Hot Springs	605 145 3353
Bill Borden	Hot Springs	890 1268
Paul Hottel	Hot Springs	891-9176
Craig Roney	342 N 4th Hot Springs SD	745-4465









November 15, 2012

NOTICE TO DENR ON WATER PERMIT APPLICATION

NUMBERS 2685-2 AND 2686-2 TO APPROPRIATE WATER FOR POWER TECH (USA) INC.

C/O

RICHARD BLUBURG  
5575 CTC PRWY SUITE 140  
GREENWOOD VILLAGE, CO 80111

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WATER RIGHTS PROGRAM

THE PEOPLE OF FALL RIVER COUNTY SIGNING THIS PETITION OPPOSE WATER PERMITS TO BE GIVEN TO POWER TECH (USA) INC. DENR NEEDS TO HOLD A HEARING FOR THE PEOPLE OF FALL RIVER COUNTY ON WHY POWER TECH SHOULD BE PERMITTED THESE WATER PERMITS.

NAME	ADDRESS	PHONE
Michelle Brock	26846 HWY 385 H.S.	605-515-3364
NANCY BLATCHEKRO	441 S 4TH ST	605 891-1712
RICH GERICKE	305 S 14th ST Hot Springs SD	891-1142
JACKIE GERICKE	" "	" "
ELAINE EVERHART	545 N. River St. Hot Springs SD	890-1921
Allen Chesson	545 N. River St. Hot Springs	851-8345
Jan W. Funderburk	27098 Elk Rd Rapid Sp	833-2000
MARIS HERNANDEZ	910 1/2 South Street	605-891-1866
Sarah Phillips	705 N. River St. Apt 1	605-891-1374
AJ Phillips	" "	" "
Ricardo C Jaccare	621 Albany Ave	605-890-0098
Julie Christensen	603 N. River St.	719-482-4092
Emily Christensen	603 N. River St	605-745-4400
Paula Gunnarson	306 Thompson	605-745-4523
Cesar Hernandez	410 1/2 South 4th	608 891 1260
LARAINA TRECKER	P.O. Box 1129 H.S.	605-593-2373
Eddie Beaton	241 Galveston Ave	605-890-6356
Steve P...	2317 Washington	605-745-7085
Vannu H...	410 1/2 S	605-891-1866
Melissa Martin	2329 Ely Ave H.S. SD	605-745-3974
DeAnn McComb	P.O. BOX 254 H.S. SD	605-745-3096
Cecilia Cross	2045 Canton Ave #530 H.S. SD	745-6471
KAREN VEKEL	2245 Minnukahita	745-5213
Marion Muhm	1614 Coldbrook Ave	745-3659
Patricia Hernandez	246 S. 6th St Apt 4 H.S.	605-540-7592
Miriam Martin	801 N. River St H.S. SD	745-7321
Kris MARTIN	801 N. River St	745-7321
Sake Haacke	6026 Evanston Ave.	605-890-2273
Brianna Badure	Volley View Drive	605-220-6559
REX PIPER	12616 ARCYLE RD H.S. 51747	605-745-5765
MILDRED PIPER	12616 ARCYLE RD H.S. 51747	605-745-5765
Jim (REX) CHOWN	13224 Grand Dr H.S.	605-890-2560
J. Smith	2728 Hot Spgs	605-890-3860

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11/15/2012

**NOTICE TO DENR ON WATER PERMIT APPLICATION  
NUMBERS 2685-2 AND 2686-2 TO APPROPRIATE WATER FOR  
POWER TECH (USA) INC.**

C/O

RICHARD BLUBURG

5575 CTC PKWY STE# 140

GREENWOOD VILLAGE, CO

80111

**THE PEOPLE OF FALL RIVER COUNTY SIGNING THIS PETITION OPPOSE WATER  
PERMITS TO BE GIVEN TO POWER TECH (USA) INC. DENR NEEDS TO HOLD A  
HEARING FOR THE PEOPLE OF FALL RIVER COUNTY ON WHY POWER TECH SHOULD  
BE PERMITTED THESE WATER PERMITS.**

Name

*Temp Holcomb*  
*Grady Lockhart*  
*Russ Petter*  
*[Signature]*

*105 S. 23rd St #605-745-5992*

*PO Box 1520elrichs (605)535-2004*

*12544 West Cadada RP. (605)890-4056  
HOT SPRINGS S.D.*

*27656 BERRY YIELD RD 605.745.3528*



**DEPARTMENT OF GAME, FISH, AND PARKS**

Foss Building  
523 East Capitol  
Pierre, South Dakota 57501-3182

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WATER RIGHTS  
PROGRAM

November 26, 2012

Mr. Eric Gronlund  
Water Rights Program  
Foss Building  
523 East Capitol Ave  
Pierre, SD 57501

**Re: Water Right Application No. 2685-2 and No. 2686-2  
Powertech USA, Inc.  
Custer and Fall River Counties**

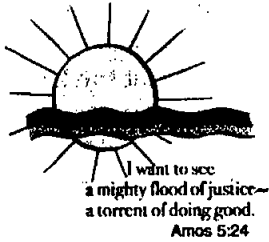
Dear Mr. Gronlund:

This letter is to inform you of the South Dakota Department of Game, Fish, and Parks intent to request party status in the above referenced water right applications. At this time, we are neither in support nor opposition to these applications, but are requesting party status due to the Department's interest in large-scale mining operations and their potential impacts on fish and wildlife resources.

If you have any questions, please contact me at (605) 773-6208.

Sincerely,

Leslie Murphy  
Senior Biologist



# SOUTH DAKOTA PEACE & JUSTICE CENTER

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19 N Pine St. Vermillion, SD 57069  
605-920-8945

[www.sodakpj.org](http://www.sodakpj.org)

19 November 2012

Chief Engineer  
Water Rights Program  
Foss Building  
523 E. Capitol  
Pierre, SD 57501

Powertech (USA) Inc.  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO. 80111

RE: Water Permit Applications No. 2685-2 and 2686-2

Dear Mr. Erbele and Mr. Blubaugh:

On behalf of the South Dakota Peace & Justice Center (SDPJC), I am requesting to be an intervenor in the above water permit applications.

The SDPJC is committed to environmental stewardship and the economic security of South Dakota's most vulnerable citizens. We have worked in past with Owe Aku (Bring Back the Way), the South Dakota Sierra Club, and Dakota Rural Action on environmental issues such as the proposed Hyperion oil refinery in Union County. Likewise, we joined in coalition in opposition against Black Hills Power rate hikes in 2010. A dual commitment to responsible stewardship of our common resources and natural heritage is absolutely integral to the Center's mission of advancing peace and justice for all South Dakotans.

It is on account of our concern for economic and environmental justice that the SDPJC opposes Powertech's water use applications for the proposed Dewey Burdock Project in Fall River and Custer Counties.

Our opposition stems chiefly from two circumstances. Firstly, in situ leaching (ISL) is an extremely water-intensive process, such that Powertech is asking to draw 551 gallons per minute from the Madison aquifer and 8,500 gallons per minute from the Inyan Kara aquifer. To put this in perspective, the entirety of Rapid City only draws 4,800 gallons per minute. After it is used for mining, the water that is not directly consumed (by Powertech's own estimates up to 2.76 billion gallons) or left in the aquifer would essentially be removed from use for communities, ranches, and families.

South Dakota farmers are struggling through of the worst draughts in recent memory, and the aquifers on which they and the rest of the Black Hills depend for water are depleted as it is. To give away such massive amounts of water would place an inordinate resource strain on the inhabitants of West River, raising utility costs drastically and threatening lower income South Dakotans especially.

Secondly, despite claims that ISL is environmentally friendly (in comparison to other forms of uranium mining at any rate), it is all too common to see water used in the mining process, water bearing radioactive materials and heavy minerals, contaminate surrounding groundwater sources. This was certainly the case at the ISL mines at Stráz pod Ralskem mine in the Czech Republic as well as Königstein in Germany. Moreover, groundwater has *never* been returned to its original condition at any ISL uranium mine in the United States. Especially after the passage of SB 158 last year, which stripped the South Dakota DENR (Department of Environment and Natural Resources) of its regulatory capacities pertaining to ISL uranium mining, the threat posed by contaminated water to families and ranchers throughout western SD is simply too great to allow Powertech—a company that has *never mined uranium or any other natural resource*, a company with *no experience* with ISL or any other kind of uranium mining—to go forward with its water use applications.

On behalf of SDPJC, then, please keep me informed of all proceedings and documents related to these applications.

Thank you.

Sincerely,



Tom Emanuel  
Executive Director, South Dakota Peace & Justice Center  
19 N Pine St.  
Vermillion, SD 57069  
[sodakpic@gmail.com](mailto:sodakpic@gmail.com)

Eric Gronlund, Chief Engineer  
Water Rights Program  
PMB 2020  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501-3182

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November 19, 2012

Re: Water permits Application #s 2685-2 and 2686-2  
To appropriate Water for Powertech Inc.

Dear Board Members,

Our ranch land is located 6-10 miles south and southeast of Edgemont. Our privately owned wells at 1300 feet supply water from the Inyan Kara and Lakota aquifers. We feel that because this project gives Powertech the right to pump a tremendous amount of water from these formations there is a real possibility that even though much of the water is returned, things could go wrong and our ground water supply could be adversely impacted.

If this in-situ uranium project does move forward, we would like to have written assurances in the agreement that our ground water supply would not be compromised and written assurances of what recourses are available to us, should this happen.

Respectfully submitted  
Dewane Stearns  
11500 Indian Canyon Road  
Edgemont, SD 57735

X

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WATER RIGHTS  
PROGRAM

Water Rights Program  
Chief Engineer  
Foss Building  
523 E Capital  
Pierre, SD 57501

Dear Sir,

I am opposed, at this time, to Application no. 2685-2.

I ranch south of the proposed uranium project. Some of the land is within one mile of the project. I operate a 600 head cow/calf ranch operation on 16000 ac.

I have 10 domestic wells producing water in the Inya Kara formation. My cattle rely almost entirely on well water to supply their needs. The wells are from 240ft. to 800ft. deep. I have 2 wells that have submersibles which supply water to 22 miles of pipeline with tanks. I have pumpjacks and windmills on some wells that flow and some that don't flow.

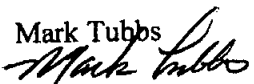
Five wells flow water from 8gpm to 1/2 gpm. The well that flows 8gpm has produced water since it was drilled in 1923 for an oil well test. This well is sufficient to water a large # of cattle in the winter at 30 below zero while staying open. Wildlife use this small pond, especially when it is so dry.

I have not been assured by this application that the availability of the water I am using will be the same as it has been in the past. It will take a large expenditure of money and labor on my part to sufficiently water my livestock and keep the water open.

Quality and quantity of water needs to be addressed, so that after mining the water is as good or better than the baseline monitoring.

The future of ranching for this generation and the next ones needs to be protected, by making sure the water resource is protected by monitoring, management, and bonding.

I request to speak at your application hearing for no. 2685-2. Thank You,

Mark Tubbs  
  
10891 River Road

Edgemont, South Dakota

57735

6056627302



IN REPLY REFER TO:

## United States Department of the Interior

NATIONAL PARK SERVICE  
Water Resources Division  
1201 Oakridge Drive, Suite 250  
Fort Collins, Colorado 80525-5596



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WATER RIGHTS  
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November 20, 2012

L54(2380)  
WICA/Water Rights

Mr. Garland Eberle  
Chief Engineer  
Water Rights Program, Foss Building  
523 E. Capitol  
Pierre, SD 57501

Mr. Richard Blubaugh  
Powertech (USA) Inc.  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO 80111

Re: Letter of Intervention concerning Power Tech (USA) Inc. South Dakota Water Permit Application No. 2685-2 for 888.8 acre-feet annually of groundwater from the Madison aquifer for uranium mining purposes

Dear Mr. Eberle and Mr. Blubaugh,

The National Park Service (NPS) received notice of South Dakota Water Permit Application No. 2685-2 by Powertech (USA) Inc. to withdraw up to 888.8 acre-feet of groundwater per year from the Madison aquifer for uranium mining purposes. The proposed points of diversion are located in the Dewey – Burdock area of South Dakota and are situated approximately 25 – 30 miles west southwest of Wind Cave National Park (Wind Cave NP) and 20 miles south southwest of Jewel Cave National Monument.

Since the water level in the Madison aquifer is below the cave formations in Jewel Cave, the NPS is primarily concerned about the impacts of the proposed withdrawals and the associated mining operation on groundwater within Wind Cave. As you are aware, groundwater within the Madison aquifer is found within the cave system and naturally fluctuates depending on aquifer recharge and discharge. Groundwater fills depressions and passages within the cave resulting in water bodies of various sizes commonly referred to as the park's underground lakes. Current scientific studies indicate that Madison aquifer groundwater is integral to ongoing cave evolution and the NPS is required by law to protect the existing groundwater quantity and quality for the continuation of cave forming processes within Wind Cave NP.

The South Dakota Department of Environment and Natural Resources (DENR) issued a report to the Chief Engineer, dated November 2, 2012, evaluating the potential impacts of the proposed withdrawals as required by state law. The DENR report concluded that drawdown from the



proposed withdrawals are unlikely to be measured at Wind Cave NP due to the distance between the proposed points of diversion and the park's underground lakes. The NPS appreciates the DENR's inclusion of an analysis of potential impacts to water levels within Wind Cave NP from the proposed withdrawals.

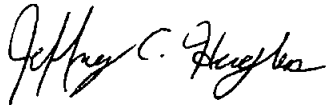
The maintenance of naturally occurring water levels is of critical importance to the NPS. Due to a lack of sufficient hydrologic and geologic information for the area of concern, which precluded a robust scientific analysis, DENR necessarily used its professional judgment to conclude that the proposed withdrawals are unlikely to make a measureable impact to water levels within Wind Cave NP.

Therefore, the NPS supports the proposed Qualification 5 in the recommendation of the Chief Engineer for Water Permit Application No. 2685-2: "The permit holder under this permit shall control withdrawals from the wells so there is not a significant adverse effect on the water flow from area springs or a significant adverse effect on the water quality and character in area springs." Assuming this qualification is included in the Permit, monitoring of spring flow and groundwater levels will be necessary to determine if these protections are achieved. Data derived from monitoring will increase our knowledge on how the Madison aquifer responds to existing and future withdrawals.

Additionally, the NPS recommends that the applicant contribute funding to the groundwater model currently being constructed by the U.S. Geological Survey for the Madison and Minnelusa aquifers for the entire Black Hills region. When completed this groundwater model will become a valuable tool in estimating aquifer and spring flow response to existing and proposed groundwater withdrawals. For more information about this groundwater model, please contact Dr. Andrew Long of the U.S. Geological Survey, South Dakota Water Science Center in Rapid City at (605) 394-3237.

If you have any questions concerning this letter, please contact Jeff Hughes of my staff at (970) 225-3527.

Sincerely



*So* William R. Hansen  
Chief, Water Rights Branch

cc: WICA - Superintendent

X

James B. Woodward  
P.O. Box 599  
Wellington, Colorado 80549  
970-402-7679  
[jbw@frii.com](mailto:jbw@frii.com)

RECEIVED  
NOV 29 2012  
WATER RIGHTS  
PROGRAM

November 25, 2012

Mr. Garland Erbele, Chief Engineer  
Water Rights Program  
Foss Building, 523 E. Capitol  
Pierre, South Dakota 57501  
605-773-3352

Subject: Petition to Oppose Water Permit Applications Nos. 2685-2 and 2686-2, Oppose the Chief Engineer's recommendations, and Request Automatic Delay of Hearing Date

Dear Mr. Erbele:

Thank you for the opportunity to file this petition in opposition to Water Permit Application Nos. 2685-2 and 2686-2 filed by Powertech (USA) Inc., and to your recommendations for approval.

Although I do not reside in South Dakota, I have an interest in the applications due to my efforts to provide South Dakota residents with detailed information, news, analysis, and documents relating to the proposed Dewey-Burdock uranium project through my website, [www.powertechexposed.com](http://www.powertechexposed.com). This information allows South Dakota residents to be better informed on this matter of heightened public concern.

My opposition to the two permit applications is based on the following:

1. The proposed annual consumptive use volume per application No. 2686-2 of 274.2 acre feet is not supported by detailed calculations and is likely understated. More specifically, there is an inadequate analysis of the consumptive use that would occur during the well field restoration phase.
2. Permit application No. 2686-2 appears to be inconsistent with the U.S. Nuclear Regulatory Commission's Generic Environmental Impact Statement for In-Situ Leach Uranium Milling Facilities (NUREG-1910) with respect to the volume of water consumed by the reverse osmosis process.
3. If water quality restoration targets cannot be achieved during the term of the permit, other current and potential water users could be impaired by being unable to put Inyan Kara water to beneficial use due to elevated levels of heavy metals.
4. The applicant has failed to adequately demonstrate the public benefits of issuing the permits as required by Administrative Procedure 46-2A-9, and that any benefits outweigh the risks from the proposed project.

Pursuant to Administrative Procedure 46-2A-4, I request an automatic extension of the time of the hearing before the Water Management Board.

Sincerely,

A handwritten signature in black ink that reads "James B Woodward". The signature is written in a cursive style with a long horizontal flourish at the end.

James B. Woodward

cc: Powertech (USA) Inc.

**Notice of Recommendation on an  
Application for a Ground Water Discharge Plan filed by Powertech (USA), Inc.**

Notice is hereby given that the South Dakota Department of Environment and Natural Resources (Department) has received an Application for a Ground Water Discharge Plan from Powertech (USA), Inc. The application is related to the land application of treated wastewater at their proposed mining facility in Custer and Fall River Counties, South Dakota. The legal location of the land application operation is portions of Sections 29, 30, 31, 32, 34 and 35, T6S-R1E and portions of Sections 2 and 3, T7S-R1E; approximately 13 miles northwest of Edgemont, SD. The Ground Water Discharge Plan will consist of a facility construction permit, a ground water discharge permit and a water quality variance.

The Secretary of the Department of Environment and Natural Resources is recommending conditional approval of Powertech's Ground Water Discharge Plan. Conditions of the Ground Water Discharge Plan consist of land application effluent requirements, effluent, soil, stream and ground water monitoring and reporting requirements, application rate requirements, runoff prevention, contingency plan requirements, and technical revision authorization. The recommended conditions may be viewed at the Department's website at:  
[http://denr.sd.gov/des/gw/Powertech/Powertech\\_GW\\_Discharge\\_Permit.aspx](http://denr.sd.gov/des/gw/Powertech/Powertech_GW_Discharge_Permit.aspx)

Any interested person may file a petition to initiate a contested case on the application or the Department's recommendation pursuant to ARSD Chapter 74:50:02 within 30 days. All petitions must be filed with DENR and postmarked by January 18, 2013. If no petitions are filed, the application for a plan will become final without a hearing in accordance with ARSD Chapter 74:54:02:09.

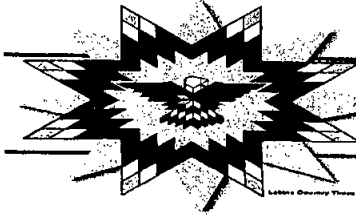
Any person desiring further information or list of recommended conditions may contact Matt Hicks at the South Dakota Department of Environment and Natural Resources, Ground Water Quality Program, 523 East Capitol Avenue, Joe Foss Building, Pierre, South Dakota 57501, Phone: 605-773-3296.



---

Steven M. Pirner  
Secretary

Published at an approximate cost of: \_\_\_\_\_



www.lakotacountrytimes.com

# LAKOTA COUNTRY TIMES

*Truth, Integrity and Lakota Spirit*

316 Main St. PO Box 386, Martin, SD 57551

Phone: 605-685-1868 FAX:605-685-1870

US Postal Permit Number: USPS 024-176

### AFFIDAVIT OF PUBLICATION

State of South Dakota, County of Bennett:

Cora White Horse of said county, being first duly sworn, on oath, says that he/she is the Editor/Publisher or an employee of the Publisher of the Lakota Country Times, a weekly newspaper published in the county of Bennett for circulation in the counties of Bennett and Shannon and Todd in South Dakota; That he/she has full and personal knowledge of the facts herein stated, that said newspaper is a legal newspaper as defined in SDCL 17-2-2.1 through 17-2-2.4 inclusive, that said newspaper has been published within the said County of Bennett and State of South Dakota, for a least one year prior to the first publication of the attached public notice, and that the legal advertisement headed:

### NOTICE OF RECOMMEND GROUND WATER DISCHARGE PLAN

A printed copy of which, taken from the paper in which the same was published, and which is hereto attached and made a part of this affidavit, was published in said newspaper for 1 successive week(s) to wit:

<u>DEC. 19</u>	<u>2012</u>	<u>Volume 9</u>	<u>Issue # 13</u>
_____	<u>2012</u>	<u>Volume 9</u>	<u>Issue #</u>
_____	<u>2012</u>	<u>Volume 9</u>	<u>Issue #</u>
_____	<u>2012</u>	<u>Volume 9</u>	<u>Issue #</u>

That the full amount of the fee charged for the publication of the attached public notice inures to the sole benefit of the publisher or publishers; that no agreement or understanding for the division thereof has been made with any other person, and that no part thereof has been agreed to be paid to any person whomsoever; that the fees charged for the publication thereof are:

\$ 37.40

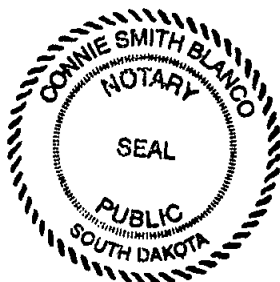
Signed: Cora White Horse

Subscribed and sworn to before me this date: JAN. 8, 2013

Signed: Connie Smith

Notary Public in and for the County of Bennett, South Dakota

My Commission expires Dec. 11, 2013



**NOTICE OF RECOMMENDATION**

**South Dakota Department of  
Environment and Natural Resources  
Ground Water Quality Program  
523 East Capitol Avenue  
Joe Foss Building  
Pierre, South Dakota 57501  
Phone: 605-773-3296**

**NOTICE OF RECOMMENDATION ON  
AN APPLICATION FOR A GROUND  
WATER DISCHARGE PLAN FILED BY  
POWERTECH (USA), INC.**

Notice is hereby given that the South Dakota Department of Environment and Natural Resources (Department) has received an Application for a Ground Water Discharge Plan from Powertech (USA), Inc. The application is related to the land application of treated wastewater at their proposed mining facility in Custer and Fall River Counties, South Dakota. The legal location of the land application operation is portions of Sections 29, 30, 31, 32, 34 and 35, T6S-R1E and portions of Sections 2 and 3, T7S-R1E; approximately 13 miles northwest of Edgemont, SD. The Ground Water Discharge Plan will consist of a facility construction permit, a ground water discharge permit and a water quality variance.

The Secretary of the Department of Envi-

ronment and Natural Resources is recommending conditional approval of Powertech's Ground Water Discharge Plan. Conditions of the Ground Water Discharge Plan consist of land application effluent requirements, effluent, soil, stream and ground water monitoring and reporting requirements, application rate requirements, runoff prevention, contingency plan requirements, and technical revision authorization. The recommended conditions may be viewed at the Department's website at [http://denr.sd.gov/des/gw/Powertech/Powertech\\_GW\\_Discharge\\_Permit.aspx](http://denr.sd.gov/des/gw/Powertech/Powertech_GW_Discharge_Permit.aspx).

Any interested person may file a petition to initiate a contested case on the application or the Department's recommendation pursuant to ARSD Chapter 74:50:02 within 30 days. All petitions must be filed with DENR and postmarked by January 18, 2013. If no petitions are filed, the application for a plan will become final without a hearing in accordance with ARSD Chapter 74:54:02:09.

Any person desiring further information or list of recommended conditions may contact Matt Hicks at the South Dakota Department of Environment and Natural Resources, Ground Water Quality Program, 523 East Capitol Avenue, Joe Foss Building, Pierre, South Dakota 57501, Phone: 605-773-3296. Steven M. Pirner, Secretary.

Published at an approximate cost of \$97.40

**AFFIDAVIT OF PUBLICATION**

State of South Dakota )  
 ) ss.  
County of Fall River )

Brett Nachtigall of Hot Springs, Fall River County, South Dakota, being duly sworn, upon oath says that he is the publisher of the Hot Springs Star, as a legal newspaper, as defined in SDCL 17-2-2.1 through 17-2-2.4 inclusive, and is published at Hot Springs, county and state aforesaid; that the advertisement headed -

Notice

(Display Advertising)

a true printed copy thereof is hereunto annexed, was published in the said Hot Springs Star, in the regular and entire issue of said paper,

for one

successive issues, beginning with the

issue dated

Dec. 18, 2012

and ending with the issue dated

20

That the full amount of the fee charged for the publication of said notice is

\$ 87.15, and that

no agreement or understanding, for the division thereof, has been made with any other person, and that no part thereof has been agreed to be paid to any person whomsoever, that the whole amount insures to the benefit of the publishers of said newspaper.

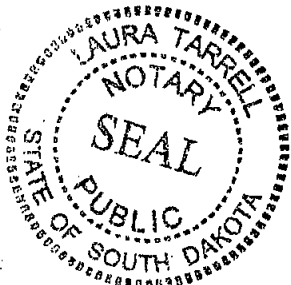
*Brett Nachtigall*  
Subscribed and sworn to before me

this 18 day of Dec

20 12

*Laura Tarrell*  
Notary Public

My Commission Expires  
December 3, 2013



**NOTICE OF RECOMMENDATION**  
**on an Application for a Ground Water Discharge Plan**  
**filed by Powertech (USA), Inc.**

Notice is hereby given that the South Dakota Department of Environment and Natural Resources (Department) has received an Application for a Ground Water Discharge Plan from Powertech (USA), Inc. The application is related to the land application of treated wastewater at their proposed mining facility in Custer and Fall River Counties, South Dakota. The legal location of the land application operation is portions of Sections 29, 30, 31, 32, 34 and 35, T6S-R1E and portions of Sections 2 and 3, T7S-R1E, approximately 15 miles northwest of Edgemont, SD. The Ground Water Discharge Plan will consist of a facility construction permit, a ground water discharge permit and a water quality variance.

The Secretary of the Department of Environment and Natural Resources is recommending conditional approval of Powertech's Ground Water Discharge Plan. Conditions of the Ground Water Discharge Plan consist of land application effluent requirements, effluent, soil, stream and ground water monitoring and reporting requirements, application rate requirements, runoff prevention, contingency plan requirements, and technical revision authorization. The recommended conditions may be viewed at the Department's website at [http://denr.sd.gov/dea/gw/Powertech/Powertech\\_GW\\_Discharge\\_Permit.aspx](http://denr.sd.gov/dea/gw/Powertech/Powertech_GW_Discharge_Permit.aspx).

Any interested person may file a petition to initiate a contested case on the application or the Department's recommendation pursuant to ARSD Chapter 74:50:02 within 30 days. All petitions must be filed with DENR and postmarked by January 18, 2013. If no petitions are filed, the application for a plan will become final without a hearing in accordance with ARSD Chapter 74:54:02:09.

Any person desiring further information or list of recommended conditions may contact Matt Hicks at the South Dakota Department of Environment and Natural Resources, Ground Water Quality Program, 523 East Capitol Avenue, Joe Foss Building, Pierre, South Dakota 57501, Phone: 605-773-3296. /s/Steven M. Pimer, Secretary

Published once at the total approximate cost of \$87.15.

# Affidavit of Publication

State of South Dakota

ss

County of Fall River

Anne I. Cassens of said county being first duly sworn, on oath says, that she is the publisher of Edgemont Herald Tribune, a weekly newspaper published in the city of Edgemont, in said county of Fall River, and state of South Dakota; that she has full and personal knowledge of all the facts herein stated; that said newspaper is a legal newspaper as defined in SDCL 17-2-2.1 through 17-2-2.4 inclusive; that said newspaper has been published Within said County of Fall River and State of South Dakota, For at least one year prior to the first publication of the attached public notice, and that the:

Notice of Recommendation: Ground  
Water Discharge Plan for Powdered  
SD-DENR

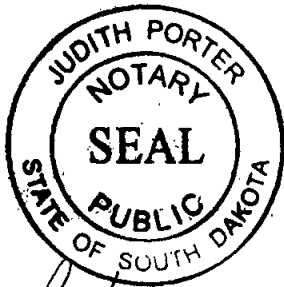
a printed copy of which, reprinted from the paper in which the same was published, and which is hereto attached and made a part of this affidavit, was published in said newspaper for \_\_\_\_\_ successive week(s) to wit:

Dec 19, 2012  
\_\_\_\_\_, 2012  
\_\_\_\_\_, 2012  
\_\_\_\_\_, 2012

That the full amount of the fee charged for the publication of the attached public notice insure to the sole benefit of the publisher; that no agreement or understanding for the division thereof has been made with any other person whomsoever; that the fees charged for the publication thereof are \$ 20.48

Signed: Anne Cassens

Subscribed and Sworn before me this 4<sup>th</sup> day of January, 2017.3



Judith Porter  
Notary Public, in and for the County of Fall River, South Dakota. My commission expires 07-12-2013





# Affidavit of Publication

State of South Dakota )  
 ) ss.  
 County of Custer )

Charles W. Najacht of said county, being duly sworn, on oath says that he is publisher of the Custer County Chronicle, a weekly newspaper printed and published in Custer City, said County of Custer and has full and personal knowledge of all the facts herein stated; that said newspaper is a legal newspaper and has a bona-fide circulation of at least two hundred copies weekly, and has been published within said County for fifty-two successive weeks next prior to the publication of the notice herein, mentioned, and was and is printed wholly or in part in an office maintained at said place of publication: that the

Dept. of DENR - Ground Water Quality  
Notice of Recommendations

a printed copy of which, taken from the paper in which the same was published, is attached to this sheet, and is made a part of this Affidavit, was published in said newspaper at least once each week for 1 successive week(s), on which said newspaper was regularly published, to wit:

19, 2012 : \_\_\_\_\_;  
 \_\_\_\_\_;  
 \_\_\_\_\_;  
 \_\_\_\_\_;

the full amount of the fees for the publication of the annexed notice is \$ 21.06.

Charles W. Najacht

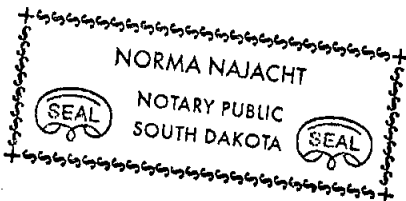
Subscribed and sworn to me before this 19

of December, 2012;

Norma Najacht

NOTARY PUBLIC

MY COMMISSION EXPIRES: May 5, 2018



**NOTICE OF RECOMMENDATION ON AN APPLICATION FOR A GROUND WATER DISCHARGE PLAN FILED BY POWERTECH (USA) INC.**  
 Notice is hereby given that the South Dakota Department of Environment and Natural Resources (Department) has received an Application for a Ground Water Discharge Plan from Powertech (USA) Inc. The application is filed for the land application of treated wastewater at their proposed mining facility in Custer and Fall River Counties, South Dakota. The location of the land application is located between Sections 29, 30, 31, 32, 33, 34, and 35, T6S, R1E and portions of Sections 2, and 3, T7S, R1E, approximately 13 miles northwest of Edgemont, SD. The Ground Water Discharge Plan will consist of a facility construction permit, a ground water discharge permit and a water quality variance.  
 The Secretary of the Department of Environment and Natural Resources is recommending conditional approval of Powertech's Ground Water Discharge Plan. Conditions of the Ground Water Discharge Plan consist of land application effluent requirements, effluent, soil stream and ground water monitoring and reporting requirements, application rate requirements, runoff prevention, contingency plan requirements, and technical revision authorization. The recommended conditions may be viewed at the Department's website at: [http://denr.sd.gov/des/gw/Powertech/Powertech\\_GW\\_Discharge\\_Permit.aspx](http://denr.sd.gov/des/gw/Powertech/Powertech_GW_Discharge_Permit.aspx)  
 Any interested person may file a petition to initiate a contested case on the application or the Department's recommendation pursuant to ARSD Chapter 74:50:02 within 30 days. All petitions must be filed with DENR and postmarked by January 18, 2013. If no petitions are filed the application for a plan will become final without a hearing in accordance with ARSD Chapter 74:54:02:09.  
 Any person desiring further information or list of recommended conditions may contact Matt Hicks at the South Dakota Department of Environment and Natural Resources, Ground Water Quality Program, 523 East Capitol Avenue, Joe Foss Building, Pierre, South Dakota 57501, Phone: 605-773-3296.  
 Steven M. Firmer  
 Secretary  
 Published once at an approximate cost of \$21.06

**Requests for Contested Case Hearing (Ground Water Discharge)**

<b>#</b>	<b>Date Rec'd</b>	<b>Name</b>
	1-22-13	Keith Alaire
	1-22-13	Kim Alaire
	1-22-13	Juli Ames-Curtis
	1-22-13	Twyla Amiotte
	1-22-13	Kenneth D. Anderson
	1-22-13	Beth Audette
	1-22-13	Brandon Bad Wound
	1-18-13	Jerri Baker
	1-15-13	Angelia Baldwin
	1-22-13	Anna K Ball
	1-18-13	Laurie & Bernard Barnaud
	1-18-13	Sudhi Baumberger
	1-22-13	Heather J. Besco
	1-22-13	Annabelle Between Lodge (rec'd late)
	1-22-13	Jay Birkland
	1-22-13	LaVella Birkland
	1-22-13	Jerry Bloomer
	1-22-13	Mark Boddicker
	1-17-13	Brandon R. Brygider
	1-17-13	Mary R. Burrows
	1-22-13	Mary Kay Carle
	1-22-13	Sharon & Alex Christie
	1-18-13	Clean Water Alliance, filed by Bruce Ellison
	1-22-13	George J. Corrigan (rec'd late)
	1-18-13	Barbara Cromwell
	1-22-13	Sister Gabriella Crowley
	1-16-13	Jeremiah Davis
	1-17-13	Defenders of the Black Hills signed by Charmaine White Face
	1-18-13	Francis Dicesare
	1-22-13	Kathy Durrum
	1-17-13	M. Engle
	1-17-13	T. Engle
	1-14-13	Cheryl Fair
	1-18-13	Cheryl Fair
	1-14-13	Jon Fair
	1-18-13	Jon Fair
	1-22-13	Irene Fandrich
	1-23-13	Anne Fields (rec'd late)

**Requests for Contested Case Hearing (Ground Water Discharge)**

	1-22-13	Jeanne Fine
	1-18-13	Donna M. Fisher
	1-22-13	Ronald Fischer
	1-22-13	Adrian M. Forette III
	1-16-13	Shirley Frederick
	1-18-13	Shirley Frederick (second letter)
	1-18-13	Therese Marie Furois, OSB
	1-22-13	Judy Gaalswyk
	1-22-13	Brenda Gamache w/enclosed petitions signed by concerned citizens (8 pgs)
	1-17-13	Ray Gellerman
	1-22-13	Rick Good Voice Flute
	1-17-13	Mary Goulet
	1-22-13	Glen & Georgia Ann Graves
	1-18-13	Lynn E. Gray
	1-31-13	Gardner Gray (rec'd late)
	1-22-13	Edward Harvey
	1-16-13	Gary Heckenlaible
	1-22-13	Philip S. Heckman
	1-17-13	Clifford Heinzen
	1-17-13	Virginia M. Heinzen
	1-22-13	Susan Henderson
	1-22-13	Susan Hey
	1-22-13	Luella J. Hicks
	1-17-13	Georgia Holmes, Hot Springs City Council
	1-22-13	Jeremy A. Horton
	1-22-13	Roger K.Horton
	1-17-13	Dayton Hyde (individually)
	1-22-13	William Ing
	1-24-13	Angela Jarding (rec'd late)
	1-22-13	Cheryl Jarding
	1-22-13	John Jarding
	1-22-13	Mike Jarding
	1-16-13	Lilias C Jarding
	1-17-13	Lilias C Jarding (replacing former letter)
	?	Patricia Jenkins (sent 1/15-13)
	1-18-13	Judith Joba
	1-23-13	Andy Johnson (rec'd late)
	1-17-13	Lorna Just
	1-22-13	Marvin Kammerer

**Requests for Contested Case Hearing (Ground Water Discharge)**

	1-22-13	Gwen Kaneshiro
	1-22-13	Bonnie Keiswetter
	1-22-13	Dallas Keiswetter
	1-22-13	Donald Kelley
	1-22-13	Kim Kelley
	1-22-13	Corey Kennedy
	1-22-13	Shawntera Kennedy
	1-18-13	Margaret Mary Keogh, OSB
	1-22-13	Stanley T. Keyes
	1-16-13	Sabrina King
	1-18-13	Frank Kloucek
	1-16-13	Dennis and Penny Knuckles
	1-22-13	Regina A. Koch
	1-22-13	Lawrence Lamont
	1-22-13	Greg Langer
	1-22-13	Karla R. LaRive
	1-18-13	Shirley & Robert Lautenschlager
	1-22-13	John E. Lawson
	1-22-13	Rebecca R. Leas
	1-22-13	Robert Lee
	1-22-13	Jennifer Lena
	1-22-13	Mike Lindeman
	1-18-13	Rebecca Michele Lord
	1-22-13	Nancy C. Magnuson
	1-18-13	Carla R. Marshall
	1-22-13	Mark Mason
	1-24-13	Gary McDowell (rec'd late)
	1-22-13	Daria McGrath
	1-22-13	James R. McGrath
	1-22-13	Billy Jack McLaughlin
	1-22-13	Dahl McLean
	1-22-13	Carol Merwin
	1-22-13	Cynthia Messenger
	1-16-13	Steven & Lexxie Meyer
	1-22-13	Karen N. Miller
	1-22-13	Katherine L. Montague
	1-22-13	Joe Montgomery
	1-22-13	Jean Nachtigall
	1-17-13	Suzan Nolan

**Requests for Contested Case Hearing (Ground Water Discharge)**

	1-22-13	Valerie J. Naylor
	1-17-13	Elaine Noyes
	1-22-13	Eileen Ohliger (rec'd late)
	1-22-13	Patricia E. Ohliger (rec'd late)
	1-22-13	James L. Olson
	1-22-13	Rev. Jodi Olson
	1-22-13	Michael O'Rourke
	1-22-13	Virginia Panarella
	1-22-13	Valerie Parker
	1-22-13	Gena Parkhurst
	1-14-13	Sarah Peters
	1-22-13	Karen Pettigrew
	1-22-13	Cindy Powell
	1-22-13	Antoinette Rynar
	1-22-13	Charleton T. Reynar
	1-17-13	Katie Roseland
	1-17-13	Cheryl A. Rowe
	1-22-13	Roger Rowe
	1-22-13	Marsha Seabolt
	1-16-13	Robert V. Shannon
	1-22-13	Barbara Sharp
	1-22-13	Jeana Shaw
	1-22-13	Jerry Simunto
	1-22-13	Charlene J. Smith
	1-22-13	Jeremy Smith
	1-18-13	Linda Smith
	1-22-13	Gail M. Soave
	1-17-13	South Dakota Peace and Justice Center, signed by Tom Emanuel
	1-22-13	Linda M. Styger
	1-22-13	Rick V. Summerville
	1-18-13	Alison Swan
	1-22-13	Larry Tegantvoort
	1-22-13	Jobeth Troxel
	1-18-13	Douglas Uptain
	1-18-13	Mary Ellen Uptain
	1-22-13	Judith R. Van Cleave
	1-22-13	Alan Walker
	1-22-13	Bill Walsh

**Requests for Contested Case Hearing (Ground Water Discharge)**

	1-17-13	Susan Watt (individually)
	1-22-13	Debra J. Weishaupl
	1-22-13	Kathryn Weller
	1-17-13	Wild Horse Sanctuary ( 2 letters), signed by Dayton O. Hyde Founder and Director and Susan Watt as Program Director
	1-22-13	Bette Wilkinson
	1-22-13	Julia Woodward
	1-22-13	Sandra Woodard

January 16, 2013

RECEIVED

JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
~~Ground Water Quality Program~~  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

Dear Mr. Hicks:

I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervenor in the above application. I am concerned about this application because I am interested in water quality, land use, and wildlife in western South Dakota. I oppose this application because I believe ~~the proposed ground water discharge would harm wildlife, create runoff, and pollute the Cheyenne River, and I want the permit application to be denied.~~

I request that the deadline for filing petitions to initiate a contested case in this matter, currently scheduled for January 18, 2013, be extended until February 1, 2013, to allow full public participation, as the Notice was published during the holidays.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature:



Print Name:

Keith Alarre

Address:

840 W Spruce #320

Rapid City, SD 57701

Phone:

605-718-0371

~~cc: [unclear]~~  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO. 80111



January 16, 2013

RECEIVED

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
~~Ground Water Quality Protection~~  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

Dear Mr. Hicks:

I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervenor in the above application. I am concerned about this application because I am interested in water quality, land use, and wildlife in western South Dakota. I oppose this application because I believe ~~the proposed ground water discharge would harm wildlife, create runoff, and pollute the Cheyenne River, and I want the permit application to be denied.~~

I request that the deadline for filing petitions to initiate a contested case in this matter, currently scheduled for January 18, 2013, be extended until February 1, 2013, to allow full public participation, as the Notice was published during the holidays.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature: Kim Alarie

Print Name: Kim Alarie

Address: 840 N Spruce #320  
Rapid City, SD 57701

Phone: 605-718-0371

~~cc: [unclear]~~  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO. 80111

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JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Juli Ames-Curtis  
11936 Hay Creek Rd  
Custer, SD 57730  
mtsagemassage@yahoo.com

January 18, 2013

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

Dear Mr. Hicks:

I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervener in the above application. I am concerned about this application because I am interested in water quality, land use, and wildlife in western South Dakota. My major concerns are:


- Prairie fires: The area where the waste water will be sprayed is high risk for prairie fires. As the various toxic contaminants carried by the water settles into the grass and ground, fires would create potential airborne contamination.
- Cheyenne River & Angostura Reservoir: runoff from the land sprayed will flow into the Cheyenne River, which will then be carried to our Angostura Reservoir.

I oppose this application because I believe the proposed ground water discharge would harm wildlife, create runoff, and pollute the Cheyenne River, and I want the permit application to be denied.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

  
Juli Ames-Curtis

cc: Mr. Richard E Blubaugh  
VP EH and S Resources  
Powertech, (USA) Inc.  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO 80111

January 16, 2013  
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JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

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Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature:

Print Name:

Address:

Phone:

*Elroy Poszer*

ELROY POSZER

Box 125

Buffalo Gap SD 57702

605-833-2209

*Joyla Amiatte*

TWYLA Amiatte

Box 125

Buffalo Gap SD

605-833-2209

January 16, 2013  
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JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
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Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
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I request that the deadline for filing petitions to initiate a contested case in this matter, currently scheduled for January 18, 2013, be extended until February 1, 2013, to allow full public participation, as the Notice was published during the holidays.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature: Kenneth D. Anderson

Print Name: Kenneth D. Anderson

Address: 24035 Palmer Gulch RD.  
Hill City, S.D. 57745

Phone: 605-574-2761

cc: Powertech (USA) Inc.  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO. 80111

RECEIVED

JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Beth Audette  
1929 Evergreen Dr  
Rapid City SD 57702

January 18, 2013

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

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Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,



Beth Audette

cc: Powertech (USA) Inc.  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO. 80111

January 10, 2013

RECEIVED

JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
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Thank you.

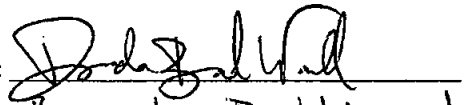
Sincerely,

Signature:

Print Name:

Address:

Phone:

  
Brandon Budkound  
1139 Pahaska Pa Rd  
Rapid City, SD 57701

# RECEIVED

JAN 18 2013

January 16, 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
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523 E. Capitol  
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Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature: Terri Baker

Print Name: Terri Baker

Address: 705 N. River Street

Hot Springs, SD 57747

Phone: 605.745.4420 -- 605.891.8824

cc: Powertech, Inc.

Colorado

January 16, 2013

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JAN 15 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
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Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature: Angelina Baldwin

Print Name: Angelina Baldwin

Address: PO Box 191 - 307 3rd St

Pierpont SD 57468

Phone: 605-325-3392



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January 18, 2013

JAN 22 2013

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

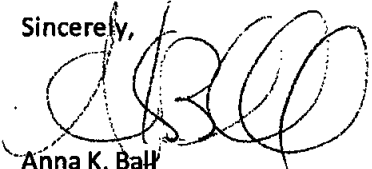
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Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,



Anna K. Ball  
PO Box 46  
Peidmont, SD 57769  
605-393-5590

cc: Powertech (USA) Inc.  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO: 80111

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JAN 18 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

January 16, 2013

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

Dear Mr. Hicks:

We are requesting that a contested case be initiated in the above matter and that we be admitted as intervenors in the above application. We are ranchers and organic crop producers, and we irrigate our land. We are very concerned about this application. Water is critical to our health and to the health and well-being of our livestock and our livelihood. From what we have read, we understand that 30% of the water to be used by Powertech will be contaminated with heavy metals and radiation. Discharge of such water will threaten our land use and our critical water supply. In addition, wildlife in western South Dakota will be negatively impacted should Powertech be granted a permit to discharge such water.

We oppose this application and ask that in the interest of farmers, ranchers, and all the residents of western South Dakota that the permit application be denied.

Please keep us informed of all proceedings and documents related to this application.

Thank you.

*Bernard Barnaud*  
*Laurie Barnaud*  
Sincerely,

Bernard and Laurie Barnaud  
12129 Sagebrush Road  
Nisland, SD 57762  
605-257-2351

cc: Powertech (USA) Inc.  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO. 80111

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JAN 18 2013

January 16, 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
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Matt Hicks  
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Thank you.

Sincerely,

Signature: Sudhi Baumberger

Print Name: Sudhi Baumberger

Address: 12374 Baumberger Rd  
Deadwood, SD 57732

Phone: 605-578-3938

cc: Powertech (USA) Inc.  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO. 80111

January 16, 2013

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JAN 22 2013

DEPT. OF ENVIRONMENT &  
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Matt Hicks  
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Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature: Heather J Besco

Print Name: Heather J. Besco

Address: P.O. Box 82

Buffalo Gap SD 57772

Phone: 833-2371

January 10, 2013  
**RECEIVED**

JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
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Joe Foss Building  
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Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature: Annabelle Between Lodge

Print Name: Annabelle Between Lodge

Address: PO Box 118

Oglala S.D. 59767

Phone: 605-867-1767

January 16, 2013

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JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Matt Hicks  
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Thank you.

Sincerely,

Signature:

Jay Birkland

Print Name:

JAY Birkland

Address:

301 56th ST

Hot Springs S.D.

Phone:

605-745-5300

Copy to

Powertech, Inc.

5575 Dtc Parkway #140  
Englewood  
Greenwood Village, Co

80111-3012

% Richard Blubaugh

January 16, 2013

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JAN 22 2013

DEPT. OF ENVIRONMENT &  
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Matt Hicks  
South Dakota Department of Environment and Natural Resources  
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Pierre, SD 57501

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Thank you.

Sincerely,

Signature:

*LAVella Birkland*

Print Name:

LAVella Birkland

Address:

301 S. 64th St.

Hot Springs, SD 57747

Phone:

605-745-5300

Copy to

Powertec, Inc.

5575 Dtc Parkway #140  
Englewood Village, Co  
80111-3012

% Richard Blubaugh

January 16, 2013

RECEIVED

JAN 22 2013

DEPT. OF ENVIRONMENT &  
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GROUND WATER PROGRAM

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
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Joe Foss Building  
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Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature:

*Jerry Bloomer*

Print Name:

*Jerry Bloomer*

Address:

*2146 Minnekahta Ave  
Hot Springs SD 57747*

Phone: \_\_\_\_\_

*Copy to*

*Powertec, Inc.*

*5575 D+C Parkway #140  
Englewood Village, CO  
80111-3012*

*% Richard Blubaugh*



January 16, 2013

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JAN 22 2013

DEPT. OF ENVIRONMENT &  
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Matt Hicks  
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Thank you.

Sincerely,

Signature:

Mark Boddicker

Print Name:

Mark Boddicker

Address:

13850 Battle Creek Road  
Hermosa, SD, 57744

Phone:

605-255-4099

DEAR STEVE M. TURNER  
RE: PARTY-STATUS REQUEST

10 JAN '13

# SD DENR Recommends Approval Of **RECEIVED** Powertech Plan

by Associated Press

JAN 17 2013

DEPT. OF ENVIRONMENT AND  
NATURAL RESOURCES,  
SECRETARY'S OFFICE

December 17, 2012 1:25 PM

The South Dakota Department of Environment and Natural Resources is recommending conditional approval by Powertech Inc. for a ground water discharge plan connected to the company's proposed injection-well uranium mine near Edgemont.

AND PERMITS - MUST FOLLOW NEDA-ST. REGS

Powertech Uranium Corp. plans to pump groundwater into the underground ore deposits near Edgemont to dissolve the uranium. The water would be pumped to the surface, where the uranium would be extracted. The company estimates the mine would produce 1 million pounds of uranium oxide a year for 20 years.

Petitions to intervene on the department's recommendation must be filed with the department's Ground Water Quality Program and postmarked by Jan. 18. If petitioned, a hearing on the department's recommendation will be heard before the state Water Management Board sometime early in 2013.

**74:50:02:02. Petition to initiate contested case.** A person contesting a recommendation of the department concerning a permit application or requesting an order from the board or secretary shall file a petition for a contested case hearing. The petition shall be filed with the department and shall contain the following:

U.S. CITIZEN, NY RESID. WHO VISITS S. DAK. AND RAPID CITY, EVERY SO OFTEN.

- (1) A statement of the petitioner's interest in the involved matter; **SEE ABOVE.**
- (2) A statement of the recommendation contested, if any, and the relief and decision requested from the board; **SEE ABOVE.**
- (3) A statement alleging the relevant facts and issues known to the petitioner, upon which the petitioner bases the contest or request to the board; **NOTE OUR PRIOR SUBMISSIONS!**
- (4) A statement of the legal authority and jurisdiction under which the hearing would be held, if known; **SEE HEREIN.**
- (5) A reference to the particular statutes and rules involved, if known; and **SEE HEREIN.**
- (6) The signature of the petitioner or the petitioner's attorney.

**PETITIONER** Brandon R. Brygider, BRANSON R. BRYGIDER, 10 TULLAMORE RD. GEN. CTY NY, 11530-2512 (516.747.8031)

Source: 14 SDR 86, effective December 24, 1987; transferred from § 74:03:13:01, July 1, 1996.  
General Authority: SDCL 34A-2-93.  
Law Implemented: SDCL 1-26-17, 1-26-27.

January 16, 2013

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RECEIVED

JAN 17 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

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Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature:

*Mary R. Burrows*

Print Name:

MARY R BURROWS

Address:

2309 WILSON AVE

HOT SPRINGS, FALL RIVER COUNTY,

SD 57747

Phone:

605-745-6311

January 16, 2013

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Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

JAN 22 2013

DEPT. OF ENVIRONMENT &  
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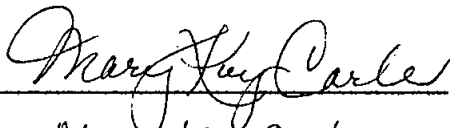
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Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature:



Print Name:

Mary Kay Carle

Address:

5821 Michael Ct.

St. Cloud, MN 56303

Phone:

320-252-5653

January 16, 2013

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Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

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Thank you.

Sincerely,

Signature: Sharon Christie Alex Christie  
Print Name: Sharon Christie / Alex Christie  
Address: P.O. Box 74 / 209 N. 2nd St.  
Buffalo Gap, SD 57722  
Phone: 605 833 2035

RECEIVED  
JAN 18 2013  
WATER RIGHTS  
PROGRAM

STATE OF SOUTH DAKOTA  
BEFORE THE WATER MANAGEMENT BOARD

IN THE MATTER OF POWERTECH, )  
 )  
APPLICATION FOR GROUND ) **OBJECTION**  
WATER DISCHARGE PLAN )

The Clean Water Alliance, an organization of South Dakota and Lakota citizens, by and through its undersigned counsel, hereby objects to the above-described application for a ground water discharge plan for wastewater filed on behalf of Powertech. This objection is based upon the grounds and for the reason that the granting of such permits will adversely effect the future surface and subsurface water rights of South Dakota and Lakota citizens and their ability to use our water resources for domestic, commercial, and other uses.

Some of the issues of concern raised by these permits include:

1. The proposal for land application of treated wastewater at Powertech's Dewey-Burdock uranium mining and milling project would spray heavy metals left in mine waste on the surface which potentially threatens to contaminate surface water supplies and would harm wildlife, create runoff and pollute the Cheyenne River. In other sites where this disposal technic had been used, there has been a build-up of toxic materials, including selenium, at other sites.
2. The proposal for land application of treated mine waste would potentially harm ground waster supplies due to the fractured nature of the strata in the proposed project area and prevalence of uncapped or improperly capped exploration wells allowing for surface

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NATURAL RESOURCES,  
GROUND WATER PROGRAM

water to enter ground water resources.

3. The CWA objects to Powertech's proposed groundwater discharge application and respectfully submits that due to the real dangers and history of contamination of water resources by ISL mining, the Application is not in the public interest.

Dated this 16<sup>th</sup> day of January, 2013.



BRUCE ELLISON  
P.O. Box 2508  
Rapid City, SD 57709

Attorney for Clean Water Alliance

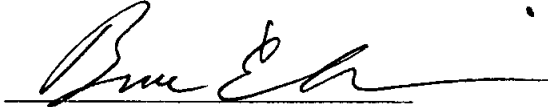
**CERTIFICATE OF SERVICE**

It is hereby certified that a true and correct copy of the Clean Water Alliance's Objections were mailed this date to:

CHIEF ENGINEER  
Water Rights Program  
Foss Building  
523 E. Capitol  
Pierre, SD 57501

POWERTECH  
C/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO 80111

Dated this 16<sup>th</sup> day of January, 2013.



January 10, 2013

RECEIVED

JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES  
GROUND WATER PROGRAM

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

Dear Mr. Hicks:

I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervenor in the above application. I am concerned about this application because I am interested in water quality, land use, and wildlife in western South Dakota. I oppose this application.

I request that the deadline for filing petitions to initiate a contested case in this matter, currently scheduled for January 18, 2013, be extended until February 1, 2013, to allow full public participation, as the Notice was published during the holidays.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature: George J. Corrigan

Print Name: GEORGE J CORRIGAN

Address: 446 S 5<sup>th</sup> ST

HOT SPRINGS S.D. 57747

Phone: 732-245-0959



RECEIVED

JAN 18 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

January 16, 2013

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

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Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

*Barbara Cromwell*

Barbara Cromwell  
2313 Cruz Drive, Rapid City, SD 57702  
605-355-9604

cc: Powertech (USA) Inc.  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO. 80111

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JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

720 E Kiwiva Place  
Sioux Falls, SD 57105

January 17, 2013

Matt Hicks  
SD Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E Capitol  
Pierre, SD 57501

Dear Mr Hicks,

I am writing to ask to be included as an intervenor in regard to the proposed plan to mine uranium near Edgemont. I am opposed to the application for this right by Powertech because of my concern for the water quality, the harm to the land and what it will do to the wild life in that area. Please extend the deadline so that the public will be able to participate and make their voices heard.

Thank you for your consideration.

Sincerely,  
Sister Gabriella Crowley  
Sister Gabriella Crowley  
605-322-7824

# RECEIVED

JAN 16 2013

January 13, 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

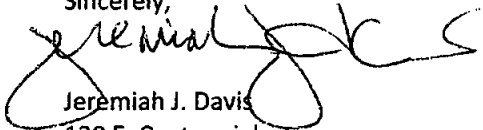
Dear Mr. Hicks:

I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervenor in the above application. I am concerned about this application because I am interested in water quality, land use, and wildlife in the Black Hills, and in western South Dakota. I oppose this application at this time.

Please keep me informed of all proceedings and documents related to this application.

Thank you for your consideration.

Sincerely,



Jeremiah J. Davis  
130 E. Centennial  
Rapid City, SD 57701  
(605) 348.5867

Defenders of the Black Hills  
He Sapa O'nakijin

P. O. Box 2003, Rapid City, SD 57709

Phone: (605) 399-1868

Jan. 14, 2013

RECEIVED

JAN 17 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Attn: Matt Hicks  
SD Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

Re: Petition contesting the DENR's approval of Powertech, Inc.'s Ground Water Discharge Plan

Dear Mr. Hicks;

(1) Defenders of the Black Hills objects to the approval of Powertech Inc.'s Ground Water Discharge Plan for the following reasons:

A.) There is no mention or discussion of the impact the pivot spraying of radioactive waste water will have on Historic and Archaeological resources.

B.) The background radioactive level in the area is already high enough from the more than 100 abandoned open-pit uranium mines without increasing those levels with the spraying radioactive wastewater onto the land.

C.) Evaporation during the spraying of the radioactive wastewater will be carried to other areas spreading the radioactive waste to a much wider area than anticipated, especially as this is a very arid area and not suited to the amount of moisture from pivot spraying.

D.) As this is an arid area, whose natural foliage and soil is suited for an arid area, there amount of runoff will exceed the amount anticipated to soak into the soil causing increased radioactive runoff to travel into the creeks and ultimately the Cheyenne River.

E.) The radioactive spraying will have an adverse affect on the threatened and endangered species living or migrating through the Dewey-Burdock area.

(2) We recommend that this project not be granted approval.

(3) Our concerns arise from information in the record kept by SD DENR on their website; through studies by the SD School of Mines and Technology; and through Powertech's application to the Nuclear Regulatory Commission.

(4) We understand this hearing is according to SD Administrative Regulation 74:50:02:02, and the regulations governing the SD Department of Environment and Natural Resources.

Submitted by

  
Charmaine White Face, Coordinator

Certified copy sent to: Powertech (USA) Inc., PO Bo 812, Edgemont, SD 57735

# RECEIVED

JAN 18 2013

January 16, 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

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I request that the deadline for filing petitions to initiate a contested case in this matter, currently scheduled for January 18, 2013, be extended until February 1, 2013, to allow full public participation, as the Notice was published during the holidays.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature:

Print Name:

Address:

Phone:



FRANCIS DICESARE

1501 11TH ST

RAPID CITY SD 57701

605 641 0494

January 16, 2013

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

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Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature: 

Print Name: Kathy Durrum

Address: 10374 Dryland Dr.  
Edgemond, SD 57735

Phone: 303-750-4463

# RECEIVED

JAN 17 2013

January 16, 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

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Thank you.

Sincerely,

Signature: M. Edgier

Print Name: M. EDGIER

Address: 115 South

Edgmont, SD

Phone: \_\_\_\_\_

cc: Powertech (USA) Inc.  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO. 80111

January 16, 2013

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

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Thank you.

Sincerely,

Signature:

T. Eagle

Print Name:

T. Eagle

Address:

115 A Cott St  
Edgemont SD

Phone: \_\_\_\_\_

cc: Powertech (USA) Inc.  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO. 80111



RECEIVED

JAN 14 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

January 10, 2013

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

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Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature



Print Name:

Cheryl Fair

Address:

12909 Shep's Canyon Rd  
Hot Springs, SD 57747

Phone:

605-745-4535

# RECEIVED

JAN 18 2013

January 16, 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

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Thank you.

Sincerely,

Signature:



Print Name:

Cheryl Fair

Address:

12909 Shep's Canyon Rd.  
Hot Springs, SD 57747

Phone:

605-745-4535

cc: Powertech (USA) Inc.  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO. 80111

RECEIVED

JAN 14 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

January 10, 2013

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

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Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature: Jon Fair

Print Name: Jon Fair

Address: 12909 SHEEP CANYON RD.

HOT SPRINGS, SD 57747

Phone: 605-745-4535

# RECEIVED

JAN 18 2013

January 16, 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

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Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature: Jon Fair

Print Name: Jon Fair

Address: 12909 Sheep Canyon Rd.

Hot Springs, SD 57747

Phone: 605-745-4535

cc: Powertech (USA) Inc.  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO. 80111

January 16, 2013

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RECEIVED

JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

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Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature: Irene Fandrich

Print Name: IRENE FANDRICH

Address: 301 S 6<sup>th</sup> St.

Hot Springs, S.D. 57747

Phone: 605-745-5300

Copy to

Powertec, Inc.  
5575 Dtc Parkway #140  
Englewood Village, Co  
80111-3012  
c/o Richard Blubaugh

January 16, 2013

RECEIVED

JAN 23 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

Dear Mr. Hicks:

I am requesting that a contested case be initiated in the above matter. I am concerned about this application because I am interested in water quality, land use, and wildlife in western South Dakota. I oppose this application because I believe the proposed ground water discharge would harm wildlife, create runoff, and further pollute the Cheyenne River, and I want the permit application to be denied.


I have lived and worked on the Pine Ridge Reservation for 18 months and am aware of some of the damage already done by previous uranium mining ventures.

I request that the deadline for filing petitions to initiate a contested case in this matter, currently scheduled for January 18, 2013, be extended until February 1, 2013, to allow full public participation, as the Notice was published during the holidays.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,



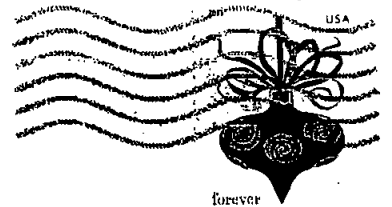
Anne Fields PhD  
2415 Amberbrook Lane  
Grayson, GA 30017  
605-407-1275  
annefields1@yahoo.com

cc: Powertech (USA) Inc.  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO. 80111

3 Fields  
Amberbrook Ln.  
son, GA 30017

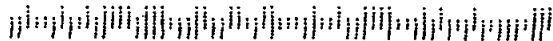
NORTH METRO GA 301

17 JAN 2013 PM 6 L



Matt Hicks  
South Dakota Dept. of Environment & Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

57501\$3392



January 16, 2013

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RECEIVED

JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

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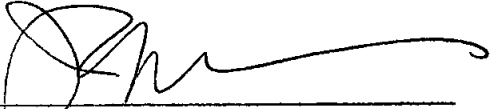
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Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature:



Print Name:

Jeannie Fine

Address:

PO Box 153

Pringle, S.D. 57773

Phone:

605-673-3730

Copy to

Powertec, Inc.

5575 Dtc Parkway #140  
Englewood Village, Co

80111-3012

% Richard Blubaugh



# RECEIVED

JAN 18 2013

January 16, 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

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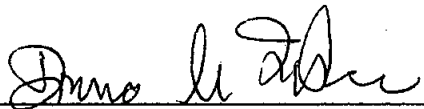
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Thank you.

Sincerely,

Signature:



Print Name:

Donna M Fisher

Address:

12311 Whittertail Road

Deadwood SD 57732

Phone:

605 - 355 - 9532

January 16, 2013

RECEIVED

JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

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Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Print Name: RONALD FISCHER  
Address: 711 6TH AVE EAST  
Mobridge SD 57601  
Phone: 205-845-3767  
Email: \_\_\_\_\_

cc: Powertech (USA) Inc.  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO. 80111

119 So. Berry Pine Rd.  
Rapid City, SD 57702-1911

RECEIVED

January 17, 2013

JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Mr. Matt Hicks  
South Dakota Department of Environment  
and Natural Resources: Ground Quality Program  
Joe Foss Bldg.  
523 E. Capitol  
Pierre, SD 57501

RE: Application for a Ground Water Discharge Plan filed by  
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Please keep me informed of all proceedings and documents related to this application:

Thank you!

Sincerely,  
Adrian M. Forrette III

Adrian M. Forrette III  
119 So. Berry Pine Rd.  
Rapid City, SD 57702-1911  
605.342.1579

RECEIVED

JAN 16 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

January 13, 2013

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

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Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature:

*Shirley Frederick*

Print Name:

Shirley Frederick

Address:

3411 Idlewild Court

Rapid City SD 57702

Phone:

605-348-0208

second request

January 15, 2013  
**RECEIVED**

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

JAN 18 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

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I want the permit application to be denied.

I request that the deadline for filing petitions to initiate a contested case in this matter, currently scheduled for January 18, 2013, be extended until February 1, 2013, to allow full public participation, as the notice was published during the holidays.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,



Shirley Frederick

3411 Idlewild Court, Rapid City SD 57702

Phone: 605-348-0208

cc: Powertech (USA) Inc.  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO. 80111

January 16, 2013

RECEIVED

JAN 18 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
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Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature: Therese Marie Furois, OSB

Print Name: THERESE MARIE FUROIS

Address: 1551 City Springs Road  
Rapid City, SD 57102

Phone: (605) 343-8011

January 16, 2013

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RECEIVED

JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

Dear Mr. Hicks:

I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervenor in the above application. I am concerned about this application because I am interested in water quality, land use, and wildlife in western South Dakota. I oppose this application because I believe the proposed ground water discharge would harm wildlife, create runoff, and pollute the Cheyenne River, and I want the permit application to be denied.

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Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature: Judy Gaalswyk

Print Name: Judy Gaalswyk

Address: 912 - 9th St

Rapid City, SD 57701

Phone: 605 390-8482

cc: Powertech (USA) Inc.  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO. 80111

January 16, 2013

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

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DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

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Thank you.

Sincerely,

Signature: B. Gamache

Print Name: BRENDA GAMACHE

Address: 2337 Wilson Ave.  
Hot Springs, SD. 57747

Phone: 745-4726



As concerned citizens, we ask our officials to stop all uranium mining until it can be proven that mining will not damage our water or reduce the amount of water available to our families, ranches, businesses, and communities.

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DEPT. OF ENVIRONMENT & NATURAL RESOURCES, GROUND WATER PROGRAM

NAME	ADDRESS	PHONE
Dennis [unclear]	27128 [unclear] SD	605 745 3534
Randy [unclear]	28149 20th St Shep's Cove CV	745-3872
Sharon [unclear]	12571 Black Hills Flyway Rd	745-5183
[unclear]	P.O. Box 56	745-5913
[unclear]	910 S 6th St	605-944-1408
[unclear]	910 S 6th St	605-944-1409
Theresa [unclear]	Shuman St	605-890-1914
Bonnie [unclear]	545 N River #313 Ad Springs	605 745 4574
Marilyn [unclear]	27316 Helen Ct HS	745-4895
[unclear]	12742 Highway 18	891-7107
Jane [unclear]	244 Galveston Ave	745-4116
[unclear]	12619 Hot Springs Rd	745-5121
MARLENE ORTEGO	PO BOX 861 PINE RIDGE, SD	479-236-2359
Alisa [unclear]	PO Box 861 Pine Ridge SD	573 382 083
Flora [unclear]	595 N River St #413	745-3402
[unclear]	947 6th Ave St HS SD	745-3402
Wendy [unclear]	306 N 19th St HS, SD	891-8850
[unclear]	445 S. 10th St Hot Springs SD	745-3395
Margaret [unclear]	88612 W So Shore Rd HS	535-2110
Virginia [unclear]	309 So 6th St Hot Spgs, SD	57747 745-5281
Lynn E. Gray	P.O. Box 153 Pringle SD 57773	613-3730

As concerned citizens, we ask our officials to stop all uranium mining until it can be proven that mining will not damage our water or reduce the amount of water available to our families, ranches, businesses, and communities.

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DEPT. OF ENVIRONMENT & NATURAL RESOURCES  
GROUND WATER PROGRAM

NAME	ADDRESS	Hot Springs, SD	PHONE
Linda Styger	11962 Sundance Dr.	SP.	745-4332
CHARLES COX	HOT SPRINGS, S.D.		745-6732
Susan Mankke	545 N. Lincoln St	#401	745-6133
Nancy Allen	12510 Beacon Creek Rd		673-4123
Robert Wynia	12750 Merchen Rd	Hot Springs	745-3309
William King	1446 Evanston Ave	HS	891-9621
Rosie Elmore	PO Box 886		745-5045
Krista Wilder	506 Jennings Ave		890-2987
Chris Perce	101 N. Chicago		890-1860
Amber Gill	718 Harney Custer, SD		440-1931
Vanessa Nechtymio	12249 Country Rd N. S		745-5063
Stacy Reed	516 Jennings Ave	HS	745-3556
Alean Muckaney	PO Box 292	HS	745-5575
Murat Rusk	PO Box 712	H.S.	515-0434
Dado Evans	27338 Taylor Ln		515-3449
Butter Reynolds	PO Box 830	Hot Springs	745-3208
Matt Jantz	27927 Cascade Springs Rd		745-3374
Richard Stone	12959 Buffalo Circle		745-4577
Fran Audubon	810 Gordon Custer		673-1366
Jerry Johnson	26680 Buffalo Butte DR		745-3826
Diana Stevens	1423 Evanston, Hot Springs		745-4862
Ellen McKeef	504 S 19th	Hot Springs	9 -
Russell Dwyer	301 S. Chicago	Hot Springs SD	745-6287
Richard Nowlan	202 Dakota St	Hot Springs SD	745-6875
Dawn Johnson	P.O. Box 1123	Hot Springs	745-5138

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JAN 22 2013

DEPT. OF ENVIRONMENTAL & NATURAL RESOURCES  
SAFAROUND WATER PROGRAM

DENR WE OPPOSE DISCHARGE PERMITS IN FALL RIVER CNTY S.D.

ADDRESS

NAME

28423 Old Hwy 79 Hot Springs SD 57747  
 545 N. Green St Hot Springs SD 57747  
 338 S. River St. Hot Springs SD 57747  
 2337N. Hidden Ct Hot Springs SD 57747  
 2347 Cedar Ave. Rapid City SD 57701  
 104 Jefferson Ct, Rapid City SD 57735  
 912-9th St Rapid City, SD 57701  
 2329 Merrick Ave. Hot Springs SD 57747  
 823 S. France St. Rapid City SD 57701  
 2007 Maple Ave Rapid City SD 57701  
 12909 Sweet Canyon Rd. Hot Springs  
 13050 Lakeview Dr Hot Springs  
 11936 Hancock Rd. Rapid City SD 57750  
 PO Box 686, Hot Springs, SD 57747  
 11132 Fort Tappan Rd Edgemont SD 57735

Teresa Daiss  
 Barbara Walter  
 Tracy Staked  
 Jeff McKim  
 Tom McKim  
 Tom McKim  
 Mike & Staff  
 Judy Schwaninger  
 Don Schwanzbach  
 Mrs. Olson  
 Jennifer Lipp  
 Los Fraz  
 Kexie Meyer & Steve Meyer  
 Eric Hackman  
 Susan Starnock  
 Candy Krumholz

No to PowderTech

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JAN 22 2013

DEPT. OF ENVIRONMENT & NATURAL RESOURCES  
GROUND WATER PROGRAM

# DENR USE OPPOSE DISCHARGE PERMITS FOR POWERTech in Fall River City NAME Address S.D.

<i>Ed Harvey</i>	<i>7155 Park Canyon Rd Rapid City SD</i>
<i>Ed Harvey</i>	<i>1545 Albany Ave Hot Springs SD</i>
<i>Greg T Johnson</i>	<i>610 Mellic Lane Spearfish SD</i>
<i>Jeanie Barber</i>	<i>Hot Springs SD</i>
<i>Sandra Woodard</i>	<i>705 North River Street Hot Spgs. SD 57747</i>
<i>Carl L LaRive</i>	<i>PO Box 533 Ogala SD 57164-0533</i>
<i>Dale Steiner</i>	<i>PO Box 782 Hot Springs SD 57147</i>
<i>Peggy Detmers</i>	<i>13130 Hot Springs SD 57747</i>
<i>Peggy Detmers</i>	<i>1348P Shelter Dr, R C SD 57702</i>
<i>William King</i>	<i>1348P Shelter Dr, R C SD 57702</i>
<i>William King</i>	<i>1446 Edmeston Ave, Hot Springs SD 57747</i>

## No to Powertech

**DENR WE Oppose Discharge  
Permits in Fall River City S.D.**

**NAME ADDRESS**

P.O. Box 25 Hulet, WY 82720  
 12083 Boulder, WY Hot Springs  
 12097 McMillan-Estes Rd, Deerpark 57732  
 3804 Willow Ave, Rapid City, SD 57701  
 2312 Smith Ave Rapid City, SD 57701  
 1803 St Cloud St Rapid City, SD 57701  
 1203 11th St Rapid City, SD 57701  
 2229 Mammoth Ct Hot Springs, SD 57749  
 446 S 5th St Hot Springs  
 446 S 5th St Hot Springs  
 2373 Towner Ct, Box Elder, SD 57714  
 640 S 6th St  
 Box 71 Manderson SD 57756  
 617 South Clear Spring Crt, SD 57701  
 12909 Sheps Canyon Rd, Hot Springs SD 57747  
 Cheryl Fair  
 Kelly Conner  
 Debra White Plume  
 Heidi Hens  
 Cheryl Phillips  
 George Conner  
 Carl Conner  
 Jim Peterson  
 Sharon Leffman  
 Corie Bergin  
 Don Kelley  
 Jillian Anawaty, Dakota Rural Aid  
 Don Kelley  
 Jim Shaw  
 Jimmy Conner

**No to Powertech**

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 JAN 24 2013  
 DEPT. OF ENVIRONMENT &  
 NATURAL RESOURCES  
 GROUND WATER PROGRAM

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JAN 22 2013

DEPT OF ENVIRONMENT &  
NATURAL RESOURCES  
GROUND WATER PROGRAM

# DENR WE OPPOSE discharge PERMITS in Fall River City S.D.

NAME

Address

Niklaus Towne	28423 Old Hwy 79 Hot Springs, SD 57747
Rick Summerville	6509 Seminole Lane Rapid City, SD 57702
REBECCA R LEE	6509 Seminole Lane, RC SD 57702
Susan Henderson	11507 Hwy 471 Edgemont SD 57735
Suzan Nolan	1164 Lookout Ln Rapid City, SD 57701
Mattie Tyson	2508 CROWN HILL RAPID CITY SD 57702
Juli Ames-Curtis	11936 Hay Creek Rd, Custer, SD 57702
Greg Langer	P.O. 141 BUFFALO GAP SD 57702
Leora Dappen	13174 Fall River Rd Hot Spng SD 57747
Joe Dappen	13174 Fall River Rd Hot Spng SD
Diane Gross	P.O. Box 389, Hot Springs, SD 57747
Lisea Freshour	2045 Canton Ave. #335 Hot Springs S.D. 57747
PIP HEINZEN	309 S. 6th St. Hot Springs SD

## No to PowerTech

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JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES  
GROUND WATER PROGRAM

# DENR WE OPPOSE DISCHARGE PERMITS in Fall River County S.D.

NAME	ADDRESS
Debra Washburn	110 N 3rd St Hot Springs
Angie Baldwin	PO Box 191 Pierpont SD 57468
Betty Fitzgerald	PO Box 836 Hot Springs SD 57747
Mary Boots	25588 Mt Shadow Rd Edgemont SD 57735
Wagner Boots	" "
Ray Boots	302 Crank St Carter SD 57736
Mary Helen Pedersen	PO Box 646 Hot Springs, S.D. 57747
Jessie GEART	1938 Detroit Ave, Hot Springs, 57747
Wagner Boots	95588 Mt. Shadow Rd. Edgemont, SD 57735
Dorinda Hennig	309 S. 6th St Hot Spgs
Ashley J Simpson	PO BOX 587 HOT SPRINGS SD 57747
GENA PARKHURST	PO Box 1914 RAPID CITY SD 57709
Carla Rae Marshall	PO Box 3184 RC, SD 57709
Lila Streff	12376 Beaver Den Dr Custer, SD 57730
GRANDER & LYNN GRAY	POB 153 PRINCE, SD 57773

## NO to POWERTech

# DENK WE OPPOSE D SCHARGE PERMITS in Fall RIVER Cnty SD

## NAME

## ADDRESS

RECEIVED

JAN 22 2013

DEPT. OF ENVIRONMENT & NATURAL RESOURCES  
GROUND WATER PROGRAM

Mahine Jensen	806 Galveston Hot Springs S.D.
Donald Jensen	806 Galveston Hot Springs S.D.
Keliee Walker	1005 S. River St Hot Springs SD 57747
Jason Parker	1005 S. River St Hot Springs SD 57747
Kendra Dexter	23278 Pebble Ct Hot Springs SD 57747
Bass Dexter	23278 Pebble Ct Hot Springs SD 57747
Dianna Jensen	27999 Cascade Rd Hot Springs SD 57747
Donald Blodoo	27635 View Road Oral So. Dak. 57766

# No to PowerTech



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JAN 17 2013

January 16, 2013

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

Dear Mr. Hicks:

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Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature: Ray E. Ellerman

Print Name: Ray ELLERMAN

Address: 12349 Moss Rock Lane  
CUSTER, SD 57730

Phone: 605 673 4860

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JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

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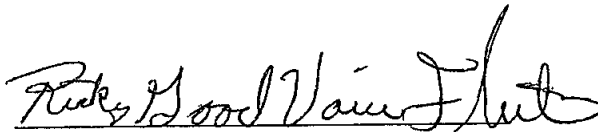
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Thank you.

Sincerely,

Signature:



Print Name:

RICK GOODENOUGH

Address:

1216 WAMBLE DR.

RAPID CITY, SD 57701

Phone:

(605) 899-0549

# RECEIVED

JAN 17 2013

January 16, 2013

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
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Thank you.

Sincerely,

Signature:

*Mary Coulet*

Print Name:

*Mary Coulet*

Address:

*338 S. 5th St.*

*Hot Springs, S.D. 57747*

Phone:

*605-745-3098*

cc: Powertech (USA) Inc.  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO. 80111

January 16, 2013

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JAN 22 2013

DEPT. OF ENVIRONMENT &  
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Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

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Thank you.

Sincerely,

Signature: *Glen Graves & Georgia Ann Graves*  
Print Name: GLEN GRAVES & Georgia Ann Graves  
Address: 304 4<sup>TH</sup> STREET  
Buffalo Gap SD 57722  
Phone: 833 6503

January 16, 2013

**RECEIVED**

JAN 18 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

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Thank you.

Sincerely,

Signature:

*Lynn E. Gray*

Print Name:

Lynn E. Gray

Address:

P.O. Box 153

Pringle SD 57773

Phone:

\_\_\_\_\_

cc Powertech

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JAN 31 2013

January 16, 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

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Thank you.

Sincerely,

Signature: Gardner B. Gray

Print Name: Gardner Gray \_\_\_\_\_

Address: \_\_\_\_\_ PO Box 153 \_\_\_\_\_

\_\_\_\_\_ Pringle, SD 57773 \_\_\_\_\_

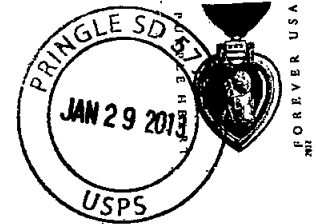
Phone: \_\_\_\_\_ 605 673 3730 \_\_\_\_\_

Mr. Hicks: We have spoken on the telephone regarding my concern over the danger of water depletion and irradiation not just in the Dewey area where uranium mining is planned but the quality of our water in general.

Thank you for any assistance you may lend in defeating this planned mining.

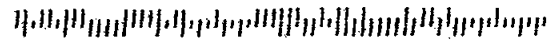


Mr. Gardner B. Gray  
PO Box 153  
Pringle, SD 57773



Mr. Matt Hicks  
SD DENR  
for Ross Bledy  
523 E. Capital  
Pierre, SD 57501

57501\$3182



January 16, 2013

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JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

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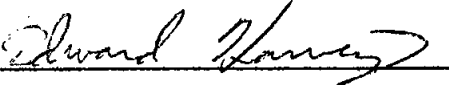
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Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature: 

Print Name: Edward Harvey

Address: 1545 Albany ave

Hot Springs SD 57747

Phone: 605-515-3838

cc: Powertech (USA) Inc.  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO. 80111



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JAN 16 2013

January 10, 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RE: Application for a Ground Water Discharge Plan, filed by Powertech Uranium

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Thank you.

Sincerely,

Signature:



Print Name:

Carl E. Heckenlaible

Address:

P.O. Box 422  
Rapid City SD. 57709

Phone:

605-341-4063

Philip S. Heckman  
11936 Hay Creek Road  
Custer, SD 57730

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JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

January 17, 2013

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

Regarding: Application for a Ground Water Discharge Plan filed by Powertech Uranium

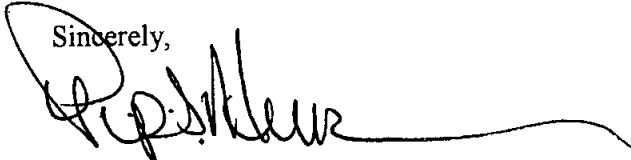
Dear Mr. Hicks,

I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervenor in the above application. I am concerned about this application because of the proposed ground water discharge and its potential for harming wildlife and creating pollution runoff that will likely affect the Cheyenne River and those who utilize the water. The unanswered questions regarding the effects of the discharge are of great concern to me and it the health of the residents of this and surrounding States is paramount.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,



Philip S. Heckman  
11936 Hay Creek Road  
Custer, SD 57730  
605-673-2967

cc: Powertech (USA) Inc.  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO. 80111

January 16, 2013

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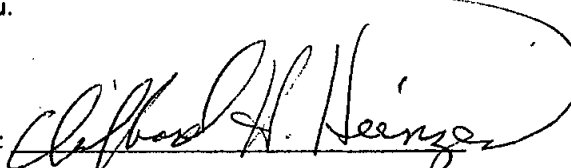
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Thank you.

Sincerely,

Signature:



Print Name:

CLIFFORD H. HEINZEN

Address:

309 S. 6th St.

Hot Springs SD 57747

Phone:

1-605 745-5681

Copy to

Powertec, Inc.  
5575 Dtc Parkway #140  
Greenwood Village, Co  
80111-3012  
% Richard Blubaugh

January 16, 2013

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

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Thank you.

Sincerely,

Signature: Virginia M. Heinzen

Print Name: Virginia M. Heinzen

Address: 309 So 6th St

Hot Springs, SD 57747

Phone: 605-745-5681

Copy to

Powertec, Inc.  
5575 Dtc Parkway #140  
Greenwood Village, Co  
80111-3012  
c/o Richard Blubaugh

Susan R. Henderson  
11507 Hwy 471  
Edgemont, SD 57735  
Telephone: 605-662-5150  
January 17, 2013

**RECEIVED**

JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Mr. Matt Hicks  
SD Department of Environment &  
Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

Re: Powertech USA Waste Water Discharge Plan

Please initiate a contested case regarding the Powertech USA Waste Water Discharge Plan for the in-situ-leach uranium mining project Powertech is proposing for the Dewey-Burdock, SD area near Edgemont, SD. I wish to be admitted as an official intervenor in the above matter. I will stand in opposition to the plan and request that you deny the permit in all its forms and permutations.

I own and operate an 8000 acre cattle ranch in the area and I have many concerns about this project.

The project currently calls for an appropriation of 8,500 gallons per minute from the Inyan Kara formation and 551 gallon per minute from the Madison formation. This amounts to about 93 billion gallons of water over the projected life of the project with the vast bulk of this water to be re-injected into the estimated 4000 wells used for mining uranium. The water quality of the Inyan Kara varies considerably in this area. I have a 1710 foot deep Inyan Kara well and a natural flowing spring with excellent water. Powertech characterizes the water in the Dewey Project area as being "brackish" and suggests that they will merely be reinserting already bad water into the wells.

Please note that the water permit request of over 9000 gallons per minute, is most probably not available in the project area. Thus Powertech will be pulling water from the surrounding aquifers from a much wider area and when this is re-injected it will begin to degrade the overall water quality. I expect that the potential contaminants in the waste water to include but not be limited to the following: Heavy metals, arsenic (2 forms), beryllium, radioactive by products, selenium, sulfates, phosphates, calcium, limestone by products, iron and whatever is in the ground adjacent to each bore hole.

These contaminants in sufficient quantity will render the water totally unsuitable for wildlife, livestock, and human use. It generally does not take much of any of these contaminants to render the water toxic for plants and animals.

The US Geological Survey and learned professors, hydrologists, and geologists have indicated that the aquifers "communicate" with each other. The area is further complicated by the Wind Cave structure which is present in the general area. We now have 4 huge open pit uranium mines with contaminated water in the area which are over a mile across. We have some 70 smaller open pit mines which were abandoned and some 4000 bore holes also not plugged all from uranium mining done in the 1950's and 1960's. This should be a Superfund Site.

This site drains into the Cheyenne River Basin. Before this waste water plan is approved, a full characterization of the site and the probable and past movements of water and its contaminants should be done to determine the overall impact on the groundwater, the Cheyenne River and all the underground aquifers, particularly the Inyan Kara and the Madison. Powertech is quick to opine that it is not responsible for previous mining activities and pollution. Then who is?

The Cheyenne River flows into Angostura Dam which is a huge irrigation dam which is also heavily used for fishing, swimming, and boating. Dumping radioactive water with these contaminants in it into this dam will wreck the water recreation and could potentially damage irrigation crops and well as fish. Fishing in the lake begins the chain of events which can lead to human disease, cancer and multiple sclerosis. Wildlife and livestock operations along the Cheyenne and near the Angostura Dam could also be damaged.

Powertech has also asked for a 1000 acre waste water lagoon on which they plan to spray waste water. This will amount a huge "lake" of toxic water which will be 1 ½ miles square, depending on how it is laid out. This will attract birds by the hundreds, and other wildlife which will be contaminated and eventually die from the effects. Dust storms, blizzards, wind events, and wildfires will inevitably spread airborne contamination over surrounding lands. The prevailing winds are Northeast to Southwest. My ranch, other ranches, and Edgemont are in the direct path of this wind borne contamination.

The possibility of treating the waste water to make it less toxic is not workable. Reverse osmosis systems which would yield 15 gallons of useable water and 85 gallons of unuseable water for each 100 gallons treated are cost prohibitive and one still has 85 per cent of the water to dispose of. These systems are extremely costly.

Precipitating out radioactive by products of the mining operation is also costly and fraught with problems plus they do not work too well. Arsenic is a particularly deadly contaminate present in an inert status in the dirt in the project area. Once dissolved by the carbolic acid which will be created by the process, arsenic will be very difficult to remove. Thus I am concerned that we will be letting Powertech create huge quantities of very toxic water which they hope to dump underground or spray on the lagoon. Eventually the sludge from the lagoon will have to be removed, a process that often leaks contaminants into the ground, which eventually pollute groundwater and over time make their way into aquifers, local wells, and the Cheyenne River.

Water in the aquifers flows generally south out of the project area, through Edgemont, then south to the former Black Hills Army Depot, then east across my ranch. There is an opportunity to pick up chemical warfare agents present in the ground on the Black Hills Army Depot. These include but are not limited to sarin, soman, toban, mustard, Lewisite, Phosgene, white

phosphorous, and conventional explosive residues. Thousands of tons of these contaminants were dumped in over 200 miles of trenches on the BHAD. These have begun the process of percolating down through the shale formations and may be collecting in fissures, tunnels, pockets and other catch basins in the area. Disturbing these hideously toxic chemical warfare agents by forcing water under pressure into the mining wells simply should not be done. It is far too risky.

I urge you to deny this permit.

Sincerely yours,

  
Susan R. Henderson

Cc: Mr. Richard Bluburg  
Powertech USA, Inc.  
5575 CTC Parkway, Suite 140  
Greenwood Village, CO 80111

# RECEIVED

JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

January 17, 2013

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

Dear Mr. Hicks:

I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervenor in the above application. I am concerned about this application because I am interested in water quality, land use, and wildlife in western South Dakota. I oppose this application because I believe the proposed ground water discharge would harm wildlife, create runoff, and pollute the Cheyenne River, and I want the permit application to be denied.

I request that the deadline for filing petitions to initiate a contested case in this matter, currently scheduled for January 18, 2013, be extended until February 1, 2013, to allow full public participation, as the Notice was published during the holidays.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature: Susan Hey

Print Name: Susan Hey

Address: 312 N 40<sup>th</sup> St.

Phone: 605-348-5345

cc: Powertech (USA) Inc.  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO. 80111



January 16, 2013

RECEIVED

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

Dear Mr. Hicks:

I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervenor in the above application. I am concerned about this application because I am interested in water quality, land use, and wildlife in western South Dakota. I oppose this application.

I request that the deadline for filing petitions to initiate a contested case in this matter, currently scheduled for January 18, 2013, be extended until February 1, 2013, to allow full public participation, as the Notice was published during the holidays.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature: Luella J. Hicks

Print Name: Luella J. Hicks

Address: PO Box 144

Buffalo Gap SD 57722

Phone: 605-833-2655

RECEIVED

JAN 17 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

January 16, 2013

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

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Thank you.

Sincerely,

Signature

*Georgia Holmes Hot Springs City Council*

Print Name:

Georgia Holmes

Address:

838 Birch

Hot Springs SD 57747

Phone:

605-745-5598

cc: Powertech (USA) Inc.  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO. 80111

January 16, 2013

RECEIVED

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

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Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature: 

Print Name: Jeremy A. Horton

Address: P.O. Box 629

Edgemont SD 57735

Phone: \_\_\_\_\_

cc: Powertech (USA) Inc.  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO. 80111

January 16, 2013

RECEIVED

JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

Dear Mr. Hicks:

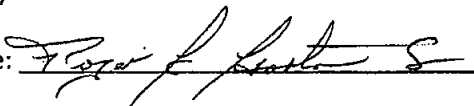
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Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature: 

Print Name: ROGER K. HORTON SR.

Address: P.O. Box 629

EDGEMONT, S.D. 57735

Phone: 605-662-7447

cc: Powertech (USA) Inc.  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO. 80111



**Black Hills Wild Horse Sanctuary**  
Managed by The Institute of Range and the American Mustang

Dayton O. Hyde  
President

P.O. Box 998, Hot Springs, SD 57747  
www.wildmustangs.com www.spanishmustangspirit.com

(605) 745-5955  
(800) 252-6652  
Fax: (605) 745-6339  
Email: iram@gwfc.net

**RECEIVED**

JAN 17 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

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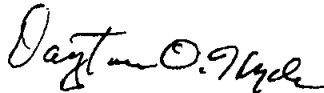
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Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature:



Print Name: Dayton O. Hyde

DAYTON O. HYDE

Address: P.O. Box 932

Hot Springs, SD 57747

Phone: 605-745-6339

January 16, 2013

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RECEIVED

JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

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Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature: William Ing

Print Name: WILLIAM ING

Address: 1446 EVANSTON AVE

HOT SPRINGS, SD 57747-2722

Phone: 605 891-9621

cc: Powertech (USA) Inc.  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO. 80111

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JAN 24 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

January 17, 2013

**Matt Hicks**  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

**RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium**


**Dear Mr. Hicks:**

I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervenor in the above application. I am concerned about this application because I am interested in water quality, land use, and wildlife in western South Dakota. I oppose this application because I believe the proposed ground water discharge would harm wildlife, create runoff, and pollute the Cheyenne River, and I want the permit application to be denied.

Please keep me informed of all proceedings and documents related to this application.

Thank you,

Sincerely,

  
Angela R. Jardins  
27201 Valley Rd.  
Hot Springs, SD 57747  
(605) 745-7800

cc: Powertech (USA) Inc.  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO. 80111

RECEIVED

JAN 22 2013

January 17, 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

**Matt Hicks**  
**South Dakota Department of Environment and Natural Resources**  
**Ground Water Quality Program**  
**Joe Foss Building**  
**523 E. Capitol**  
**Pierre, SD 57501**

**RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium**

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**Please keep me informed of all proceedings and documents related to this application.**

**Thank you,**

**Sincerely,**

*Cheryl Jarding - Cheryl Jarding*  
*202 E. Nebraska St*  
*Rapid City, SD 57701*  
*605-716-2010*

**cc: Powertech (USA) Inc.**  
**c/o Richard Blubaugh**  
**5575 DTC Parkway, Suite 140**  
**Greenwood Village, CO. 80111**



RECEIVED

January 17, 2013

JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

Dear Mr. Hicks:

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Please keep me informed of all proceedings and documents related to this application.

Thank you,

Sincerely,

*John B. Garding*  
John B. Garding  
202 E. Nebraska St  
Rapid City SD 57701  
605-716-2010

cc: Powertech (USA) Inc.  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO. 80111

RECEIVED

JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

January 17, 2013

**Matt Hicks**  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

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Please keep me informed of all proceedings and documents related to this application.

Thank you,

Sincerely,

*Mike Jardina*

*Mike Jardina*

*27201 Valley Rd*

*Hot Springs SD 57747*

*605-745-7800*

cc: Powertech (USA) Inc.  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO. 80111

# RECEIVED

JAN 16 2013

January 16, 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

Dear Mr. Hicks:

I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervenor in the above application. I am concerned about this application because I am interested in water quality, land use, and wildlife in western South Dakota. I oppose this application.

I request that the deadline for filing petitions to initiate a contested case in this matter, currently scheduled for January 18, 2013, be extended until February 1, 2013, to allow full public participation, as the Notice was published during the holidays.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature: 

Print Name: Liliac E. Jones Jarding

Address: 418 N. 44th St.  
Rapid City, S.D. 57702

Phone: 605-787-2872

RECEIVED

JAN 17 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

January 16, 2013

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

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Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature: Lilias C. Jarding

Print Name: Lilias C. Jarding

Address: P.O. Box 591

Rapid City, SD 57709

Phone: 605-343-1332

cc: Powertech (USA) Inc.  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO. 80111.

This replaces my earlier letter.

1/15/2013

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

Dear Mr. Hicks:

I am writing to request that a contested case be initiated in the Ground Water Discharge application submitted by Powertech Uranium. I also request to be admitted as an intervenor in the above application. I have a MS degree in Geology with a concentration in Hydrology and am currently working as a consultant with land conservation non-profits in the West. This application is of special concern to me as I am directly involved in water quality and land use in western South Dakota. I oppose this application because I believe the proposed ground water discharge would create irrecoverable runoff and contamination issues in the mined areas and local drainages, including the Cheyenne River. I oppose this application.

I respectfully request that the deadline for filing petitions to initiate a contested case in this matter, currently scheduled for January 18, 2013, be extended until February 1, 2013, to allow full public participation, as the Notice was published during the holidays.

Please keep me informed of all proceedings and documents related to this application.

Thank you for your time and attention.

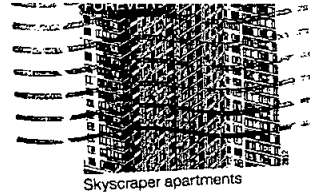
Sincerely,



Patricia Jenkins  
287 Evans Lane  
Spearfish, SD 57783  
605-559-3276

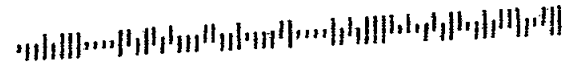
cc: Powertech (USA) Inc.  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO. 80111

P. Jenkins  
287 Evans Lane  
Spearfish, SD  
57783



MR. Matt Hicks  
S.D. Dept of Env. + Nat. Resources  
Ground Water Quality Program  
Joe Foss Bldg.  
523 E. Capitol  
Pierre, SD 57501

57501\$3182



# RECEIVED

Judith A. Joba  
3463 Elk Creek Rd.  
Piedmont, SD 57769

JAN 18 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

January 16, 2013

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

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Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature: Judith A. Joba

Print Name: JUDITH A. JOBA

Address: 3463 ELK CREEK

PIEDMONT, SD 57769

Phone: 605-787-6657

cc: Powertech (USA) Inc.  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO. 80111

RECEIVED

January 18, 2013

JAN 23 2013

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

Dear Mr. Hicks:

I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervenor in the above application. I am concerned about this application because I am interested in water quality, land use, soil preservation, and wildlife in western South Dakota. I oppose this application because I believe the proposed ground water discharge would harm wildlife, create runoff, and pollute soils and the Cheyenne River. I am asking you to deny the permit application.

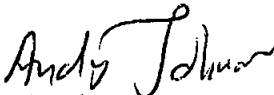
In-situ leach mining releases toxic materials from their bound condition underground, and it is impossible to avoid releasing some of these pollutants into the environment. The proposed water discharge site is dangerously close to a creek that empties into Angostura Reservoir. I am concerned about the inevitable degradation of water quality in that reservoir.

Another serious concern is the possibility of grass fires in the discharge area. A fire could lift toxic pollutants - including radioactive materials - into the air where they could blow anywhere. Although grass fires are relatively common in Western South Dakota, the application does not address this very real risk.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

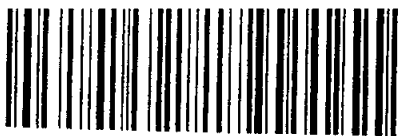


Andy Johnson  
610 Nellie Lane  
Spearfish SD 57783

cc: Powertech (USA) Inc.  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO. 80111



Andy Johnson  
610 Nellie Lane  
Spearfish SD 57783



7011 2970 0003 1051 5446



1000

57501

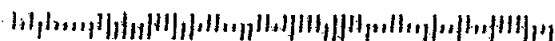
U.S. POSTAGE  
PAID  
SPEARFISH, SD  
57783  
PERMIT NO. 113  
AMOUNT

\$5.75  
00014008

Matt Hicks  
South Dakota DENR Ground Water Quality Program  
Joe Foss Bldg  
523 E Capitol  
Pierre SD 57501

RETURN RECEIPT  
REQUESTED

5750133392



RECEIVED

JAN 17 2013

January 16, 2013

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

DEPT. OF ENVIRONMENT &  
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GROUND WATER PROGRAM

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

Dear Mr. Hicks:

I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervenor in the above application. I am concerned about this application because I am interested in water quality, land use, and wildlife in western South Dakota. I oppose this application.

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Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature: 

Print Name: Lorna Just

Address: 21939 464<sup>th</sup> Ave

VOLGA, SD 57071

Phone: 605/826-4122

Cell 605/695-0782

Jan 16-2013

RECEIVED

JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

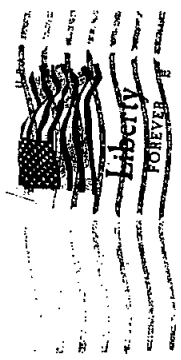
Power-Tech (USA)  
% Richard Bluebaugh  
5575 DTC  
Parkway Suite 140  
Greenwood Village, Colorado 80111

I wish to be an intervenor against  
Power-Tech's wish to <sup>use</sup> water to irrigate  
land near Edgemont, S. DAK. that has  
been used in their mining process.

Yours

Marvin Kammerer  
22198 Elk Vale Rd.  
Rapid City, S. DAK.  
57701

Signed: Marvin Kammerer



Ground water Quality Program

c/o Matt Hicks

Joe Foss Building

523 E. Capitol Ave.

Pierre, So. Dak. 57501

January 16, 2013

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JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

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Thank you.

Sincerely,

Signature: Gwen E. Kaneshiro

Print Name: Gwen E. Kaneshiro

Address: 1446 Evanston Ave.

Hot Springs, SD 57747

Phone: (605) 891-9717

cc: Powertech (USA) Inc.  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO. 80111

January 16, 2013

RECEIVED

JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

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Thank you.

Sincerely,

Signature: Bonnie Keiswetter

Print Name: Bonnie Keiswetter

Address: 12899 Sapphire Ln  
Hot Springs, SD 57747

Phone: 605-245-4995

Copy to

Powertec, Inc.  
5575 D+e Parkway #140  
Englewood Village, CO  
~~Englewood~~  
80111-3012  
% Richard Blubaugh

January 16, 2013

RECEIVED

JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

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Thank you.

Sincerely,

Signature:

Print Name:

Address:

Phone:

*Dallas Keiswetter*  
*Dallas Keiswetter*  
*12899 Sapphire Ln*  
*Hot Springs, SD 57747*  
*605-745-4995*

Copy to

Powertec, Inc.  
5575 Dtc Parkway #140  
Englewood  
Greenwood Village, Co  
80111-3012  
% Richard Blubaugh

Matt Hicks  
South Dakota Department of Environment and Natural  
Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

**RECEIVED**

JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

RE: Application for a Ground Water Discharge Plan filed by  
Powertech Uranium

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Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,



Don Kelley

12637 Merritt-Estes Rd.  
Deadwood SD 57732



RECEIVED

JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES  
GROUND WATER PROGRAM

Matt Hicks  
SD Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

Dear Mr. Hicks,

I am writing to request that you initiate a case contesting Powertech Uranium's application for a ground water discharge permit.

I would like to be admitted as an intervener in the case. I am concerned that the proposed ground water discharge would be harmful to wildlife, pollute streams, the Cheyenne River, Angostura Reservoir and area aquifers..

Please inform me of any proceedings and please mail any pertinent documents to my address, listed below.

Thank you for your kind attention to my request.



Kim Kelley  
12637 Merritt-Estes Rd.  
Deadwood, SD 57732  
605-578-3857

cc: Richard Blubaugh, Powertech Uranium

# INTERVENOR LETTER

Date 1/18/13

# RECEIVED

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

JAN 22 2013  
DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

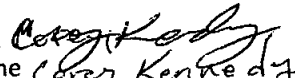
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Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature   
Print Name Corey Kennedy  
Address (street, city, state) 140 Adonia Lane Rapid City SD 57701  
Phone 605 838-4016

cc: Powertech (USA) Inc.  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO. 80111

# INTERVENOR LETTER

# RECEIVED

Date

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

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Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature *Shawntera Kennedy*

Print Name Shawntera Kennedy

Address (street, city, state) 140 Adonia Lane Rapid City SD 57701

Phone 605 838-4016

cc: Powertech (USA) Inc.  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO. 80111

# RECEIVED

JAN 18 2013

January 16, 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

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Thank you.

Sincerely,

Signature: Margaret Mary Keogh

Print Name: MARGARET MARY KEOGH, OSB

Address: 1851 CITY SPRINGS ROAD, RAPID CITY, SD 57702-9602

Phone: I'm deaf so not able to hear over phone, sorry

E-MAIL ADDRESS: bcmkeo@yahoo.com

January 16, 2013

RECEIVED

JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

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Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Print Name: Stanley T. Keys  
Address: 6595 Dark Canyon Rd.  
Rapid City, SD. 57702  
Phone: 605 342-4380  
Email: NA

cc: Powertech (USA) Inc.  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO. 80111

# RECEIVED

JAN 16 2013

January 10, 2013

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

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Thank you.

Sincerely,

Signature: 

Print Name: Sabrina King

Address: 14705 Hatter Ct.

Piedmont SD 57769

Phone: 601-671-0372

# RECEIVED

JAN 18 2013

January 16, 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

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Thank you.

Sincerely,

Signature: 

Print Name: Frank J Kloucek

Address: 29966429 Ave  
Scotland SD 57059

Phone: 605 583 4468

cc: Powertech (USA) Inc.  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO. 80111

# RECEIVED

JAN 16 2013

January 16, 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

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Thank you.

Sincerely,

Signature: Dennis and Penny Knuckles

Print Name: Dennis + Penny Knuckles

Address: 12484 Willow Crk Rd  
Custer, SD 57730

Phone: 605-673-5856



RECEIVED

JAN 22 2013

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

DEPT. OF ENVIRONMENT &  
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GROUND WATER PROGRAM

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Thank you.

Sincerely,

Signature: Regina A. Koch

Print Name: Regina A. Koch

Address: 515 N. 1st St. #1

Rapid City, SD 57701

Phone: 1-605-341-2972

January 16, 2013

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RECEIVED

JAN 22 2013

DEPT. OF ENVIRONMENT &  
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Thank you.

Sincerely,

Signature:

Print Name:

Address:

Phone:

*Laurence Lamont*

LAURENCE LAMONT

BOX 53

BUFFALO GAP S.D. DAK

605-545-1749

MARGARET LAMONT

← SAME

January 16, 2013

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RECEIVED

JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

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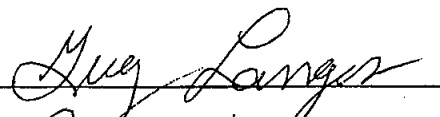
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Thank you.

Sincerely,

Signature:



Print Name:

Greg Langer

Address:

PO 141 BUFFALO GAP  
SD 57722

Phone:

605 833 6375

January 16, 2013  
**RECEIVED**

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

JAN 22 2013

DEPT. OF ENVIRONMENT &  
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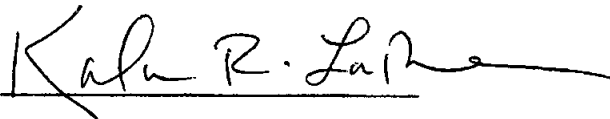
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Thank you.

Sincerely,

Signature:



Print Name:

KARLA R. LARIVE

Address:

839 Almond St.

Hot Springs, SD 57747

Phone:

(605) 745-3819

# RECEIVED

JAN 18 2013

January 16, 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

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Thank you.

Sincerely,

Signature: Shirley Lautenschlager Robert Lautenschlager  
Print Name: Shirley Lautenschlager ROBERT LAUTENSCHLAGER  
Address: 3507 Idlewild Ct 3507 IDLEWILD CT.  
Rapid City, SD 57702 RAPID CITY, SD 57702  
Phone: 605-718-9160 605-718-9160

January 16, 2013

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JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

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Thank you.

Sincerely,

Signature: John E. Lawson

Print Name: JOHN E. LAWSON

Address: 10374 Dryland Dr.

Edgemoor, CO 8057735

Phone: 303478-4912

cc: Powertech (USA) Inc.  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO. 80111

As do not allow this!  
my home state of Colo  
is already permanently  
polluted from uranium  
(no wells have readings  
to pre-mine state). The  
air, water, soil will never  
be the same. There's increased  
cancers + ulcers. Do you  
want this in your back  
yard? Say "no" to this for  
the sake of doing what is right.

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JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

December 16, 2013

Matt Hicks, Senior Hydrologist

Ground Water Quality Program, DENR

Joe Foss Building

523 East Capitol

Pierre, SD 57501-3182

Phone 605-773-3296

Dear Mr. Hicks,

I am requesting to be an intervener pertaining to the waste water discharge plan filed by Powertech Uranium Company. I am concerned about this application because 1000 acres is an extensive amount of land space to spread "treated" nuclear waste material. In looking at other situations in the country, treated water does not necessarily mean potable or safe. My concern is that this would not be safe for humans, animals or wildlife. In the literature, one sees problems with selenium and other materials related to waste water projects. Selenium alone is catastrophic for animals, birds, and humans. There is no way to keep birds from ingesting water from ponds that I know of. I am not clear how Powertech would guarantee that no harmful metals or substances would be in that water. Further, if the water hypothetically were OK, then why is all of this process and drama even necessary???

Additionally, these potential contaminants would be subject to entering our surface water systems and eventually groundwater. Their claims that it is not "expected" to affect the alluvium ring hollow. What if they do? I note that they state that the alluvial gravel ranges 12-33 feet and that this may percolate to 8 feet. That doesn't bring great consolation to me regarding preventing contamination.

I also am concerned about the general containment of this waste water. They claim to implement an extensive monitoring program. Since the DENR is no longer allowed involvement due to SB 158, I question their monitoring because self regulation by industries has been shown to be a failure. Mention has been made that the EPA and NRC would provide monitoring. In my looking into this, I don't see this as a reliable plan. Those agencies are not set up to conduct daily or close monitoring and seem to be more "reactionary" oriented rather than "primary prevention" oriented. In my discussions with the EPA in Denver I did not get the impression they would be carrying out the kind of inspection or monitoring that citizens would like to see and demand.

I am also concerned about this waste water plan due to all of the many exploratory holes and abandoned existing wells in that area. I understand that many holes may be there that they don't even

know about. This would seem to create an easy access for waste water to quickly drop below the 12-33 foot level.

I look forward to learning more as this process ensues.

In Health,

A handwritten signature in black ink, appearing to read "Rebecca R. Leas". The signature is fluid and cursive, with the first name being the most prominent.

Rebecca R. Leas, Ph.D.

Health Education Specialist

Professor Emeritus

6509 Seminole Lane

Rapid City, SD 57702

CC: Powertech (USA) Inc

c/o Richard Blubaugh

5575 DTC Parkway, Suite 140

Greenwood Village, CO 80111



January 16, 2013  
**RECEIVED**

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

JAN 22 2013

DEPT. OF ENVIRONMENT &  
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Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature: Robert Lee

Print Name: Robert Lee

Address: 338 S. 5th St

Hot Springs, SD 57747

Phone: 605 745 3098

cc: Powertech (USA) Inc.  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO. 80111

January 16, 2013

RECEIVED

JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

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Dear Mr. Hicks:

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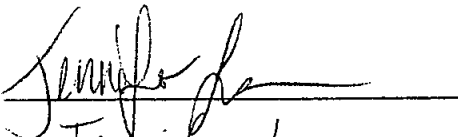
I request that the deadline for filing petitions to initiate a contested case in this matter, currently scheduled for January 18, 2013, be extended until February 1, 2013, to allow full public participation, as the Notice was published during the holidays.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature:



Print Name:

Jennifer Lena

Address:

8812 Dunsmore Rd.

Rapid City, SD 57702

Phone:

605-394-9128

cc: Powertech (USA) Inc.  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO. 80111

January 16, 2013

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RECEIVED

JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

Dear Mr. Hicks:

I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervenor in the above application. I am concerned about this application because I am interested in water quality, land use, and wildlife in western South Dakota. I oppose this application because I believe the proposed ground water discharge would harm wildlife, create runoff, and pollute the Cheyenne River, and I want the permit application to be denied.

I request that the deadline for filing petitions to initiate a contested case in this matter, currently scheduled for January 18, 2013, be extended until February 1, 2013, to allow full public participation, as the Notice was published during the holidays.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature:



Print Name:

MIKE LINDERMAN

Address:

446 BATTLE Mtn. AVE.

Hot Springs, SD 57747

Phone:

605-745-7411

cc: Powertech (USA) Inc.  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO. 80111  
Englewood

# RECEIVED

JAN 18 2013

January 15, 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

Dear Mr. Hicks:

I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervenor in the above application. I oppose this application because I believe the proposed ground water discharge by Powertech would seriously harm people, wildlife and contaminate ground water in Western South Dakota. The Cheyenne River and surrounding areas have already been polluted and not returned to an acceptable quality by previous uranium mining in the area. The adverse health impacts from uranium mining have been documented in many locations globally.

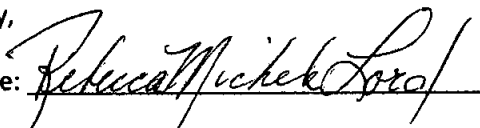
I request that the deadline for filing petitions to initiate a contested case in this matter, currently scheduled for January 18, 2013, be extended until February 1, 2013, to allow full public participation, as the Notice was published during the holidays.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature:



Print Name: Rebecca Michele Lord

Address: PO Box 952

Hill City SD 57745-0952

Phone: 605.574.2893

cc: Powertech (USA) Inc.  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO. 80111

January 16, 2013

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

Dear Mr. Hicks:

I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervenor in the above application. I am concerned about this application because I am interested in water quality, land use, and wildlife in western South Dakota. I oppose this application because I believe the proposed ground water discharge would harm wildlife, create runoff, and pollute the Cheyenne River, and I want the permit application to be denied.

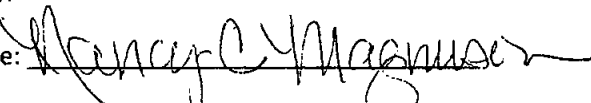
I request that the deadline for filing petitions to initiate a contested case in this matter, currently scheduled for January 18, 2013, be extended until February 1, 2013, to allow full public participation, as the Notice was published during the holidays.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature:



Print Name: NANCY C. MAGNUSON

Address: P.O. BOX 54

Buffalo Gap, SD 57722

Phone: (605) 833-2213

cc: Powertech (USA) Inc.  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO. 80111

# RECEIVED

JAN 18 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

January 16, 2013

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

Dear Mr. Hicks:

I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervenor in the above application. I am concerned about this application because I am interested in water quality, land use, and wildlife in western South Dakota. I oppose this application.

I request that the deadline for filing petitions to initiate a contested case in this matter, currently scheduled for January 18, 2013, be extended until February 1, 2013, to allow full public participation, as the Notice was published during the holidays.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature: Carla R. Marshall

Print Name: Carla R. Marshall

Address: PO # 3184

Rapid City, SD 57709

Phone: 605-545-1430

Mark Mason  
1161 Deadwood Ave. #3  
Rapid City SD 57702

January 18, 2013

RECEIVED

JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

Dear Mr. Hicks:

I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervenor in the above application. I am concerned about this application because I am interested in water quality, land use, and wildlife in western South Dakota. I oppose this application because I believe the proposed ground water discharge would harm wildlife, create runoff, and pollute the Cheyenne River, and I want the permit application to be denied.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,



Mark Mason

cc: Powertech (USA) Inc.  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO. 80111

January 16, 2013

RECEIVED

JAN 24 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

Dear Mr. Hicks:

I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervenor in the above application. I am concerned about this application because I am interested in water quality, land use, and wildlife in western South Dakota. I oppose this application because I believe the proposed ground water discharge would harm wildlife, create runoff, and pollute the Cheyenne River, and I want the permit application to be denied.

I request that the deadline for filing petitions to initiate a contested case in this matter, currently scheduled for January 18, 2013, be extended until February 1, 2013, to allow full public participation, as the Notice was published during the holidays.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature: Cary A McDowell

Print Name: Cary A McDowell

Address: 701 South St apt B  
Rapid city SD 57701

Phone: 605-786-5903

cc: Powertech (USA) Inc.  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO. 80111



January 16, 2013

RECEIVED

JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

Dear Mr. Hicks:

I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervenor in the above application. I am concerned about this application because I am interested in water quality, land use, and wildlife in western South Dakota. I oppose this application.

I request that the deadline for filing petitions to initiate a contested case in this matter, currently scheduled for January 18, 2013, be extended until February 1, 2013, to allow full public participation, as the Notice was published during the holidays.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature: Daria McBrath

Print Name: Daria McBrath

Address: 8403 Pioneer Circle  
Rapid City, SD

Phone: 605-348-8606

January 16, 2013

RECEIVED

JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

Dear Mr. Hicks:

I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervenor in the above application. I am concerned about this application because I am interested in water quality, land use, and wildlife in western South Dakota. I oppose this application.


I request that the deadline for filing petitions to initiate a contested case in this matter, currently scheduled for January 18, 2013, be extended until February 1, 2013, to allow full public participation, as the Notice was published during the holidays.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature:



Print Name:

JAMES R. McGRATH

Address:

8403 PIONEER CIRCLE

RAPID CITY SD 57702

Phone:

605-348-8606

January 16, 2013

RECEIVED

JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

Dear Mr. Hicks:

I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervenor in the above application. I am concerned about this application because I am interested in water quality, land use, and wildlife in western South Dakota. I oppose this application.

I request that the deadline for filing petitions to initiate a contested case in this matter, currently scheduled for January 18, 2013, be extended until February 1, 2013, to allow full public participation, as the Notice was published during the holidays.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature:

*Billy Jack McLaughlin*

Print Name:

Billy Jack McLaughlin

Address:

P.O. Box 25

Buffalo Gap S.D. 57722

Phone:

605-454-0847

January 17, 2013

RECEIVED

JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

Dear Mr. Hicks:

I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervenor in the above application. I have concerns about this application to include runoff, threat to the Cheyenne River water, potential for seepage into ground water and the impact on wildlife that I feel are not being fully addressed by Powertech. I also request that the deadline for filing petitions to initiate a contested case in this matter, currently scheduled for January 18, 2013, be extended until February 1, 2013, to allow full public participation, as the Notice was published during the holidays.

Thank you.

Sincerely,

Signature: Dahl H. McLean

Print Name: Dahl H. McLean

Address: 11853 Acom Ridge Rd  
Spearfish, SD 57783

Phone: 605-920-1973

cc: Powertech (USA) Inc.  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO. 80111

January 16, 2013

RECEIVED

JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

Dear Mr. Hicks:

I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervenor in the above application. I am concerned about this application because I am interested in water quality, land use, and wildlife in western South Dakota. I oppose this application because I believe the proposed ground water discharge would harm wildlife, create runoff, and pollute the Cheyenne River, and I want the permit application to be denied.

I request that the deadline for filing petitions to initiate a contested case in this matter, currently scheduled for January 18, 2013, be extended until February 1, 2013, to allow full public participation, as the Notice was published during the holidays.


Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature: Carol Merwin

Print Name \_\_\_\_\_

Address:  Ms. Carol Merwin  
2247 Cedar Dr  
Rapid City, SD 57702 \_\_\_\_\_

Phone: 605-343-2786

cc: Powertech (USA) Inc.  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO. 80111

January 16, 2013  
**RECEIVED**

JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

Dear Mr. Hicks:

I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervenor in the above application. I am concerned about this application because I am interested in water quality, land use, and wildlife in western South Dakota. I oppose this application.

I request that the deadline for filing petitions to initiate a contested case in this matter, currently scheduled for January 18, 2013, be extended until February 1, 2013, to allow full public participation, as the Notice was published during the holidays.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature: Cynthia Messenger

Print Name: CYNTHIA MESSENGER

Address: 12750 MERCHEN RD #18  
HOT SPRINGS SD 57747

Phone: 605. 745. 5005

Copy to

Powertec, Inc.  
5575 Dtc Parkway #140  
Englewood Village, Co  
~~Greenwood~~  
80111-3012  
c/o Richard Blubaugh

RECEIVED

JAN 16 2013

January 10, 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

Dear Mr. Hicks:

I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervenor in the above application. I am concerned about this application because I am interested in water quality, land use, and wildlife in western South Dakota. I oppose this application.

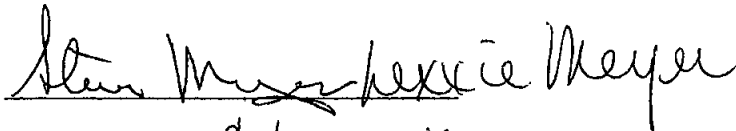
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Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature:



Print Name:

STEVEN & Lexxie Meyer

Address:

13050 Akenview Dr  
Hot Spring, S.D 57747

Phone:

605-745-5035

January 16, 2013

RECEIVED

JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

Dear Mr. Hicks:

I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervenor in the above application. I am concerned about this application because I am interested in water quality, land use, and wildlife in western South Dakota. I oppose this application.

I request that the deadline for filing petitions to initiate a contested case in this matter, currently scheduled for January 18, 2013, be extended until February 1, 2013, to allow full public participation, as the Notice was published during the holidays.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature:

*Karen N. Miller*

Print Name:

*Karen N. Miller*

Address:

*3119 Turtle Creek Ct.  
Rapid City SD, 57703*

Phone:

*(605) 430-3489*

*P.S. There is nothing more important than protecting our water. There is no need for haste. All local citizens need to be heard.*

*cc: Powertech (USA) Inc.  
c/o Richard Blumrich  
5575 DTC Parkway, Suite 140  
Fountain Village, CO 80111*



RECEIVED

JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

Dear Mr. Hicks:

I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervener in the above application. I am concerned about this application because I am interested in water quality, land use, and wildlife in western South Dakota. I oppose this application.

I request that the deadline for filing petitions to initiate a contested case in this matter, currently scheduled for January 18, 2013, be extended until February 1, 2013, to allow full public participation, as the Notice was published during the holidays.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature: Katherine L. Montague

Print Name: Katherine L. Montague

Address: 1216 Wambli Drive

Rapid City, S.D. 57701-0756

Phone: (605) 899-0849

January 16, 2013

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

**RECEIVED**

JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

Dear Mr. Hicks:

I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervenor in the above application. I am concerned about this application because I am interested in water quality, land use, and wildlife in western South Dakota. I oppose this application.

I request that the deadline for filing petitions to initiate a contested case in this matter, currently scheduled for January 18, 2013, be extended until February 1, 2013, to allow full public participation, as the Notice was published during the holidays.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature:

Print Name:

Address:

Phone:

Joe W Montgomery

Joe W Montgomery

210 Pine St.

Buffalo Gap SD 57722

605-891-1285

January 16, 2013

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RECEIVED

JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

Dear Mr. Hicks:

I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervenor in the above application. I am concerned about this application because I am interested in water quality, land use, and wildlife in western South Dakota. I oppose this application.

I request that the deadline for filing petitions to initiate a contested case in this matter, currently scheduled for January 18, 2013, be extended until February 1, 2013, to allow full public participation, as the Notice was published during the holidays.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature:

Jean Nachtigall

Print Name:

Jean Nachtigall

Address:

12746 Country Rd

Hut Springs S.D 57747

Phone:

605-745-5063

January 16, 2013

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RECEIVED

JAN 17 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

Dear Mr. Hicks:

I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervenor in the above application. I am concerned about this application because I am interested in water quality, land use, and wildlife in western South Dakota. I oppose this application.

I request that the deadline for filing petitions to initiate a contested case in this matter, currently scheduled for January 18, 2013, be extended until February 1, 2013, to allow full public participation, as the Notice was published during the holidays.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature:

*Suzan Nolan*

Print Name:

SUZAN NOLAN

Address:

1164 LOOKOUT LN  
RAPID CITY, SD 57701

Phone:

605-348-7499

*I stand with hundreds of my  
neighbors, both rural and urban,  
who oppose uranium mining in  
The Black Hills*

January 17, 2013

RECEIVED

JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Mr. Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, South Dakota 57501

Dear Mr. Hicks:

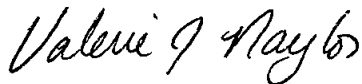
I am requesting that a contested case be initiated in the matter of the **Application for a Ground Water Discharge Plan filed by Powertech Uranium** of Colorado and that I be admitted as a recognized intervenor in the above application. I am a biologist and Black Hills property owner who is extremely concerned about this application because of the potential devastating effects on water quality, wildlife, traditional land uses, health and safety, and quality of life in western South Dakota. I strongly oppose this application because I believe the proposed ground water discharge would harm people and wildlife, and pollute the Cheyenne River. I can't believe this is even being considered. I ask that the permit application be denied.

I am sending a copy of this letter directly to Richard Blubaugh of Powertech USA, Inc.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,



Valerie J. Naylor  
23201 Custer Trails Road  
Rapid City, South Dakota 57702  
605-574-9074  
ndvagabond@hotmail.com

cc: Richard Blubaugh  
Powertech USA, Inc.  
5575 DTC Parkway, Suite 140  
Greenwood Village, Colorado 80111

RECEIVED

JAN 17 2013

January 16, 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

Dear Mr. Hicks:


I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervenor in the above application. I am concerned about this application because I am interested in water quality, land use, and wildlife in western South Dakota. I oppose this application because I believe the proposed ground water discharge would harm wildlife, create runoff, and pollute the Cheyenne River, and I want the permit application to be denied.

I request that the deadline for filing petitions to initiate a contested case in this matter, currently scheduled for January 18, 2013, be extended until February 1, 2013, to allow full public participation, as the Notice was published during the holidays.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature: 

Print Name: Elaine Noyes

Address: 4104 Lakeview Pr.

Rapid City, SD 57102

Phone: (005) 348-4077

cc: Powertech (USA) Inc.  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO. 80111

January 10, 2013

RECEIVED

JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

Dear Mr. Hicks:

I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervenor in the above application. I am concerned about this application because I am interested in water quality, land use, and wildlife in western South Dakota. I oppose this application.

I request that the deadline for filing petitions to initiate a contested case in this matter, currently scheduled for January 18, 2013, be extended until February 1, 2013, to allow full public participation, as the Notice was published during the holidays.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature:

Eileen Ohliger

Print Name:

Eileen Ohliger

Address:

446 S. 5th St.

Hot Springs, SD 57747

Phone:

737-996-0307

January 10, 2013

RECEIVED

JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

Dear Mr. Hicks:

I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervenor in the above application. I am concerned about this application because I am interested in water quality, land use, and wildlife in western South Dakota. I oppose this application.

I request that the deadline for filing petitions to initiate a contested case in this matter, currently scheduled for January 18, 2013, be extended until February 1, 2013, to allow full public participation, as the Notice was published during the holidays.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature: Patricia E. Ohliger

Print Name: Patricia E. Ohliger

Address: 446 S. 5th St.

Hot Springs, SD 57747

Phone: 732-977-5718



January 16, 2013

RECEIVED

JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

Dear Mr. Hicks:

I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervenor in the above application. I am concerned about this application because I am interested in water quality, land use, and wildlife in western South Dakota. I oppose this application.

I request that the deadline for filing petitions to initiate a contested case in this matter, currently scheduled for January 18, 2013, be extended until February 1, 2013, to allow full public participation, as the Notice was published during the holidays.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

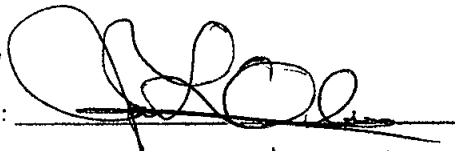
Sincerely,

Signature:

Print Name:

Address:

Phone:



James L. Olson

12350 Beaver Den Dr  
Custer SD 57730

605-673-5059

Copy to

Powertec, Inc.  
5575 D+L Parkway #140  
Englewood Village, Co  
80111-3012  
C/o Richard Blubaugh

January 16, 2013

RECEIVED

JAN 22 2013

DEPT OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

Dear Mr. Hicks:

I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervenor in the above application. I am concerned about this application because I am interested in water quality, land use, and wildlife in western South Dakota. I oppose this application.

I request that the deadline for filing petitions to initiate a contested case in this matter, currently scheduled for January 18, 2013, be extended until February 1, 2013, to allow full public participation, as the Notice was published during the holidays.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature: Rev. Jodi Olson

Print Name: Rev. Jodi Olson

Address: 12350 Beaver Den Drive  
Custer, SD 57730

Phone: 605-673-5059

Copy to  
Powertech, Inc.  
5575 D+L Parkway #140  
Englewood  
~~Crestwood~~ Village, Co  
80111-3012  
c/o Richard Blubaugh

RECEIVED

MICHAEL O'ROURKE □ □ □

JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

January 17, 2013

Matt Hicks  
South Dakota Water Quality Program  
Joe Foss Bldg  
523 E Capitol  
Pierre, SD 57501

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

Good day to you Mr. Hicks,

I've been following the reopening of uranium mining in South Dakota for about 10 years, and I have to say Powertech has not presented a very convincing argument for same. In fact they haven't addressed radioactive issues that affect human health, agriculture, clean air and water, to say nothing of the invasion of sensitive cultural and heritage sites.

And now they want to pitch a story to you, other regulatory bodies, and the public at large that it's safe to spray radioactive wastewater on 1K acres of land as part of the Dewey Burdock project.

There are hundreds of abandoned uranium mines in South Dakota, abandoned by such companies as Powertech, who promise safe practices and high paying jobs, economic development and hazardous waste cleanup. All of which have proven to be untrue. Oh, sure, there are short term benefits in a boom, but in hindsight, what about those hundreds of wind blown abandoned open pit uranium mines? What about the contaminates in the air and ground water and rivers? Uranium pollutants with a half life of several thousand years?

What bothers me most about Powertech and like minded companies, is their complete (and yes, I said complete) disregard for the health and welfare of the Native American inhabitants, the farmers and ranchers of the region. In fact, changing weather patterns are whipping up winds that pick up radioactive materials in the West and blow them hundreds of miles from the abandoned mine sites, and therefore affect many of us in the United States.

I request a contested case be initiated in the above matter; I wish to be admitted as an intervener. I would also respectfully request the deadline for filing petitions to initiate a contested case, currently scheduled for January 18, 2013, be extended until February 1, 2013, to allow full public participation. (How could you publish in conscience such an important notice during the holidays? Merry Christmas, Happy Hanukah, let's talk about radioactive waste proposals!)

Please keep me informed of all proceedings and documents related to this application.

Respectfully,

  
Michael O'Rourke

4513 LEO DR #4 □ MADISON, WI 53716 □ (608) 223-6803

TO Matt Hicks,  
and  
Powertech.

RECEIVED

JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

January 18, 2013  
26979 SD Hwy 89  
Nat Spring SD 57747

Re: Application for a ground water  
discharge plan filed by Powertech  
Uranium.

Dear Mr. Hicks,

I am requesting that a contested  
case be initiated in the above  
matter and that I be admitted  
as an intervenor in the above  
application. I am concerned about  
this application as I am interested in  
water quality, land use, and wildlife in  
western S.D. I oppose this application  
because I believe the proposed ground  
water discharge would harm wildlife,  
create runoff, and pollute the Cheyenne River,  
and I want the permit application to be  
denied. I request the deadline for  
filing petitions to initiate a contested  
case in this matter currently scheduled

for 01/18/13 he extended until 02/01/13  
to allow full public participation, as the notice  
was published during the holidays.

Please keep me informed of all proceedings  
and documents related to this application.

Thank you,

Sincerely,

Virginia Panarella



Virginia Panarella  
26979 Sd Highway 89  
Hot Springs SD 57747-6002

telephone #

605-745-4720

**VALERIE A. PARKER, MD**  
**4814 CLIFF DRIVE**  
**RAPID CITY, SD 57702**  
[vpmd59rapidcity@aol.com](mailto:vpmd59rapidcity@aol.com)  
**(605) 341-3648 or (605) 660-1801 cell**

**RECEIVED**

JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

January 16, 2013

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

Dear Mr. Hicks:


I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervenor in the above application. I am concerned about this application because I am interested in water quality, land use, and wildlife in western South Dakota. I oppose this application because I believe the proposed ground water discharge would harm wildlife, create runoff, and pollute the Cheyenne River, and I want the permit application to be denied.

I request that the deadline for filing petitions to initiate a contested case in this matter, currently scheduled for January 18, 2013, be extended until February 1, 2013, to allow full public participation, as the Notice was published during the holidays.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,



Valerie A. Parker, MD

cc: Powertech (USA) Inc.  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO. 80111

RECEIVED

JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES  
GROUND WATER PROGRAM

Gena Parkhurst  
PO Box 1914  
Rapid City SD 57709

January 18, 2013

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

Dear Mr. Hicks:

I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervenor in the above application. I am concerned about this application because I am interested in water quality, land use, and wildlife in western South Dakota. I oppose this application because I believe the proposed ground water discharge would harm wildlife, create runoff, and pollute the Cheyenne River, and I want the permit application to be denied.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,



Gena Parkhurst

cc: Powertech (USA) Inc.  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO. 80111

# RECEIVED

JAN 14 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES  
GROUND WATER PROGRAM

January 10, 2013

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

Dear Mr. Hicks:

I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervenor in the above application. I am concerned about this application because I am interested in water quality, land use, and wildlife in western South Dakota. I oppose this application.

I request that the deadline for filing petitions to initiate a contested case in this matter, currently scheduled for January 18, 2013, be extended until February 1, 2013, to allow full public participation, as the Notice was published during the holidays.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature:



Print Name:

Sarah Petersen

Address:

510 Jennings

Hot Springs, SD 57747

Phone:

605-795-5189



January 16, 2013

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RECEIVED

JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

Dear Mr. Hicks:

I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervenor in the above application. I am concerned about this application because I am interested in water quality, land use, and wildlife in western South Dakota. I oppose this application because I believe the proposed ground water discharge would harm wildlife, create runoff, and pollute the Cheyenne River, and I want the permit application to be denied.

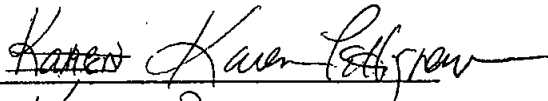
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Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature:



Print Name:

Karen Pettigrew

Address:

1203 St. Cloud St.

Rapid City, SD 57701

Phone:

605-771-3940

cc: Powertech (USA) Inc.  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO. 80111

January 16, 2013

RECEIVED

JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

Dear Mr. Hicks:

I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervenor in the above application. I am concerned about this application because I am interested in water quality, land use, and wildlife in western South Dakota. I oppose this application because I believe the proposed ground water discharge would harm humans, wildlife, create runoff, and pollute the Cheyenne River, and I want the permit application to be denied.

I request that the deadline for filing petitions to initiate a contested case in this matter, currently scheduled for January 18, 2013, be extended until February 1, 2013, or later, to allow full public participation, as the Notice was published during the holidays.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Print Name: Cindy Powell  
Address: 1637 38th St  
Rapid City, SD 57702  
Phone: 890-9506 (605)  
Email: \_\_\_\_\_

cc: Powertech (USA) Inc.  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO. 80111

January 16, 2013

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RECEIVED

JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

Dear Mr. Hicks:

I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervenor in the above application. I am concerned about this application because I am interested in water quality, land use, and wildlife in western South Dakota. I oppose this application because I believe the proposed ground water discharge would harm wildlife, create runoff, and pollute the Cheyenne River, and I want the permit application to be denied.

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Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature: Antoinette Reynar

Print Name: Antoinette Reynar

Address: 88025 CASCADE RD  
HOT SPRINGS, SD 57747

Phone: 605-745-4519

cc: Powertech (USA) Inc.  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO. 80111

January 16, 2013

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RECEIVED

JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

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Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature: Charlton T. Reynar

Print Name: CHARLTON T. REYNAR

Address: 28025 CASCADE Rd  
HOT SPRINGS, SD 57747

Phone: 605-745-4519

cc: Powertech (USA) Inc.  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO. 80111

January 16, 2013

RECEIVED

JAN 17 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

Dear Mr. Hicks:

I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervenor in the above application. I am concerned about this application because I am interested in water quality, land use, and wildlife in western South Dakota. I oppose this application because I believe the proposed ground water discharge would harm humans, wildlife, create runoff, and pollute the Cheyenne River, and I want the permit application to be denied.

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Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

*Katie Roseland*

Print Name: Katie Roseland

Address: 5811 Gemini St.

Rapid City, SD 57703

Phone: 605-391-8839

Email: KatieandVern@rap.mudco.net

cc: Powertech (USA) Inc.  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO. 80111

January 16, 2013

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RECEIVED

JAN 17 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

Dear Mr. Hicks:

I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervenor in the above application. I am concerned about this application because I am interested in water quality, land use, and wildlife in western South Dakota. I oppose this application because I believe the proposed ground water discharge would harm humans, wildlife, create runoff, and pollute the Cheyenne River, and I want the permit application to be denied.

I request that the deadline for filing petitions to initiate a contested case in this matter, currently scheduled for January 18, 2013, be extended until February 1, 2013, or later, to allow full public participation, as the Notice was published during the holidays.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,



Print Name: Cheryl A. Rowe

Address: 7950 DARK CANYON Rd.  
Rapid City, SD 57702

Phone: 605-341-3721

Email: DARKCANYONDESIGN@WILDBLUE.NET

cc: Powertech (USA) Inc.  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO. 80111

January 16, 2013

RECEIVED

JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

Dear Mr. Hicks:

I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervenor in the above application. I am concerned about this application because I am interested in water quality, land use, and wildlife in western South Dakota. I oppose this application because I believe the proposed ground water discharge would harm humans, wildlife, create runoff, and pollute the Cheyenne River, and I want the permit application to be denied.

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Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

*Roger Rowe*

Print Name:

*Roger Rowe*

Address:

*7950 DARK CANYON Rd.*

*Rapid City, S.D 57702*

Phone:

*(605) 391-3721*

Email:

*darkcanyon design @ wildblue .net*

cc: Powertech (USA) Inc.  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO. 80111

January 16, 2013

RECEIVED

JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

Dear Mr. Hicks:

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Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Print Name: Marsha Seaboit  
Address: 4435 Dolphin  
Rapid City, SD 57701  
Phone: 605 - 342 - 4542  
Email: \_\_\_\_\_

cc: Powertech (USA) Inc.  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO. 80111



RECEIVED

JAN 16 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

January 14, 2013

Matt Hicks  
South Dakota Department of Environmental and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

Dear Mr. Hicks:

I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervenor in the above application. I am concerned about this application because I am interested in water quality, land use, and wildlife in western South Dakota. I oppose this application.

I request that the deadline for filing petitions to initiate a contested case in this matter, currently scheduled for January 18, 2013, be extended until February 1, 2013, to allow full public participation, as the Notice was published during the holidays.

Please keep me informed of all proceedings and documents related to this application.

Respectfully,



Robert V. Shannon  
24705 Timber Ridge Road  
Hermosa, SD 57744  
605-255-5888  
605-484-3344 [c]

January 16, 2013

RECEIVED

JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

Dear Mr. Hicks:

I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervenor in the above application. I am concerned about this application because I am interested in water quality, land use, and wildlife in western South Dakota. I oppose this application.

I request that the deadline for filing petitions to initiate a contested case in this matter, currently scheduled for January 18, 2013, be extended until February 1, 2013, to allow full public participation, as the Notice was published during the holidays.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature: Barbara Sharp

Print Name: BARBARA Sharp

Address: 445 S. 3rd St.

Hot Springs SD 57747

Phone: 605-745-4937

RECEIVED

JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

January 17, 2013

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

Dear Mr. Hicks:


I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervenor in the above application. I am concerned about this application because I am interested in water quality, land use and wildlife, as well as our health in western South Dakota. I oppose this application because I believe the proposed ground water discharge would harm wildlife, create runoff, and pollute the Cheyenne River, and I want the permit application to be denied.

I respectfully request that the deadline for filing petitions to initiate a contested case in this matter, currently scheduled for January 18, 2013, be extended until February 1, 2013, to allow full public participation, as the Notice was published during the holidays.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature: 

Print Name: Jeana Shaw

Address: 12083 Beardsley Dr.

Hot Springs, SD 57747

cc: Powertech (USA) Inc.  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO. 80111

January 16, 2013

RECEIVED

JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

Dear Mr. Hicks:

I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervenor in the above application. I am concerned about this application because I am interested in water quality, land use, and wildlife in western South Dakota. I oppose this application.

I request that the deadline for filing petitions to initiate a contested case in this matter, currently scheduled for January 18, 2013, be extended until February 1, 2013, to allow full public participation, as the Notice was published during the holidays.

Please keep me informed of all proceedings and documents related to this application.

Thank you.


Sincerely,

Signature:

Print Name:

Address:

Phone:

  
Jerry Simonds  
22969 Tennys Rd  
DT Springs  
890-3864

January 16, 2013

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RECEIVED

JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

Dear Mr. Hicks:

I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervenor in the above application. I am concerned about this application because I am interested in water quality, land use, and wildlife in western South Dakota. I oppose this application because I believe the proposed ground water discharge would harm wildlife, create runoff, and pollute the Cheyenne River, and I want the permit application to be denied.

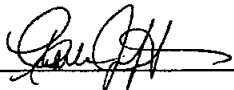
I request that the deadline for filing petitions to initiate a contested case in this matter, currently scheduled for January 18, 2013, be extended until February 1, 2013, to allow full public participation, as the Notice was published during the holidays.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature:



Print Name: CHARLENE J. SMITH

Address: P.O. Box 481

RAPID CITY, SD 57709

Phone: 605-716-5815

cc: Powertech (USA) Inc.  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO. 80111

# RECEIVED

JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

1/16/2013

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

Dear Mr. Hicks:

I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervenor in the above application. My partner and I are young farmers in Western SD and I am greatly concerned about this application because of its potential negative consequences for water quality and land use. It is very difficult for young people to get started in agriculture. We do not need to add questionable water and other contamination to the list of challenges. I oppose this application because I believe the proposed ground water discharge would create undesirable runoff, pollute the Cheyenne River, and make it harder for those trying to make a living on the land. In addition I am opposed to this permit because of its danger to human health and safety as well as potential harm to wildlife. I want the permit application to be denied.

Please keep me informed of all proceedings and documents related to this application.

Thank you for your time and attention.

Sincerely,



Jeremy Smith  
287 Evans Lane  
Spearfish, SD 57783  
605-559-3276

cc: Powertech (USA) Inc.  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO. 80111

# RECEIVED

JAN 18 2013

January 16, 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

Dear Mr. Hicks:

I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervenor in the above application. I am concerned about this application because I am interested in water quality, land use, and wildlife in western South Dakota. I oppose this application because I believe the proposed ground water discharge would harm wildlife, create runoff, and pollute the Cheyenne River, and I want the permit application to be denied.

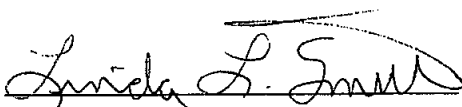
I request that the deadline for filing petitions to initiate a contested case in this matter, currently scheduled for January 18, 2013, be extended until February 1, 2013, to allow full public participation, as the Notice was published during the holidays.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature:



Print Name:

Linda L. Smith

Address:

947 So. Chicago St.  
Hot Springs, South Dakota 57747

Phone:

605-745-3402

cc: Powertech (USA) Inc.  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO. 80111

January 16, 2013

RECEIVED

JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

Dear Mr. Hicks:

I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervenor in the above application. I am concerned about this application because I am interested in water quality, land use, and wildlife in western South Dakota. I oppose this application because I believe the proposed ground water discharge would harm wildlife, create runoff, and pollute the Cheyenne River, and I want the permit application to be denied.

I request that the deadline for filing petitions to initiate a contested case in this matter, currently scheduled for January 18, 2013, be extended until February 1, 2013, to allow full public participation, as the Notice was published during the holidays.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature: Gail M. Soave

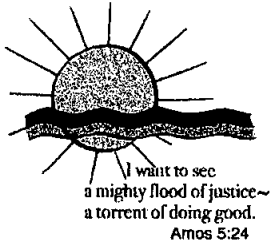
Print Name: GAIL M. SOAVE

Address: 14249 LYONS ST.  
LIVONIA, MI 48154

Phone: 734-421-8796

cc: Powertech (USA) Inc.  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO. 80111





# SOUTH DAKOTA PEACE & JUSTICE CENTER

RECEIVED

JAN 17 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

19 N Pine St. Vermillion, SD 57069

605-920-8945

[www.sodakpjc.org](http://www.sodakpjc.org)

[sodakpjc@gmail.com](mailto:sodakpjc@gmail.com)

15 January 2013

Matt Hicks  
South Dakota DENR  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

Powertech (USA) Inc.  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO 80111

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

Dear Mr. Hicks:

On behalf of the South Dakota Peace & Justice Center (SDPJC), which counts more than 125 members across the state of South Dakota and of which I am the executive director, I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervenor in the above application.

The SDPJC is deeply committed to protecting South Dakota's natural heritage and ensuring a clean future for our children and grandchildren. It is this commitment that leads us to concern over Powertech's groundwater discharge application. We oppose this application because we believe the proposed ground water discharge would harm wildlife, create problematic runoff, and pollute the Cheyenne River.

We leave aside the questionable effects of pumping 9,000 gallons *per minute* from the Inyan Kara and Madison aquifers, especially during a period of sustained drought. The spraying of waste water from a uranium mine over 1,000 acres, by a company that *has never mined anything*, troubles us deeply, and we want the permit application to be denied.

We request that the deadline for filing petitions to initiate a contested case in this matter, currently scheduled for January 18, 2013, be extended until February 1, 2013, as the Notice was published during the holidays. Especially at this time of year, this is not sufficient time to ensure full public participation.

Please keep us informed of all proceedings and documents related to this application.

Sincerely,

Tom Emanuel  
Executive Director, SDPJC

January 16, 2013

RECEIVED

JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

Dear Mr. Hicks:

I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervenor in the above application. I am concerned about this application because I am interested in water quality, land use, and wildlife in western South Dakota. I oppose this application.

I request that the deadline for filing petitions to initiate a contested case in this matter, currently scheduled for January 18, 2013, be extended until February 1, 2013, to allow full public participation, as the Notice was published during the holidays.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature:

Linda M. Styger

Print Name:

Linda M. Styger

Address:

11962 Sundance Dr.

Hot Springs, S.D. 57747

Phone:

605-745-4332

January 16, 2013

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RECEIVED

JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

Dear Mr. Hicks:

I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervenor in the above application. I am concerned about this application because I am interested in water quality, land use, and wildlife in western South Dakota. I oppose this application because I believe the proposed ground water discharge would harm wildlife, create runoff, and pollute the Cheyenne River, and I want the permit application to be denied.

I request that the deadline for filing petitions to initiate a contested case in this matter, currently scheduled for January 18, 2013, be extended until February 1, 2013, to allow full public participation, as the Notice was published during the holidays.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature:



Print Name: Rick V. Summerville

Address: 6509 Seminole Lane

Rapid City, SD 57702

Phone: 605-791-2951

cc: Powertech (USA) Inc.  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO. 80111

# RECEIVED

JAN 18 2013

January 16, 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

Dear Mr. Hicks:

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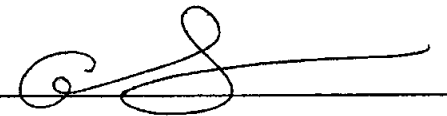
I request that the deadline for filing petitions to initiate a contested case in this matter, currently scheduled for January 18, 2013, be extended until February 1, 2013, to allow full public participation, as the Notice was published during the holidays.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature:



Print Name:

Alison Swan

Address:

703 N. River St.

Hot Spring, SD 57747

Phone:

(605) 745-7006 (work)

cc:

Powertech, Inc  
c/o Richard Blubaugh  
5575 Dtc Parkway #140  
Greenwood Village, CO

80111-3012

RECEIVED

JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

January 16, 2013

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

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I request that the deadline for filing petitions to initiate a contested case in this matter, currently scheduled for January 18, 2013, be extended until February 1, 2013, to allow full public participation, as the Notice was published during the holidays.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature:



Print Name: LARRY TEGANTVOORT

Address: 10041 VENTURA LN.  
SUMMERSET, SD 57718

Phone: 605-787-6900

January 16, 2013

RECEIVED

JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

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I request that the deadline for filing petitions to initiate a contested case in this matter, currently scheduled for January 18, 2013, be extended until February 1, 2013, to allow full public participation, as the Notice was published during the holidays.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature: Jobeth Troxel

Print Name: Jobeth Troxel

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

cc: Powertech (USA) Inc.  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO. 80111

# RECEIVED

3213 W. Main, #112  
Rapid City, SD 57702  
January 16, 2013

JAN 18 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Mr. Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

Dear Mr. Hicks:

I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervenor in the above application. Powertech's application makes me very concerned because I have heard a lot about the negative effects from spraying of the wastewater from ISL uranium mining. I oppose this application because I believe the proposed ground water discharge would harm wildlife, create runoff, and pollute the Cheyenne River, and I want the permit application to be denied. Also the area where the waste water will be sprayed is high risk for prairie fires. As the various toxic contaminants carried by the water settles into the grass and ground, fires could create potential airborne contamination.

I also request that the deadline for filing petitions to initiate a contested case in this matter, currently scheduled for this Friday, January 18, 2013, be extended until at least February 1, 2013, to allow full public participation, since the Notice was published during the holidays.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,



Douglas Uptain  
H) 605.341.0724

cc: Powertech (USA) Inc.  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO. 80111

RECEIVED

3213 W. Main, #112  
Rapid City, SD 57702  
January 16, 2013

JAN 18 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Mr. Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

Dear Mr. Hicks:

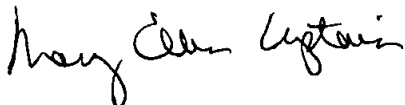
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Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,



Mary Ellen Uptain  
H) 605.341.0724

cc: Powertech (USA) Inc.  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO. 80111



January 16, 2013

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RECEIVED

JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

Dear Mr. Hicks:

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I request that the deadline for filing petitions to initiate a contested case in this matter, currently scheduled for January 18, 2013, be extended until February 1, 2013, or later, to allow full public participation, as the Notice was published during the holidays.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Print Name: Judith R Van Cleave  
Address: 7711 Dark Canyon Rd  
Rapid City SD 57707  
Phone: 605-342-0217  
Email: \_\_\_\_\_

cc: Powertech (USA) Inc.  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO. 80111

January 16, 2013

RECEIVED

JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Fosß Building  
523 E. Capitol  
Pierre, SD 57501

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Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature: Alan Walker

Print Name: ALAN Walker

Address: 303 Cecleg Street

Backlu. Co.

Phone: 833 2028

January 16, 2013

RECEIVED

JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

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Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Print Name: Bill Welsh  
Address: 7450 Dark Canyon Rd  
Rapid City So. Dak. 57702  
Phone: 348-7707  
Email: bill.welsh@state.sd.gov

cc: Powertech (USA) Inc.  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO. 80111



**Black Hills Wild Horse Sanctuary**  
Managed by The Institute of Range and the American Mustang

Dayton O. Hyde  
President

P.O. Box 998, Hot Springs, SD 57747  
www.wildmustangs.com www.spanishmustangspirit.com

(605) 745-5955  
(800) 252-6652

RECEIVED  
JAN 16 2013  
Email: info@bhw.net

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

JAN 17 2013  
DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

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Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature: *Susan W. Watt*

Print Name: Susan W. Watt

Address: P.O. Box 790  
Hot Springs, SD 57747

Phone: 605-745-7494

January 16, 2013

RECEIVED

JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Fosß Building  
523 E. Capitol  
Pierre, SD 57501

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

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I request that the deadline for filing petitions to initiate a contested case in this matter, currently scheduled for January 18, 2013, be extended until February 1, 2013, to allow full public participation, as the Notice was published during the holidays.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature: Debra J Weishaupl

Print Name: Debra J Weishaupl

Address: 110 N 3<sup>rd</sup> St

Hot Springs SD 57747

Phone: (605) 745-7878

January 16, 2013

RECEIVED

JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

Dear Mr. Hicks:

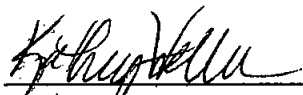
I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervenor in the above application. I am concerned about this application because I am interested in water quality, land use, and wildlife in western South Dakota. I oppose this application because I believe the proposed ground water discharge would harm wildlife, create runoff, and pollute the Cheyenne River, and I want the permit application to be denied. As a healthcare worker in the Edgemont and Hot Springs communities, I am greatly concerned about the impact on the health of the citizens of this region.

I request that the deadline for filing petitions to initiate a contested case in this matter, currently scheduled for January 18, 2013, be extended until February 1, 2013, to allow full public participation, as the Notice was published during the holidays.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature: 

Print Name: Kathryn Weller

Address: 8812 Dunsmore Rd

Rapid City, SD 57702

Phone: 605-394-9128

cc: Powertech (USA) Inc.  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO. 80111



**Black Hills Wild Horse Sanctuary**  
Managed by The Institute of Range and the American Mustang

Dayton O. Hyde  
President

P.O. Box 998, Hot Springs, SD 57747  
www.wildmustangs.com www.spanishmustangspirit.com

(605) 745-5955

(800) 252-6652

Fax (605) 745-4339

Email: iram@gwtc.net

January 6, 2013

**RECEIVED**

JAN 17 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

Dear Mr. Hicks:

As Program Director and Board Member for the Institute of Range and the American Mustang, which is located only miles from this proposed project we are concerned over the health implications of the mining process and the Ground Water Discharge Plan filed by Powertech Uranium.

I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervenor in the above application. I am concerned about this application because I am interested in water quality, land use, and wildlife in western South Dakota. I oppose this application because I believe the proposed ground water discharge would harm wildlife, create runoff, and pollute the Cheyenne River, and I want the permit application to be denied.

I request that the deadline for filing petitions to initiate a contested case in this matter, currently scheduled for January 18, 2013, be extended until February 1, 2013, to allow full public participation, as the Notice was published during the holidays.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature: *Susan W. Watt*  
Print Name: *Susan W. Watt*  
PO Box 790  
12163 Highland Road  
Hot Springs, South Dakota 57747  
605-745-7494

cc: Powertech (USA) Inc.  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO. 80111



**Black Hills Wild Horse Sanctuary**  
Managed by The Institute of Range and the American Mustang

Dayton O. Hyde  
President

P.O. Box 998, Hot Springs, SD 57747  
www.wildmustangs.com www.spanishmustangspirit.com

(605) 745-5955  
(800) 252-6652  
Fax (605) 745-4339  
Email: iram@dwfc.net

January 16, 2013

**RECEIVED**

JAN 17 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

Dear Mr. Hicks:

As Founder and President of the Institute of Range and the American Mustang, which is located only miles from this proposed project we are concerned over the health implications of the mining process and the Ground Water Discharge Plan filed by Powertech Uranium.

I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervenor in the above application. I am concerned about this application because I am interested in water quality, land use, and wildlife in western South Dakota. I oppose this application because I believe the proposed ground water discharge would harm wildlife, create runoff, and pollute the Cheyenne River, and I want the permit application to be denied.

I request that the deadline for filing petitions to initiate a contested case in this matter, currently scheduled for January 18, 2013, be extended until February 1, 2013, to allow full public participation, as the Notice was published during the holidays.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature:



Print Name:

DAYTON O. HYDE

PO Box 932

12165 Highland Road

Hot Springs, South Dakota 57747

605-745-6339

cc: Powertech (USA) Inc.

c/o Richard Blubaugh

5575 DTC Parkway, Suite 140

Greenwood Village, CO. 80111



RECEIVED

JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

January 17, 2013

**Matt Hicks**  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

**RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium**

**Dear Mr. Hicks:**

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Please keep me informed of all proceedings and documents related to this application.

Thank you,

Sincerely,

*Bette Wilkinson*  
Bette Wilkinson  
3718 Redwood St,  
Rapid City, SD 57701  
605-721-5844

cc: Powertech (USA) Inc.  
c/o Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO. 80111

January 10, 2013  
**RECEIVED**  
JAN 22 2013  
DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

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I request that the deadline for filing petitions to initiate a contested case in this matter, currently scheduled for January 18, 2013, be extended until February 1, 2013, to allow full public participation, as the Notice was published during the holidays.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature: Julia Woodard  
Print Name: Julia Woodard  
Address: 1039 Pahasappa Rd.  
Rapid City, SD 57701  
Phone: \_\_\_\_\_

January 10, 2013

RECEIVED

JAN 22 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Matt Hicks  
South Dakota Department of Environment and Natural Resources  
Ground Water Quality Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

RE: Application for a Ground Water Discharge Plan filed by Powertech Uranium

Dear Mr. Hicks:

I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervenor in the above application. I am concerned about this application because I am interested in water quality, land use, and wildlife in western South Dakota. I oppose this application.

I request that the deadline for filing petitions to initiate a contested case in this matter, currently scheduled for January 18, 2013, be extended until February 1, 2013, to allow full public participation, as the Notice was published during the holidays.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Signature: Sandra Woodard

Print Name: Sandra Woodard

Address: PO Box 533

Oglala, SD, 57764-0533

Phone: (NA)



**Everett E. Hoyt**

---

4422 Carriage Hills Drive  
Rapid City, South Dakota 57702  
Home: 605-343-2707; Cell 605-430-2150  
Email: evhoyt@rap.midco.net

February 14, 2013

Mr. Eric Gronlund  
SD Department of Environment and Natural Resources  
523 E. Capitol Avenue  
Pierre, SD 57501-3182

Re: In the Matter of Water Permit Applications  
2685-2 and 2686-2 and Groundwater Discharge  
Plan Application, all by Powertech (USA)

Dear Mr. Gronlund:

We have enclosed for filing in the above entitled matters relating to the applications by Powertech (USA) the Procedural Order, dated February 14, 2013, which deals with consolidation of the above matters for hearing and with various pre-hearing matters. We are transmitting the Order to you via email at this time, and we will follow by sending the originally signed hardcopy of the Order in US mail today.

Water Management Board counsel, Asst. Attorney General Jeff Hallem, will coordinate with you to provide for service by DENR of the Order on the parties to the above permit applications.

Should you have any questions, please feel free to contact Mr. Hallem or myself.

Sincerely yours,

A handwritten signature in black ink that reads "Everett E. Hoyt". The signature is written in a cursive style with a large, stylized 'E' and 'H'.

c. Jeff Hallem, Asst. Attorney General

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

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

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

Upon consideration of the Motions for Consolidation and Procedural Order filed by the Department of Environment and Natural Resources Water Rights Program and Groundwater Quality Program (DENR), and argument submitted by all parties and interested persons at the Procedural Hearing (Prehearing Conference) held on February 8, 2013, it is hereby ORDERED that:

- 1) DENR's Motion to Consolidate is granted. The above-entitled matters are hereby consolidated.
- 2) All persons who filed Petitions to Intervene in the water permit application proceedings or Petitions to Initiate a Contested Case in the groundwater discharge plan proceedings that were on file with DENR prior to the Prehearing Conference are granted.
- 3) All persons who have filed Petitions to Intervene or Petitions to Initiate a Contested Case in the above-entitled matters must file with DENR an Election of Participation using the attached form by March 15, 2013. Persons who do not

file an Election of Participation Form will be treated as if they have elected to limit their participation to submitting sworn testimony at the beginning of the contested case hearing (Option B). Any Party may change participation status by timely notifying DENR staff person Eric Gronlund in writing at: Eric Gronlund, DENR, Foss Building, 523 E. Capitol Avenue, Pierre, SD 57501-3182. The Party must also serve copies of the notification on Applicant, DENR counsel, all parties who elected full participation (Option A), Prehearing Chair Hoyt and Board Counsel Jeff Hallem. A service list may be obtained from Mr. Gronlund.

- 4) Attorneys who have not yet filed Notices of Appearance for persons who elect to fully participate in the contested case proceeding (Option A) are directed to do so immediately. Nonresident counsel must be able to demonstrate compliance with the *pro hac vice* requirements of SDCL 16-18-2 to participate in this matter.
- 5) All corporations, partnerships, associations, and other legal entities (including non-profit associations) must be represented by counsel in this proceeding.
- 6) The following prehearing schedule and obligations apply to Applicant, DENR and all parties who elect Option A:
  - i) Discovery requests must be initiated (served upon the applicable Party) by April 1, 2013. The Parties shall attempt to informally resolve any discovery dispute. If a discovery dispute cannot be resolved a party may file a motion with the Prehearing Chair in the same manner as provided in 6) vii) below.
  - ii) Discovery completion deadline is 45 days prior to the initial date scheduled for the contested case hearing.

- iii) Each Party will disclose, in writing sent to all other Parties, the names of expert witnesses, curricula vitae, and a copy of any expert report that it intends to offer on or before 45 days prior to the initial date scheduled for the contested case hearing.
- iv) Each Party will disclose, in writing sent to all other Parties, the names of witnesses each Party expects to call during the contested case proceeding on or before 20 days prior to the initial date scheduled for the contested case hearing.
- v) Each Party will provide, by writing sent to all other Parties, a list identifying the exhibits together with a copy of each exhibit identified that Party expects to offer into evidence during the contested case proceeding on or before 20 days prior to the initial date scheduled for the contested case hearing.
- vi) All exhibits shall be marked in advance by each Party and that each Party must provide a sufficient number of copies for use at the contested case hearing, including 10 copies for use by the Board, its counsel, and court reporter. Exhibits shall be marked by using the Party's name and numbered sequentially. Individuals shall mark each of their exhibits using their name in full ( example: Jane W. Doe)
- vii) All original pleadings, prehearing motions, discovery requests and responses are to be sent by regular first class mail to Eric Gronlund, DENR, Foss Building, 523 E. Capitol Avenue, Pierre, SD 57501-3182. Parties must serve copies on all other Parties; and except for discovery requests, discovery responses and the items identified in 6) iii) through v) inclusive on

the Prehearing Chair and Board Counsel Jeff Hallem. In addition copies of all documents to be filed will be delivered to the following libraries:

Attn: Doris Ann Mertz  
Custer County Library  
447 Crooks Street, Ste. 4  
Custer, SD 57730

Attn: Ashley Cortney  
Edgemont Public Library  
PO Box A / 412 2nd  
Edgemont, SD 57735

Attn: Cindy Messenger  
Hot Springs Public Library  
2005 Library Drive  
Hot Springs, SD 57747

Attn: Jason Walker  
Rapid City Public Library  
610 Quincy Street  
Rapid City, SD 57701

Attn: Michelle May  
Woksape Tipi  
Oglala Lakota College  
PO Box 310  
Kyle, SD 57752

Public access to the documents delivered will be determined by each library.

- 7) The contested case hearing before the Water Management Board will begin at Rapid City, South Dakota at a date to be set by the Water Management Board and at a location to be determined by DENR staff. The Water Management Board will consider scheduling the dates for the contested case hearing during its meeting in Pierre on March 6, 2013 at the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre SD at 11 A.M. CST, or as soon thereafter as may be heard. It is anticipated the contested case hearing will take at least five days.
- 8) The contested case hearing will proceed as follows:
  - i) The taking of sworn testimony from those parties that chose or have been designated to have chosen Option B of the Election of Participation Form. Comments should not to exceed 15 minutes each; and the Board may limit



unduly repetitive testimony. The testimony provided will be subject to cross examination by other parties and questions from Board members.

ii) Once the taking of comments is completed, the formal contested case proceeding will start with any preliminary motions from the Parties.

iii) The Parties will make opening statements.

iv) Witnesses and evidence will be taken subject to objection and cross examination, in the following order:

(a) Applicant Powertech (USA), Inc.;

(b) DENR Water Rights Program;

(c) DENR Groundwater Quality Program;

(d) Other Parties following an order established by the Chairman;

(e) Board members may ask the witness questions.

v) After the record is closed, the Parties will offer short closing arguments in the same order.

vi) At the conclusion of the proceedings, the Board may render a decision and direct the prevailing party to provide findings of fact and conclusions of law consistent with the decision. Other parties will be given an opportunity to file proposed findings of fact and conclusions of law for the record.

Alternatively, the Board may take the matter under advisement until its next Board meeting.

9) Questions concerning the arrangements for the contested case proceeding and service list are to be made to DENR employee Eric Gronlund at

[Eric.Gronlund@state.sd.us](mailto:Eric.Gronlund@state.sd.us) or 605-773-3352.

Dated this 14th day of February, 2013.

A handwritten signature in cursive script, reading "Everett E. Hoyt". The signature is written in dark ink and is positioned above a horizontal line.

Everett Hoyt, Prehearing Chair  
South Dakota Water Management Board

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

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

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

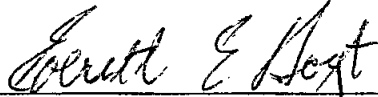
*TO: All Persons who filed Petitions to Intervene or Petition to Initiate a Contested Case in either of the above-entitled matters:*

You filed or signed a petition or sent comments to the Department of Environment and Natural Resources on one or both of the Powertech matter listed above pending before the Water Management Board. To clarify your intent, you must elect to A) participate as a full party in the formal contested case proceeding, including presenting testimony subject to cross examination, offering exhibits, cross examining other witnesses, making and defending objections, addressing legal argument, and having the option to appeal to the courts if desired; OR B) provide sworn testimony during the beginning of the contested case hearing; OR C) rely on information you already filed. Election of Options B and C will waive some of the rights and relieve you of some of the obligations you have if you participate as a Party under Option A.

**YOU MUST RETURN THIS FORM TO ERIC GRONLUND, DENR, ON OR BEFORE MARCH 15, 2013. FAILURE TO COMPLETE AND RETURN THIS WILL BE CONSTRUED AS AN ELECTION TO PROCEED UNDER OPTION B. A PERSON**

**MAY CHANGE THEIR PARTICIPATION STATUS AS PROVIDED IN THE**  
**FEBRUARY 14th, 2013 PROCEDURAL ORDER.**

Dated this 14th day of February, 2013.



Everett Hoyt, Prehearing Chair  
South Dakota Water Management Board

\*\*\*\*\*

\_\_\_\_\_(A) I wish to participate as a full party in this proceeding by presenting testimony subject to cross examination, offering exhibits, cross examining other witnesses, making and defending objections, addressing legal argument, and having the option to appeal to the courts if desired. I understand that if I am appearing on my own behalf, I do not need to be represented by a lawyer, but that all corporations, partnerships, nonprofit associations, and other legal entities must have a lawyer represent them if they participate as a party.

\_\_\_\_\_(B) I wish to offer my sworn testimony at the beginning of the contested case hearing. I understand that due to the large number of parties, I may be limited to 10-15 minutes. I understand my testimony will be subject to cross examination and I will not have all of the rights nor obligations of a full party.

\_\_\_\_\_(C) I wish to rely on the petition that I submitted or signed. I do not wish to testify or participate as a full party in these proceedings.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Printed name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone number: \_\_\_\_\_

Email address: \_\_\_\_\_

Mail to: Eric Gronlund, DENR, 523 E. Capitol Ave., Pierre, SD 57501



**Everett E. Hoyt**

JPH 304500  
Attorney General

MAR 25 2013

4422 Carriage Hills Drive  
Rapid City, South Dakota 57702  
Home: 605-343-2707; Cell 605-430-2150  
Email: evhoyt@rap.midco.net

VIA EMAIL AND HARDCOPY

March 21, 2013

RECEIVED

MAR 29 2013

WATER RIGHTS  
PROGRAM

Mr. Jeff Hallem  
Assistant Attorney General  
1302 E. Hwy. 14, Suite 1  
Pierre, SD 57501-8501

Re: Order Granting Interventions in  
Powertech Applications 2685-2, 2686-2, and  
Groundwater Discharge Plan

Dear Mr. Hallem:

We have enclosed the originally executed Order Granting Interventions, dated March 21, 2013, in the consolidated matters re Powertech as stated above. We are also provided a copy of the executed Order via email through the AG Office in Rapid City.

Please make appropriate service of the Order and file with Eric Gronlund of DENR.

Thanks very much for your assistance.

Sincerely yours,

A handwritten signature in black ink that reads "E. Hoyt". The signature is written in a cursive style.

Everett E. Hoyt,  
Prehearing Chair, WMB

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

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

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

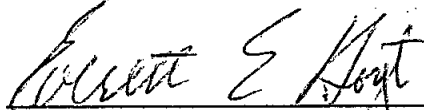
ORDER GRANTING  
PETITIONS TO INTERVENE

The South Dakota Department of Environment and Natural Resources received five petitions to intervene in the above-captioned matter, dated or received prior to March 15, 2013. The petitions to intervene were from Jerry Wilson, Vermillion, South Dakota , as a member of the Executive Committee of the South Dakota Chapter of the Sierra Club; the Custer Conservation District; Thomas F. Barnes of Custer, South Dakota; and Martin H. Meyer and Elsa Meyer of Hot Springs, South Dakota. Mr. Wilson's request asked to be allowed to intervene under the "Option B" set forth in the February 14, 2013 Procedural Order. The other requests to intervene contained no indication of the status of the requested intervention. The petitions to intervene were forwarded to the Prehearing Chair for review and consideration. Counsel for the Board contacted petitioners, excepting Mr. Wilson, to determine the intended status of intervention and advised that under the Procedural Order the default status was "Option B," which was not full party status. No petitioner represented the current intention to participate as a full party "Option A."

Upon review of the petitions to intervene and consideration of the administrative record in this matter, the Prehearing Chair finds that all petitions were received by the Department prior to the issuance of the status of intervening parties and that granting intervention under "Option B" of the Procedural Order would not prejudice any of the existing parties; therefore it is hereby

ORDERED that the Petitions of Jerry Wilson, Custer Conservation District, Thomas F. Barnes, Martin H. Meyer and Elsa Meyer are accepted and the petitioners are granted leave to intervene and to participate under "Option B" of the Procedural Order.

Dated this 21<sup>st</sup> day of March, 2013.



---

Everett Hoyt, Prehearing Chair  
South Dakota Water Management Board

STATE OF SOUTH DAKOTA



**OFFICE OF ATTORNEY GENERAL**

1302 East Highway 14, Suite 1  
Pierre, South Dakota 57501-8501  
Phone (605) 773-3215  
Fax (605) 773-4106  
TTY (605) 773-6585  
[www.state.sd.us/atg](http://www.state.sd.us/atg)

**MARTY J. JACKLEY**  
ATTORNEY GENERAL

RECEIVED

MAY 30 2013

WATER RIGHTS  
PROGRAM

**CHARLES D. McGUIGAN**  
CHIEF DEPUTY ATTORNEY GENERAL

May 29, 2013

James G. Sword  
Fall River County State's Attorney  
906 N. River St., #301  
Hot Springs, SD 57747

Re: *Powertech Applications Before the South Dakota Water  
Management Board*

Dear Mr. Sword:

Enclosed herewith please find a copy of the Order of Prehearing Chair Hoyt granting Fall River County's Motion to Dismiss the above-captioned matter. The original Order is being filed with the Department of Environment and Natural Resources. Mr. Gronlund, please provide notice to the appropriate parties and the libraries.

Very truly yours,

A handwritten signature in cursive script that reads "Jeffrey P. Hallem".

Jeffrey P. Hallem  
Assistant Attorney General

JPH/rar  
Enclosure  
cc w/encl: Eric Gronlund ✓



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

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

ORDER GRANTING  
FALL RIVER COUNTY'S  
MOTION TO DISMISS

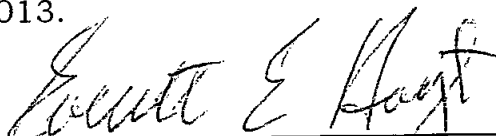
IN THE MATTER OF THE 2012 )  
GROUNDWATER DISCHARGE )  
PLAN APPLICATION SUBMITTED )  
BY POWERTECH (USA), INC. )

The South Dakota Department of Environment and Natural Resources received a Motion of Fall River County to Dismiss It's Petition To Intervene, dated April 25, 2013, submitted by its State's Attorney and Chairman of the Fall River County Commission. The motion seeks dismissal of Fall River County as a party to the above-captioned action. There has been no additional filing by a party regarding the motion to dismiss.

Upon review of the motion to dismiss and consideration of the administrative record, the prehearing chair finds that the motion was timely filed, will cause no prejudice to any other party to the action and, given the stated decision of the County Commission, that dismissal of Fall River County is appropriate; therefore it is hereby

ORDERED that the Motion of Fall River County to Dismiss its Petition to Intervene is granted and that Fall River County is no longer a party to the administrative action.

Dated this 24<sup>th</sup> day of May, 2013.

  
\_\_\_\_\_  
Everett Hoyt, Prehearing Chair  
South Dakota Water Management Board

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

RECEIVED

AUG 13 2013

WATER RIGHTS  
PROGRAM

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

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

ORDER GRANTING IN PART AND  
DENYING IN PART MCLEAN  
PETITION TO INTERVENE

The South Dakota Department of Environment and Natural Resources, on July 25, 2013, received a petition to intervene in the above-captioned from Linsey McLean, Piedmont, SD. The petition is untimely and does not include the requested party status for intervention as set forth in the February 14, 2013, Procedural Order.

Upon review of the petition to intervene and consideration of the administrative record in this matter, the Prehearing Chair finds that though the McLean Petition is sufficiently untimely to grant intervention under "Option A" of the Procedural Order, that granting Mclean intervention under "Option B" of the Procedural Order would not prejudice any of the existing parties.

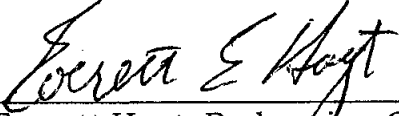
Therefore it is hereby

ORDERED that the Petition from Linsey McLean is accepted, and the petitioner is granted leave to intervene and to participate under "Option B" of the Procedural Order; it is further

ORDERED to the extent petitioner seeks intervention under "Option A" it is denied; it is further

ORDERED that petitioner be provided a copy of the February 14, 2013,  
Procedural Order.

Dated this 9<sup>th</sup> day of August, 2013.

  
\_\_\_\_\_  
Everett Hoyt, Prehearing Chair  
South Dakota Water Management Board

STATE OF SOUTH DAKOTA



**OFFICE OF ATTORNEY GENERAL**

1302 East Highway 14, Suite 1  
Pierre, South Dakota 57501-8501

Phone (605) 773-3215

Fax (605) 773-4106

TTY (605) 773-6585

[www.state.sd.us/atg](http://www.state.sd.us/atg)

RECEIVED

SEP 11 2013

WATER RIGHTS  
PROGRAM

**MARTY J. JACKLEY**  
ATTORNEY GENERAL

**CHARLES D. McGUIGAN**  
CHIEF DEPUTY ATTORNEY GENERAL

September 10, 2013

Brenda Gamache  
2337 Wilson Avenue  
Hot Springs, SD 57747

Re: *In the Matter of Powertech (USA), Inc. Applications,  
Water Management Board - Gamache Motion August 23, 2013*

Dear Ms. Gamache:

Enclosed please find a copy of an Order Denying Motion of Brenda S. Gamache executed by Prehearing Chair Hoyt regarding your motion to compel the Surface Water Quality Program to answer all interrogatories and production requests served upon Department of Environment and Natural Resources. Water Rights Program and Groundwater Quality Program during the discovery phase of these proceedings.

The original of the Order is being filed with Eric Gronlund through this letter.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Jeffrey P. Hallem".

Jeffrey P. Hallem  
Assistant Attorney General

JPH/rar

Enclosure

cc w/enc: Everette Hoyt, Prehearing Chair  
Parties listed on Certificate of Service  
Rodney Freeman, Hearing Chairman

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

RECEIVED  
SEP 11 2013  
WATER RIGHTS  
PROGRAM

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

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

ORDER DENYING MOTION  
OF BRENDA S. GAMACHE

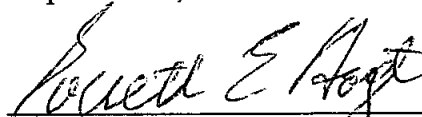
Party status "A" Intervenor Brenda S. Gamache filed a Motion dated August 23, 2013, with the Water Management Board to compel the Department of Environment and Natural Resources Surface Water Quality Program to answer all interrogatories and production requests served upon the Department of Environment and Natural Resources Water Rights Program and Groundwater Quality Program during the discovery phase of these proceedings. The Department of Environment and Natural Resources Water Rights Program and Groundwater Quality Program filed a response in opposition to this motion, dated September 4, 2013. Under the Procedural Order dated February 14, 2013, discovery requests were to be initiated by April 1, 2013, and the discovery completion deadline was August 23, 2013.

Upon review of the motion and response, the Prehearing Chair finds arguments raised by the Department of Environment and Natural Resources Water Rights Program and Groundwater Quality Program are meritorious. The motion is untimely; SDCL 46A-1-8 provides no authority to make the requests; and the information sought would not likely result in the discovery of evidence

relevant to these proceedings (Powertech's applications for groundwater permits and groundwater discharge plan).

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

Dated this 6<sup>th</sup> day of September, 2013.



---

Everett Hoyt, Prehearing Chair  
South Dakota Water Management Board

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

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

CERTIFICATE OF SERVICE

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

The undersigned hereby certifies that a true and correct copy of the *Order Denying Motion of Brenda S. Gamache* filed in the above-entitled matter was served upon the following by enclosing the same in envelopes with first class postage prepaid and affixed thereto, and depositing said envelopes in the United States mail, at Pierre, South Dakota, on this 10th day of September, 2013:

Sabrina King  
917 Wood Avenue  
Rapid City, SD 57701

Gary E. Heckenlaible  
P.O. Box 422  
Rapid City, SD 57709

Bruce Ellison  
Attorney for Clean Water Alliance  
P.O. Box 2508  
Rapid City, SD 57709

Rebecca R. Leas  
6509 Seminole Lane  
Rapid City, SD 57702

Rick V. Summerville  
6509 Seminole Lane  
Rapid City, SD 57702

Andy Johnson  
610 Nellie Lane  
Spearfish, SD 57783

Cindy Gillis  
Attorney for Oglala Sioux Tribe  
522 7<sup>th</sup> Street, Suite 202  
Rapid City, SD 57701

Cheryl A. and Roger Rowe  
7950 Dark Canyon  
Rapid City, SD 57702

Max Main  
Attorney Powertech (USA), Inc.  
618 State Street  
Belle Fourche, SD 57717

Douglas C. Uptain  
3213 W. Main #112  
Rapid City, SD 57702

Lilias Jones Jarding  
418 N. 44<sup>th</sup> Street  
Rapid City, SD 57702

Gena M. Parkhurst  
P.O. Box 1914  
Rapid City, SD 57709

Marvin Kammerer  
22198 Elkvale Road  
Rapid City, SD 57701

Cindy Brunson  
11122 Fort Igloo Road  
Edgemont, SD 57735

Rodney G. Knudson  
P.O. Box 25  
Hulett, WY 82720

Rebecca M. Lord  
P.O. Box 952  
Hill City, SD 57745

Mark Boddicker  
13850 Battle Creek Road  
Hermosa, SD 57744

Dahl H. McLean  
11853 Acorn Ridge Road  
Spearfish, SD 57783

Michael M. Hickey  
Atty Black Hills Wild Horse Sanc  
P.O. Box 2670  
Rapid City, SD 57709-2670

Angelia Baldwin  
P.O. Box 1914  
Pierpont, SD 57468-0191

Frank J. Kloucek  
29966 423 Ave.  
Scotland, SD 57059

Susan R. Henderson  
11507 Hwy 471  
Edgemont, SD 57735

Jill Anawaty  
2804 Willow Ave.  
Rapid City, SD 57701

Richard Draeger  
617 Saint Cloud  
Rapid City, SD 57701

Gwen E. Kaneshiro / William M C Ing  
1446 Evanston Ave.  
Hot Springs, SD 57747

Brenda Gamache  
2337 Wilson Ave.  
Hot Springs, SD 57747

Diane Best  
Office of Attorney General  
317 N. Main  
Sioux Falls, SD 57104

Roxanne Giedd  
Office of Attorney General  
1302 E. Highway 14, Suite 1  
Pierre, SD 57501



Attn: Michelle May  
Woksape Tipi  
Oglala Lakota College  
P.O. Box 310  
Kyle, SD 57752

Attn: Doris Ann Mertz  
Custer County Library  
447 Crooks Street, Suite 4  
Custer, SD 57730

Attn: Ashley Cortney  
Edgemont Public Library  
P.O. Box A  
Edgemont, SD 57735

Attn: Cindy Messenger  
Hot Springs Public Library  
2005 Library Dr.  
Hot Springs, SD 57747

Attn: Government Documents  
Rapid City Public Library  
610 Quincy Street  
Rapid City, SD 57701

And the original of the same was filed on the same date with Eric Gronlund,  
Joe Foss Building, 523 E. Capitol Ave, Pierre, SD 57501.



---

Jeffrey P. Hallem  
Assistant Attorney General  
Mickelson Criminal Justice Center  
1302 East Highway 14, Suite 1  
Pierre, South Dakota 57501  
Telephone: (605) 773-3215

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

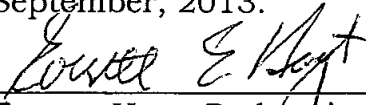
IN THE MATTER OF THE 2012 )  
GROUNDWATER DISCHARGE )  
PLAN APPLICATION SUBMITTED )  
BY POWERTECH (USA), INC. )

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 19<sup>th</sup> day of September, 2013.

  
\_\_\_\_\_  
Everett Hoyt, Prehearing Chair  
South Dakota Water Management Board

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

RECEIVED

SEP 23 2013

WATER RIGHTS  
PROGRAM

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

ORDER UPON RECONSIDERATION  
DENYING MOTION  
OF BRENDA S. GAMACHE

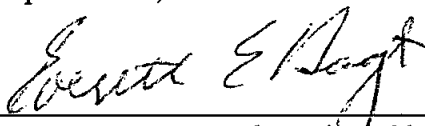
IN THE MATTER OF THE 2012 )  
GROUNDWATER DISCHARGE )  
PLAN APPLICATION SUBMITTED )  
BY POWERTECH (USA), INC. )

Party status "A" Intervenor Brenda S. Gamache filed documents seeking the Prehearing Chair's reconsideration of his September 6<sup>th</sup> 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 19<sup>th</sup> day of September, 2013.

  
\_\_\_\_\_  
Everett Hoyt, Prehearing Chair  
South Dakota Water Management Board

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

**RECEIVED**

**SEP 23 2013**

**WATER RIGHTS  
PROGRAM**

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

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


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 19<sup>th</sup> day of September, 2013.



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Everett Hoyt, Prehearing Chair  
South Dakota Water Management Board



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

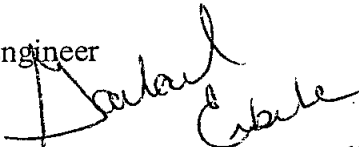
PMB 2020  
JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182

denr.sd.gov

November 28, 2012

NOTICE

TO: Richard Blubaugh  
Powertech (USA) Inc.  
5575 DTC Parkway, Suite #140  
Greenwood Village, CO 80111  
And Parties of Record (see attached list)

FROM: Garland Erbele, Chief Engineer  
Water Rights Program 

SUBJECT: Automatic Delay of Hearing for Water Permit Application Nos. 2685-2 and 2686-2,  
Powertech (USA) Inc.

**The hearing before the Water Management Board on Powertech's two water permit applications will not be held on December 5, 2012.** Enclosed is the Department of Environment and Natural Resources' press release announcing delay of the hearing on Powertech's applications.

Petitions have been submitted opposing Water Permit Application Nos. 2685-2 and 2686-2 in response to the notice of hearing published November 13 and 14, 2012 in area newspapers. A copy of the public notice is enclosed. The applications, Water Rights Program staff report and Chief Engineer's recommendations and submitted petitions may be viewed on-line at <http://denr.sd.gov/des/wr/ptech.aspx>.

A number of the petitions also requested an automatic delay of the December 5, 2012 hearing on Water Permit Application Nos. 2685-2 and 2686-2. Therefore, the hearing on Application Nos. 2685-2 and 2686-2 is automatically delayed pursuant to SDCL 46-2A-4 and 46-2A-5 and will not be held on December 5, 2012.

The hearing to consider Application Nos. 2685-2 and 2686-2 will be rescheduled for a future meeting of the Water Management Board early in 2013. Future notice of the time and place of the hearing for Application Nos. 2685-2 and 2686-2 will be provided to parties of record.

Please contact Eric Gronlund at (605) 773-3352 or [eric.gronlund@state.sd.us](mailto:eric.gronlund@state.sd.us), if you have any questions regarding the hearing process.

Enclosures

c: Diane Best, Assistant Attorney General

Parties of Record List for Water Permit No. 2685-2 & 2586-2 – Powertech (USA) Inc

Applicant:

Powertech(USA)Inc.  
Richard Blubaugh  
5575 DTC Parkway # 140  
Greenwood Village CO 80111

Represented by:

Max Main  
Bennett Main & Gubbrud  
618 State St  
Belle Fourche SD 57717

Petitioners:

Dewane Stearns  
11500 Indian Canyon Rd  
Edgemont SD 57735

Tom Emanuel  
19 Pine St  
Vermillion SD 57069

National Park Service-Water Resource Division  
William R Hansen  
1201 Oakridge Dr # 250  
Fort Collins CO 80525

Susan Henderson  
11507 Hwy 471  
Edgemont SD 57735

Bruce Ellison  
PO Box 2508  
Rapid City SD 57709

Mark & Jennifer Belitz  
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Hot Springs SD 57747

Cindy Brunson  
11122 Fort Igloo Rd  
Edgemont SD 57735

Jeremiah J Davis  
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Rapid City SD 57701

Defenders of the Black Hills  
Charmaine White Face  
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Rapid City SD 57709

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Edgemont SD 57735

Jerri Baker  
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Hot Springs SD 57747

City of Hot Springs  
Don De Vries  
303 N River Rd  
Hot Springs SD 57747

Rebecca R Leas Ph D  
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Rapid City SD 57702

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Rapid City SD 57701

Sabrina King  
14705 Halter Court  
Piedmont SD 57767

Gary Heckenliable  
PO Box 422  
Rapid City SD 57709

SD Dept. of Game Fish & Parks  
Leslie Murphy – Sr Biologist  
523 E. Capitol Ave  
Pierre SD 57501

Edward H Binns  
408 N 17<sup>th</sup> St  
Hot Springs SD 57747

Fall River County Commission  
Michael P Ortner - Chairman  
906 N River St  
Hot Springs SD 57747

Karl W Bothul  
338 S 17<sup>th</sup>  
Hot Springs SD 57747

Linda Pirales  
606 S River  
Hot Springs SD 57747

Neal Miller  
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Hot Springs SD 57747

Jewell Keown  
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Hot Springs SD 57747

Barbara Sharp  
445 S 3<sup>rd</sup>  
Hot Springs SD 57747

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Hot Springs SD 57747

Dorothy Richards  
340 N 23<sup>rd</sup> St  
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2146 Minnekahta  
Hot Springs SD 57747

William Ing & Eloise Kaneshiro  
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Hot Springs SD 57747

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PO Box 245  
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Casey Neugebauer  
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Mel Pence  
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Hot Springs SD 57747

Louise Kursave  
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PO Box 14  
Edgemont SD 57735

Rusty Witte  
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Hot Springs SD 57747

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Hot Springs SD 57747

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2022 University  
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Hot Springs SD 57747

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Hot Springs SD 57747

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Hot Springs SD 57747

Susan Stolarcek  
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Hot Spring SD 57747

Rich and Jackie Gericke  
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Hot Springs SD 57747

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Hot Springs SD 57747

Allen Chesson  
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Hot Springs SD 57747

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Julie and Emily Christensen  
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Paula Tonemah ?  
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J Smith  
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**LATE FILED**

W Cindy Gillis  
Gonzalez Law Firm  
522 7<sup>th</sup> St # 202  
Rapid City SD 57701



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3181  
denr.sd.gov

**FOR IMMEDIATE RELEASE:** Tuesday, November 27, 2012  
**FOR MORE INFORMATION:** Kim Smith, 773-3153

### **DENR Announces Hearing for Powertech Water Right Applications Delayed**

PIERRE, S.D. – The South Dakota Department of Environment and Natural Resources (DENR) announced today that a hearing on two applications from Powertech (USA) Inc. for water right permits for proposed uranium in situ leach mining in southwestern South Dakota has been postponed.

The hearing before the state Water Management Board was originally scheduled for Dec. 5. A new date for the hearing has not been set, but it will likely be rescheduled sometime early in 2013.

A DENR public notice gave interested parties until Nov. 26 to petition to intervene on the water right applications. A provision in state law says the applicant or any person who has filed a petition to support or oppose an application may submit a written notice requesting postponement of the published hearing date for the application. The department has received written petitions requesting the postponement.

The Powertech water right applications are two of four applications Powertech has submitted to DENR. The other applications are for a large-scale mine permit and ground water discharge plan. Powertech must also seek an operating license from the Nuclear Regulatory Commission and necessary permits from the U.S. Environmental Protection Agency.

Powertech submitted the two water right applications on June 12. One application is for water from the Inyan Kara aquifer and the other is for water from the Madison aquifer. Water from the Inyan Kara aquifer will be used to extract uranium ore using an in situ recovery process. Water from the Madison aquifer will be used for aquifer restoration and may also be used for facility operations and to supply domestic and livestock water to local ranchers. For more information about the two water right permit applications, visit <http://denr.sd.gov/des/wr/ptech.aspx>.

Powertech seeks a proposed uranium in situ leach mine and processing facility about 13 miles northwest of Edgemont. The proposed mining area encompasses about 10,580 acres. Most of the acres are private land in Custer and Fall River counties. About 240 acres of Bureau of Land Management land are included in the permit boundary. Production is estimated at 1 million pounds of uranium oxide per year for 20 years.

NOTICE OF HEARING on Water Permit Application Nos. 2685-2 and 2686-2 to Appropriate Water for Powertech (USA) Inc.

Notice is given that Powertech (USA) Inc., c/o Richard Blubaugh, 5575 DTC Parkway Suite #140, Greenwood Village CO 80111 has filed two applications for water permits for primarily industrial use in a uranium in-situ mining project called the Dewey-Burdock Project located in Custer and Fall River Counties. The Dewey-Burdock Project area (project area) encompasses approximately 10,580 acres including portions of Sections 1 through 5, 10 through 12, and 14 through 15 in T7S, R1E and Sections 20 through 21, and 27 through 35 in T6S, R1E, Black Hills Meridian.

Project Overview: Powertech (USA) proposes to recover uranium by a method known as in-situ recovery, or ISR, in which groundwater from the formation containing uranium (the Inyan Kara Group) is pumped to the surface from a field of wells, fortified with oxygen and carbon dioxide, and recirculated through the formation. The oxidized groundwater changes the uranium to a soluble form and is pumped to the surface, where uranium is removed from the solution. ISR circulates water through the uranium ore zone. Only a small fraction of the water is a net withdrawal because most water is recirculated back through the ore zone. A portion of the water extracted from the Inyan Kara Aquifer will be "bled off" to maintain a cone of depression so native groundwater continually flows toward the center of the production zone. Production bleed rates may vary in the range of 0.5 to 3 percent over the life of the project. Restoration bleed rates up to 17 percent may be used briefly but would be limited to well fields undergoing aquifer restoration. The ISR process is repeated until the economic reserves of uranium are fully removed from that particular well field. The process moves to another well field, and the uranium depleted well field is restored by continuing to circulate clean water through the wells until the water is similar in quality to the water that existed in the formation prior to the ISR operations. Most of the water removed from the Inyan Kara Aquifer during the ISR process is recirculated and re-injected through the well field, resulting in the net consumptive use of water being a small portion of the gross withdrawal rate. Most of the water used in the ISR operations will be obtained from the Inyan Kara Group. However, Powertech (USA) plans to use water from the Madison Aquifer to make up for water that is not provided from the ISR process. The amount of "make-up" from the Madison Aquifer will depend upon the water disposal method which is either deep disposal well or land application. The use of water from these two formations necessitates obtaining water permits from each source. The applications listed below describe the proposed points of diversion, amount of water to be used, the maximum annual diversion rate and annual volume that may be diverted. The eastern portion of the project area is known as the Burdock area. It will include a series of ISR well fields and a central processing plant. The western portion of the project area is the Dewey area which will include ISR well fields and a satellite processing plant.

Each application, Water Rights Program staff report and Chief Engineer's recommendation may be viewed on-line at <http://denr.sd.gov/Powertech.aspx>.

Water Permit Application No. 2685-2 proposes to appropriate and place to beneficial use up to 1.228 cubic feet of water per second (cfs) with an annual consumptive use up to 888.8 acre feet of water annually from up to two or more wells completed into the Madison Aquifer at an approximate depth between 2,700 to 3,400 feet. The instantaneous peak diversion rate of 1.228 cubic feet of water per second (cfs) equates to 551 gallons per minute (gpm). The wells are to be located in the NW ¼ NW ¼ Section 32, T6S, R1E and the NW ¼ NE ¼ Section 11, T7S, R1E. Madison Aquifer water is primarily proposed for aquifer restoration following in-situ recovery but also may serve as the general facility water supply including the central processing plant, satellite plant and for domestic and livestock use for area landowners inside and near the project area.

The required yield may be obtained from one Madison well or several wells dependent on a number of factors. Powertech (USA) listed two potential well locations on this water permit application, one in the Dewey portion of the project and one in the Burdock portion. The final decision as to number and location of wells will depend upon water requirements, well yield, water quality and economic factors.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2685-2 subject to a 20-year term limitation because 1) although evidence is not available to justify issuing the permit without a 20-year term limitation, there is reasonable probability that there is unappropriated water available, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) it is in the public interest.

Water Permit Application No. 2686-2 proposes to appropriate and place to beneficial use up to 18.938 cfs limited to an annual consumptive use volume up to 274.2 acre feet of water (equivalent to 0.38 cfs or 170 gpm) from multiple wells completed into the Inyan Kara aquifer at a depth between 200 to 800 feet. The wells will be located within the project area as defined in the first paragraph of this notice of hearing. The application is for a gross withdrawal (flow) rate of 18.938 cfs which equates to 8,500 gpm. The net consumptive use of water is a small portion of the gross withdrawal rate. Approximately two percent of the water is "bled off" during the process in order to maintain flow gradients toward the center of the well field. The remaining approximately ninety eight percent of the water is recirculated and continuously re-injected as part of the ISR process. The maximum net withdrawal rate equates to 0.38 cfs (170 gpm) from the Inyan Aquifer for an annual volume of up to 274.2 acre feet of water annually consumptively removed from the aquifer during the project.

Uranium recovery operations will continue for approximately 7 to 20 years. A typical well field grid of Inyan Kara wells consists of a 100 by 100 foot grid with one production well in the center and four surrounding wells for injection into the ore body. The well pattern may differ from well field to well field and be modified as needed to fit the characteristics of each ore body. Well fields will be completed along the various uranium zones. Current development plans include construction of approximately 600 ISR production wells in the Dewey portion of the project area and 900 ISR production wells in the Burdock portion of the project area. The maximum number of production wells in operation at any one time within the entire project area including production and restoration is 1,000 wells. Based on the project life and number of production wells scheduled as the well fields are developed, Powertech (USA) anticipates requesting a future permit amendment for an extension of the five year construction period pursuant to SDCL 46-2A-8. Powertech (USA) will provide an annual diversion report to DENR describing the number and location of pumping production wells. This report will include request for change in the number and designated locations of pumping wells pursuant to SDCL 46-5-13.1. This statute allows for the location of point of diversion or additional points of diversion to be approved without application or publication if the wells are completed into the same source, no additional water is appropriated and the Chief Engineer makes a finding that the change does not increase the potential for interference with existing diversions.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends Approval of Application No. 2686-2 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest.

SDCL 46-2A-4(10) provides that "if the applicant does not contest the recommendation of the Chief Engineer and no petition to oppose the application is received, the Chief Engineer shall act on the application pursuant to the Chief Engineer's recommendation and no hearing may be held before the board, unless the Chief Engineer makes a finding that an application, even if uncontested, presents important issues of public policy or public interest that should be heard by the board." In this case, the Chief Engineer finds that these applications present important issues of public interest that should be heard by the Water Management Board.

The Water Management Board will consider these applications at 8:30 AM on December 5, 2012 in the Matthew Training Center, 523 E. Capitol Ave. Pierre SD. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny these applications based on the facts presented at the public hearing.

Any interested person who intends to participate in the hearing shall file a petition to oppose or support the applications and the petition shall be filed with BOTH the applicant and Chief Engineer. The applicant must

also file a petition if opposed to the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by November 26, 2012. The petition may be informal, but shall be in writing and shall include a statement describing the petitioner's interest in either application, the petitioner's reasons for opposing or supporting either application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. The hearing is an adversary proceeding and any party has the right to be present at the hearing and to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised at the hearing and decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

The December 5, 2012 hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any person who has filed a petition to oppose or support either application. The request for an automatic delay must be filed by November 26, 2012. If an automatic delay is requested, the hearing will be rescheduled for a future Board meeting and personal notice will be provided to all petitioners regarding the time, date and location.

Contact Eric Gronlund by November 26, 2012, at the above Chief Engineer's address to request copies of the staff reports, recommendations, applications or other information. Additionally each application, Water Rights Program staff report and Chief Engineer's recommendation may be viewed on-line at <http://denr.sd.gov/Powertech.aspx>. Notice is given to individuals with disabilities that this hearing is being held in a physically accessible place. Please notify the Department of Environment and Natural Resources at least 48 hours before the hearing if you have a disability for which special arrangements must be made at the hearing. The telephone number for making arrangements is (605) 773-3352.

Under SDCL 1-26-17(7) notices must state that "if the amount in controversy exceeds \$2,500.00 or if a property right may be terminated, any party to the contested case may require the agency to use the Office of Hearing Examiners by giving notice of the request to the agency no later than ten days after service of a notice of hearing issued pursuant to SDCL 1-26-17." This is a Notice of Hearing, service is being provided by publication, and the applicable date to give notice to the Chief Engineer is November 26, 2012. However, since this particular matter involves water permit applications and not a monetary controversy in excess of \$2,500.00 or termination of a property right the Chief Engineer disputes the applicability of this provision and maintains that the hearing must be conducted by the Board.

The legal authority and jurisdiction under which the hearing is to be held are the following as applicable: SDCL 1-26-16 thru 1-26-28; SDCL 46-1-1 thru 46-1-9, 46-1-14 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-14, 46-2A-15; 46-5-6.11, 46-5-10 thru 46-5-13, 46-5-30 thru 46-5-30.3, 46-5-32; 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-26; and Board rules ARSD 74:02:01:01 thru 74:02:01:15.

The particular section of statutes and rules pertaining to these permit applications are, in addition to the above, the following: SDCL 46-2A-9, 46-6-3.1, 46-2A-15, 46-2A-20, 46-2A-21 46-5-10 thru 46-5-13.1, 46-5-26, 46-6-10, 46-6-26; the above listed administrative rules and the following rules pertaining to qualifications recommended by the Chief Engineer: ARSD Chapter 74:02:01 and 74:02:04.

Steven M. Pirner, Secretary, Department of Environment and Natural Resources. Published twice at the total approximate cost of \_\_\_\_\_.



CERTIFICATION

I hereby certify that on November 29, 2012, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelope(s) containing a Notice dated November 28, 2012 regarding 2685-2 & 2686-2 – Powertech permits addressed as stated below:

James B Woodward, PO Box 599, Wellington CO 80549



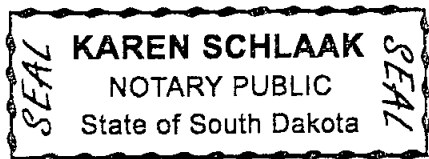
Gail Jacobson  
Secretary/Water Rights

STATE OF SOUTH DAKOTA     )  
   ) SS  
COUNTY OF HUGHES         )

Sworn to, before me, this 29<sup>th</sup> day of November, 2012.



Karen Schlaak  
Notary Public  
My Commission expires April 1, 2013



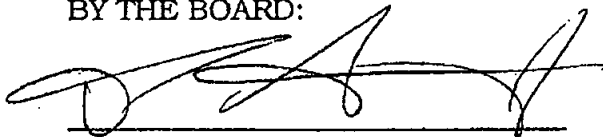
STATE OF SOUTH DAKOTA  
BEFORE THE WATER MANAGEMENT BOARD  
APPOINTMENT OF PREHEARING CHAIRMAN

For the efficient administration of matters coming before this Board, this Board hereby appoints Qu Hoyt to serve as a Prehearing Chairman until October 15, 2013. This appointment applies to all cases and controversies coming before the Board, unless the Board finds it appropriate to appoint a different Board member for a specific case. The function of the Prehearing Chairman is:

1. To rule on requests for appointment of hearing examiners under SDCL 1-26-18.3.
2. To establish procedural schedules, rule on procedural motions, and resolve discovery disputes as necessary for water permit hearings and other cases.
3. To hear motions on dispositive matters if the full Board is unable to convene to hear such a matter. In such cases, the Prehearing Chairman may recommend a decision for final Board action.

Dated this 3<sup>rd</sup> day of October, 2012.

BY THE BOARD:

  
\_\_\_\_\_  
Rodney Freeman, Chairman

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JAN 31 2013

WATER RIGHTS  
PROGRAM

STATE OF SOUTH DAKOTA

DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

IN THE MATTER OF THE 2012 ) APPOINTMENT OF WATER  
GROUNDWATER DISCHARGE ) MANAGEMENT BOARD TO  
PLAN APPLICATION SUBMITTED ) CONDUCT EVIDENTIARY HEARING  
BY POWERTECH (USA), INC. )

Under SDCL 34A-2-36.1 and ARSD 74:54:02:14, the Secretary of the Department of Environment and Natural Resources ("Secretary") issues groundwater discharge permits, which are the "final approval" of a groundwater discharge plan. Under ARSD 74:54:02:09, 74:54:02:11, 74:54:02:13, the South Dakota Water Management Board ("WMB") issues initial approval of a groundwater discharge plan by "issuing all applicable permits described in §§ 74:54:02:11 [water quality variance permits] and 74:54:02:13 [groundwater discharge facility construction permits]".

In order to promote administrative economy and to prevent the duplicative expenditure of resources by the parties to this proceeding, the Secretary hereby appoints the WMB to conduct the evidentiary hearing for the groundwater discharge permit required by SDCL 34A-2-36.1 and ARSD 74:54:02:14 along with the inter-related permits issued by the WMB under ARSD 74:54:02:09, 74:54:02:11 and 74:54:02:13, and to issue a

recommendation to the Secretary on Powertech (USA), Inc.'s ("Powertech") application for a groundwater discharge permit.

Upon receipt of the record from the WMB, including any permits it issues under ARSD 74:54:02:11 and 74:54:02:13 and its determination of whether to approve Powertech's application for a Groundwater Discharge Plan under ARSD 74:54:02:09, the Secretary will review the transcript of the proceeding, the exhibits admitted during the proceeding, the pleadings filed in the proceeding, and the recommendation made by the Water Management Board, and then issue a final decision as to whether to issue, deny, or issue with conditions the groundwater discharge permit requested by Powertech (USA), Inc.

A handwritten signature in black ink, followed by a horizontal line and the date "1/29/13".

Steven Pirner, Secretary  
South Dakota Department of Environment and  
Natural Resources  
523 E. Capitol Ave.  
Pierre, SD 57501

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JAN 31 2013

WATER RIGHTS  
PROGRAM

STATE OF SOUTH DAKOTA

DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

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

TO: ALL PERSONS ON ACCOMPANYING CERTIFICATE OF SERVICE:

NOTICE IS HEREBY GIVEN that the South Dakota Water Management Board (WMB") will consider the above entitled application for a groundwater discharge plan beginning at 8:30 AM on March 18, 2013 at the Best Western Ramkota Hotel, 2111 North LaCrosse Street, in Rapid City, South Dakota. This evidentiary hearing will be conducted under the procedures in SDCL 1-26-16 et. seq. and ARSD ch. 74:50:01.

This hearing is to consider the application filed by Powertech (USA), Inc. ("Powertech") for approval of a "Groundwater Discharge Plan" for a Land Application Disposal System under ARSD 74:54:02:09, for issuance of a "Water Quality Variance Permit" for the same under ARSD 74:54:02:11, for issuance of a "Groundwater Discharge Facility Construction Permit" for the same under SDCL 34A-2-27 and ARSD 74:54:02:13, and for a recommended decision to the Secretary of the Department of Environment and Natural Resources ("Secretary") regarding issuance of a "Groundwater Discharge Permit" for the same under SDCL 34A-2-36.1 and ARSD 74:54:02:14, which Permit constitutes

final approval of the Groundwater Discharge Plan under ARSD 74:54:02:14.

The Land Application Disposal System at issue in the application is part of Powertech's proposed uranium in situ leach mine and processing facility located about 13 miles northwest of Edgemont, SD. The legal location of the proposed operation is portions of section 20, 21, and 27-35; T6S-R1E, Custer County and portions of sections 1-5, 10-12, 14 and 15; T7S-R1E, Fall River County.

Powertech submitted a Groundwater Discharge Plan Application for discharges associated with the land application of treated wastewater from Powertech's proposed uranium in situ leach mine and processing facility on March 9, 2012. This Application includes applications for a water quality variance permit for a perimeter of operational pollution, a groundwater discharge facility construction permit, and a groundwater discharge permit. The purpose of a Groundwater Discharge Plan is to ensure the protection of ground water resources by monitoring and evaluating discharges to ground water from the land application of treated wastewater, establishing a groundwater protection plan, and, in the event of plan exceedances, establishing remediation requirements.

The Department of Environment and Natural Resources is recommending conditional approval of the Ground Water Discharge Plan and associated permits. Conditions of the Ground Water Discharge Plan consist of land application effluent requirements, effluent, soil, stream and ground water monitoring and reporting requirements, application rate requirements, runoff prevention, contingency plan requirements, and technical revision

authorization. The conditions have been previously publically noticed by the DENR and are available at DENR's website as well as upon request.

The conditions proposed by the DENR are not binding on the WMB or the Secretary and may be revised or rejected in whole or in part as a result of the contested case proceeding. As a result of the contested case proceeding, the WMB may grant, conditionally grant, or deny the application for a Groundwater Discharge Plan, a Water Quality Variance Permit, and/or a Groundwater Discharge Facility Construction Permit; and may recommend that the Secretary grant, conditionally grant, or deny the application for a Groundwater Discharge Permit. The Secretary may, as a result of the evidentiary hearing and recommended decision of the WMB, grant, conditionally grant, or deny the application for a Groundwater Discharge Permit.

The legal authority under which this hearing is to be held is SDCL 1-40-19, SDCL 34A-2-27, 34A-2-29, 34A-2-30, 34A-2-31, 34A-2-35, 34A-2-36.1, and ARSD chs. 74:54:01 and 74:54:02. The particular sections of the statutes involved are SDCL 34A-2-27, 34A-2-36.1 through SDCL 36A-2-39, and SDCL 34A-2-40. The particular sections of the rules involved are ARSD ch. 74:54:01 (specifically including ARSD 74:54:01:04 and 74:01:05) and all of ARSD ch. 74:54:02, particularly ARSD §§ 74:54:02:02, 74:54:02:06, 74:54:02:08, 74:54:02:09, 74:54:02:10, 74:54:02:11, 74:54:02:13, 74:54:02:14, 74:54:02:17, 74:54:02:18, 74:54:02:19, 74:54:02:20, 74:54:02:22, 74:54:02:23, 74:54:02:25, 74:54:02:26, 74:54:02:27 and 74:54:02:28(4)). In addition, the effluent limits in 10 CFR 20, Appendix B, Table 2, are involved.

Under ARSD 74:54:02:09, the WMB may conditionally approve the Groundwater Discharge Plan application by issuing all applicable permits described in §§ 74:54:02:11 and 74:54:02:13 if it finds that:

- (1) The application for a groundwater discharge plan is procedurally complete;
- (2) The ambient groundwater quality will not be degraded or a water quality variance permit can be issued to degrade the ambient water quality to the standards of §§ 74:54:01:04 and 74:54:01:05; and
- (3) The implementation of the proposed monitoring plan is adequate for compliance monitoring to ensure beneficial uses will not be impaired and there will be no hazard to human health.

Under ARSD 74:54:02:10, the WMB may disapprove the Groundwater Discharge Plan application if it finds that:

- (1) The application is procedurally incomplete;
- (2) The ambient groundwater quality will be degraded and a water quality variance permit cannot be issued to degrade the ambient water quality to the standards of §§ 74:54:01:04 and 74:54:01:05;
- (3) The beneficial uses of groundwater will be impaired or there is a hazard to human health from the potential discharge;
- (4) The application describes a discharge resulting from an accidental spill or leak or intentional dumping of a pollutant, unless the application is submitted as part of a remediation plan and if it has been shown by either study or practice that all reasonable other alternatives for groundwater clean-up will not result in further removal of contaminant concentrations from the groundwater; or
- (5) The application describes a discharge that will degrade groundwater quality to a level lower than the standards in §§ 74:54:01:04 and 74:54:01:05.

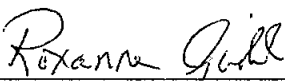
This contested case proceeding is an adversary proceeding and any party has the right to be present at the hearing and to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised at



the hearing. Decisions of the Board and Secretary may be appealed to the Circuit Court and State Supreme Court as provided by law.

Under SDCL 1-26-17(6), notices must state that “if the amount in controversy exceeds \$2,500.00 or if a property right may be terminated, any party to the contested case may require the agency to use the Office of Hearing Examiners by giving notice of the request to the agency no later than ten days after service of a notice of hearing issued pursuant to SDCL 1-26-17.” However, since this particular matter involves consideration of a Groundwater Discharge Plan and recommendation for a Groundwater Discharge Permit, a monetary controversy in excess of \$2,500.00 or termination of a property right is not involved. As a result, the DENR maintains that the hearing must be conducted by the WMB.

Notice is given to individuals with disabilities that this hearing is being held in a physically accessible place. Please notify Eric Gronlund of the Department of Environment and Natural Resources at least 48 hours before the hearing if you have a disability for which special arrangements must be made at the hearing. The telephone number for making arrangements is (605) 773-3352.

 1-30-13  
\_\_\_\_\_  
Roxanne Giedd  
Deputy Attorney General  
Chief, Civil Litigation Division  
Attorney General's Office  
1302 East Highway 14, Suite 1  
Pierre, SD 57501

*Counsel for Groundwater Discharge Program, DENR.*

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JAN 31 2013

WATER RIGHTS PROGRAM

STATE OF SOUTH DAKOTA

DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

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

MOTION TO CONSOLIDATE AND  
MOTION FOR PROCEDURAL  
ORDER

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

COMES NOW, the South Dakota Department of Environment and Natural Resources Water Rights Program and Groundwater Quality Program (hereinafter "DENR"), and asks that the Board's duly appointed Prehearing Chairman Everett Hoyt CONSOLIDATE the two applications pending before the Water Management Board ("WMB"), and ENTER A PROCEDURAL ORDER (as described more fully below) in the above matters.

In support of these Motions, the DENR submits the following:

- 1) Powertech (USA), Inc. ("Powertech") has submitted applications for water permits (applications 2685-2 and 2686-2), and an application for approval

of a Groundwater Discharge Plan by the WMB (which includes applications for a Water Quality Variance Permit, a Groundwater Discharge Facility Construction Permit) and a Groundwater Discharge Permit (which is issued by the Secretary of DENR). These applications concern Powertech's proposed uranium in situ leach mine and processing facility located near Edgemont, S.D.

- 2) The Secretary of DENR has issued an Appointment of Water Management Board to Conduct Evidentiary Hearing.
- 3) Board member Everett Hoyt was appointed on October 3, 2012 by the WMB to serve as pre-hearing chair in all matters pending before the WMB.
- 4) A Notice of Hearing was published for the above entitled water permit applications and the final date for intervention therein was November 26, 2012. There are numerous intervenors, some of whom requested additional time to prepare for hearing. An automatic continuance was issued pursuant to SDCL 46-2A-5.
- 5) The DENR Notice of Recommendation for the Groundwater Discharge Plan application was published and the final date for submitting a petition for a contested case proceeding on that application was January 18, 2013. Several hundred persons submitted petitions for a contested case proceeding on the Groundwater Discharge Plan application.
- 6) The DENR has scheduled a procedural hearing for February 8, 2013, for consideration of this Motion (and any other procedural motions that may be

made at that time). In addition to providing for the orderly disposition of both of the above entitled proceedings, the February 8, 2013 hearing fulfills the prehearing requirement of ARSD 74:50:02:10 for the Groundwater Discharge Plan application.

- 7) The DENR moves and proposes that the above entitled proceedings be consolidated and heard together in Rapid City, South Dakota from March 18-22, 2013. DENR submits that consolidation of these hearings will eliminate significant duplication of testimony and evidence concerning Powertech's proposed uranium in situ leach mine and processing facility, and will thereby promote administrative economy for the WMB, the DENR, Powertech, and all parties to the proceedings.
- 8) Upon information and belief, the DENR believes that many of the several hundred persons who filed petitions for a contested case proceeding on the Groundwater Discharge Plan are interested in submitting comments to the WMB, but not in participating as a Party in the proceeding. In matters that have been held before other boards where there have been significant numbers of interested persons involved, those boards have held a public hearing prior to the initiation of the formal contested case proceeding to take comments from interested persons. The DENR believes that this process may assist in orderly procedure on this matter. DENR therefore proposes that all petitioners make an Election of Participation by March 1, 2013 that conveys whether the petitioner wishes to participate as a full

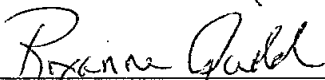
party in the formal contested case proceeding; provide public comments during a public hearing held by the WMB prior to initiation of the formal contested case proceeding; or rely on his or her written petition already filed with the Board. A proposed Election of Participation form is attached to the draft Procedural Order submitted with this Motion.

- 9) The DENR requests that any Party who will be represented at the formal contested case proceeding by an attorney be required to have their attorney file a Notice of Appearance. All nonresident counsel must be able to demonstrate compliance with the *pro hac vice* requirements of SDCL 16-18-2.
- 10) The DENR requests that any Party to the formal contested case proceeding who is a corporation, partnership, association, or other legal entity (including non-profit organizations) be required to be represented by an attorney.
- 11) The DENR requests that the following prehearing schedule be established and apply to all Parties to the formal contested case proceeding:
  - i) Disclosure of expert witnesses and exchange of expert reports—  
February 22, 2013.
  - ii) Disclosure of the names of witnesses each Party expects to call during the contested case proceeding – March 8, 2013.

- iii) A list identifying the exhibits each Party expects to offer into evidence during the contested case proceeding – March 8, 2013.
  - iv) All exhibits be marked in advance by each party and that each party be prepared to provide a sufficient number of copies for use at hearing, including 10 copies for use by the Board, its counsel, and court reporter, and copies for all Parties participating in the contested case proceeding.
  - v) Each Party shall contact Eric Gronlund, Water Rights Division, DENR at 605-773-3352 to obtain a block of Exhibit Numbers. DENR Water Rights has reserved Exhibit Numbers 1-99; DENR Groundwater Quality Program has reserved Exhibit Numbers 100-199; Powertech has reserved Exhibit Numbers 200-299.
  - vi) All original pleadings are to be sent by regular first class mail to Eric Gronlund, DENR, Foss Building, 523 E. Capitol Avenue, Pierre, SD 57501-3182. Parties must serve copies on all other parties, the Prehearing Chair, Board Counsel Jeff Hallem, and undersigned counsel.
- 12) A draft procedural order is attached hereto for the Chair's consideration.
- 13) All persons who filed petitions to intervene in the water permit applications and all persons who petitioned for a contested case proceeding on the Groundwater Discharge Plan application are provided with copies of

this Motion, except to the extent that the petitioners' names or addresses were illegible and not available in routine directory information.

Dated this 30<sup>th</sup> day of January, 2013.

  
\_\_\_\_\_  
Roxanne Giedd  
Deputy Attorney General  
Chief, Civil Litigation Division  
Attorney General's Office  
1302 East Highway 14, Suite 1  
Pierre, SD 57501

*Counsel for Groundwater Discharge Program, DENR.*

Diane Best  
Assistant Attorney General  
South Dakota Office of Attorney General  
317 N. Main Avenue  
Sioux Falls SD 57104-6032

*Counsel for Water Rights Program, DENR.*

STATE OF SOUTH DAKOTA

DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

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

PROCEDURAL ORDER

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

Upon consideration of the Motions for Consolidation and Procedural Order filed by the Department of Environment and Natural Resources Water Rights Program and Groundwater Quality Program, and argument submitted by all parties and interested persons at the Procedural Hearing (Prehearing Conference) held on February 8, 2013, it is hereby ORDERED that:

- 1) The above-entitled matters are hereby consolidated.
- 2) All persons who have filed Petitions to Intervene or Petitions for a Contested Case in the above-entitled matters must file an Election of Participation using the enclosed form by March 1, 2013.
- 3) Attorneys who have not yet filed Notices of Appearance for persons who intend to participate in the formal contested case proceeding are directed to do so immediately. Nonresident counsel must be able to demonstrate compliance with the *pro hac vice* requirements of SDCL 16-18-2 to participate in this matter.



- 4) All corporations, partnerships, associations, and other legal entities (including non-profit associations) must be represented by counsel in this proceeding.
- 5) The following prehearing schedule applies:
  - i) Each Party will disclose, in writing sent to all other Parties, the names of expert witnesses, curricula vitae, and a copy of any expert report that it intends to offer to each party of record by February 22, 2013.
  - ii) Each Party will disclose, in writing sent to all other Parties, the names of witnesses each Party expects to call during the contested case proceeding by March 8, 2013.
  - iii) Each Party will provide, by writing sent to all other Parties, a list identifying the exhibits that Party expects to offer into evidence during the contested case proceeding by March 8, 2013.
  - iv) All exhibits shall be marked in advance by each party and that each party must be prepared to provide a sufficient number of copies for use at hearing, including 10 copies for use by the Board, its counsel, and court reporter, and copies for all Parties participating in the contested case proceeding.
  - v) Each Party shall contact Eric Gronlund, Water Rights Division, DENR at 605-773-3352 to obtain a block of Exhibit Numbers. DENR Water Rights has reserved Exhibit Numbers 1-99; DENR Groundwater Quality Program

has reserved Exhibit Numbers 100-199; Powertech has reserved Exhibit Numbers 200-299.

vi) All original pleadings are to be sent by regular first class mail to Eric Gronlund, DENR, Foss Building, 523 E. Capitol Avenue, Pierre, SD 57501-3182. Parties must serve copies on all other parties, the Prehearing Chair, Board Counsel Jeff Hallem, and undersigned counsel.

6) The public hearing before the full Board will begin at 8:30 am on March 18, 2013 in Rapid City South Dakota at the following location: Best Western Ramkota, 2111 N. LaCrosse Street, Rapid City, South Dakota. The formal contested case proceeding will immediately follow the public hearing. It is anticipated the proceedings will take at least five days and will conclude on March 22, 2013. The order of the proceeding will be as follows:

- i) There will be a public hearing with participants making informal comments not to exceed 15 minutes each. Parties shall not participate in the public hearing, but shall reserve their comments for testimony during the formal contested case proceeding.
- ii) Once the public hearing is completed, the formal contested case proceeding will start with any preliminary motions from the Parties.
- iii) The Parties of record will make opening statements.
- iv) Witnesses and evidence will be taken subject to objection and cross examination, in the following order:
  - (a) Applicant Powertech (USA), Inc.;
  - (b) DENR Water Rights Program;

(c) DENR Groundwater Quality Program;

(d) Other Parties following an order established by the Chairman.

- v) After the record is closed, the Parties will offer short closing arguments in the same order.
- vi) At the conclusion of the proceedings, the Board may render a decision and direct the prevailing party to provide findings of fact and conclusions of law consistent with the decision. Other parties will be given an opportunity to file proposed findings of fact and conclusions of law for the record.

Alternatively, the Board may take the matter under advisement until its next Board meeting.

- 7) Questions concerning the arrangements for the public hearing or formal contested case proceeding, and requests for designation of exhibit numbers for the contested case proceeding, are to be made to DENR employee Eric Gronlund at [Eric.Gronlund@state.sd.us](mailto:Eric.Gronlund@state.sd.us) or 605-773-3352.

Dated this \_\_\_\_\_ day of January, 2013.

---

Everett Hoyt, Prehearing Chair  
South Dakota Water Management Board

STATE OF SOUTH DAKOTA

DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

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

ELECTION OF PARTICIPATION

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

*TO: All Persons who filed Petitions to Intervene or Petitions to Initiate a  
Contested Case in either of the above-entitled matters:*

You filed or signed a petition or sent comments to the Department of Environment and Natural Resources on one or both of the Powertech matters listed above pending before the Water Management Board. To clarify your intent, you must elect to: a) participate as a full party in the formal contested case proceeding, including presenting testimony subject to cross examination, offering exhibits, cross examining other witnesses, making and defending objections, addressing legal argument, and having the option to appeal to the courts if desired; OR b) provide public comments during a public hearing session before the formal contested case proceeding begins; OR c) rely on information you already filed. Election of (b) and (c) will waive some the rights you have if you participate as a Party under (a). You must return this form to the DENR on or before March 1, 2013. Failure to complete and return this

form by March 1, 2013 waives your right to participate as a full party in this proceeding.

Dated this \_\_\_\_\_ day of February, 2013.

\_\_\_\_\_  
Everett Hoyt, Prehearing Chair  
South Dakota Water Management Board

\*\*\*\*\*

\_\_\_\_\_ I wish to participate as a full party in this proceeding by presenting testimony subject to cross examination, offering exhibits, cross examining other witnesses, making and defending objections, addressing legal argument, and having the option to appeal to the courts if desired. I understand that if I am appearing on my own behalf, I do not need to be represented by a lawyer, but that all corporations, partnerships, nonprofit associations, and other legal entities must have a lawyer represent them if they participate as a party.

\_\_\_\_\_ I wish to provide public comments during a public hearing before the formal contested case evidentiary hearing begins. I understand that due to the large number of parties, I may be limited to 10-15 minutes.

\_\_\_\_\_ I wish to rely on the petition that I submitted or signed. I do not wish to testify or participate in person.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Printed name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone number: \_\_\_\_\_

Email address: \_\_\_\_\_

Mail to: Eric Gronlund, DENR, 523 E. Capitol Ave., Pierre, SD 57501

RECEIVED  
JAN 31 2013  
WATER RIGHTS  
PROGRAM

STATE OF SOUTH DAKOTA

DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

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

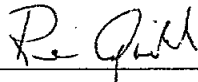
NOTICE OF PROCEDURAL  
HEARING (PREHEARING  
CONFERENCE)

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

Notice is hereby given that a Procedural Hearing and Prehearing Conference will be held on February 8, 2013 at 1:00 o'clock p.m. before Everett Hoyt, the hearing Chair of the South Dakota Water Management Board, at the following location:  
Holiday Inn at Civic Center, 505 North Street, Rapid City, South Dakota.

The Prehearing Conference will address the Motion for Procedural Order filed by the Department of Environment and Natural Resources, as well as any other motion or issue raised by the Parties and interested persons at that time.

Dated this 30<sup>th</sup> day of January, 2013.



---

Roxanne Giedd  
Deputy Attorney General  
Chief, Civil Litigation Division  
Attorney General's Office  
1302 East Highway 14, Suite 1  
Pierre, SD 57501

*Counsel for Groundwater Discharge Program, DENR.*

Diane Best  
Assistant Attorney General  
South Dakota Office of Attorney General  
317 N. Main Avenue  
Sioux Falls SD 57104-6032

*Counsel for Water Rights Program, DENR.*

STATE OF SOUTH DAKOTA  
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

IN THE MATTER OF THE 2012	)	ANSWER OF DENR
GROUNDWATER DISCHARGE	)	GROUNDWATER QUALITY
PLAN APPLICATION SUBMITTED	)	PROGRAM TO PETITIONS FOR
BY POWERTECH (USA), INC.	)	CONTESTED CASE

The Groundwater Quality Program of the Department of Environment and Natural Resources, pursuant to ARSD 74:50:02:04, hereby Answers the Petitions for Contested Case filed in the above-entitled matter as follows:

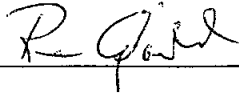
1. Over two hundred Petitions for Contested Case were filed in this proceeding. The number of petitions makes it impossible for the Groundwater Quality Program to respond to each and every allegation, contention or assertion raised in these Petitions in its Answer.
2. The Groundwater Quality Program therefore denies each and every factual allegation, contention or assertion raised in these Petitions, and its failure to respond to specific allegations or assertions shall not constitute an admission.



3. The Groundwater Quality Program asserts that the “Groundwater Discharge Plan” and its associated permit applications are procedurally complete.
4. The Groundwater Quality Program asserts that the “Water Quality Variance Permit” for a perimeter of operational pollution (POP) applied for by Powertech (USA), Inc., if conditioned as recommended by the Groundwater Quality Program, can be issued to degrade the ambient water quality to the standards of ARSD 74:54:01:04 and 74:54:01:05 in accordance with ARSD 74:54:02:11 and 74:54:92:17 upon Powertech’s justification of necessary economic or social development.
5. The Groundwater Quality Program asserts that the implementation of the proposed monitoring plans contained in the “Groundwater Discharge Plan” and its associated permit applications, if conditioned as recommended by the Groundwater Quality Program, is adequate for compliance monitoring to ensure beneficial uses of the groundwater will not be impaired and there will be no hazard to human health.
6. The Groundwater Quality Program asserts that the “Groundwater Discharge Plan” and its associated permit applications, if conditioned as recommended by the Groundwater Quality Program, does not establish any of the conditions for which the applications may be denied under ARSD 74:54:02:10.

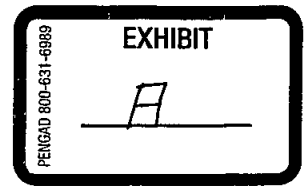
7. The Groundwater Quality Program desires, recommends and requests that the Water Management Board conditionally approve the “Groundwater Discharge Plan” application submitted by Powertech (USA), Inc. by conditionally issuing a “Water Quality Variance Permit” and a “Groundwater Discharge Facility Construction Permit”.
8. The Groundwater Quality Program also desires, recommends and requests that the Water Management Board recommend that the Secretary of DENR conditional issue a “Groundwater Discharge Permit” to Powertech (USA), Inc.
9. The conditions which the Groundwater Quality Program recommends be placed on the “Groundwater Discharge Plan” and its associated permits issued to Powertech (USA), Inc. are attached hereto as Exhibit A, and incorporated herein as if fully set out.
10. These conditions and recommendations were based upon the application materials and other submissions by Powertech (USA), Inc. and the analysis and the extensive procedural and substantive review performed by the DENR on the application materials and other submissions, on the statutes and regulations involved, and on other materials and documents on which DENR relies in the course of execution of its duties and responsibilities.

Dated this 30<sup>th</sup> day of January, 2013.



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**ATTACHMENT 4**  
**GWD 1-13 POWERTECH DEWEY-BURDOCK CONDITIONS**  
**FOR THE LAND APPLICATION DISPOSAL SYSTEM**  
December 12, 2012

1. The Ground Water Discharge Plan application, along with any amendments and technical revisions shall become part of these conditions, with the exception of those items specifically added, deleted, or amended in these conditions to the plan. The plan consists of a construction permit, ground water quality variance and a ground water discharge permit.
2. The plan is not effective until all other related state, federal and local permits and licenses that are required for operations are obtained.
3. Land application of liquid wastes may not occur if sufficient capacity is available to dispose of the liquid wastes via Class V UIC well(s) permitted through the United States Environmental Protection Agency. If insufficient Class V UIC capacity is available as determined by Powertech and demonstrated to the Department, the excess treated liquid wastes may be disposed via the land application system in accordance with the ground water discharge plan and conditions. (Refer to Section 1.0 of the ground water discharge plan, submitted on March 9, 2012.) Prior to commencing land application, Powertech shall provide written notification to the department.
4. The application rate at the land application sites shall be controlled so as to prevent any surface runoff of the effluent. Powertech must ensure the application rate does not cause water to accumulate in the catchment areas or excessive ponding in the land application areas during normal operations (i.e., dry conditions). To prevent ground saturation and runoff, no application is permitted during periods of heavy or prolonged precipitation. Land application may not take place when ground or soil conditions are frozen or covered with snow or ice, or will result in the land application water freezing at the surface. Any runoff leaving the catchment areas would be a violation of surface water rules and would require a separate surface water discharge permit. The land application equipment shall, to the extent feasible, be installed and operated in such a manner as to minimize wind drift of the effluent and formation of aerosols.
5. Leaks, spills or other releases from the well fields, Class V UIC well(s), processing facilities, ponds or associated appurtenances, and fertilizer applied at rates greater than recommended by the manufacturer or the South Dakota Department of Agriculture for agronomic purposes, do not constitute permitted discharges under the ground water discharge plan, and must be remediated to applicable state law, rules and standards.
6. The permitted allowable limit (PAL) for each of the parameters of concern must not be exceeded at the compliance points, and are set at the South Dakota Ground Water Quality Standard (ARSD 74:54:01:04)\*\*. For natural ambient concentrations that exceed the Standard, the PAL shall be set at the ambient concentration as outlined in the chart below. Permitted allowable limits will be updated once prior to land application operation in accordance with ARSD 74:54:02:18 and condition 7 to reflect natural variations in ground water quality.

	TDS	Sulfate	Chloride	Uranium (dissolved)	Gross Alpha	Radon
BC-1	3727 mg/L	2346 mg/L	250 mg/L	0.086 mg/L	76.61 pCi/L	1883 pCi/L
BC-2	3904 mg/L	2488 mg/L	250 mg/L	0.03 mg/L	24.8 pCi/L	2766 pCi/L
BC-3	3175 mg/L	2009 mg/L	250 mg/L	0.03 mg/L	30.7 pCi/L	1765 pCi/L
DC-1	6413 mg/L	4130 mg/L	250 mg/L	0.041mg/L	24.5 pCi/L	1962 pCi/L
DC-2	4646 mg/L	2129 mg/L	847 mg/L	0.03 mg/L	17.5 pCi/L	2132 pCi/L
DC-3*	11234 mg/L*	7508 mg/L*	822 mg/L*	0.03 mg/L*	21.2 pCi/L*	4478 pCi/L*
DC-4	11462 mg/L	7600 mg/L	250 mg/L	0.03 mg/L	25.9 pCi/L	4747 pCi/L

\* For compliance wells that are dry or contain insufficient water to collect at least three ambient samples, the ambient concentration for determining PALs shall be established as the arithmetic mean plus one standard deviation of the sample data from the two nearest alluvial wells. For DC-3, these wells are DC-2 and DC-4.

\*\* If the gross beta concentration, excluding naturally occurring potassium-40, is less than 50 pCi/L, gross beta will be considered in compliance with the ground water quality standard. If the concentration exceeds 50 pCi/L, then Powertech will analyze specific concentrations of beta particles and convert the concentrations from pCi/L to mrem/yr using the conversion tables in EPA 816-F-00-002 (March 2002), Appendix I.

7. Following the four months of ambient ground water monitoring as required by ARSD 74:54:02:18, Powertech will continue to collect monthly ground water samples from applicable wells for a total period of one year (eight months beyond initial four month ambient sampling period) and quarterly groundwater samples thereafter until mining commences. Thereafter regular sampling will be conducted in accordance with the monitoring plan outlined in Section 6 of the plan application. All samples collected prior to initial mining or land application will be used to update ambient ground water quality to reflect natural fluctuations in concentrations at that time. The arithmetic mean plus one standard deviation of the sample data shall represent the ambient concentrations for each of the parameters of concern. Subsequently, applicable permitted allowable limits will be updated in accordance with ARSD 74:54:02:18.
8. The ground water compliance monitoring points are: BC-1, BC-2, BC-3, DC-1, DC-2, DC-3 and DC-4. The compliance points are to be sampled in accordance with the monitoring plan outlined in Section 6 of the plan application. Monitoring results shall be submitted to the Ground Water Quality Program of the Department of Environment and Natural Resources within 10 days after Powertech's receipt from the laboratory.
9. Effluent shall not be applied with radionuclide concentrations above South Dakota Ground Water Quality Standards (ARSD 74:54:01:04, Table One) unless ambient alluvial radionuclide concentrations are above the standard. For radionuclides not listed in ARSD 74:54:01:04, Table One, effluent limits shall be set at the 10 CFR 20, Appendix B, Table 2, Column 2 limits as listed in the following table. Alluvial ambient for effluent limit determination is the arithmetic mean of all ambient based PALs for each radionuclide in the compliance point wells at each POP zone.

	SD ARSD 74:54:01:04	10 CFR 20, Appendix B
Beta particle and photon radioactivity (from man-made radionuclides)	4 mrem/yr <sup>3</sup>	N/A
Gross alpha particle activity, excluding radon and uranium	15 pCi/l	N/A
Radium (combined 226 and 228)	5 pCi/l <sup>1</sup>	N/A <sup>1</sup>
Radium 226	N/A <sup>1</sup>	60 pCi/l <sup>1</sup>
Radium 228	N/A <sup>1</sup>	60 pCi/l <sup>1</sup>
Radon	300 pCi/l	N/A
Uranium	0.03 mg/l <sup>2</sup>	300 pCi/l <sup>2</sup>
Lead-210	N/A	10 pCi/l
Polonium-210	N/A	40 pCi/l
Thorium-230	N/A	100 pCi/l

<sup>1</sup>Effluent is required to meet ARSD 74:54:01:04 for combined radium 226 and 228. If the alluvial ambient is above the standard of 5 pCi/l for either radium 226 or 228, the limits shall be separated and the alluvial ambient for each parameter shall be the effluent limits. No individual effluent limit will be set below the standard of 5 pCi/l. If the alluvial ambient is higher than the corresponding 10 CFR 20, Appendix B limit of 60 pCi/l, the effluent limit shall be 60 pCi/l.

<sup>2</sup>Uranium concentrations must meet both ARSD 74:54:01:04 ground water quality standard of 0.03 mg/l (or ambient) and 10 CFR 20, Appendix B limit of 300 pCi/l.

<sup>3</sup>If the gross beta concentration excluding naturally occurring potassium-40 is less than 50 pCi/L, the effluent will be deemed to be in compliance with the ground water quality standard. If the concentration exceeds 50 pCi/L, then Powertech will analyze specific concentrations of beta particles and convert the concentrations from pCi/L to mrem/yr using the conversion tables in EPA 816-F-00-002 (March 2002), Appendix I.

10. Soil samples are to be collected annually each fall from each of the land application pivot areas active during that year and analyzed for the parameters listed in Table 6.4-1 (updated August 2012) of the Plan application, with the addition of radium 228.
11. If monitoring shows extreme variability or unpredictability in analytical results, or if the reliability of the monitoring program or the parameters monitored are inappropriate or inadequate, the Department may require Powertech to submit a revised monitoring and treatment program to correct the identified deficiencies for Department review and approval.
12. In addition to the parameters listed in Table 6.2-2 of the Plan application, operational stream sampling shall include: total dissolved solids (TDS), total suspended solids (TSS), hardness, chloride, sulfate, arsenic, cadmium, chromium and selenium. Unless noted, the parameters are to be analyzed as dissolved. If monitoring on Beaver or Pass Creeks show sufficient variability between upgradient and downgradient monitoring sites that could indicate potential influence from the land application systems, Powertech shall immediately begin investigating and develop and implement a mitigation and remediation plan.
13. Prior to initiation of land application for the season, the effluent must be sampled by Powertech and analyzed for the parameters listed in Tables 6.1-3 (updated August 2012) and

6.3-1 of the Plan application, with the addition of radium 228. Powertech shall notify the Department at least 72 hours prior to the initiation of land application to provide the Department opportunity to take effluent samples for chemical characterization. Following initiation of land application for each season, the effluent will be sampled monthly in accordance with the Monitoring Plan (Section 6) of the Plan application until land application ceases for each season. The Department may conduct duplicate sampling during any regular sampling event and during the annual audit.

14. One to two monitoring well(s) shall be installed in each POP zone near the ponds in order to aid in differentiating potential impacts from the land application system versus potential leaks from the ponds. These wells are to be monitored on the same schedule as the interior monitoring wells outlined in Section 6 of the plan application. Should monitoring in these wells indicate leakage from the ponds could be influencing water quality in the POP zone, Powertech shall submit to the Department an investigative plan to determine the extent and magnitude of this influence and possible remediation options as required by condition 5.
15. Should the water quality in interior monitor wells indicate an increasing trend in constituent concentrations that could potentially trigger a permit limit violation at a compliance well, Powertech will implement a contingency plan as outlined in Section 8 of the Plan application.
16. In accordance with ARSD 74:54:02:23(4) the Department is authorized to approve technical revisions to a ground water discharge facility without the requirement of a permit modification or renewal. Such technical revisions include the following:
  - a. Monitoring plans or parameters;
  - b. Plans and specifications for permitted facilities;
  - c. Reasonable changes to the quality of discharged waste;
  - d. Reasonable changes in volume of discharged waste;
  - e. Quality control and quality assurance plans;
  - f. Any other changes that will not result in the degradation of the ground water above the South Dakota Water Quality Standards.

Technical revisions must be submitted to the Department in writing. The Department shall either approve, disapprove, conditionally approve, or request additional information within 30 days after receipt.

STATE OF SOUTH DAKOTA

DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

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

CERTIFICATE OF SERVICE

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

The undersigned hereby certifies that true and correct copies of the:  
Appointment of Prehearing Chairman; Appointment of Water Management  
Board to Conduct Evidentiary Hearing; Notice of Hearing on Groundwater  
Discharge Plan Application; Motion to Consolidate and Motion for Procedural  
Order (with Proposed Procedural Order and Election of Participation form);  
Notice of Procedural Hearing (Prehearing Conference); and Answer of DENR  
Groundwater Discharge Program; in *In the Matter of Water Permit Applications  
2685-2 and 2686-2* and/or *In the Matter of 2012 Groundwater Discharge Plan  
Application Submitted by Powertech (USA), Inc.* were served upon the following  
persons:

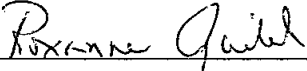


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, and upon each of the persons shown in the attached lists on this 30<sup>th</sup> day of  
January 2013 by First Class Mail, postage pre-paid.

  
\_\_\_\_\_  
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Jana Firkins  
244 Galveston Ave  
Hot Springs, SD 57747

Russ Sisk  
12619 Brooke Canyon Rd  
Hot Springs, SD 57747

Alica  
Madeline Ortego  
PO Box 861  
Pine Ridge, SD 57773

Interested Persons List for Ground Water Quality Plan 1-13-Powertech USA, Inc.

Frank Ruther  
545 N River St #413  
Hot Springs, SD 57747

Wendolyn Weimers  
306 N 19<sup>th</sup> St  
Hot Springs, SD 57747

Lisa Masterson  
445 S 6<sup>th</sup> St  
Hot Springs, SD 57747

Margaret Ikonen  
28612 W South Shore Rd  
Hot Springs, SD 57747

Charles Cox  
2307 Jennings Ave  
Hot Springs, SD 57747

Susan Malewke  
545 N River St #401  
Hot Springs, SD 57747

Resident  
12560 Beaver Creek Rd  
Hot Springs, SD 57747

Rosie Elmore  
PO Box 886  
Hot Springs, SD 57747

Kristen Wilder  
506 Jennings Ave  
Hot Springs, SD 57747

Chris Pierce  
101 N Chicago  
Hot Springs, SD 57747

Amber Gill  
718 Harney  
Custer, SD 57730

Jason Nachtigall  
12749 County Rd  
Hot Springs, SD 57747

Stacy Reetz  
546 Jennings Ave  
Hot Springs, SD 57747

Glenn Mushaney  
PO Box 272  
Hot Springs, SD 57747

Grant Rush  
PO Box 712  
Hot Springs, SD 57747

Wade Evans  
27338 Taylor Ln  
Hot Springs, SD 57747

Betty Russell  
PO Box 836  
Hot Springs, SD 57747

Richard Stone  
12959 Buffalo Circle  
Hot Springs, SD 57747

Pam Ludweg  
810 Gordon  
Custer, SD 57730

Terry Johnson  
26680 Buffalo Butte Dr.  
Hot Springs, SD 57747

Darla Stevens  
1622 Evanston  
Hot Springs, SD 57747

Ellen Heafner  
504 S 19<sup>th</sup>  
Hot Springs, SD 57747

Russell D Witte  
301 S Chicago  
Hot Springs, SD 57747

Richard Nowlan  
202 Dakota St  
Hot Springs, SD 57747



Interested Persons List for Ground Water Quality Plan 1-13-Powertech USA, Inc.

Dawn Johnson  
PO Box 1123  
Hot Springs, SD 57747

Barbara Walter  
545 N River St  
Apt #503  
Hot Springs, SD 57747

May Gozelet  
338 S River St  
Hot Springs, SD 57747

Jody McKean  
Jim McKean  
27317 Hidden Ct  
Hot Springs, SD 57747

Rube D.  
104 Jefferson St  
Edgemont, SD 57735

Judy Gaalaugh  
912 9<sup>th</sup> St  
Rapid City, SD 57701

Connlann Schochzented  
Connie Schwarzenbach  
John Schwarzenbach  
2229 Minnekahta Ave  
Hot Springs, SD 57747

Otis Osborn  
523 St Francis St  
Rapid City, SD 57701

Jacqueline Arpen  
2004 Maple Ave  
Rapid City, SD 57701

Lexxie & Steve Meyer  
13050 Lakeview Dr  
Hot Springs, SD 57747

Phil Heckman  
Juli Ames-Curtis  
11936 Hay Creek Rd  
Custer SD 57702

Susan Stareck  
PO Box 686  
Hot Springs, SD 57747

Cindy Brunson  
11122 Fort Igloo Rd  
Edgemont, SD 57735

Ed Harvey  
Edward Harvey  
1545 Albany Ave  
Hot Springs, SD 57747

Forest and Andy Johnson  
610 Nellie Lane  
Spearfish, SD 57783

Jeanie Tiff  
2342 Willson Ave  
Hot Springs, SD 57747

Sandra Woodward  
PO Box 533  
Oglala, SD 57764-0533

Karla Larive  
PO Box 752  
Hot Springs, SD 57747

Dale Steineke  
13130 Greg Dr  
Hot Springs, SD 57747

Peggy Detmers  
Joel Detmers  
13488 Shelter Dr  
Rapid City, SD 57702

Rodney Knudson  
PO Box 25  
Hulett, WY 85720

Jenna Shaw  
J&M Shaw  
12083 Beardsley Dr  
Hot Springs, SD 57747

Jillian Anawaty  
Dakota Rural Action  
2804 Willow Ave  
Rapid City, SD 57701

Interested Persons List for Ground Water Quality Plan 1-13-Powertech USA, Inc.

Marsha Miller  
27316 Hidden Ct  
Hot Springs, SD 57747

Carrie Regelin  
2312 Serten Ave  
Rapid City, SD 57701

Jim Peterson  
1203 11<sup>th</sup> St  
Rapid City, SD 57701

George J. Corrigan  
446 S 5<sup>th</sup> St  
Hot Springs, SD 57747

Harold Arns  
22723 Tawney Ct  
Box Elder, SD 57719

Wally Caln  
690 S 6<sup>th</sup> St  
Hot Springs, SD 57747

Debra White Plume  
PO Box 71  
Manderson, SD 57756

Rick Draeger  
617 St Cloud  
Rapid City, SD 57701

Teresa Daiss  
Niklaus Towne  
28423 Old HWY 79  
Hot Springs, SD 57747

Matie Tyson  
2508 Crown Hill  
Rapid City, SD 57702

Greg Langer  
PO Box 141  
Buffalo Gap, SD 57722

Leora Drapper  
Joe Drapper  
13174 Fall River Rd  
Hot Springs, SD 57747

Diane Gross  
PO Box 389  
Hot Springs, SD 57747

Lisa Freshour  
2045 Canton Ave #535  
Hot Springs, SD 57747

Angie Balwin  
PO Box 191  
Pierpont, SD 57468

Betty Runzerel  
PO Box 836  
Hot Springs, SD 57747

Mary Boots  
Wayne Boots  
Ray Boots  
25588 Mt Shadow Rd  
Edgemont, SD 57735

Mary Helen Pederson  
PO Box 646  
Hot Springs, SD 57747

Jesse Grant  
1938 Detroit Ave  
Hot Springs, SD 57747

Ashley Fempson  
PO Box 587  
Hot Springs, SD 57747

Carla R. Marshall  
PO Box 3184  
Rapid City, SD 57709

Lila Streff  
12379 Beaver Den Dr  
Custer, SD 57730

Jeannie Fine  
Gardner & Lynn Gray  
PO Box 153  
Pringle, SD 57773

Interested Persons List for Ground Water Quality Plan 1-13-Powertech USA, Inc.

Maxine Jensen  
Donald Jensen  
806 Galveston  
Hot Springs, SD 57747

Keliee Walter  
Jason Parker  
1005 S River St  
Hot Springs, SD 57747

Kendra Dexter  
Ross Dexter  
23278 Pebble Ct  
Hot Springs, SD 57747

Dianna Jensen  
27999 Cascade Rd  
Hot Springs, SD 57747

Gerald Blidoee  
27635 View Rd  
Oral, SD 57766

Gary A McDowell  
107 South St Apt B  
Rapid City, SD 57701

Parties of Record List for Water Permit No. 2685-2 & 2586-2 – Powertech (USA) Inc

Applicant:

Powertech(USA)Inc.  
Richard Blubaugh  
5575 DTC Parkway # 140  
Greenwood Village CO 80111

Represented by:

Max Main  
Bennett Main & Gubbrud  
618 State St  
Belle Fourche SD 57717

Petitioners:

Dewane Stearns  
11500 Indian Canyon Rd  
Edgemont SD 57735

Tom Emanuel  
19 Pine St  
Vermillion SD 57069

National Park Service-Water Resource Division  
William R Hansen  
1201 Oakridge Dr # 250  
Fort Collins CO 80525

Susan Henderson  
11507 Hwy 471  
Edgemont SD 57735

Bruce Ellison  
PO Box 2508  
Rapid City SD 57709

Mark & Jennifer Belitz  
28233 Cascade Rd  
Hot Springs SD 57747

Cindy Brunson  
11122 Fort Igloo Rd  
Edgemont SD 57735

Jeremiah J Davis  
130 E Centennial  
Rapid City SD 57701

Defenders of the Black Hills  
Charmaine White Face  
PO Box 2003  
Rapid City SD 57709

Mark Tubbs  
10891 River Rd  
Edgemont SD 57735

Jerri Baker  
705 N River St  
Hot Springs SD 57747

City of Hot Springs  
Don De Vries  
303 N River Rd  
Hot Springs SD 57747

Rebecca R Leas Ph D  
6509 Seminole Lane  
Rapid City SD 57702

Barbara Cromwell  
2313 Cruz Dr  
Rapid City SD 57702

Parties of Record List for Water Permit No. 2685-2 & 2586-2 – Powertech (USA) Inc

Donald H Kelley MD  
12637 Merritt Estes Rd  
Deadwood SD 57732

Karl W. Bothul  
338 S 17<sup>th</sup>  
Hot Springs SD 57747

Marvin Kammerer  
22198 Elk Vale Rd  
Rapid City SD 57701

Linda Pirales  
606 S River  
Hot Springs SD 57747

Larry & Doris Belitz  
12747 Oak Road  
Hot Springs SD 57747

Neal Miller  
486 Almond St  
Hot Springs SD 57747

Gena M Parkhurst  
PO Box 1914  
Rapid City SD 57709

Jewell Keown  
410 S 4<sup>th</sup> St  
Hot Springs SD 57747

Lilias Jarding  
418 N 44<sup>th</sup> St  
Rapid City SD 57702

Barbara Sharp  
445 S 3<sup>rd</sup>  
Hot Springs SD 57747

Jillian Anawaty  
2804 Willow Ave  
Rapid City SD 57701

Mary Goulet  
338 S 5<sup>th</sup> St  
Hot Springs SD 57747

Sabrina King  
14705 Halter Court  
Piedmont SD 57767

Dorothy Richards  
340 N 23<sup>rd</sup> St  
Hot Springs SD 57747

Gary Heckenliable  
PO Box 422  
Rapid City SD 57709

Raymond Palmer  
27221 Windy Rd  
Hot Springs SD 57747

SD Dept. of Game Fish & Parks  
Leslie Murphy – Sr Biologist  
523 E. Capitol Ave  
Pierre SD 57501

Jerry Bloomer  
2146 Minnekahta  
Hot Springs SD 57747

Edward H Binns  
408 N 17<sup>th</sup> St  
Hot Springs SD 57747

William Ing & Eloise Kaneshiro  
1446 Evanston Ave  
Hot Springs SD 57747

Fall River County Commission  
Michael P Ortner - Chairman  
906 N River St  
Hot Springs SD 57747

Peggy Semler  
PO Box 27  
Hot Springs SD 57747

Casey Neugebauer  
27552 S Buffalo Gap Rd  
Oral SD 57766

Parties of Record List for Water Permit No. 2685-2 & 2586-2 – Powertech (USA) Inc

Mel Pence  
2330 Washington Ave  
Hot Springs SD 57747

Louise Kursave  
27275 SD Hwy 79  
Buffalo Gap SD 57722

Betty Welch  
PO Box 14  
Edgemont SD 57735

Rusty Witte  
301 S Chicago  
Hot Springs SD 57747

Lennie Walleen  
446 S 16<sup>th</sup> St  
Hot Springs SD 57747

Dan Jensen  
806 Galveston Ave  
Hot Springs SD 57747

Gary Schweigert  
279 Cascade Rd  
Hot Springs SD 57747

Maura Smith  
306 Joplin # 8  
Hot Springs SD 57747

Kellee Walton  
1005 S River St  
Hot Springs SD 57747

Michelle Sugeg  
PO Box 139  
Hot Springs SD 57747

Milli Vong  
333 N River St  
Hot Springs SD 57747

Linda L Smith  
947 S Chicago St  
Hot Springs SD 57747

Jerry & Ronald Baker  
705 N River St  
Hot Springs SD 57747

Jeanie Tiff  
2342 Wilson Ave  
Hot Springs SD 57747

Lyle Jensen  
13167 Fall River Rd  
Hot Springs SD 57747

Lynda Davies  
PO Box 1204  
Hot Springs SD 57747

Brenda Gamache  
2337 Wilson Ave  
Hot Springs SD 57747

Alison Swan  
302 S 16<sup>th</sup> St  
Hot Springs SD 57747

Donald & Bonnie Maritz  
545 N River St #313  
Hot Springs SD 57747

Calvin Larive  
713 N River St  
Hot Springs SD 57747

Sharon Parker  
1913 Jennings Ave  
Hot Springs SD 57747

Robert Lee  
338 S 5<sup>th</sup> St  
Hot Springs SD 57747

Gary Putnam  
204 4<sup>th</sup> Ave  
Edgemont SD 57735

Gary Friendshuh  
27098 Elk Rd  
Buffalo Gap SD 57722

Parties of Record List for Water Permit No. 2685-2 & 2586-2 -- Powertech (USA) Inc

Dan Lang  
27564 Ponderosa Rd  
Hot Springs SD 57747

Dayton O Hyde  
PO Box 932  
Hot Springs SD 57747

Susan Watt  
PO Box 790  
Hot Springs SD 57747

Leora & Joe Doppen  
13174 Fall River Rd  
Hot Springs SD 57747

Susan Stolarcek  
PO Box 686  
Hot Springs SD 57747

Trip Williams  
27662 Scenic Rd  
Hot Springs SD 57747

Judith Klein  
238 N 6<sup>th</sup> St  
Hot Springs SD 57747

Craig Romey  
342 N 4<sup>th</sup>  
Hot Springs SD 57747

Michelle Brock  
26846 Hwy 385  
Hot Springs SD 57747

Nancy Blatchford  
441 S 4th Street  
Hot Spring SD 57747

Rich and Jackie Gericke  
305 S 14<sup>th</sup> Street  
Hot Springs SD 57747

Elaine Everhart  
545 N River Street  
Hot Springs SD 57747

Allen Chesson  
545 N River Street  
Hot Springs SD 57747

Gary Friedshuh  
22098 Elk Road  
Buffalo Gap SD 57722

Moses and Ciser Hernandez  
705 N River St  
Hot Springs SD 57747

Sarah and AJ Phillips  
705 N River Street, Apt 1  
Hot Springs SD 57747

Richardo Jacoue ?  
601 Albany Avenue  
Hot Springs SD 57747

Julie and Emily Christensen  
603 N River Street  
Hot Springs SD 57747

Paula Tonemah ?  
306 Thompson  
Hot Springs SD 57747

Loraine Tucker  
PO Box 1129  
Hot Springs SD 57747

Eddie Berford  
241 Galveston Avenue  
Hot Springs SD 57747

Veronica Herandez  
705 N River St  
Hot Springs SD 57747

DeAnn McComb  
PO Box 254  
Hot Springs SD 57747

Georgiana Cross  
2045 Canton Avenue #530  
Hot Springs SD 57747

Parties of Record List for Water Permit No. 2685-2 & 2586-2 – Powertech (USA) Inc

Karen Yekel  
2455 Minnekahta  
Hot Springs SD 57747

Marion Muhm  
1614 Coldbrook Avenue  
Hot Springs SD 57747

Patricia Hernandez  
246 South 6<sup>th</sup> St, Apt 4  
Hot Springs SD 57747

Miriam and Ken Martin  
801 N River Street  
Hot Springs SD 57747

Jake Haacke  
1026 Evanston Avenue  
Hot Springs SD 57747

Brianna Badure  
PO Box 971  
Hot Springs SD 57747

Rex and Mildred Piper  
12616 Argyle Road  
Hot Springs SD 57747

Jim Red Cloud  
13084 Gray Drive  
Hot Springs SD 57747

J Smith  
2728 Hot Brook  
Hot Springs SD 57747

Steve ?  
2317 Washington  
Hot Springs SD 57747

B J Hunter  
353 Bears Ave  
Hot Springs SD 57747

Jim Johnson  
12569 W Cascade Mt Rd  
Hot Spring SD 57747

Gail Saxonis  
745 Happy Hollow  
Hot Spring SD 57747

Barbara Walter  
545 N River St # 503  
Hot Spring SD 57747

Carolyn Hertel  
27615 Country View Rd  
Hot Spring SD 57747

Gary Miles  
27582 Rathbun Rd  
Hot Spring SD 57747

Niklaus Towne  
28423 Old Hwy 79  
Hot Spring SD 57747

Ray Powell  
2025 Lincoln Ave  
Hot Spring SD 57747

Joe Bassingham  
10985 Pleasant Valley Rd  
Edgemont SD 57735

Joel Hawkins  
504 16<sup>th</sup> St  
Hot Spring SD 57747

Terry Holcomb  
105 S 23<sup>rd</sup> St  
Hot Spring SD 57747

Grady Lockhart  
PO Box 152  
Oelrichs SD 57652

Rose Pettris  
12544 West Cascade Rd  
Hot Spring SD 57747



Parties of Record List for Water Permit No. 2685-2 & 2586-2 – Powertech (USA) Inc

James B Woodward  
PO Box 599  
Wellington CO 80549

Jennie Sotherland  
27735 Cascade Rd  
Hot Springs SD 57747

**LATE FILED**

W Cindy Gillis  
Gonzalez Law Firm  
522 7<sup>th</sup> St # 202  
Rapid City SD 57701

RECEIVED

FEB - 4 2013

WATER RIGHTS PROGRAM

STATE OF SOUTH DAKOTA

DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

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

**CORRECTED**

CERTIFICATE OF SERVICE

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

On January 30, 2013, the undersigned Office signed a Certificate of Service that indicated service of the below documents upon the individuals identified in the list attached to the Certificate of Service. It has come to the attention of the undersigned that, through inadvertence, the documents were not actually mailed to three addressees on that list. Therefore, the undersigned hereby certifies that true and correct copies of the: Appointment of Prehearing Chairman; Appointment of Water Management Board to Conduct Evidentiary Hearing; Notice of Hearing on Groundwater Discharge Plan Application; Motion to Consolidate and Motion for Procedural Order (with Proposed Procedural Order and Election of Participation form); Notice of Procedural Hearing (Prehearing Conference); and Answer of DENR

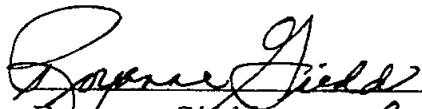
Groundwater Discharge Program; in *In the Matter of Water Permit Applications 2685-2 and 2686-2* and/or *In the Matter of 2012 Groundwater Discharge Plan Application Submitted by Powertech (USA), Inc.* were served upon the following persons:

Stacy Reetz  
546 Jennings Ave  
Hot Springs, SD 57747

Cindy Brunson  
11122 Fort Igloo Rd  
Edgemont, SD 57735

Elaine Everhart  
Allen Chesson  
545 N River Street  
Hot Springs SD 57747

on this 31<sup>st</sup> day of January 2013 by First Class Mail, postage pre-paid.



Roxanne Giedd  
Deputy Attorney General  
Chief, Civil Litigation Division  
Attorney General's Office  
1302 East Highway 14, Suite 1  
Pierre, SD 57501

*By [Handwritten Signature]*  
Assistant Attorney General



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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

denr.sd.gov

February 15, 2013

NOTICE

TO: Parties of Record in the matter of Powertech's Water Permit Applications and Groundwater Discharge Plan Application

FROM: Garland Erbele, Chief Engineer  
Water Rights Program, DENR *Garland Erbele*

SUBJECT: Procedural Order in the matter of 2012 Ground Water Discharge Plan and Water Permit Application Nos. 2685-2 and 2686-2 filed by Powertech (USA) Inc.

Enclosed is the Procedural Order issued by Mr. Everett Hoyt, Prehearing Chairman for the Water Management Board. Individuals that filed petitions are being served this procedural order.

Enclosed is a yellow Election of Participation form to be completed and returned by **March 15, 2013** to define your participation status in this matter. Please legibly complete the yellow form and return it to the address on the form. A few election forms were already submitted. Even if you previously submitted an election form you must do so again on this yellow election form. Once all the forms are completed and mailed back there will be a list of participants posted on DENR's website at <http://denr.sd.gov/Powertech.aspx>.

If more than one petitioner lives at an address, Election of Participation forms are included for each petitioner. Please submit only one form for each petitioner. If you received more than one mailing, please make a note of that on your form so duplicate mailings will not be sent on future matters.

The full Water Management Board will consider scheduling the dates for the contested case hearing at 11:00 AM, CST, on **Wednesday, March 6, 2013** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre SD.

Enclosures

C: 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

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

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

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

*TO: All Persons who filed Petitions to Intervene or Petition to Initiate a Contested Case in either of the above-entitled matters:*

You filed or signed a petition or sent comments to the Department of Environment and Natural Resources on one or both of the Powertech matter listed above pending before the Water Management Board. To clarify your intent, you must elect to A) participate as a full party in the formal contested case proceeding, including presenting testimony subject to cross examination, offering exhibits, cross examining other witnesses, making and defending objections, addressing legal argument, and having the option to appeal to the courts if desired; OR B) provide sworn testimony during the beginning of the contested case hearing; OR C) rely on information you already filed. Election of Options B and C will waive some of the rights and relieve you of some of the obligations you have if you participate as a Party under Option A.

**YOU MUST RETURN THIS FORM TO ERIC GRONLUND, DENR, ON OR BEFORE MARCH 15, 2013. FAILURE TO COMPLETE AND RETURN THIS WILL BE CONSTRUED AS AN ELECTION TO PROCEED UNDER OPTION B. A PERSON**

**MAY CHANGE THEIR PARTICIPATION STATUS AS PROVIDED IN THE**  
**FEBRUARY 14th, 2013 PROCEDURAL ORDER.**

Dated this 14th day of February, 2013.



Everett Hoyt, Prehearing Chair  
South Dakota Water Management Board

\*\*\*\*\*

\_\_\_\_\_(A) I wish to participate as a full party in this proceeding by presenting testimony subject to cross examination, offering exhibits, cross examining other witnesses, making and defending objections, addressing legal argument, and having the option to appeal to the courts if desired. I understand that if I am appearing on my own behalf, I do not need to be represented by a lawyer, but that all corporations, partnerships, nonprofit associations, and other legal entities must have a lawyer represent them if they participate as a party.

\_\_\_\_\_(B) I wish to offer my sworn testimony at the beginning of the contested case hearing. I understand that due to the large number of parties, I may be limited to 10-15 minutes. I understand my testimony will be subject to cross examination and I will not have all of the rights nor obligations of a full party.

\_\_\_\_\_(C) I wish to rely on the petition that I submitted or signed. I do not wish to testify or participate as a full party in these proceedings.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Printed name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone number: \_\_\_\_\_

Email address: \_\_\_\_\_

Mail to: Eric Gronlund, DENR, 523 E. Capitol Ave., Pierre, SD 57501

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

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

PROCEDURAL ORDER

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

Upon consideration of the Motions for Consolidation and Procedural Order filed by the Department of Environment and Natural Resources Water Rights Program and Groundwater Quality Program (DENR), and argument submitted by all parties and interested persons at the Procedural Hearing (Prehearing Conference) held on February 8, 2013, it is hereby ORDERED that:

- 1) DENR's Motion to Consolidate is granted. The above-entitled matters are hereby consolidated.
- 2) All persons who filed Petitions to Intervene in the water permit application proceedings or Petitions to Initiate a Contested Case in the groundwater discharge plan proceedings that were on file with DENR prior to the Prehearing Conference are granted.
- 3) All persons who have filed Petitions to Intervene or Petitions to Initiate a Contested Case in the above-entitled matters must file with DENR an Election of Participation using the attached form by March 15, 2013. Persons who do not

file an Election of Participation Form will be treated as if they have elected to limit their participation to submitting sworn testimony at the beginning of the contested case hearing (Option B). Any Party may change participation status by timely notifying DENR staff person Eric Gronlund in writing at: Eric Gronlund, DENR, Foss Building, 523 E. Capitol Avenue, Pierre, SD 57501-3182. The Party must also serve copies of the notification on Applicant, DENR counsel, all parties who elected full participation (Option A), Prehearing Chair Hoyt and Board Counsel Jeff Hallem. A service list may be obtained from Mr. Gronlund.

- 4) Attorneys who have not yet filed Notices of Appearance for persons who elect to fully participate in the contested case proceeding (Option A) are directed to do so immediately. Nonresident counsel must be able to demonstrate compliance with the *pro hac vice* requirements of SDCL 16-18-2 to participate in this matter.
- 5) All corporations, partnerships, associations, and other legal entities (including non-profit associations) must be represented by counsel in this proceeding.
- 6) The following prehearing schedule and obligations apply to Applicant, DENR and all parties who elect Option A:
  - i) Discovery requests must be initiated (served upon the applicable Party) by April 1, 2013. The Parties shall attempt to informally resolve any discovery dispute. If a discovery dispute cannot be resolved a party may file a motion with the Prehearing Chair in the same manner as provided in 6) vii) below.
  - ii) Discovery completion deadline is 45 days prior to the initial date scheduled for the contested case hearing.



- iii) Each Party will disclose, in writing sent to all other Parties, the names of expert witnesses, curricula vitae, and a copy of any expert report that it intends to offer on or before 45 days prior to the initial date scheduled for the contested case hearing.
- iv) Each Party will disclose, in writing sent to all other Parties, the names of witnesses each Party expects to call during the contested case proceeding on or before 20 days prior to the initial date scheduled for the contested case hearing.
- v) Each Party will provide, by writing sent to all other Parties, a list identifying the exhibits together with a copy of each exhibit identified that Party expects to offer into evidence during the contested case proceeding on or before 20 days prior to the initial date scheduled for the contested case hearing.
- vi) All exhibits shall be marked in advance by each Party and that each Party must provide a sufficient number of copies for use at the contested case hearing, including 10 copies for use by the Board, its counsel, and court reporter. Exhibits shall be marked by using the Party's name and numbered sequentially. Individuals shall mark each of their exhibits using their name in full ( example: Jane W. Doe)
- vii) All original pleadings, prehearing motions, discovery requests and responses are to be sent by regular first class mail to Eric Gronlund, DENR, Foss Building, 523 E. Capitol Avenue, Pierre, SD 57501-3182. Parties must serve copies on all other Parties; and except for discovery requests, discovery responses and the items identified in 6) iii) through v) inclusive on

the Prehearing Chair and Board Counsel Jeff Hallem. In addition copies of all documents to be filed will be delivered to the following libraries:

Attn: Doris Ann Mertz  
Custer County Library  
447 Crooks Street, Ste. 4  
Custer, SD 57730

Attn: Ashley Cortney  
Edgemont Public Library  
PO Box A / 412 2nd  
Edgemont, SD 57735

Attn: Cindy Messenger  
Hot Springs Public Library  
2005 Library Drive  
Hot Springs, SD 57747

Attn: Jason Walker  
Rapid City Public Library  
610 Quincy Street  
Rapid City, SD 57701

Attn: Michelle May  
Woksape Tipi  
Oglala Lakota College  
PO Box 310  
Kyle, SD 57752

Public access to the documents delivered will be determined by each library.

- 7) The contested case hearing before the Water Management Board will begin at Rapid City, South Dakota at a date to be set by the Water Management Board and at a location to be determined by DENR staff. The Water Management Board will consider scheduling the dates for the contested case hearing during its meeting in Pierre on March 6, 2013 at the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre SD at 11 A.M. CST, or as soon thereafter as may be heard. It is anticipated the contested case hearing will take at least five days.
- 8) The contested case hearing will proceed as follows:
  - i) The taking of sworn testimony from those parties that chose or have been designated to have chosen Option B of the Election of Participation Form. Comments should not to exceed 15 minutes each; and the Board may limit

unduly repetitive testimony. The testimony provided will be subject to cross examination by other parties and questions from Board members.

ii) Once the taking of comments is completed, the formal contested case proceeding will start with any preliminary motions from the Parties.

iii) The Parties will make opening statements.

iv) Witnesses and evidence will be taken subject to objection and cross examination, in the following order:

(a) Applicant Powertech (USA), Inc.;

(b) DENR Water Rights Program;

(c) DENR Groundwater Quality Program;

(d) Other Parties following an order established by the Chairman;

(e) Board members may ask the witness questions.

v) After the record is closed, the Parties will offer short closing arguments in the same order.

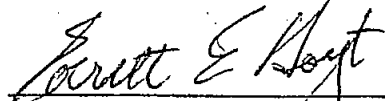
vi) At the conclusion of the proceedings, the Board may render a decision and direct the prevailing party to provide findings of fact and conclusions of law consistent with the decision. Other parties will be given an opportunity to file proposed findings of fact and conclusions of law for the record.

Alternatively, the Board may take the matter under advisement until its next Board meeting.

9) Questions concerning the arrangements for the contested case proceeding and service list are to be made to DENR employee Eric Gronlund at

[Eric.Gronlund@state.sd.us](mailto:Eric.Gronlund@state.sd.us) or 605-773-3352.

Dated this 14th day of February, 2013.

A handwritten signature in cursive script, appearing to read "Everett E. Hoyt". The signature is written in black ink and is positioned above a horizontal line.

Everett Hoyt, Prehearing Chair  
South Dakota Water Management Board

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545 N RIVER ST #313  
HOT SPRINGS SD 57747

CALVIN LARIVE  
713 N RIVER ST  
HOT SPRINGS SD 57747

GARY PUTNAM  
204 4<sup>TH</sup> AVE  
EDGEMONT SD 57735

GARY FRIENDSHUH  
27098 ELK RD  
BUFFALO GAP SD 57722

CAROLYN HERTEL  
27615 COUNTRY VIEW DR.  
HOT SPRING SD 57747

POWERTECH(USA)INC.  
RICHARD BLUBAUGH  
5575 DTC PARKWAY #140  
GREENWOOD VILLAGE CO 80111

SUSAN STOLARCAK  
PO BOX 686  
HOT SPRINGS SD 57747

TRIP WILLIAMS  
27662 SCENIC RD  
HOT SPRINGS SD 57747

JUDITH KLEIN  
238 N 6<sup>TH</sup> ST  
HOT SPRINGS SD 57747

CRAIG ROMEY  
342 N 4<sup>TH</sup> ST.  
HOT SPRINGS SD 57747

MICHELLE BROCK  
26846 HWY 385  
HOT SPRINGS SD 57747

NANCY BLATCHFORD  
441 S 4TH STREET  
HOT SPRING SD 57747

RICH AND JACKIE GERICKE  
305 S 14<sup>TH</sup> STREET  
HOT SPRINGS SD 57747

GEORGIANA CROSS  
2045 CANTON AVENUE #530  
HOT SPRINGS SD 57747

KAREN YEKEL  
2245 MINNEKAHTA AVE  
HOT SPRINGS SD 57747

MARION MUHM  
1614 COLDBROOK AVENUE  
HOT SPRINGS SD 57747

Parties Of Record for Powertech Water Right Permits and Groundwater Discharge Permit

PATRICIA HERNANDEZ  
246 SOUTH 6<sup>TH</sup> ST, APT 4  
HOT SPRINGS SD 57747

MIRIAM AND KEN MARTIN  
801 N RIVER STREET  
HOT SPRINGS SD 57747

JAKE HAACKE  
1026 EVANSTON AVENUE  
HOT SPRINGS SD 57747

BRIANNA BADURE  
PO BOX 971  
HOT SPRINGS SD 57747

REX AND MILDRED PIPER  
12616 ARGYLE ROAD  
HOT SPRINGS SD 57747

JIM RED CLOUD  
13084 GRAY DRIVE  
HOT SPRINGS SD 57747

J SMITH  
2728 HOT BROOK  
HOT SPRINGS SD 57747

STEVE PREHEIM  
2317 WASHINGTON AVE  
HOT SPRINGS SD 57747

MOSES AND CISER HERNANDEZ  
VERONICA HERNANDEZ  
705 N RIVER ST  
HOT SPRINGS SD 57747

SARAH AND AJ PHILLIPS  
705 N RIVER STREET, APT 1  
HOT SPRINGS SD 57747

RICHARDO JACQUE  
601 ALBANY AVENUE  
HOT SPRINGS SD 57747

JULIE AND EMILY CHRISTENSEN  
603 N RIVER STREET  
HOT SPRINGS SD 57747

PAULA TONEMAH?  
306 THOMPSON AVE  
HOT SPRINGS SD 57747

LORAIN TUCKER  
PO BOX 1129  
HOT SPRINGS SD 57747

EDDIE BERFORD  
241 GALVESTON AVENUE  
HOT SPRINGS SD 57747

SABRINA KING  
917 WOOD AVENUE  
RAPID CITY, SD 57701

DEANN MCCOMB  
PO BOX 254  
HOT SPRINGS SD 57747

B J HUNTER  
353 BEAR AVE  
HOT SPRINGS SD 57747

JIM JOHNSON  
12569 W CASCADE MT RD  
HOT SPRINGS SD 57747

GAIL SAXONIS  
745 HAPPY HOLLOW ST.  
HOT SPRING SD 57747

Parties Of Record for Powertech Water Right Permits and Groundwater Discharge Permit

GARY MILES  
27582 RATHBUN RD  
HOT SPRINGS SD 57747

JAMES B WOODWARD  
PO BOX 599  
WELLINGTON CO 80549

RAY POWELL  
2025 LINCOLN AVE  
HOT SPRINGS SD 57747

JOE BASSINGHAM  
10985 PLEASANT VALLEY RD  
EDGEMONT SD 57735

JOEL HAWKINS  
504 16<sup>TH</sup> ST  
HOT SPRINGS SD 57747

TERRY HOLCOMB  
105 S 23<sup>RD</sup> ST  
HOT SPRING SD 57747

GRADY LOCKHART  
PO BOX 152  
OELRICHS SD 57652

ROSE PETTRIS  
12544 WEST CASCADE RD  
HOT SPRING SD 57747

W CINDY GILLIS  
GONZALEZ LAW FIRM  
522 7<sup>TH</sup> ST # 202  
RAPID CITY SD 57701

STACY REETZ  
546 JENNINGS AVE  
HOT SPRINGS, SD 57747

CINDY BRUNSON  
11122 FORT IGLOO RD  
EDGEMONT, SD 57735

JENNA SHAW  
J&M SHAW  
12083 BEARDSLEY DR  
HOT SPRINGS, SD 57747

CERTIFICATION


I hereby certify that on February 15, 2013, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated February 15, 2013, in the matter of the Procedural Order in the matter of 2012 Ground Water Discharge Plan and Water Permit Application Nos. 2685-2 and 2686-2 filed by Powertech (USA) Inc., as addressed below and upon each of the persons shown in the attached list:

Everett Hoyt  
4422 Carriage Hills Drive  
Rapid City SD 57702

Jeff Hallem, Assistant Attorney General  
Office of the Attorney General  
1302 E Hwy 14  
Suite 1  
Pierre SD 57501-8501

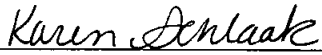
Diane Best, Assistant Attorney General  
Office of Attorney General  
317 North Main Avenue  
Sioux Falls SD 57104

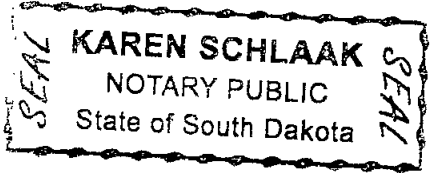
Roxanne Giedd, Deputy Attorney General  
Office of the Attorney General  
1302 E Hwy 14  
Suite 1  
Pierre SD 57501-8501

  
Gail Jacobson  
Water Rights Program, DENR

STATE OF SOUTH DAKOTA     )  
  ) SS  
COUNTY OF HUGHES         )

Sworn to, before me, this 19<sup>th</sup> day of February, 2013

  
Karen Schlaak  
Notary Public  
My Commission expires April 1, 2013





DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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

March 26, 2013

denr.sd.gov

NOTICE

TO: Parties of Record in the matter of Powertech's Water Permit Applications and Ground Water Discharge Plan Application

FROM: Garland Erbele, Chief Engineer  
Water Rights Program, DENR *Garland Erbele*

SUBJECT: Establishment of Hearing Date to Consider 2012 Ground Water Discharge Plan and Water Permit Application Nos. 2685-2 and 2686-2 filed by Powertech (USA) Inc.

On March 6, 2013, the Water Management Board established dates to conduct the consolidated contested case hearing in the matter of the 2012 Ground Water Discharge Plan and Water Permit Application Nos. 2685-2 and 2686-2 filed by Powertech (USA) Inc. The Board set the hearing to begin at 8:30 am on Monday, October 7, 2013 and to continue through Friday, October 11, 2013. If necessary, the Board will reconvene the week of October 28, 2013 to conclude the evidentiary hearing.

The hearing will be conducted at the Best Western Ramkota Hotel & Conference Center, 2111 North LaCrosse Street, Rapid City SD 57701.

The final day to submit completed Election of Participation forms was March 15, 2013. Attached is a summary table of Election of Participation submittals and the election choices. The actual forms along with all other documents received in the administrative record will be posted on DENR's website at <http://denr.sd.gov/Powertech.aspx>.

Participants that selected "A" on the election form for full party status must serve all original pleadings, prehearing motions, discovery requests and responses by first class mail to Eric Gronlund, DENR, Foss Building, 523 E Capitol Avenue, Pierre SD 57501-3182. In addition, unless the Prehearing Chairman orders otherwise, the parties must also serve copies on all other Parties that selected full party status (selection "A"), as well as each of the five libraries listed in 6) vii) of the procedural order.

Petitioners that selected "B" on the election form may present sworn testimony at the beginning of the hearing the week of October 7, 2013. Those that selected "C" on the election form will rely on the petition that they signed. Those that did not submit a selection form will be treated as selecting "B" on the election form. Copies of the petitions will be provided to the Board prior to the hearing.

Enclosure

C: Parties of Record (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  
Jason Walker, Rapid City Public Library, 610 Quincy Street, Rapid City SD 57701

CERTIFICATION

I hereby certify that on March 26, 2013, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated March 26, 2013, in the matter of the hearing dates in the matter of 2012 Ground Water Discharge Plan and Water Permit Application Nos. 2685-2 and 2686-2 filed by Powertech (USA) Inc., as addressed below and upon each of the persons shown on the attached parties of record attached list:

Everett Hoyt, 4422 Carriage Hills Drive, Rapid City SD 57702

Jeff Hallem, Assistant Attorney General, Office of the Attorney General, 1302 E Hwy 14 Suite 1, Pierre SD 57501-8501

Diane Best, Assistant Attorney General, Office of Attorney General, 317 North Main Avenue, Sioux Falls SD 57104

Roxanne Giedd, Deputy Attorney General, Office of the Attorney General, 1302 E Hwy 14, Suite 1, Pierre SD 57501-8501

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, Oglalla Lakota College, PO Box 310, Kyle SD 57752

Ashley Cortney, Edgemont Public Library, PO Box A, Edgemont SD 57735

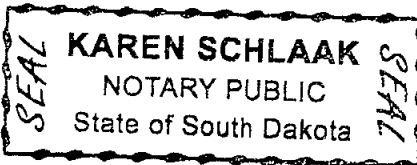
Jason Walker, Rapid City Public Library, 610 Quincy Street, Rapid City SD 57701

Gail Jacobson  
Gail Jacobson  
Water Rights Program, DENR

STATE OF SOUTH DAKOTA     )  
  ) SS  
COUNTY OF HUGHES         )

Sworn to, before me, this 26<sup>th</sup> day of March, 2013

Karen Schlaak  
Karen Schlaak  
Notary Public  
My Commission expires April 1, 2013



ELECTION OF PARTICIPATION FOR CONSOLIDATED CONTESTED CASE HEARING IN THE MATTER OF 2012 GROUND WATER DISCHARGE PLAN AND WATER PERMIT  
 APPLICATION NOS. 2685-2 AND 2686-2, POWERTECH (USA)

NAME	ADDRESS	CITY	DATE OF RECEIPT	PARTICIPATION STATUS
BRUCE ELLISON	PO BOX 2508	RAPID CITY SD 57709	02/25/2013	A
REBECCA R LEAS	6509 SEMINOLE LANE	RAPID CITY SD 57702	02/28/2013	A
RICK V SUMMERVILLE	6509 SEMINOLE LANE	RAPID CITY SD 57702	02/28/2013	A
ANDY JOHNSON	610 NELLIE LANE	SPEARFISH SD 57783	03/04/2012	A
CINDY GILLIS	522 7TH STREET, SUITE 202	RAPID CITY SD 57701	03/04/2013	A
CHERYL A and DAVID ROWE	7950 DARK CANYON	RAPID CITY SD 57702	03/04/2013	A
DOUGLAS C UPTAIN	3213 W MAIN #112	RAPID CITY SD 57702	03/04/2013	A
LILIAS JONES JARDING	418 N 44TH ST	RAPID CITY SD 57702	03/04/2013	A
GENA M PARKHURST	PO BOX 1914	RAPID CITY SD 57709	03/07/2013	A
MARVIN KAMMERER	22198 ELKVALE RD	RAPID CITY SD 57701	03/08/2013	A
CINDY BRUNSON	11122 FORT IGLOO RD	EDGEMONT SD 57735	03/11/2013	A
RODNEY G KNUDSON	PO BOX 25	HULETT WY 82720	03/11/2013	A
REBECCA M LORD	PO BOX 952	HILL CITY SD 57745	03/11/2013	A
MARK BODDICKER	13850 BATTLE CREEK RD	HERMOSA SD 57744	03/11/2013	A
DAHL H MCLEAN	11853 ACORN RIDGE RD	SPEARFISH SD 57783	03/11/2013	A
SUSAN W WATT	PO BOX 790	HOT SPRINGS SD 57747	03/11/2013	A
DAYTON O HYDE	PO BOX 932	HOT SPRINGS SD 57747	03/11/2013	A
ANGELIA BALDWIN	PO BOX 1914	PIERPONT SD 57468-0191	03/12/2013	A
FRANK J KLOUCEK	29966 423 AVENUE	SCOTLAND SD 57059	03/13/2013	A
SYLVIA M LAMBERT	PO BOX 78	INTERIOR SD 57750-0078	03/13/2013	A
SUSAN R HENDERSON	11507 HWY 471	EDGEMONT SD 57735	03/14/2013	A
JILL ANAWATY	2804 WILLOW AVENUE	RAPID CITY SD 57701	03/14/2013	A
RICHARD DRUEGER	617 SAINT CLOUD	RAPID CITY SD 57701	03/14/2013	A
GWEN E KANESHIRO & WILLIAM M C ING	1446 EVANSTON AVENUE	HOT SPRINGS SD 57747	03/14/2013	A
BRENDA GAMACHE	2337 WILSON AVENUE	HOT SPRINGS SD 57747	03/14/2013	A
SHIRLEY FREDERICK	3411 IDLEWILD CT	RAPID CITY SD 57702	02/20/2013	B
TOM EMANUEL	19 N PINE STREET	VERMILLION SD 57069	02/22/2013	B
PATRICIA JENKINS & JEREMY SMITH	287 EVANS LANE	SPEARFISH SD 57783	02/22/2013	B
JULI AMES-CURTIS	11936 HAY CREEK RD	CUSTER SD 57730	02/22/2013	B
DONALD L ACKERMAN SR	27128 WONDERLAN RD	HOT SPRINGS SD 57747	02/25/2013	B
KARLA R LARIVE	839 ALMOND STREET	HOT SPRINGS SD 57747	02/27/2013	B
EDWARD F HARVEY	1545 ALBANY AVENUE	HOT SPRINGS SD 57747	02/28/2013	B
MARK K TUBBS	10891 RIVER ROAD	EDGEMONT SD 57735	03/04/2013	B
MARY ELLEN UPTAIN	3212 W MAIN #112	RAPID CITY SD 57702	03/04/2013	B



ELECTION OF PARTICIPATION FOR CONSOLIDATED CONTESTED CASE HEARING IN THE MATTER OF 2012 GROUND WATER DISCHARGE PLAN AND WATER PERMIT  
 APPLICATION NOS. 2685-2 AND 2686-2, POWERTECH (USA)

RUBE D TIFFT	PO BOX 411	EDGEMONT SD 57735	03/07/2013	B
CHERY FAIR	12909 SHEP'S CANYON RD	HOT SPRINGS SD 57747	03/11/2013	B
MARY HELEN PEDERSON	PO BOX 646	HOT SPRINGS SD 57747	03/11/2013	B
DENNIS AND PENNY KNUCKLES	12484 WILLOW CREEK RD	CUSTER SD 57730	03/11/2013	B
DEBRA J WEISHAUPL	110 N 3RD STREETE	HOT SPRINGS SD 57747	03/13/2013	B
VIRGINIA M HEIZEN	309 SO 6TH STREET	HOT SPRINGS SD 57747	03/13/2013	B
SARAH PETERSON	510 JENNINGS	HOT SPRINGS SD 57747	03/13/2013	B
JERRI BAKER	705 NORTH RIVER STREET	HOT SPRINGS SD 57747	03/13/2013	B
JAMES B WOODWARD	PO BOX 599	WELLINGTON CO 80549	03/13/2013	B
JENNIFER L BELITZ	28233 CASCADE RD	HOT SPRINGS SD 57747	03/15/2013	B
MATT LANZ	27927 CASCADE SPRING RD	HOT SPRINGS SD 57747	02/21/2013	B/C
ASHLEY SIMPSON	PO BOX 587	HOT SPRINGS SD 57747	02/19/2013	C
JEREMIAH J DAVID	130 E CENTENNIAL	RAPID CITY SD 57701	02/19/2013	C
KEN AND MIRIAM MARTIN	801 N RIVER ST	HOT SPRINGS SD 57747	02/19/2013	C
THERESE MARIE FUIROIS	1851 CITY SPRINGS RD	RAPID CITY SD 57702	02/21/2013	C
MARGARET MARY KEOGH, OSB	1851 CITY SPRINGS RD	RAPID CITY SD 57702	02/21/2013	C
JEANIE M TIFF	2342 WILSON AVE	HOT SPRINGS SD 57747	02/21/2013	C
SHARON PARKER	1913 JENNINGS AVE	HOT SPRINGS SD 57747	02/21/2013	C
RAY GELLERMAN	12349 MOSS ROCK LANE	CUSTER SD 57730	02/21/2013	C
ROBERT & SHIRLEY LAUTENSCHLAGER	3507 IDLE WILD ST	RAPID CITY SD 57702	02/21/2013	C
MATIE TYSON	2508 CROWN HILL	RAPID CITY SD 57702	02/21/2013	C
MARC & JEANA SHAW	12083 BEARDSLEY DR	HOT SPRINGS SD 57747	02/21/2013	C
DONALD & BONNIE MANITZ	545 N RIVER RD #313	HOT SPRINGS SD 57747	02/21/2013	C
SUSAN HEY	312 N 40TH STREET	RAPID CITY SD 57702	02/21/2013	C
ROY POWELL	2025 LINCOLN AVE	HOT SPRINGS SD 57747	02/21/2013	C
LINDA L SMITH	947 SO CHICAGO ST	HOT SPRINGS SD 57747	02/21/2013	C
SHARON HUSTON	12571 BLACK HILLS FLYWAY RD	HOT SPRINGS SD 57747	02/21/2013	C
LOUISE KURSAVE	27275 HIGHWAY 79	BUFFALO GAP SD 57722	02/21/2013	C
CHARLETON T & ANTOINETTE REYNAR	28025 CASCADE RD	HOT SPRINGS SD 57747	02/21/2013	C
MARION MUHM	1614 COLDBROOK AVE	HOT SPRINGS SD 57747	02/21/2013	C
REGINA A KOCH	515 N 2ST ST #1	RAPID CITY SD 57701	02/22/2013	C
LESLIE MURPHY, GF&P	523 E CAPITOL AVE	PIERRE SD 57501	02/22/2013	C
LARRY TEGANTVOORT	10041 VENTURA LN	SUMMERSET SD 57718	02/22/2013	C
DONALD BLEDSOE	27635 VIEW RD	ORAL SD 57766	02/22/2013	C
PHILIP S HECKMAN	11936 HAY CREEK RD	CUSTER SD 57730	02/22/2013	C
JOE W. MONTGOMERY	PO BOX 17	BUFFALO GAP SD 57722	02/22/2013	C
BARBARA CROMWELL	2313 CRUZE DRIVE	RAPID CITY SD 57702	02/22/2013	C

ELECTION OF PARTICIPATION FOR CONSOLIDATED CONTESTED CASE HEARING IN THE MATTER OF 2012 GROUND WATER DISCHARGE PLAN AND WATER PERMIT  
 APPLICATION NOS. 2685-2 AND 2686-2, POWERTECH (USA)

MARGARET E. IKONEN	28612 WEST SOUTH SHORE RD	HOT SPRINGS SD 57747	02/25/2013	C
GAIL M SOAVE	14249 LYONS STREET	LIVONIA MI 48145	02/25/2013	C
JODY MCKEAN	27317 HIDDEN CT	HOT SPRINGS SD 57747	02/25/2013	C
CAROL MERWIN	2247 CEDAR DR	RAPID CITY SD 57702	02/25/2013	C
JAMES L JOHNSON	12569 W CASCADE MT RD	HOT SPRINGS SD 57747	02/25/2013	C
ELAINE NOYES	4104 LAKEVIEW DR	RAPID CITY SD 57702	02/25/2013	C
B R BRYGIDER	104 TULLAMORE	GDN CT NY11530-2512	02/25/2013	C
DEWANE STEARNS	11500 INDIAN CANYON RD	EDGEMONT SD 57735	02/27/2013	C
JUDITH A JOBA	3463 ELK CREEK RD	PIEDMONT SD 57769	02/27/2013	C
LYLE JENSON	13167 FALL RIVER RD	HOT SPRINGS SD 57747	02/27/2013	C
MARY SALWAY/JASON SALWAY	910 S 6TH STREET	HOT SPRINGS SD 57747	02/27/2013	C
JAMES L AND REV JODI OLSON	12350 BEAVER DEN DR	CUSTER SD 57730	02/27/2013	C
DALLAS AND BONNIE KEISWETTER	12899 SAPPHIRE LANE	HOT SPRINGS SD 57747	02/28/2013	C
GEORGE CORRIGAN, PATRICIA AND EILEEN OHLIGER	446 S 5TH STREET	HOT SPRINGS SD 57747	03/01/2013	C
GRADY LOCKHART	PO BOX 152	OELRICHS SD 57763	03/01/2013	C
B ANNE FIELDS	2415 AMBERROOK LANE	GRAYSON GA 30017	03/04/2013	C
VIRGINIA PANARELLA	26979 SD HWY 89	HOT SPRINGS SD 57747	03/04/2013	C
JENNIFER LENA	8812 DUNSMORE	RAPID CITY SD 57702	03/04/2013	C
KATHRYN WELLER-LENA	8812 DUNSMORE RD	RAPID CITY SD 57702	03/04/2013	C
FLOYD B ROWE	28144 LOT 50, SHEEP CANYON	HOT SPRINGS SD 57747	03/04/2013	C
KATHERINE L MONTAGUE & RICKY GOODVOICEFLUTE	1215 WAMBLI DRIVE	RAPID CITY SD 57701	03/04/2013	C
MARK L MASON	PO BOX 1914	RAPID CITY SD 57709	03/07/2013	C
GARY A MCDOWELL	701 SOUTH ST	RAPID CITY SD 57701	03/08/2013	C
GLEN F AND GEORGIA ANN GRAVES	PO BOX 55	BUFFALO GAP SD 57722	03/08/2013	C
RAY BOOTS	302 CROOK STREET	CUSTER SD 57730	03/11/2013	C
BETH AUDETTE	1929 EVERGREN DR	RAPID CITY SD 57702	03/11/2013	C
JON FAIR	12909 SHEP'S CANYON RD	HOT SPRINGS SD 57747	03/11/2013	C
DORIS AND LARRY BELITZ	12747 OAK ROAD	HOT SPRINGS SD 57747	03/11/2013	C
ADRIAN M FORRETTE III	119 SO BERRY PINE RD	RAPID CITY SD 57702	03/11/2013	C
HEATHER BESCO	BOX 82	BUFFALO GAP SD 57722	03/13/2013	C
CLIFFORD H HEINZEN	309 SO 6TH STREET	HOT SPRINGS SD 57747	03/13/2013	C
JOE DAPPEN	13174 FALL RIVER RD	HOT SPRINGS SD 57747	03/13/2013	C
IRENE FANDRICH	301 S 6TH STREET	HOT SPRINGS SD 57747	03/13/2013	C
LA VELLA BIRKLAND	301 S 6TH STREET	HOT SPRINGS SD 57747	03/13/2013	C
JAY BIRKLAND	301 S 6TH STREET	HOT SPRINGS SD 57747	03/13/2013	C
RONALD J BAKER	705 N RIVER ROAD	HOT SPRINGS SD 57747	03/13/2013	C
TRIP WILLIAMS	27662 SCENIC RD	HOT SPRINGS SD 57747	03/14/2013	C

ELECTION OF PARTICIPATION FOR CONSOLIDATED CONTESTED CASE HEARING IN THE MATTER OF 2012 GROUND WATER DISCHARGE PLAN AND WATER PERMIT  
APPLICATION NOS. 2685-2 AND 2686-2, POWERTECH (USA)

CARRIE REGELIN	2312 SMITH AVENUE	RAPID CITY SD 57701	03/14/2013	C
WILLIAM E WELSH	7450 DARK CANYON	RAPID CITY SD 57701	03/14/2013	C
KAREN WHITE PETTIGREW	1203 ST CLOUD ST	RAPID CITY SD 57701	03/15/2013	C
MIKE LINDERMAN	446 4TH AVENUE NORTH	HOT SPRINGS SD 57747	03/18/2013	C
KENNETH D ANDERSON	24035 PALMER GULCH RD	HILL CITY SD 57745	03/18/2013	C
REESE PETTIS	12544 W CASCADE MT RD	HOT SPRINGS SD 57747	03/22/2013	C
SUZAN NOLAN	1164 LOOKOUT LN	RAPID CITY SD 57702	03/13/2013	none
SISTER GABRIELLA CROWLEY	REQUESTED REMOVAL OF NAME FROM LIST			

**Parties Of Record for Powertech Water Right Permits and Groundwater Discharge Permit**

**Applicant:**

POWERTECH(USA)INC.  
RICHARD BLUBAUGH  
5575 DTC PARKWAY #140  
GREENWOOD VILLAGE CO 80111

**Attorney for Powertech (USA)**

MAX MAIN  
BENNETT MAIN & GUBBRUD  
618 STATE ST.  
BELLE FOURCHE SD 57717

**Petitioners:**

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PO BOX 2508  
328 EAST NY ST  
RAPID CITY SD 57709

W CINDY GILLIS  
GONZALEZ LAW FIRM  
522 7<sup>TH</sup> ST # 202  
RAPID CITY SD 57701

MICHAEL HICKEY  
BANGS & MCCULLEN LAW FIRM  
PO BOX 2670  
RAPID CITY SD 57709-2670

JAMES SWORD  
FALL RIVER COUNTY STATE'S ATTORNEY'S OFFICE  
906 N. RIVER ST., STE. 301  
HOT SPRINGS, SD 57747

LILIAS C JONES-JARDING  
418 N 44TH ST  
RAPID CITY SD 57702

DR. SUZAN NOLAN  
1164 LOOKOUT LANE  
RAPID CITY SD 57701

NANCY C MAGNUSON  
PO BOX 54  
BUFFALO GAP SD 57722

ROBERT V SHANNON  
24705 TIMBER RIDGE RD  
HERMOSA SD 57744

MARY R BURROWS  
2309 WILSON AVE  
HOT SPRINGS SD 57747

ELAINE NOYES  
4104 LAKEVIEW DR  
RAPID CITY SD 57702

STEVEN & LEXXIE MEYER  
13050 LAKEVIEW DR  
HOT SPRINGS SD 57747

ROGER AND CHERYL A ROWE  
CINDY ROWE  
7950 DARK CANYON RD  
RAPID CITY SD 57702

M. ENGLE  
T ENGLE  
115 SCOTT ST  
EDGEMONT SD 57735

DENNIS & PENNY KNUCKLES  
12484 WILLOW CREEK RD  
CUSTER SD 57730

KATIE ROSELAND  
5811 GEMINI ST  
RAPID CITY SD 57703

KATHY DURRUM  
10374 DRYLAND DR  
EDGEMONT SD 57735

ANGELIA BALDWIN  
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**Parties Of Record for Powertech Water Right Permits and Groundwater Discharge Permit**

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KIP HEINZEN  
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JAMES L. OLSON  
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4435 DOLPHIN  
RAPID CITY SD 57701

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ELOISE KANESHIRO  
1446 EVANSTON AVE  
HOT SPRINGS SD 57747

ROBERT LEE  
338 S 5TH ST  
HOT SPRINGS SD 57747

CINDY POWELL  
1637 38TH ST  
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SHAWNTERA KENNEDY  
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RAPID CITY SD 57701

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**Parties Of Record for Powertech Water Right Permits and Groundwater Discharge Permit**

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BETTY RUNZEREL PO BOX 836 HOT SPRINGS SD 57747	DIANE GROSS PO BOX 389 HOT SPRINGS SD 57747	LISA MASTERSON 445 S 6TH ST HOT SPRINGS SD 57747
JOE W MONTGOMERY 210 PINE ST BUFFALO GAP SD 57722	JASON AND MARY SALWAY 910 S 6TH ST HOT SPRINGS SD 57747	MARGARET IKONEN 28612 W. SO. SHORE RD. HOT SPRINGS SD 57747
LUELLA J HICKS PO BOX 144 BUFFALO GAP SD 57722	HANNAH BOCHERT SHERMAN ST HOT SPRINGS SD 57747	WALLY CALN 690 S 6TH ST HOT SPRINGS SD 57747
GREG LANGER PO BOX 141 BUFFALO GAP SD 57722	MATT LANZ 27927 CASCADE SPRINGS RD. HOT SPRINGS, SD 57747	CHARLES COX 2307 JENNINGS AVE HOT SPRINGS SD 57747
HEATHER J BESCO PO BOX 82 BUFFALO GAP SD 57722	MARSHA MILLER 27316 HIDDEN CT HOT SPRINGS SD 57747	SUSAN MALEWKE 545 N RIVER ST #401 HOT SPRINGS SD 57747
SHARON & ALEX CHRISTIE PO BOX 74 209 N 2ND ST BUFFALO GAP SD 57722	ELTON ZORNES 12742 HWY 18 HOT SPRINGS SD 57747	RESIDENT 12560 BEAVER CREEK RD HOT SPRINGS SD 57747
BILLY JACK MCLAUGHLIN PO BOX 25 BUFFALO GAP SD 57722	JANA FIRKINS 244 GALVESTON AVE HOT SPRINGS SD 57747	HAROLD ARNS 22723 TAWNEY CT BOX ELDER SD 57719
FOREST AND ANDY JOHNSON 610 NELLIE LN SPEARFISH SD 57783	RUSS SISK 12619 BROOK CANYON RD HOT SPRINGS SD 57747	JIM PETERSON 1203 11ST ST RAPID CITY SD 57701
SHARON HUSTON 12571 BLACK HILLS FLYWAY RD. HOT SPRINGS, SD 57747	ALICA A. MADELINE ORTEGO PO BOX 861 PINE RIDGE SD 57770	ROSIE ELMORE PO BOX 886 HOT SPRINGS SD 57747
DONALD L ACKERMAN 27128 WONDERLAND HOT SPRINGS SD 57747	JOE AND LEORA DAPPEN 13174 FALL RIVER RD HOT SPRINGS SD 57747	KRISTEN WILDER 506 JENNINGS AVE, APT. 1 HOT SPRINGS SD 57747
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Parties Of Record for Powertech Water Right Permits and Groundwater Discharge Permit

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**Parties Of Record for Powertech Water Right Permits and Groundwater Discharge Permit**

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CITY OF HOT SPRINGS DON DE VRIES 303 N RIVER ST HOT SPRINGS SD 57747	PEGGY SEMLER PO BOX 27 HOT SPRINGS SD 57747	JENNIE SOTHERLAND 27735 CASCADE RD HOT SPRINGS SD 57747
RAYMOND PALMER 27221 WINDY RD HOT SPRINGS SD 57747	CASEY NEUGEBAUER 27552 S BUFFALO GAP RD ORAL SD 57766	LYNDA DAVIES PO BOX 1204 HOT SPRINGS SD 57747
LARRY & DORIS BELITZ 12747 OAK ROAD HOT SPRINGS SD 57747	MEL PENCE 2330 WASHINGTON AVE HOT SPRINGS SD 57747	DAN LANG 27564 PONDEROSA RD HOT SPRINGS SD 57747
SD DEPT. OF GAME FISH & PARKS LESLIE MURPHY – SR BIOLOGIST 523 E. CAPITOL AVE PIERRE SD 57501	LOUISE KURSAVE 27275 SD HWY 79 BUFFALO GAP SD 57722	ALISON SWAN 302 S 16 <sup>TH</sup> ST HOT SPRINGS SD 57747
EDWARD H BINNS 408 N 17 <sup>TH</sup> ST HOT SPRINGS SD 57747	BETTY WELCH PO BOX 14 EDGEMONT SD 57735	DONALD & BONNIE MARITZ 545 N RIVER ST #313 HOT SPRINGS SD 57747
GARY HECKENLIBLE PO BOX 422 RAPID CITY SD 57709	DAN JENSEN 806 GALVESTON AVE HOT SPRINGS SD 57747	CALVIN LARIVE 713 N RIVER ST HOT SPRINGS SD 57747
KARL W BOCHERT MARYLIN BOCHERT 1317 SHERMAN STREET HOT SPRINGS SD 57747	GARY SCHWEIGERT 27915 CASCADE RD HOT SPRINGS SD 57747	GARY PUTNAM 204 4 <sup>TH</sup> AVE EDGEMONT SD 57735
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NEAL MILLER 486 ALMOND ST HOT SPRINGS SD 57747	KELLEE WALTON 1005 S RIVER ST HOT SPRINGS SD 57747	CAROLYN HERTEL 27615 COUNTRY VIEW DR. HOT SPRING SD 57747
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	SHARON PARKER 1913 JENNINGS AVE HOT SPRINGS SD 57747	TRIP WILLIAMS 27662 SCENIC RD HOT SPRINGS SD 57747

**Parties Of Record for Powertech Water Right Permits and Groundwater Discharge Permit**

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13084 GRAY DRIVE  
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HOT SPRINGS SD 57747

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**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

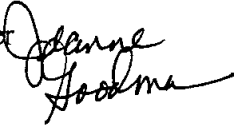
PMB 2020  
JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182

denr.sd.gov

May 31, 2013

**NOTICE**

TO: Max Main, Counsel for Powertech (USA) Inc, 618 State St, Belle Fourche SD 57717  
Parties that Elected Full Party Participation in the matter of Powertech's Water Permit Applications and Ground Water Discharge Plan Application

FROM: Jeanne Goodman, Chief Engineer  
Water Rights Program, DENR 

SUBJECT: Order Granting Fall River County's Motion to Dismiss in the matter of 2012 Ground Water Discharge Plan and Water Permit Applications filed by Powertech (USA) Inc.

Notice is provided of Prehearing Chair Hoyt's order granting Fall River County's Motion to Dismiss in the matter of the 2012 Ground Water Discharge Plan and Water Permit Application Nos. 2685-2 and 2686-2 filed by Powertech (USA) Inc. Enclosed is the motion filed by Fall River County and the Order granting the motion to dismiss.

Enclosures

C: Parties that Elected Full Party Participation (attached)  
James G Sword, Fall River County State's Attorney, 906 N River St, #301, Hot Springs SD 57747  
Everett Hoyt, Prehearing Chairman  
Jeff Halleem, 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  
Jason Walker, Rapid City Public Library, 610 Quincy Street, Rapid City SD 57701

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

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

ORDER GRANTING  
FALL RIVER COUNTY'S  
MOTION TO DISMISS

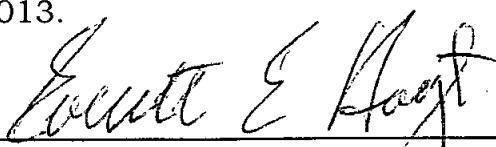
IN THE MATTER OF THE 2012 )  
GROUNDWATER DISCHARGE )  
PLAN APPLICATION SUBMITTED )  
BY POWERTECH (USA), INC. )

The South Dakota Department of Environment and Natural Resources received a Motion of Fall River County to Dismiss It's Petition To Intervene, dated April 25, 2013, submitted by its State's Attorney and Chairman of the Fall River County Commission. The motion seeks dismissal of Fall River County as a party to the above-captioned action. There has been no additional filing by a party regarding the motion to dismiss.

Upon review of the motion to dismiss and consideration of the administrative record, the prehearing chair finds that the motion was timely filed, will cause no prejudice to any other party to the action and, given the stated decision of the County Commission, that dismissal of Fall River County is appropriate; therefore it is hereby

ORDERED that the Motion of Fall River County to Dismiss its Petition to Intervene is granted and that Fall River County is no longer a party to the administrative action.

Dated this 24<sup>th</sup> day of May, 2013.

  
\_\_\_\_\_  
Everett Hoyt, Prehearing Chair  
South Dakota Water Management Board

R'CEIVED

APR 29 2013

WATER RIGHTS  
PROGRAM

**SOUTH DAKOTA WATER MANAGEMENT BOARD  
STATE OF SOUTH DAKOTA  
EN RE APPLICATION #2685-2 and #2682-2**

**MOTION OF FALL RIVER COUNTY TO DISMISS  
IT'S PETITION TO INTERVENE**

COMES NOW Fall River County, by and through it's Chairman of the Fall River County Commission, Michael P. Ortner, whose address is 906 North River Street, Hot Springs, South Dakota and makes the following motion to dismiss it's Petition to Intervene opposing the two applications for water permits designated as application #2685-2 and #2682-2 in the above entitled matter. The Fall River County Commission made this decision to withdraw from intervening by a vote of 4 to 1. The Motion was based upon a finding by the Fall River County Commission that there is so much conflicting information concerning the applications, that the decisions on these application matters must be left to those charged by state and federal law with making those decisions.

Dated this 25 day of April, 2013.

Fall River County Commission

By: 

Michael P. Ortner

Chairman of the Fall River County Commission

906 North River Street

Hot Springs, SD 57747

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that he mailed a true and correct copy of the *Motion to Dismiss Petition of Fall River County to Intervene in Opposition to the application* to the individuals hereinafter next designated all on the date below shown by depositing the same in the United States mail with first class postage prepaid in envelopes addressed to:

Steven N. Pirner

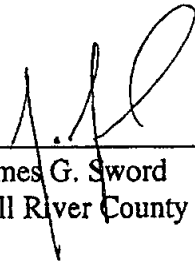
Secretary of the Department of

Environment and Natural Resources  
Foss Building  
523 E. Capital Ave.  
Pierre, SD 57501

✓ Chief Engineer  
Water Rights Program  
Foss Building  
523 E. Capital Ave  
Pierre, SD 57501

PowerTech (USA) Inc.  
C/O Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO 80111

On the 25 day of April, 2013.

  
\_\_\_\_\_  
James G. Sword  
Fall River County State's Attorney



CERTIFICATION

I hereby certify that on May 31, 2013, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated May 31, 2013, regarding Order of Prehearing Chair Hoyt granting Fall River County's Motion to Dismiss in the matter of 2012 Ground Water Discharge Plan and Water Permit Application Nos. 2685-2 and 2686-2 filed by Powertech (USA) Inc., as addressed below and upon each of the persons electing fully participation status shown on the attached parties of record:

James G Sword, Fall River County State's Attorney, 906 N River St, #301, Hot Springs SD 57747

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

Everett Hoyt, 4422 Carriage Hills Drive, Rapid City SD 57702

Jeff Hallem, Assistant Attorney General, Office of the Attorney General, 1302 E Hwy 14 Suite 1, Pierre SD 57501-8501

Diane Best, Assistant Attorney General, Office of Attorney General, 317 North Main Avenue, Sioux Falls SD 57104

Roxanne Giedd, Deputy Attorney General, Office of the Attorney General, 1302 E Hwy 14, Suite 1, Pierre SD 57501-8501

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, Oglalla Lakota College, PO Box 310, Kyle SD 57752

Ashley Cortney, Edgemont Public Library, PO Box A, Edgemont SD 57735

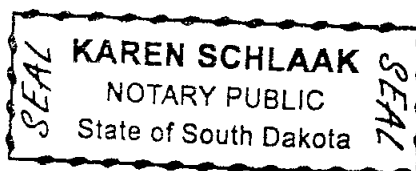
Jason Walker, Rapid City Public Library, 610 Quincy Street, Rapid City SD 57701

*Gail Jacobson*  
Gail Jacobson  
Water Rights Program, DENR

STATE OF SOUTH DAKOTA        )  
  ) SS  
COUNTY OF HUGHES            )

Sworn to, before me, this 31<sup>st</sup> day of May, 2013

*Karen Schlaak*  
Karen Schlaak  
Notary Public  
My Commission expires April 1, 2019



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

SABRINA KING	917 WOOD AVENUE	RAPID CITY SD 57701
GARY E HECKENLAIBLE	PO BOX 422	RAPID CITY SD 57709
BRUCE ELLISON	PO BOX 2508	RAPID CITY SD 57709
Attorney for Clean Water Alliance		
REBECCA R LEAS	6509 SEMINOLE LANE	RAPID CITY SD 57702
RICK V SUMMERVILLE	6509 SEMINOLE LANE	RAPID CITY SD 57702
ANDY JOHNSON	610 NELLIE LANE	SPEARFISH SD 57783
CINDY GILLIS	522 7TH STREET, SUITE 202	RAPID CITY SD 57701
Attorney for Oglala Sioux Tribe		
CHERYL A and ROGER ROWE	7950 DARK CANYON	RAPID CITY SD 57702
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LILIAS JONES JARDING	418 N 44TH ST	RAPID CITY SD 57702
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MARVIN KAMMERER	22198 ELKVALE RD	RAPID CITY SD 57701
CINDY BRUNSON	11122 FORT IGLOO RD	EDGEMONT SD 57735
RODNEY G KNUDSON	PO BOX 25	HULETT WY 82720
REBECCA M LORD	PO BOX 952	HILL CITY SD 57745
MARK BODDICKER	13850 BATTLE CREEK RD	HERMOSA SD 57744
DAHL H MCLEAN	11853 ACORN RIDGE RD	SPEARFISH SD 57783
MICHAEL M HICKEY	PO BOX 2670	RAPID CITY SD 57709-2670
Attorney for Black Hills Wild Horse Sanctuary		
ANGELIA BALDWIN	PO BOX 1914	PIERPONT SD 57468-0191
FRANK J KLOUCEK	29966 423 AVENUE	SCOTLAND SD 57059
SYLVIA M LAMBERT	PO BOX 78	INTERIOR SD 57750-0078
SUSAN R HENDERSON	11507 HWY 471	EDGEMONT SD 57735
JILL ANAWATY	2804 WILLOW AVENUE	RAPID CITY SD 57701
RICHARD DRAEGER	617 SAINT CLOUD	RAPID CITY SD 57701
GWEN E KANESHIRO & WILLIAM M C ING	1446 EVANSTON AVENUE	HOT SPRINGS SD 57747
BRENDA GAMACHE	2337 WILSON AVENUE	HOT SPRINGS SD 57747



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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

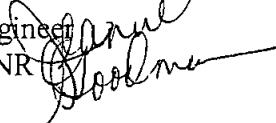
denr.sd.gov

August 7, 2013

NOTICE

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

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

FROM: Jeanne Goodman, Chief Engineer  
Water Rights Program, DENR 

SUBJECT: Change in Election Participation Status

Notice is provided that Sylvia Lambert submitted a letter to the Department of Environment and Natural Resources changing participation status to the hearing for the Powertech applications before the Water Management Board. Ms. Lambert changed from Election "A" full party status to Election "B" status which affords an opportunity to offer sworn testimony at the beginning of the contested case hearing beginning on October 7, 2013. Full party participants are advised to change their mailing lists accordingly.

c: Parties that Elected Full Party Participation (attached)  
Sylvia Lambert, PO Box 78, Interior SD 57750  
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  
Jason Walker, Rapid City Public Library, 610 Quincy Street, Rapid City SD 57701

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

SABRINA KING	917 WOOD AVENUE	RAPID CITY SD 57701
GARY E HECKENLAIBLE	PO BOX 422	RAPID CITY SD 57709
BRUCE ELLISON	PO BOX 2508	RAPID CITY SD 57709
Attorney for Clean Water Alliance		
REBECCA R LEAS	6509 SEMINOLE LANE	RAPID CITY SD 57702
RICK V SUMMERVILLE	6509 SEMINOLE LANE	RAPID CITY SD 57702
ANDY JOHNSON	610 NELLIE LANE	SPEARFISH SD 57783
CINDY GILLIS	522 7TH STREET, SUITE 202	RAPID CITY SD 57701
Attorney for Oglala Sioux Tribe		
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MICHAEL M HICKEY	PO BOX 2670	RAPID CITY SD 57709-2670
Attorney for Black Hills Wild Horse Sanctuary		
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FRANK J KLOUCEK	29966 423 AVENUE	SCOTLAND SD 57059
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GWEN E KANESHIRO & WILLIAM M C ING	1446 EVANSTON AVENUE	HOT SPRINGS SD 57747
BRENDA GAMACHE	2337 WILSON AVENUE	HOT SPRINGS SD 57747

CERTIFICATION

I hereby certify that on August 7, 2013, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated August 7, 2013, regarding Sylvia Lambert changing election status in the matter of 2012 Ground Water Discharge Plan and Water Permit Application Nos. 2685-2 and 2686-2 filed by Powertech (USA) Inc., as addressed below and upon each of the persons electing fully participation status shown on the attached parties of record:

Sylvia Lambert, PO Box 78, Interior SD 57750

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

Everett Hoyt, 4422 Carriage Hills Drive, Rapid City SD 57702

Jeff Hallem, Assistant Attorney General, Office of the Attorney General, 1302 E Hwy 14 Suite 1, Pierre SD 57501-8501

Diane Best, Assistant Attorney General, Office of Attorney General, 317 North Main Avenue, Sioux Falls SD 57104

Roxanne Giedd, Deputy Attorney General, Office of the Attorney General, 1302 E Hwy 14, Suite 1, Pierre SD 57501-8501

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, Oglalla Lakota College, PO Box 310, Kyle SD 57752

Ashley Cortney, Edgemont Public Library, PO Box A, Edgemont SD 57735

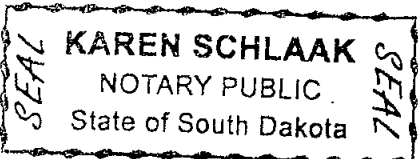
Jason Walker, Rapid City Public Library, 610 Quincy Street, Rapid City SD 57701

Gail Jacobson  
Gail Jacobson  
Water Rights Program, DENR

STATE OF SOUTH DAKOTA     )  
  ) SS  
COUNTY OF HUGHES         )

Sworn to, before me, this 7<sup>th</sup> day of August, 2013

Karen Schlaak  
Karen Schlaak  
Notary Public  
My Commission expires April 1, 2019





DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

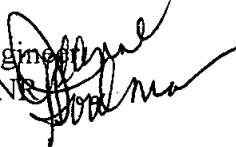
PMB 2020  
JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182

denr.sd.gov

August 13, 2013

NOTICE

TO: Linsey McLean, 14390 Edgewood Place, Piedmont SD 57769  
Max Main, Counsel for Powertech (USA) Inc, 618 State St, Belle Fourche SD 57717  
Elected Full Party Participation in the matter of Powertech's Water Permit Applications and Ground Water Discharge Plan Application

FROM: Jeanne Goodman, Chief Engineer, Water Rights Program, DENR 

SUBJECT: Order Granting in Part and Denying in Part McLean Petition to Intervene

Notice is provided that Prehearing Chairman Everett Hoyt issued the enclosed Order Granting in Part and Denying in Part McLean Petition to intervene. Also enclosed is the request filed by Linsey McLean. Ms. McLean is granted "Option B" status to participate in the hearing on Powertech's water permit applications and 2012 ground water discharge plan.

Enclosed in the mailing to Ms. McLean is the February 14, 2013, Procedural Order and March 26, 2013, notice scheduling the hearing. Other parties were previously sent these documents.

Finally, the Rapid City Public Library requested future filing be addressed to the attention of Government Documents instead of to Jason Walker.

enclosures

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  
Attn: Government Documents, Rapid City Public Library, 610 Quincy Street, Rapid City SD 57701

CERTIFICATION

I hereby certify that on August 13, 2013, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated August 13, 2013, regarding Prehearing Chairman's order on McLean request to intervene in the matter of 2012 Ground Water Discharge Plan and Water Permit Application Nos. 2685-2 and 2686-2 filed by Powertech (USA) Inc. with enclosures of the prehearing chairman's order, McLean request and the February 14, 2013, Procedural Order and March 26, 2013 Notice (the procedural order and notice is sent only to Ms. McLean), as addressed below and upon each of the persons electing fully participation status shown on the attached parties of record:

Linsey McLean, 14390 Edgewood Place, Piedmont SD 57769

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

Everett Hoyt, 4422 Carriage Hills Drive, Rapid City SD 57702

Jeff Hallem, Assistant Attorney General, Office of the Attorney General, 1302 E Hwy 14 Suite 1, Pierre SD 57501-8501

Diane Best, Assistant Attorney General, Office of Attorney General, 317 North Main Avenue, Sioux Falls SD 57104

Roxanne Giedd, Deputy Attorney General, Office of the Attorney General, 1302 E Hwy 14, Suite 1, Pierre SD 57501-8501

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Attn: Government Documents, Rapid City Public Library, 610 Quincy Street, Rapid City SD 57701

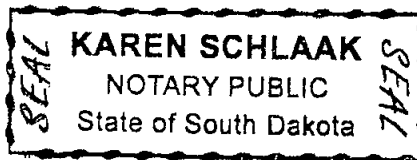
Gail Jacobson

Gail Jacobson  
Water Rights Program, DENR

STATE OF SOUTH DAKOTA     )  
   ) SS  
COUNTY OF HUGHES         )

Sworn to, before me, this 13<sup>th</sup> day of August, 2013

Karen Schlaak  
Karen Schlaak  
Notary Public  
My Commission expires April 1, 2019



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

SABRINA KING	917 WOOD AVENUE	RAPID CITY SD 57701
GARY E HECKENLAIBLE	PO BOX 422	RAPID CITY SD 57709
BRUCE ELLISON	PO BOX 2508	RAPID CITY SD 57709
Attorney for Clean Water Alliance		
REBECCA R LEAS	6509 SEMINOLE LANE	RAPID CITY SD 57702
RICK V SUMMERVILLE	6509 SEMINOLE LANE	RAPID CITY SD 57702
ANDY JOHNSON	610 NELLIE LANE	SPEARFISH SD 57783
CINDY GILLIS	522 7TH STREET, SUITE 202	RAPID CITY SD 57701
Attorney for Oglala Sioux Tribe		
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MICHAEL M HICKEY	PO BOX 2670	RAPID CITY SD 57709-2670
Attorney for Black Hills Wild Horse Sanctuary		
ANGELIA BALDWIN	PO BOX 1914	PIERPONT SD 57468-0191
FRANK J KLOUCEK	29966 423 AVENUE	SCOTLAND SD 57059
SUSAN R HENDERSON	11507 HWY 471	EDGEMONT SD 57735
JILL ANAWATY	2804 WILLOW AVENUE	RAPID CITY SD 57701
RICHARD DRAEGER	617 SAINT CLOUD	RAPID CITY SD 57701
GWEN E KANESHIRO & WILLIAM M C ING	1446 EVANSTON AVENUE	HOT SPRINGS SD 57747
BRENDA GAMACHE	2337 WILSON AVENUE	HOT SPRINGS SD 57747



RECEIVED

JUL 25 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Linsey McLean  
14390 Edgewood Place  
Piedmont, SD 57769  
(605)787-4949

July 17, 2013


Matt Hicks  
Eric Gronlund  
Water Management Board  
Department of Environment and Natural Resources  
523 E. Capital  
Pierre, SD 57501

Re: Request to Intervene as a Party

Dear Sirs:

I am writing in reference to the water permits pending before the Water Management Board involving the Powertech matter. I am respectfully requesting that I be allowed to intervene as a party to this matter. Please call me at your earliest convenience to discuss this matter. Thank you in advance for your consideration. 605-787-4949 or cell 605-484-5314.

Sincerely,



Linsey McLean

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

RECEIVED

AUG 13 2013

WATER RIGHTS  
PROGRAM

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

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

ORDER GRANTING IN PART AND  
DENYING IN PART MCLEAN  
PETITION TO INTERVENE

The South Dakota Department of Environment and Natural Resources, on July 25, 2013, received a petition to intervene in the above-captioned from Linsey McLean, Piedmont, SD. The petition is untimely and does not include the requested party status for intervention as set forth in the February 14, 2013, Procedural Order.

Upon review of the petition to intervene and consideration of the administrative record in this matter, the Prehearing Chair finds that though the McLean Petition is sufficiently untimely to grant intervention under "Option A" of the Procedural Order, that granting Mclean intervention under "Option B" of the Procedural Order would not prejudice any of the existing parties. Therefore it is hereby

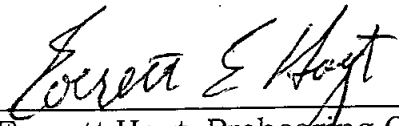
ORDERED that the Petition from Linsey McLean is accepted, and the petitioner is granted leave to intervene and to participate under "Option B" of the Procedural Order; it is further

ORDERED to the extent petitioner seeks intervention under "Option A" it is denied; it is further

ORDERED that petitioner be provided a copy of the February 14, 2013,

Procedural Order.

Dated this 9<sup>th</sup> day of August, 2013.

  
\_\_\_\_\_  
Everett Hoyt, Prehearing Chair  
South Dakota Water Management Board

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

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

PROCEDURAL ORDER

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

Upon consideration of the Motions for Consolidation and Procedural Order filed by the Department of Environment and Natural Resources Water Rights Program and Groundwater Quality Program (DENR), and argument submitted by all parties and interested persons at the Procedural Hearing (Prehearing Conference) held on February 8, 2013, it is hereby ORDERED that:

- 1) DENR's Motion to Consolidate is granted. The above-entitled matters are hereby consolidated.
- 2) All persons who filed Petitions to Intervene in the water permit application proceedings or Petitions to Initiate a Contested Case in the groundwater discharge plan proceedings that were on file with DENR prior to the Prehearing Conference are granted.
- 3) All persons who have filed Petitions to Intervene or Petitions to Initiate a Contested Case in the above-entitled matters must file with DENR an Election of Participation using the attached form by March 15, 2013. Persons who do not

file an Election of Participation Form will be treated as if they have elected to limit their participation to submitting sworn testimony at the beginning of the contested case hearing (Option B). Any Party may change participation status by timely notifying DENR staff person Eric Gronlund in writing at: Eric Gronlund, DENR, Foss Building, 523 E. Capitol Avenue, Pierre, SD 57501-3182. The Party must also serve copies of the notification on Applicant, DENR counsel, all parties who elected full participation (Option A), Prehearing Chair Hoyt and Board Counsel Jeff Hallem. A service list may be obtained from Mr. Gronlund.

- 4) Attorneys who have not yet filed Notices of Appearance for persons who elect to fully participate in the contested case proceeding (Option A) are directed to do so immediately. Nonresident counsel must be able to demonstrate compliance with the *pro hac vice* requirements of SDCL 16-18-2 to participate in this matter.
- 5) All corporations, partnerships, associations, and other legal entities (including non-profit associations) must be represented by counsel in this proceeding.
- 6) The following prehearing schedule and obligations apply to Applicant, DENR and all parties who elect Option A:
  - i) Discovery requests must be initiated (served upon the applicable Party) by April 1, 2013. The Parties shall attempt to informally resolve any discovery dispute. If a discovery dispute cannot be resolved a party may file a motion with the Prehearing Chair in the same manner as provided in 6) vii) below.
  - ii) Discovery completion deadline is 45 days prior to the initial date scheduled for the contested case hearing.

- iii) Each Party will disclose, in writing sent to all other Parties, the names of expert witnesses, curricula vitae, and a copy of any expert report that it intends to offer on or before 45 days prior to the initial date scheduled for the contested case hearing.
- iv) Each Party will disclose, in writing sent to all other Parties, the names of witnesses each Party expects to call during the contested case proceeding on or before 20 days prior to the initial date scheduled for the contested case hearing.
- v) Each Party will provide, by writing sent to all other Parties, a list identifying the exhibits together with a copy of each exhibit identified that Party expects to offer into evidence during the contested case proceeding on or before 20 days prior to the initial date scheduled for the contested case hearing.
- vi) All exhibits shall be marked in advance by each Party and that each Party must provide a sufficient number of copies for use at the contested case hearing, including 10 copies for use by the Board, its counsel, and court reporter. Exhibits shall be marked by using the Party's name and numbered sequentially. Individuals shall mark each of their exhibits using their name in full ( example: Jane W. Doe)
- vii) All original pleadings, prehearing motions, discovery requests and responses are to be sent by regular first class mail to Eric Gronlund, DENR, Foss Building, 523 E. Capitol Avenue, Pierre, SD 57501-3182. Parties must serve copies on all other Parties; and except for discovery requests, discovery responses and the items identified in 6) iii) through v) inclusive on

the Prehearing Chair and Board Counsel Jeff Hallem. In addition copies of all documents to be filed will be delivered to the following libraries:

Attn: Doris Ann Mertz  
Custer County Library  
447 Crooks Street, Ste. 4  
Custer, SD 57730

Attn: Ashley Cortney  
Edgemont Public Library  
PO Box A / 412 2nd  
Edgemont, SD 57735

Attn: Cindy Messenger  
Hot Springs Public Library  
2005 Library Drive  
Hot Springs, SD 57747

Attn: Jason Walker  
Rapid City Public Library  
610 Quincy Street  
Rapid City, SD 57701

Attn: Michelle May  
Woksape Tipi  
Oglala Lakota College  
PO Box 310  
Kyle, SD 57752

Public access to the documents delivered will be determined by each library.

- 7) The contested case hearing before the Water Management Board will begin at Rapid City, South Dakota at a date to be set by the Water Management Board and at a location to be determined by DENR staff. The Water Management Board will consider scheduling the dates for the contested case hearing during its meeting in Pierre on March 6, 2013 at the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre SD at 11 A.M. CST, or as soon thereafter as may be heard. It is anticipated the contested case hearing will take at least five days.
- 8) The contested case hearing will proceed as follows:
  - i) The taking of sworn testimony from those parties that chose or have been designated to have chosen Option B of the Election of Participation Form. Comments should not to exceed 15 minutes each; and the Board may limit

unduly repetitive testimony. The testimony provided will be subject to cross examination by other parties and questions from Board members.

ii) Once the taking of comments is completed, the formal contested case proceeding will start with any preliminary motions from the Parties.

iii) The Parties will make opening statements.

iv) Witnesses and evidence will be taken subject to objection and cross examination, in the following order:

(a) Applicant Powertech (USA), Inc.;

(b) DENR Water Rights Program;

(c) DENR Groundwater Quality Program;

(d) Other Parties following an order established by the Chairman;

(e) Board members may ask the witness questions.

v) After the record is closed, the Parties will offer short closing arguments in the same order.

vi) At the conclusion of the proceedings, the Board may render a decision and direct the prevailing party to provide findings of fact and conclusions of law consistent with the decision. Other parties will be given an opportunity to file proposed findings of fact and conclusions of law for the record.

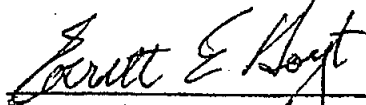
Alternatively, the Board may take the matter under advisement until its next Board meeting.

9) Questions concerning the arrangements for the contested case proceeding and service list are to be made to DENR employee Eric Gronlund at

[Eric.Gronlund@state.sd.us](mailto:Eric.Gronlund@state.sd.us) or 605-773-3352.



Dated this 14th day of February, 2013.

Handwritten signature of Everett E. Hoyt in cursive script.

Everett Hoyt, Prehearing Chair  
South Dakota Water Management Board

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

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

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

*TO: All Persons who filed Petitions to Intervene or Petition to Initiate a Contested Case  
in either of the above-entitled matters:*

You filed or signed a petition or sent comments to the Department of Environment and Natural Resources on one or both of the Powertech matter listed above pending before the Water Management Board. To clarify your intent, you must elect to A) participate as a full party in the formal contested case proceeding, including presenting testimony subject to cross examination, offering exhibits, cross examining other witnesses, making and defending objections, addressing legal argument, and having the option to appeal to the courts if desired; OR B) provide sworn testimony during the beginning of the contested case hearing; OR C) rely on information you already filed. Election of Options B and C will waive some of the rights and relieve you of some of the obligations you have if you participate as a Party under Option A.

**YOU MUST RETURN THIS FORM TO ERIC GRONLUND, DENR, ON OR  
BEFORE MARCH 15, 2013. FAILURE TO COMPLETE AND RETURN THIS WILL  
BE CONSTRUED AS AN ELECTION TO PROCEED UNDER OPTION B. A PERSON**

**MAY CHANGE THEIR PARTICIPATION STATUS AS PROVIDED IN THE**  
**FEBRUARY 14th, 2013 PROCEDURAL ORDER.**

Dated this 14th day of February, 2013.



Everett Hoyt, Prehearing Chair  
South Dakota Water Management Board

\*\*\*\*\*

\_\_\_\_\_(A) I wish to participate as a full party in this proceeding by presenting testimony subject to cross examination, offering exhibits, cross examining other witnesses, making and defending objections, addressing legal argument, and having the option to appeal to the courts if desired. I understand that if I am appearing on my own behalf, I do not need to be represented by a lawyer, but that all corporations, partnerships, nonprofit associations, and other legal entities must have a lawyer represent them if they participate as a party.

\_\_\_\_\_(B) I wish to offer my sworn testimony at the beginning of the contested case hearing. I understand that due to the large number of parties, I may be limited to 10-15 minutes. I understand my testimony will be subject to cross examination and I will not have all of the rights nor obligations of a full party.

\_\_\_\_\_(C) I wish to rely on the petition that I submitted or signed. I do not wish to testify or participate as a full party in these proceedings.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Printed name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone number: \_\_\_\_\_

Email address: \_\_\_\_\_

Mail to: Eric Gronlund, DENR, 523 E. Capitol Ave., Pierre, SD 57501



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

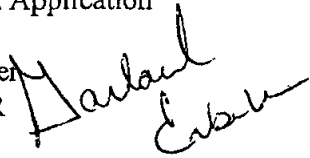
PMB 2020  
JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182

March 26, 2013

denr.sd.gov

NOTICE

TO: Parties of Record in the matter of Powertech's Water Permit Applications and Ground Water Discharge Plan Application

FROM: Garland Erbele, Chief Engineer  
Water Rights Program, DENR 

SUBJECT: Establishment of Hearing Date to Consider 2012 Ground Water Discharge Plan and Water Permit Application Nos. 2685-2 and 2686-2 filed by Powertech (USA) Inc.

On March 6, 2013, the Water Management Board established dates to conduct the consolidated contested case hearing in the matter of the 2012 Ground Water Discharge Plan and Water Permit Application Nos. 2685-2 and 2686-2 filed by Powertech (USA) Inc. The Board set the hearing to begin at 8:30 am on Monday, October 7, 2013 and to continue through Friday, October 11, 2013. If necessary, the Board will reconvene the week of October 28, 2013 to conclude the evidentiary hearing.

The hearing will be conducted at the Best Western Ramkota Hotel & Conference Center, 2111 North LaCrosse Street, Rapid City SD 57701.

The final day to submit completed Election of Participation forms was March 15, 2013. Attached is a summary table of Election of Participation submittals and the election choices. The actual forms along with all other documents received in the administrative record will be posted on DENR's website at <http://denr.sd.gov/Powertech.aspx>.

Participants that selected "A" on the election form for full party status must serve all original pleadings, prehearing motions, discovery requests and responses by first class mail to Eric Gronlund, DENR, Foss Building, 523 E Capitol Avenue, Pierre SD 57501-3182. In addition, unless the Prehearing Chairman orders otherwise, the parties must also serve copies on all other Parties that selected full party status (selection "A"), as well as each of the five libraries listed in 6) vii) of the procedural order.

Petitioners that selected "B" on the election form may present sworn testimony at the beginning of the hearing the week of October 7, 2013. Those that selected "C" on the election form will rely on the petition that they signed. Those that did not submit a selection form will be treated as selecting "B" on the election form. Copies of the petitions will be provided to the Board prior to the hearing.

Enclosure

C: Parties of Record (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  
Jason Walker, Rapid City Public Library, 610 Quincy Street, Rapid City SD 57701



**OFFICE OF ATTORNEY GENERAL**

1302 East Highway 14, Suite 1  
Pierre, South Dakota 57501-8501  
Phone (605) 773-3215  
Fax (605) 773-4106  
TTY (605) 773-6585  
[www.state.sd.us/atg](http://www.state.sd.us/atg)

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AUG 21 2013

WATER RIGHTS  
PROGRAM

**MARTY J. JACKLEY**  
ATTORNEY GENERAL

**CHARLES D. McGUIGAN**  
CHIEF DEPUTY ATTORNEY GENERAL

August 20, 2013

Eric Gronlund  
Department of Environment and Natural Resources  
523 East Capitol Avenue  
Pierre, SD 57501

RE: **In the Matter of Powertech (USA), Inc. Applications, Water  
Management Board**

Dear Eric,

Enclosed is the original Notice of Prehearing Conference and  
Motions Hearing and Certificate of Service in the above matter.  
Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Jeffrey P. Hallem".

Jeffrey P. Hallem  
Assistant Attorney General

JPH/lde  
Enc.

cc w/enc: Everett Hoyt, Prehearing Chairman  
Parties listed on Certificate of Service  
Rodney Freeman, Hearing Chairman

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

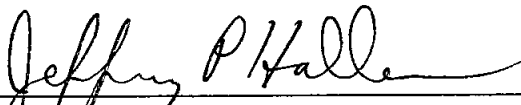
IN THE MATTER OF WATER	)	NOTICE OF PREHEARING
PERMIT APPLICATIONS 2685-2	)	CONFERENCE AND MOTIONS
and 2686-2, POWERTECH (USA),	)	HEARING
INC.	)	

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

**NOTICE IS HEREBY GIVEN** that a Prehearing Conference and Motions Hearing in the above entitled matters has been scheduled before Prehearing Chairman Everett Hoyt on Monday, September 16, 2013, beginning at 1:00 p.m. MDT, or as soon thereafter as this matter can be heard. The Prehearing Conference and Motions Hearing will be held at the Bear Butte Room, Ramkota Hotel, 2111 N. La Crosse Street, Rapid City, South Dakota.

The Prehearing Conference will only address prehearing and hearing procedural issues with regard to the above referenced applications. The Motion Hearing will address any prehearing motions properly filed with the Department and served upon the parties on or before September 9, 2013. Any replies to the motions shall be filed on or before September 13, 2013.

Dated this 20<sup>th</sup> day of August, 2013.

  
\_\_\_\_\_  
Jeffrey P. Hallem  
Assistant Attorney General  
Counsel for the Water Management Board  
Office of the Attorney General  
1302 E. Hwy. 14, Suite 1  
Pierre, SD 57501-8501  
Telephone: (605) 773-3215

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

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

CERTIFICATE OF SERVICE

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

The undersigned hereby certifies that a true and correct copy of the *Notice of Prehearing Conference and Motions Hearing* filed in the above entitled matter was served upon the following by enclosing the same in envelopes with first class postage prepaid and affixed thereto, and depositing said envelopes in the United States mail, at Pierre, South Dakota, on this 20<sup>th</sup> day of August, 2013:

Sabrina King  
917 Wood Avenue  
Rapid City, SD 57701

Gary E. Heckenlaible  
P.O. Box 422  
Rapid City, SD 57709

Bruce Ellison  
Attorney for Clean Water Alliance  
P.O. Box 2508  
Rapid City, SD 57709

Rebecca R. Leas  
6509 Seminole Lane  
Rapid City, SD 57702

Rick V. Summerville  
6509 Seminole Lane  
Rapid City, SD 57702

Andy Johnson  
610 Nellie Lane  
Spearfish, SD 57783

Cindy Gillis  
Attorney for Oglala Sioux Tribe  
522 7<sup>th</sup> Street, Suite 202  
Rapid City, SD 57701

Cheryl A. and Roger Rowe  
7950 Dark Canyon  
Rapid City, SD 57702



Max Main  
Attorney Powertech (USA), Inc.  
618 State Street  
Belle Fourche, SD 57717

Douglas C. Uptain  
3213 W. Main #112  
Rapid City, SD 57702

Lilias Jones Jarding  
418 N. 44<sup>th</sup> Street  
Rapid City, SD 57702

Gena M. Parkhurst  
P.O. Box 1914  
Rapid City, SD 57709

Marvin Kammerer  
22198 Elkvale Road  
Rapid City, SD 57701

Cindy Brunson  
11122 Fort Igloo Road  
Edgemont, SD 57735

Rodney G. Knudson  
P.O. Box 25  
Hulett, WY 82720

Rebecca M. Lord  
P.O. Box 952  
Hill City, SD 57745

Mark Boddicker  
13850 Battle Creek Road  
Hermosa, SD 57744

Dahl H. McLean  
11853 Acorn Ridge Road  
Spearfish, SD 57783

Michael M. Hickey  
Atty Black Hills Wild Horse Sanc  
P.O. Box 2670  
Rapid City, SD 57709-2670

Angelia Baldwin  
P.O. Box 1914  
Pierpont, SD 57468-0191

Frank J. Kloucek  
29966 423 Ave.  
Scotland, SD 57059

Susan R. Henderson  
11507 Hwy 471  
Edgemont, SD 57735

Jill Anawaty  
2804 Willow Ave.  
Rapid City, SD 57701

Richard Draeger  
617 Saint Cloud  
Rapid City, SD 57701

Gwen E. Kaneshiro / William M C Ing  
1446 Evanston Ave.  
Hot Springs, SD 57747

Brenda Gamache  
2337 Wilson Ave.  
Hot Springs, SD 57747

Diane Best  
Office of Attorney General  
317 N. Main  
Sioux Falls, SD 57104

Roxanne Giedd  
Office of Attorney General  
1302 E. Highway 14, Suite 1  
Pierre, SD 57501

Attn: Michelle May  
Woksape Tipi  
Oglala Lakota College  
P.O. Box 310  
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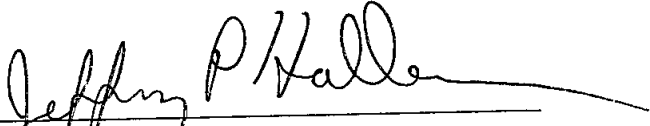
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Attn: Cindy Messenger  
Hot Springs Public Library  
2005 Library Dr.  
Hot Springs, SD 57747

Attn: Government Documents  
Rapid City Public Library  
610 Quincy Street  
Rapid City, SD 57701

And the original of the same was filed on the same date with Eric Gronlund,  
Joe Foss Building, 523 E. Capitol Ave, Pierre, SD 57501.

  
\_\_\_\_\_  
Jeffrey P. Hallem  
Assistant Attorney General  
Mickelson Criminal Justice Center  
1302 East Highway 14, Suite 1  
Pierre, South Dakota 57501  
Telephone: (605) 773-3215

STATE OF SOUTH DAKOTA



**OFFICE OF ATTORNEY GENERAL**

1302 East Highway 14, Suite 1  
Pierre, South Dakota 57501-8501

Phone (605) 773-3215

Fax (605) 773-4106

TTY (605) 773-6585

[www.state.sd.us/atg](http://www.state.sd.us/atg)

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SEP 10 2013

WATER RIGHTS  
PROGRAM

**MARTY J. JACKLEY**  
ATTORNEY GENERAL

**CHARLES D. McGUIGAN**  
CHIEF DEPUTY ATTORNEY GENERAL

September 9, 2013

Eric Gronlund  
Department of Environment  
and Natural Resources  
523 East Capitol Avenue  
Pierre, SD 57501

Re: *In the Matter of Powertech (USA), Inc. Applications,  
Water Management Board*

Dear Eric:

Enclosed is the original of the *Memorandum for Prehearing Chair Hoyt to "B" Participants* and Certificate of Service in the above-referenced matter. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeffrey P. Hallem".

Jeffrey P. Hallem  
Assistant Attorney General

JPH/rar

Enclosures

cc w/encl: Everett Hoyt, Prehearing Chair  
Parties listed on Certificate of Service  
Rodney Freeman, Hearing Chair



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SEP 10 2013

WATER RIGHTS  
PROGRAM

DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

JOE FOSS BUILDING  
PMB 2020  
523 EAST CAPITOL  
PIERRE SOUTH DAKOTA 57501-3182  
www.denr.sd.gov

September 9, 2013

TO: ALL PERSONS WHO HAVE ELECTED OR HAVE BEEN DESIGNATED "B" STATUS

From: Everett Hoyt - Prehearing Chair

RE: *In the Matters of Water Permit Applications and Ground Water Discharge Plan  
Application Submitted by Powertech (USA), Inc.*

Dear "B" Status Party:

You have either elected or been designated to participate in the above hearing as a "B" party. This status allows you to make sworn testimony before the Water Management Board at the beginning of the hearing. Any statement from a "B" party will be given under oath and transcribed by a court reporter. While you are under oath, all "A" parties and the Board will be able to ask you questions about your testimony. The hearing is currently scheduled to begin at 8:30 a.m. Monday, October 7, 2013 at the Ramkota Hotel in Rapid City, South Dakota. The Board intends to begin taking sworn testimony from "B" parties that morning, and continue until all "B" parties desiring to do so have testified. Currently, there are some 200 individuals that have elected or been designated as a "B" party. The Water Management Board is attempting to determine how many "B" parties actually intend to testify.

To assist the Board in determining who will be testifying, please check the appropriate boxes below and return this letter to Eric Gronlund, DENR, 523 East Capitol, Pierre, South Dakota 57501 by September 20, 2013.

1. Do you intend to be present at the hearing?  
 Yes       No
2. Do you intend to make a sworn statement to the Board?  
 Yes       No
3. In minutes, how long do you anticipate your statement will take?  
(15 minute maximum)  
 Five       Ten       Other (number) \_\_\_\_\_

To aid you in making these determinations, attached are some guidelines that the Board intends to use regarding the taking of sworn testimony. If you have any questions, you may contact Jeff Hallem, Assistant Attorney General and Counsel for the Water Management Board at 1302 East Highway 14, Suite 1, Pierre, South Dakota 57501 or by telephone (605) 773-3215.

## Criteria for Taking Sworn Testimony from "B" Parties

1. All individuals desiring to testify will need to sign in at the hearing. The Board intends to take testimony in the order individuals have signed in.
2. Individuals giving sworn testimony may be questioned by the "A" parties and Board members regarding their testimony. Individuals will need to answer each question, unless otherwise instructed by the Board Chairman.
3. The maximum length of time for each individual's sworn testimony is 15 minutes. The Board Chairman, consistent with the contested case provisions in SDCL 1-26-19, may limit duplicative testimony and testimony that is not relevant to the Applications before the Board.
4. The hearing before the Water Management Board concerns only Applications for two ground water permits and a ground water discharge plan submitted by Powertech (USA), Inc. The Board of Minerals and Environment is the sole State administrative agency that determines whether a mining permit should be issued to Powertech.
5. The criteria for granting a ground water permit, set forth in SDCL 46-2A-9, are:
  - 1) Water must be available for the proposed use;
  - 2) The proposed diversion can be developed without unlawful impairment of existing rights;
  - 3) The use of the water must be a beneficial use; and
  - 4) The use of the water must be in the public interest.
6. Criteria for conditional approval and disapproval of a ground water discharge plan, set forth in ARSD 74:54:02:09 and 74:54:02:10, are:
  - 1) The application for the ground water discharge plan must be procedurally complete;
  - 2) The ambient ground water quality will not be degraded or water quality variance permit can be issued to degrade the ambient water quality to the standards of §§ 74:54:01:04 and 74:54:01:05; and
  - 3) The implementation of the purposed monitoring plan is adequate for compliance monitoring to ensure beneficial uses will not be impaired and there will be no hazard to human health

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

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

CERTIFICATE OF SERVICE

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

The undersigned hereby certifies that a true and correct copy of a  
*Memorandum from Prehearing Chair Hoyt to "B" Participants* filed in the above  
entitled matter was served upon the following by enclosing the same in envelopes  
with first class postage prepaid and affixed thereto, and depositing said envelopes  
in the United States mail, at Pierre, South Dakota, on this 9<sup>th</sup> day of September,  
2013:

Sabrina King  
917 Wood Avenue  
Rapid City, SD 57701

Gary E. Heckenlaible  
P.O. Box 422  
Rapid City, SD 57709

Bruce Ellison  
Attorney for Clean Water Alliance  
P.O. Box 2508  
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Rebecca R. Leas  
6509 Seminole Lane  
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Rick V. Summerville  
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Rodney G. Knudson  
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Attn: Michelle May  
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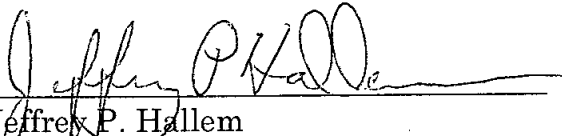
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And the original of the same was filed on the same date with Eric Gronlund,  
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\_\_\_\_\_  
Jeffrey P. Hallem  
Assistant Attorney General  
Mickelson Criminal Justice Center  
1302 East Highway 14, Suite 1  
Pierre, South Dakota 57501  
Telephone: (605) 773-3215





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

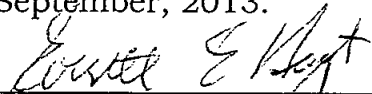
IN THE MATTER OF THE 2012 )  
GROUNDWATER DISCHARGE )  
PLAN APPLICATION SUBMITTED )  
BY POWERTECH (USA), INC. )

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 19<sup>th</sup> day of September, 2013.

  
\_\_\_\_\_  
Everett Hoyt, Prehearing Chair  
South Dakota Water Management Board

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

RECEIVED

SEP 23 2013

WATER RIGHTS  
PROGRAM

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

ORDER UPON RECONSIDERATION  
DENYING MOTION  
OF BRENDA S. GAMACHE

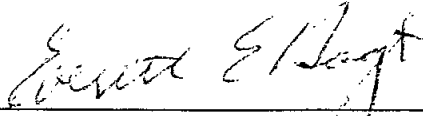
IN THE MATTER OF THE 2012 )  
GROUNDWATER DISCHARGE )  
PLAN APPLICATION SUBMITTED )  
BY POWERTECH (USA), INC. )

Party status "A" Intervenor Brenda S. Gamache filed documents seeking the Prehearing Chair's reconsideration of his September 6<sup>th</sup> 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 19<sup>th</sup> day of September, 2013.

  
\_\_\_\_\_  
Everett Hoyt, Prehearing Chair  
South Dakota Water Management Board

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

RECEIVED

SEP 23 2013

WATER RIGHTS  
PROGRAM

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

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

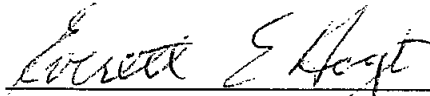
ORDER DENYING BLACK HILLS WILD  
HORSE SANCTUARY, SUSAN WATT, &  
DAYTON HYDE'S MOTION TO  
CONTINUE

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 19<sup>th</sup> 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:

MAX MAIN  
618 STATE ST  
BELLE FOURCHE SD 57717

RICHARD DRAEGER  
617 ST CLOUD ST  
RAPID CITY SD 57701

EV HOYT – PREHEARING CHAIRMAN  
4422 CARRIAGE HILLS DR  
RAPID CITY SD 57702

DORIS ANN MERTZ  
CUSTER CO LIBRARY  
447 CROOKS ST # 4  
CUSTER SD 57730

GWEN E KANESHIRO  
WILLIAM ING  
1446 EVANSTON AVE  
HOT SPRINGS SD 57747

CYNTHIA MESSENGER  
12750 MERCHEN RD #18  
HOT SPRINGS SD 57747

MICHELLE MAY  
WOKSAPE TIPI OGLALA LAKOTA COLLEGE  
PO BOX 301  
KYLE SD 57752

JILLIAN ANAWATY  
2804 WILLOW AVE.  
RAPID CITY SD 57701

ASHLEY CORTNEY  
EDGEMONT PUBLIC LIBRARY  
PO BOX A  
EDGEMONT SD 57735

RAPID CITY PUBLIC LIBRARY  
ATTN: GOV'T DOCUMENTS  
610 QUINCY ST  
RAPID CITY SD 57701

BRENDA GAMACHE  
2337 WILSON AVE  
HOT SPRINGS SD 57747

JEFF HALLEM ASST ATTY GEN  
INTEROFFICE MICKELSON BLDG

ROXANNE GIEDD ASST ATTY GEN  
INTEROFFICE MICKELSON BLDG

ANGELIA BALDWIN  
PO BOX 191  
PIERPONT SD 57468

DIANE BEST ASST ATTY GEN  
317 N MAIN  
SIOUX FALLS SD 57104

SABRINA KING  
917 WOOD AVENUE  
RAPID CITY, SD 57701

DAHL H MCLEAN  
11853 ACORN RIDGE RD  
SPEARFISH SD 57783

GARY HECKENLAIBLE  
PO BOX 422  
RAPID CITY SD 57709

BRUCE ELLISON LAW OFFICE  
PO BOX 2508  
328 EAST NY ST  
RAPID CITY SD 57709

SUSAN R HENDERSON  
11507 HWY 471  
EDGEMONT SD 57735

REBECCA R LEAS, PH. D  
RICK V SUMMERVILLE  
6509 SEMINOLE LN  
RAPID CITY SD 57702

ANDY JOHNSON  
610 NELLIE LN  
SPEARFISH SD 57783

W CINDY GILLIS  
GONZALEZ LAW FIRM  
522 7<sup>TH</sup> ST # 202  
RAPID CITY SD 57701

ROGER AND CHERYL A ROWE  
7950 DARK CANYON RD  
RAPID CITY SD 57702

DOUGLAS UPTAIN  
3213 W MAIN ST. #112  
RAPID CITY SD 57702

LILIAS C JONES-JARDING  
418 N 44TH ST  
RAPID CITY SD 57702

GENA PARKHURST  
PO BOX 1914  
RAPID CITY SD 57709

MARVIN KAMMERER  
22198 ELK VALE RD  
RAPID CITY SD 57701

CINDY BRUNSON  
11122 FORT IGLOO RD  
EDGEMONT SD 57735

RODNEY KNUDSON  
PO BOX 25  
HULETT WY 82720

MARK BODDICKER  
13850 BATTLE CREEK RD  
HERMOSA SD 57744

MICHAEL HICKEY  
BANGS & MCCULLEN LAW FIRM  
PO BOX 2670  
RAPID CITY SD 57709-2670

FRANK J KLOUCEK  
29966 423RD AVE  
SCOTLAND SD 57059

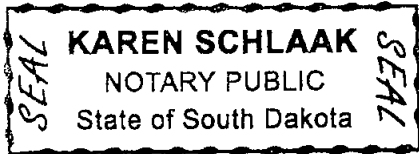
REBECCA MICHELE LORD  
PO BOX 952  
HILL CITY SD 57745-0952

Gail Jacobson  
Gail Jacobson  
Secretary/Water Rights

STATE OF SOUTH DAKOTA     )  
   ) SS  
COUNTY OF HUGHES         )

Sworn to, before me, this 23<sup>rd</sup> day of September, 2013.

Karen Schlaak  
Karen Schlaak  
Notary Public  
My Commission expires April 1, 2019





RECEIVED

DEC 28 2012

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

LAW OFFICES OF  
BENNETT, MAIN & GUBBRUD  
A PROFESSIONAL CORPORATION

618 STATE STREET  
BELLE FOURCHE, SOUTH DAKOTA 57717-1489  
TEL (605) 892-2011  
FAX (605) 892-4084  
EMAIL: [bellelaw@bellelaw.com](mailto:bellelaw@bellelaw.com)

MAX MAIN\*  
DWIGHT A. GUBBRUD\*

\*LICENSED IN SOUTH DAKOTA AND WYOMING

EST. 1908

RETIRED  
DONN BENNETT

December 26, 2012

Matt Hicks  
DENR - Ground Water Quality Program  
523 East Capitol Ave., Joe Foss Bldg.  
Pierre, SD 57501-3182

**RE: IN THE MATTER OF A GROUND WATER DISCHARGE PLAN  
APPLICATION BY POWERTECH (USA) INC.;**  
**Our File No. 4500.035012.**

Dear Matt:

Enclosed for filing in the above-referenced matter is an original NOTICE  
OF APPEARANCE.

Thank you for your assistance.

Sincerely,

BENNETT, MAIN & GUBBRUD, P.C.



Max Main

MM/ra

Enc.

cc (w/Encs.): Client

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

<b>IN THE MATTER OF A GROUND WATER DISCHARGE PLAN APPLICATION BY POWERTECH (USA) INC.</b>	<b>NOTICE OF APPEARANCE</b>
---	-----------------------------

PLEASE TAKE NOTICE, that the undersigned appears in the above-entitled matter for Powertech (USA) Inc.

Dated December 26<sup>th</sup>, 2012.

BENNETT, MAIN & GUBBRUD, P.C.  
Attorneys for Powertech

By Max Main  
Max Main  
618 State Street  
Belle Fourche, SD 57717-1489  
Telephone: 605.892.2011

**CERTIFICATE OF SERVICE**

I, MAX MAIN, one of the attorneys for Powertech (USA) Inc., do hereby certify that on December 26, 2012, I caused the original of the foregoing NOTICE OF APPEARANCE to be filed as follows:

Matt Hicks  
DENR - Ground Water Quality Program  
523 East Capitol Ave., Joe Foss Bldg.  
Pierre, SD 57501-3182

Notice of Appearance

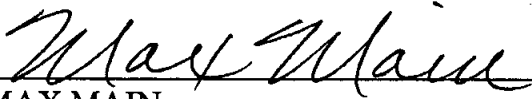
---

and that I caused full, true and complete copies of said documents to be served upon the following named persons at their last known mailing addresses, as follows:

Roxanne Giedd, Esq.  
Deputy Attorney General  
Office of the Attorney General  
1302 E. Hwy. 14, Ste. 1  
Pierre, SD 57501-8501

Diane Best, Esq.  
Office of the Attorney General  
317 N. Main Ave.  
Sioux Falls, SD 57104

by depositing the same in the United States Mail in Belle Fourche, South Dakota with first class postage thereon fully prepaid, in an envelope addressed as above.

  
MAX MAIN

LAW OFFICES OF  
BENNETT, MAIN & GUBBRUD  
A PROFESSIONAL CORPORATION  
618 STATE STREET  
BELLE FOURCHE, SOUTH DAKOTA 57717-1489  
TEL (605) 892-2011  
FAX (605) 892-4084  
EMAIL: [bellelaw@bellelaw.com](mailto:bellelaw@bellelaw.com)

RECEIVED

DEC 28 2012

WATER RIGHTS  
PROGRAM

MAX MAIN\*  
DWIGHT A. GUBBRUD\*  
\*LICENSED IN SOUTH DAKOTA AND WYOMING

EST. 1908

RETIRED  
DONN BENNETT

December 26, 2012

Eric Gronlund  
DENR - Water Rights Program  
523 East Capitol Ave., Joe Foss Bldg.  
Pierre, SD 57501-3182

**RE: IN THE MATTER OF WATER PERMIT APPLICATION NOS.  
2685-2 AND 2686-2, POWERTECH (USA) INC.;  
Our File No. 4500.035012.**

Dear Eric:

Enclosed for filing in the above-referenced matter is an original NOTICE OF APPEARANCE.

Thank you for your assistance.

Sincerely,

BENNETT, MAIN & GUBBRUD, P.C.



Max Main

MM/ra

Enc.

cc (w/Encs.): Client

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

<b>IN THE MATTER OF WATER PERMIT APPLICATION NOS. 2685-2 AND 2686-2, POWERTECH (USA) INC.</b>	<b>NOTICE OF APPEARANCE</b>
---	-----------------------------

PLEASE TAKE NOTICE, that the undersigned appears in the above-entitled matter for Powertech (USA) Inc.

Dated December 26<sup>th</sup>, 2012.

BENNETT, MAIN & GUBBRUD, P.C.  
Attorneys for Powertech

By Max Main  
Max Main  
618 State Street  
Belle Fourche, SD 57717-1489  
Telephone: 605.892.2011

**CERTIFICATE OF SERVICE**

I, MAX MAIN, one of the attorneys for Powertech (USA) Inc., do hereby certify that on December 26, 2012, I caused the original of the foregoing NOTICE OF APPEARANCE to be filed as follows:

Eric Gronlund  
DENR - Water Rights Program  
523 East Capitol Ave., Joe Foss Bldg.  
Pierre, SD 57501

and that I caused full, true and complete copies of said documents to be served upon the following named persons at their last known mailing addresses, as follows:

Jillian Anawaty  
2804 Willow Ave.  
Rapid City, SD 57701

Jerri Baker  
705 N. River Street  
Hot Springs, SD 57747

Mark Belitz  
28233 Cascade Road  
Hot Springs, SD 57747

Jennifer Belitz  
28233 Cascade Road  
Hot Springs, SD 57747

Doris Belitz  
12747 Oak Road  
Hot Springs, SD 57747

Larry Belitz  
12747 Oak Road  
Hot Springs, SD 57747

Edward H. Binns  
408 N. 17<sup>th</sup> Street  
Hot Springs, SD 57747

Cindy Brunson  
11122 Fort Igloo Rd.  
Edgemont, SD 57735

Bruce Ellison  
Attorney for Clean Water Alliance  
P. O. Box 2508  
Rapid City, SD 57709

Barbara Cromwell  
2313 Cruz Drive  
Rapid City, SD 57702

Jeremiah J. Davis  
130 E. Centennial  
Rapid City, SD 57701

Charmaine White Face, Coordinator  
Defenders of the Black Hills  
P. O. Box 2003  
Rapid City, SD 57709

Fall River County Commission  
Attn: Michael P. Ortner, Chairman  
906 N. River Street  
Hot Springs, SD 57747

Leslie Murphy, Senior Biologist  
S.D. Dept. of Game, Fish & Parks  
Foss Bldg, 523 East Capitol  
Pierre, SD 57501-3182

Gary Heckenlaible  
P. O. Box 422  
Rapid City, SD 57709

Susan R. Henderson  
11507 Hwy 471  
Edgemont, SD 57735

City of Hot Springs  
Attn: D. J. De Vries, Mayor  
303 N. River Street  
Hot Springs, SD 57747

Lilias Jarding, Ph. D.  
418 N. 44<sup>th</sup> Street  
Rapid City, SD 57702

Marvin Kammerer  
22198 Elk Vale Rd.  
Rapid City, SD 57701

Donald H. Kelley, M.D.  
12637 Merritt Estes Rd.  
Deadwood, SD 57732

Sabrina King  
14705 Halter Ct.  
Piedmont, SD 57767

Dewane Stearns  
11500 Indian Canyon Road  
Edgemont, SD 57735

Mark Tubbs  
10891 River Road  
Edgemont, SD 57735

W. Cindy Gillis  
Gonzalez Law Firm  
Attorneys for Oglala Sioux Tribe  
522 Seventh St., Suite 202  
Rapid City, SD 57701

Diane Best, Esq.  
Office of the Attorney General  
317 N. Main Ave.  
Sioux Falls, SD 57104

Rebecca R. Leas, Ph.D.  
6509 Seminole Lane  
Rapid City, SD 57709

William R. Hansen, Chief  
Water Rights Branch  
U.S. Dept. of Interior-National Park Service  
Water Resources Division  
1201 Oakridge Drive, Suite 250  
Fort Collins, CO 80525-5596

Gena M. Parkhurst  
P. O. Box 1914  
Rapid City, SD 57709

Tom Emanuel, Executive Director  
South Dakota Peace & Justice Center  
19 N. Pine Street  
Vermillion, SD 57069

James B. Woodward  
P. O. Box 599  
Wellington, CO 80549

Roxanne Giedd, Esq.  
Deputy Attorney General  
Office of the Attorney General  
1302 E. Hwy. 14, Ste. 1  
Pierre, SD 57501-8501

by depositing the same in the United States Mail in Belle Fourche, South Dakota with first class postage thereon fully prepaid, in envelopes addressed as above.

  
\_\_\_\_\_  
MAX MAIN



**RAPID CITY**

Charles L. Riter  
Allen G. Nelson  
James P. Hurley  
Michael M. Hickey  
Terry L. Hofer  
Rod Schlauger  
Daniel F. Duffy  
Jeffrey G. Hurd  
John H. Raforth  
Terry G. Westergaard  
Steven R. Nolan  
Gregory J. Erlandson  
Eric J. Pickar  
Sarah E. Baron Houy  
Jacob M. Quasney  
Jessica L. Fjerstad  
Mark F. Marshall  
*Of Counsel*

**SIOUX FALLS**

Victoria M. Duehr

*Attorneys also admitted in  
Nebraska, North Dakota,  
Minnesota and Missouri*



**BANGS McCULLEN**

— LAW FIRM —

**Reply to Rapid City Office**

Writer's e-mail address: mhickey@bangsmccullen.com

February 22, 2013

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FEB 25 2013

WATER RIGHTS  
PROGRAM

Mr. Eric Gronlund  
Department of Water  
and Natural Resources  
523 East Capitol Ave.  
Joe Foss Building  
Pierre, SD 57501

**Re: Water Permits of Powertech (USA) Inc.**

Dear Mr. Gronlund:

I have enclosed for your information and records my *Notice of Appearance* in the above matter.

Secondly, I am not certain in reviewing the documents supplied to me by our clients if today is the deadline for parties to file their expert witness disclosure. To be on the safe side, I have enclosed a copy of the CV and preliminary report of our expert, Robert E. Moran, PH.D, Michael-Moran Assoc., LLC, Golden, Colorado, USA. I do anticipate that Dr. Moran will update his report and I will supply a copy of that when it becomes available. A copy of my *Notice of Appearance* and Dr. Moran's CV and report have been served on the counsel of record that I am aware of in this action. This is intended as service by mail upon them.

Please advise if you have any questions. Thank you for your cooperation.

Sincerely,

BANGS, McCULLEN, BUTLER,  
FOYE & SIMMONS, L.L.P.

Michael M. Hickey

MMH:bah

Enclosure

cc: Clients

Max Main, W. Cindy Gillis, Diane Best, Rosanne Giedd, Bruce Ellison

**RAPID CITY**

First Interstate Gateway  
333 West Boulevard  
Suite 400  
P.O. Box 2670  
Rapid City, South Dakota  
57709-2670  
P. (605) 343-1040  
F. (605) 343-1503

**SIOUX FALLS**

Doral Centre Building  
101 W. 69th Street  
Suite 200  
P.O. Box 88208  
Sioux Falls, South Dakota  
57109-8208  
P. (605) 339-6800  
F. (605) 339-6801

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FEB 25 2013

WATER RIGHTS  
PROGRAM

**STATE OF SOUTH DAKOTA**

**BEFORE THE WATER MANAGEMENT BOARD**

---

**IN THE MATTER OF THE WATER  
PERMIT APPLICATION NOS. 2685-2  
AND 2686 POWERTECH (USA) INC.**

---


**Notice of Appearance**

Please take notice and be advised that Michael M. Hickey of Bangs, McCullen, Butler, Foye and Simmons, L.L.P., hereby appears on behalf of Wild Horse Sanctuary, Dayton Hyde and Susan Watt in the above entitled action, and requests that copies of all further pleadings, affidavits, motions or otherwise be served upon the undersigned attorneys.

Dated this 22<sup>nd</sup> day of February, 2013.

BANGS, McCULLEN, BUTLER,  
FOYE & SIMMONS, L.L.P.

BY:



MICHAEL M. HICKEY  
333 West Blvd., Suite 400  
P.O. Box 2670  
Rapid City, SD 57709  
Phone: (605) 343-1040  
*mhickey@bangsmccullen.com*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that he served a copy of this legal document upon the persons herein next designated, all on the date below shown, by depositing copies thereof in the United States mail at Rapid City, South Dakota, postage prepaid, in an envelope addressed to said addressee, to wit:

**Eric Gronlund**  
**Water Rights Program**  
**Joe Foss Building**  
**523 East Capitol**  
**Pierre, SD 57501**  
**Facsimile: (605) 773-4068**

**Max Main**  
**BENNETT, MAIN & GUBBRUD**  
**618 State Street**  
**Belle Fourche, SD 57717-1489**

**W. Cindy Gillis**  
**GONZALEZ LAW FIRM**  
**522 Seventh St., Suite 202**  
**Rapid City, SD 57701**

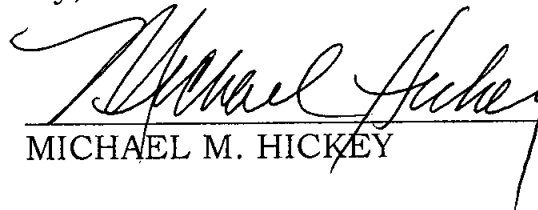
**Diane Best**  
**Office of the Attorney General**  
**317 N. Main Ave.**  
**Sioux Falls, SD 57104**

**Roxanne Giedd**  
**Office of the Attorney General**  
**1302 E. Hwy. 14, Suite 1**  
**Pierre, SD 57501-8501**

**Bruce Ellison**  
**P.O. Box 2508**  
**Rapid City, SD 57709**

which are the last addresses of the addressees known to the subscriber.

Dated this 22<sup>nd</sup> day of February, 2013.

  
MICHAEL M. HICKEY

RECEIVED

FEB 25 2013

WATER RIGHTS PROGRAM

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of )  
 )  
POWERTECH (USA) INC., ) Docket No. 40-9075-MLA  
 )  
(Dewey-Burdock In Situ Uranium Recovery )  
Facility) )

SUPPLEMENTAL DECLARATION OF DR. ROBERT E. MORAN

I, Dr. Robert E. Moran, do hereby swear that the following is true to the best of my knowledge:

Professional Qualifications and Introduction

**Robert E. Moran, Ph.D.**  
Michael-Moran Assoc., LLC  
Water Quality/Hydrogeology/Geochemistry  
Golden, Colorado, U.S.A.  
[remwater@gmail.com](mailto:remwater@gmail.com)

1. I am a hydrogeologist and geochemist with more than 40 years of domestic and international experience in conducting and managing water quality, geochemical and hydrogeologic work for private investors, industrial clients, tribal and citizens groups, NGO's, law firms, and governmental agencies at all levels. Much of his technical expertise involves the quality and geochemistry of natural and contaminated waters and sediments as related to mining, nuclear fuel cycle sites, industrial development, geothermal resources, hazardous wastes, and water supply development. In addition, I have significant experience in the application of remote sensing to natural resource issues, development of resource policy, and litigation support. I have often taught courses to technical and general audiences, and has given expert testimony on numerous occasions. Countries worked in include: Australia, Greece, Bulgaria, Mali, Senegal, Guinea, Gambia, Ghana, South Africa, Iraqi Kurdistan, Oman, Pakistan, Kazakhstan, Kyrgyzstan, Mongolia, Romania, Russia (Buryatia), Papua New Guinea, Argentina, Bolivia, Chile, Colombia, Guatemala, Honduras, Mexico, Peru, El Salvador, Belgium, France, Canada, Great Britain, United States.

## Literature Reviewed

2. In addition to my professional experience, the opinions and comments that follow are based on review of all, or significant portions of the following documents:

Powertech Application for NRC Uranium Recovery License, Dewey-Burdock Project, Feb. 2009:

- Technical Report (TR)
- Environmental report (ER)
- Supplement to Application, Aug. 2009
- Powertech submittals (2010, 2011, 2012)

Abitz, R.J., 2003 (Mar. 3), Declaration of Dr. Abitz, Before U.S. NRC, Atomic Safety & Licensing Board Panel, Administrative Judges, in Matter of: HYDRO Resources, Inc., Crown Point, NM; Docket No. 40-8968-ML.

Abitz, R.J., 2009 (Oct. 31), Comments on Powertech's Proposed Baseline Plan, (R Squared 2009) for the proposed Centennial Site, Colorado, 6 pg.

COGEMA, 2003, Irigaray Project (IR), Quarterly Progress Report of Monitor Wells on Excursion Status, License SUA-1341.

Crancon, P., E. Pili, and L. Charlet, 2010, Uranium facilitated transport by water-dispersible colloids in field and soil columns: Science of The Total Environment, Vol. 408, No., (1 April 2010), Pg. 2118-2128.

Davis, J.A., G.P. Curtis (U.S. Geological Survey), 2007, Consideration of Geochemical Issues in Groundwater Restoration at Uranium In-Situ Leach Mining Facilities: U.S. NRC, NUREG / CR-6870.

Driscoll, D.G., J.M. Carter, J.E. Williamson, and L.D. Putnam, 2002, Hydrology of the Black Hills Area, South Dakota: U.S. Geological Survey Water Resources Investigation Report 02-4094. ML12240A218.  
<<http://pubs.usgs.gov/wri/wri024094/pdf/mainbodyofreport-1.pdf>>

Ecometrix Inc., Nov. 2008, A Review of Environmental Criteria for Selenium and Molybdenum: prepared for The MEND INITIATIVE; MEND Rept. 10.1.1.

Faillace, E.R., D.J. LePoire, S.-Y. Chen, and Y. Yuan, May 1997, MILDOS-AREA: An Update with Incorporation of *In Situ* Leach Uranium Recovery Technology: Letter Report, Argonne National Laboratory, Environmental Assessment Division, Argonne, IL.

Fisher, W.L., L.F. Brown, Jr., A.J. Scott, J.H. McGowen, 1969, Delta Systems in the Exploration for Oil and Gas; U. of Texas Bureau of Economic Geology; A Research Colloquium.

Freeze, R.A. and J.A. Cherry, 1979, Groundwater; Prentice-Hall, 604 pg.

Galloway, W.E., 1982, Epigenetic Zonation and Fluid Flow History of Uranium-Bearing Fluvial Aquifer Systems, south Texas Uranium Province; Texas Bur. Econ. Geology, Rept. of Investigations No. 119, 31 pg.

Gott, G.B., R.W. Schnabel, 1963, Geology of the Edgemont NE Quadrangle Fall River and Custer Counties, South Dakota, USGS Bulletin 1063-E.

Gott, G.B., D.E. Wolcott, C.G. Bowles, 1974, Stratigraphy of the Inyan Kara Group and Localization of Uranium deposits, Southern Black Hills, South Dakota and Wyoming; U.S.G.S. Prof. Paper 763, 57 pg.

Hall, Susan, 2009, Groundwater Restoration at Uranium In-Situ Recovery Mines, South Texas Coastal Plain: U.S.G.S. Open-File Report 2009-1143, 36 pgs.

Harshman, E. N., 1972, Geology and Uranium Deposits, Shirley Basin Area, Wyoming; U.S.G.S. Prof. Paper 745, 82 pg.

Hem, John, 1985, Study and Interpretation of the Chemical Characteristics of Natural Waters, 3rd Edit.; U.S.G.S. Water-Supply Paper 2254, 264 pg.

Henry, C.D. and R.R. Kapadia, 1980, Trace Elements in Soils of the South Texas Uranium District: Concentrations, Origin, and Environmental Significance; Texas Bur. Econ. Geology, Rept. of Investigations No. 101; 52 pg.

Henry, C.D., W.E. Galloway, G.E. Smith, C.L. Ho, J.P. Morton, J.K. Gluck, 1982, Geochemistry of Ground Water in the Miocene Oakville sandstone—A Major Aquifer and Uranium Host of the Texas Coastal Plain; Texas Bur. Econ. Geology Rept. of Investigations No. 118; 63 pg.

Kuipers, J.R. (2000). Hardrock Reclamation Bonding Practices in the Western United States: National Wildlife Federation. Boulder, Colorado, U.S.A., 416 pgs. [This document and a summary can be obtained at: [http://www.mineralpolicy.org/publications/pdf/Bonding\\_Report\\_es.pdf](http://www.mineralpolicy.org/publications/pdf/Bonding_Report_es.pdf) ]

Kuipers, J.R. and A. S. Maest, et. al., 2006, Comparison of Predicted and Actual Water Quality at Hardrock Mines: The reliability of predictions in Environmental Impact Statements, 228 pages. Available at: <http://www.mine-aid.org/> and <http://www.earthworksaction.org/publications.cfm?pubID=213> <http://www.earthworksaction.org/pubs/ComparisonsReportFinal.pdf>

Longmire, Patrick, Dale Counce, Elizabeth Keating, Michael Dale & Kim Granzow, Aqueous Geochemistry of Uranium and Arsenic: Los Alamos and Surrounding Areas, New Mexico.

[www.unm.edu/~cstp/Reports/H2O\\_Session\\_4/4-1\\_Longmire.pdf](http://www.unm.edu/~cstp/Reports/H2O_Session_4/4-1_Longmire.pdf)

McCarthy, J.F. and J. M. Zachara, 1989, Subsurface Transport of Contaminants: mobile colloids in the subsurface environment may alter the transport of contaminants. Environ. Sci. Technol.. Vol. 23. No. 5. Abstract available at: [http://pubs.acs.org/cgi-bin/abstract.cgi/esthag/1989/23/i05/pdf/f\\_es00063a001.pdf?sessid=6006l3](http://pubs.acs.org/cgi-bin/abstract.cgi/esthag/1989/23/i05/pdf/f_es00063a001.pdf?sessid=6006l3)

Moran, R.E., 1976, Geochemistry of Selenium in Groundwater near Golden, Jefferson County, Colorado. Abstracts with Programs, Geological Society of America. 1976 Annual Meeting. November 8-11, 1976. 8(6):1018.

Moran, Robert E., 2000, Is This Number To Your Liking? Water Quality Predictions in Mining Impact Studies, p. 185-198, *in* Prediction: Science, Decision Making and the Future of Nature. D. Sarewitz, R. Pielke, Jr., and R. Byerly, Jr., eds., Island Press, Washington, D.C., 405 pg. [http://www.unc.edu/~mwdoyle/riverretreat2009/Moran\\_2000.pdf](http://www.unc.edu/~mwdoyle/riverretreat2009/Moran_2000.pdf)

Moran, Robert E., 2010 (April 4), Declaration before the Atomic Safety and Licensing Board; in the matter of D-B; Docket No. 40-9075-MLA, 32 pages.

Mudd, Gavin, 1998, An Environmental Critique of In Situ Leach Mining :The Case *Against Uranium Solution Mining*; Research report prepared for Friends of the Earth (Fitzroy) with The Australian Conservation Foundation, 154 pg. [www.sea-us.org.au/pdfs/isl/no2isl.pdf](http://www.sea-us.org.au/pdfs/isl/no2isl.pdf)

Otton, J.K., & S. Hall, 2009, In-situ recovery uranium mining in the United States: Overview of production and remediation issues. IAEA-CN-175/87

[www-pub.iaea.org/mtcd/meetings/PDFplus/2009/.../08\\_56\\_Otton\\_USA.pdf](http://www-pub.iaea.org/mtcd/meetings/PDFplus/2009/.../08_56_Otton_USA.pdf)

Parson, J.C., 2013 (JA. 10), Comments on Docket ID NRC-2012-0277; Draft Supplemental Environmental Impact Statement, Proposed Dewey-Burdock In Situ Leach Uranium Mine, South Dakota; to Cindy Bladey, US NRC, 22pg.

Pilkey, O. H. and Linda Pilkey-Jarvis, 2007, Useless Arithmetic: Why Environmental Scientists Can't Predict the Future; Columbia Univ. Press, 230 pg.

Ramirez, P. & B. Rogers. 2000. Selenium in a Wyoming grassland community receiving wastewater from an in situ uranium mine. U.S. Fish and Wildlife Service Contaminant Report # R6/715C/00. Cheyenne, WY. Sept. 31.

Ramirez, P. Jr. and B.P. Rogers. 2002. Selenium in a Wyoming grassland community receiving wastewater from an *in situ* uranium mine. Arch. Environ. Contain. Toxicol. 42:431-436.

Ramsey J.L., R. Blaine, J. W. Garner, J. C. Helton, J. D. Johnson, L. N. Smith and M. Wallace, 2000, Radionuclide and colloid transport in the Culebra Dolomite and associated complementary cumulative distribution functions in the 1996 performance assessment for the Waste Isolation Pilot Plant. Reliability Engineering & System Safety, Vol. 69, Issues 1-3, September 2000, Pages 397-420.

Smith, R.B., 2005, Report on the Dewey-Burdock Uranium Project, Custer and Fall River Counties, South Dakota, prepared for Denver Uranium co., LLC, 41 pg.  
Staub, W.P., N.E. Hinkle, R.E. Williams, F. Anastasi, J. Osiensky, and D. Rogness, 1986, An Analysis of Excursions at Selected In Situ Uranium Mines in Wyoming and Texas; NUREG / CR-3967, ORNL / TM-9956, Oak Ridge Nat'l. Lab, TN.

So. Dakota Dept. of Environment and Natural Resources (SDDENR), 2012, Uranium Question and Answer Fact Sheet, 6 pg. (unnumbered).  
<http://denr.sd.gov/Powertech.aspx>

Tourtelot, H.A., 1962, Preliminary Investigation of the Geologic Setting and Chemical Composition of the Pierre Shale Great Plains Region: U.S.G.S. Prof. Paper 390; 81 pg.

U.S. EPA, 2007, TENORM Uranium Occupational and Public Risks Associated with In- Situ Leaching; Append. III, PG 1-11.

US EPA, 2008, Technical Report on Technologically Enhanced Naturally Occurring Radioactive Materials from Uranium Mining, Volume 1: Mining and Reclamation Background: Previously published on-line and printed as Vol. 1 of EPA 402-R-05-007, January 2006, Updated June 2007 and printed April 2008 as EPA 402-R-08-005, Pg. 3- 10.  
<http://www.epa.gov/rpdweb00/docs/tenorm/402-r-08-005-voli/402-r-08-005-v1.pdf>

U.S. Energy Information Administration (U.S. DOE), 2005, U.S. Uranium Production Facilities: Operating History and Remediation Cost Under Uranium Mill Tailings Remedial Action Project as of 2000  
<http://www.eia.doe.gov/cneaf/nuclear/page/umtra/title1map.html>  
<http://www.eia.doe.gov/cneaf/nuclear/page/umtra/background.html>

U.S. Energy Information Administration (U.S. DOE), 2005, Edgemont Mill Site, Fall River County, South Dakota  
[http://www.eia.doe.gov/cneaf/nuclear/page/umtra/edgemont\\_title1.html](http://www.eia.doe.gov/cneaf/nuclear/page/umtra/edgemont_title1.html)



U.S. Fish & Wildlife Service, 2007, Comments (FWS/R6 FR-ES) on Generic Environmental Impact Statement for Uranium Milling Facilities (GETS); prepared for U.S. NRC, Wash., D.C.

USGS] United States Geological Survey, variously dated, National field manual for the collection of water-quality data: U.S. Geological Survey Techniques of Water-Resources Investigations, book 9, chaps. A1-A9, available online at: <http://pubs.water.usgs.gov/twri9A>.

U.S. NRC, 1980(Apr. 25), Regulatory Guide 4.14, Revision 1, "Radiological Effluent and Environmental Monitoring at Uranium Mills".  
<http://pbadupws.nrc.gov/docs/ML0037/ML003739941.pdf>

U.S. NRC (Lusher, J.), 2003, Standard Review Plan for In Situ Leach Uranium Extraction License Applications, Final Report: NUREG-1569.

U.S. NRC (R.C. Linton), 2006(?), Evaluation Report, Review of COGEMA Mining, Inc., Irigaray Mine Restoration Report, Production Units 1 Through 9, Source Materials License SUA-1341.

U.S. NRC, May 2009, Generic Environmental Impact Statement for In-Situ Leach Uranium Milling Facilities. ML091480244, ML091480188, NUREG-1910. Washington, DC.

U.S. NRC, Nov. 2012, DRAFT Environmental Impact Statement for the Dewey-Burdock Project in Custer and Fall River Counties, South Dakota; 2 Vols.

Wyoming DEQ, 2008, Settlement Agreement with Power Resources / Cameco Resources, regarding Highland and Smith Ranch Uranium projects.  
<http://deq.state.wy.us/out/downloads/LQ%20SA%204231-08.pdf>

### **Summary Comments**

3. These opinions focus predominantly on the water resources and related impacts within the proposed Dewey-Burdock (D-B) area. These waters are natural resources presently used collectively by numerous parties (ranchers, municipalities, tribal groups, fish and wildlife, mineral and oil and gas developers, etc.). However, the DSEIS must realistically anticipate what will be the true *long-term* uses of these waters---especially when many generations must be considered. Thus, *truly conservative assumptions* should be employed—which is not the case in this DSEIS.

4. Some of these waters are already contaminated by past uranium exploration and mining, with little or no remediation required by any regulatory agency, which suggests a great deal about the future oversight. The D-B site contains numerous old uranium workings (shallow open-pit and underground), accumulations of various contaminated waste materials, 1000s of unplugged

boreholes, which likely provide hydraulic connections between various water-bearing units. To allow for a meaningful review, all available borehole information needs to be assembled and presented in a comprehensive manner.

5. Past exploration and mining activities have exposed the mineralized rocks to reactive surface waters and ground waters and bacteria, increasing the concentrations of numerous contaminating chemical constituents in local waters, soils, etc. *Nevertheless, some of the water-bearing units within and around the DB area will still contain high or relatively-uncontaminated waters, suitable for numerous other uses.* This pattern is the norm at typical metal mine locations worldwide, including uranium sites. The proposed D-B activities will increase the concentrations of such contaminants in some local ground waters, as a minimum. Thus, it is imperative that the specific locations and characteristics of these contaminated and uncontaminated waters be defined in a DSEIS available for public review and comment prior to publication of a FEIS and project approval.

6. The DSEIS gives the impression that all of the D-B-area waters (surface and ground) are already contaminated. However the DSEIS fails to supply the detailed data necessary to support that contention. Experience at similar sedimentary uranium sites indicates that significant quantities of uncontaminated ground water likely exist, and could be used for other livestock, agricultural, domestic, etc. uses. The NRC has failed to require Powertech to provide statistically-adequate, reliable, *preoperational* baseline data, either within the D-B project area, or in surrounding regions. Without adequate baseline data, the presently-uncontaminated waters could be become contaminated through ISL-related activities, but the public would have no way of discovering this impact.

7. The DSEIS fails to provide basic information necessary to reliably evaluate future, LONGTERM impacts. If the D-B-area resources had been evaluated in a truly detailed, interdisciplinary, scientific manner, the DSEIS would have collected and summarized the most fundamental technical information relating to water resources, such as:

- a detailed inventory of all present water users within a radius of at least 2 miles of the proposed D-B boundaries. Such an inventory would include statistically-valid, preoperational data on well yields, water levels, detailed water quality;
- a detailed, statistically-valid summary of BASELINE data for water quality and quantity from the relevant water-bearing units, *based on pre-operational data*. These would already include evaluation of hydrogeologic characteristics for all of the relevant water-bearing units based on actual, long-term aquifer / pump testing data. Such baseline data would also incorporate all relevant data collected prior to Powertech's involvement, including data collected during the 1950s to the present (including, for example, TVA data).

- detailed data on the presence and condition of all subsurface borings (exploration holes, oil and gas holes, etc.)
- a detailed spring and seep survey, which would have included statistically-reliable (and seasonally-meaningful) measurement of field parameters and yields, detailed water quality---all based on preoperational data.
- all such actual data / information could easily be summarized in the form of maps, tables, and graphs, without resorting to thousands of pages of disorganized text, which has been the approach taken by Powertech and the NRC.

8. In addition, a technically-reliable study of the D-B area would have summarized the detailed data and long-term impacts from the numerous actual, operating and closed ISL sites (throughout the USA and other countries), to gain insight on actual results and impacts obtained from a *population* of sites. It is technically-meaningless to make deterministic predictions about such impacts at a *single* site, especially a site to be operated by a company that has never operated another ISL mine.

9. Impact evaluation (by NRC, PT and consultants) in this DSEIS fails to follow accepted approaches used in the wider scientific community. The DSEIS fails to use reliable scientific investigation to assess or compare known impacts at *populations* of other operating and closed ISL sites. Most importantly, it is not possible to reliably-rank future D-B impacts [SMALL, MODERATE, LARGE] when the NRC and public lack reliable baseline data to use as a measure of change. Such approaches would not be acceptable in most technical, scientific (academic-research) publications.

10. The data and information described above are required for an analysis in a DSEIS prior to FEIS or license approval. Otherwise reliable evaluations of future impacts cannot be made. In addition, without such data, it will be largely impossible to hold the operators responsible for future, unremediated impacts.

### Specific Comments

**The DSEIS has been publicly-released at a period specifically inconvenient for public review.**

11. By releasing the DSEIS over the winter holiday season, NRC has obviously made review and commenting on these documents more difficult and precluded the public from making a useful site visit to verify data and claims made in the DSEIS.

**The DSEIS comprises thousands of pages of convoluted, poorly-organized and inadequately-summarized material.**

12. The various D-B documents submitted to the NRC encompass more than **14,512 pages**, yet fail to adequately present the most basic data (see below).

For example:

--the 2009 Application was almost 6000 pages;

□ [Technical Report (TR)-- 3103 pages; Environmental Report (ER)-- 2615 pages;

Supplement to Application-- 66 pages.]

--the 2011 Powertech submittal totaled roughly 5000 pages;

--the present DEIS (Vols. 1 & 2) comprises 858 pg., which is only part of the GEIS;

--the GEIS, to which much of the DSEIS refers comprises 3512 pages.

13. The relevant D-B information, if compiled in a direct, transparent manner using predominantly maps, tables and graphs, could easily have been summarized in 150 pages for the DSEIS. Instead, the DSEIS is so duplicative and poorly-organized that it makes informed review by both the regulators and general public unnecessarily convoluted.

**The DSEIS fails to adequately respond to the weaknesses and written criticisms of the Powertech Application.**

14. The Powertech Application submittals (2009, 2011) were prepared by Powertech and its consultants, based largely on data collected by these same parties. While the DSEIS states that it was prepared by the NRC [and the CNWRA (Center for Nuclear Waste Regulatory Analyses)], it appears that it is based entirely on these same Powertech data, with no new water-related data added since the application. Clearly most of the DSEIS opinions are also based on the technical opinions of Powertech and their consultants.

15. Also, the DSEIS fails to adequately respond or address most of my written Opinions made regarding the D-B Application, which were submitted to the NRC in April 2010 (Moran Declaration, April 2010).

**The DSEIS is Technically-deficient, lacking fundamental data that are needed to reliably evaluate likely impacts to the D-B-area water resources and related environment.**

16. The DSEIS admits that important water quality data collection and aquifer testing will only be conducted after license issuance (e.g. DSEIS p. 2-16, 7-8, 7-14, 7-17).

17. Such data are needed *now*, as part of any useful EIS and certainly prior to issuance of an operating permit. These data include: reliable preoperational

baseline data on water quality and quantity / yields of all relevant surface and ground waters; specific data on the total water volumes to be used by all D-B operations; detailed data on hydrogeologic characteristics of all relevant geologic units; detailed evaluations of the hydraulic interconnections between the uranium production zones and the other relevant water-bearing and confining units; data on the detailed chemical compositions of barren and pregnant solutions, evaporation pond waters, etc.; a detailed inventory of all water users within at least a 2 mile distance of the D-B project boundaries. Details on these categories are discussed below.

### **Concerns Expressed by Other Federal and State Agencies not Addressed**

18. The DSEIS mentions on p. 1-15 and 16 that several other Federal and State agencies have expressed concerns regarding impacts to Water Resources, etc. from the proposed D-B project, but fails to discuss or address in any detail these criticisms. This omission gives the false impression that the present comments (for the Oglala Sioux) are made in isolation from those of these other regulatory agencies.

19. A brief review of the coordination conducted with other agencies reveals the following points of concern with respect to these agencies:

- Coordination with BLM: South Dakota BLM field office: provided NRC staff with information on **oil and gas leases** in the proposed project area. DSEIS, P1-16. Additionally, BLM staff expressed **concerns related to water quality and hydrology, land use, and cumulative effects.**

-Coordination with U.S. Army Corps of Engineers: USACE documented the presence of 20 wetlands within the project area and determined that 4 were jurisdictional waters; these are Beaver Creek, an unnamed tributary to Beaver Creek, Pass Creek, and an unnamed tributary to Pass Creek (Powertech, 2009b, Appendix 3.5-H).

-Coordination with USFS: it expressed concerns that construction and operational activities could impact the nearby Black Hills National Forest and Buffalo Gap National Grasslands. USFS staff noted a concern about the cumulative groundwater effects of the project on the USFS-managed aquatic recreation areas of Cascade Springs and Keith Park Springs. USFS also expressed concerns about potential effects the project could have on Craven Canyon, known to have traditional cultural significance to Native American tribes.

-Coordination with USGS: With respect to the proposed Dewey-Burdock ISR Project, USGS staff expressed a concern that **contaminated groundwater** may travel from the project area and discharge into Beaver Creek within the proposed

project area and the Cheyenne River south of the proposed project area [via groundwater or surface water].

-Coordination With South Dakota Department of Environment and Natural Resources expressed concerns regarding:

(i) the adequacy of subsurface characterization, (ii) groundwater flow rates within and in the vicinity of the project area, (iii) potential complications in hydrology caused by past exploratory drill holes, (iv) potential hydrologic connection of production zones and abandoned onsite surface mines, and (v) the effectiveness of confining layers in isolating ore-bearing aquifers. NRC and SDDENR staffs also discussed the applicant's Class III UIC permit application (Powertech, 2010) and the water appropriation and waste management permitting processes for the proposed project. Potential risks to wildlife from wastewater surface impoundments associated with the proposed project were also discussed. SDDENR would coordinate with SDGFP to mitigate the potential effects of surface impoundments on wildlife; mitigation measures discussed included the use of netting and fencing to protect wildlife and implementing protocols to assess the effects of wastewater constituents on wildlife.

-Coordination with S.D. Game, Fish and Parks:

focused primarily on threatened or potentially threatened and endangered species (e.g., the plains topminnow, sage-grouse, and black-footed ferret) and species of local concern (e.g., raptors). SDGFP expressed a **major concern: the potential effects on birds flying through the proposed project area and drinking at exposed wastewater evaporation ponds**. SDGFP suggested two measures to mitigate effects on bird populations: (i) **testing** to determine the **toxicity of constituents in the evaporation ponds** and (ii) using **netting and fencing to restrict wildlife access to exposed ponds**. SDGFP also noted the **need for testing and monitoring of soils** at the proposed site to **identify any buildup of salts and metals** that could result from proposed land application of treated wastewater.

**Water Use: The D-B Project will use and contaminate tremendous volumes of ground water. How much water will be used throughout the life of the proposed DB operation?**

20. The D-B project area is semi-arid, having an average yearly precipitation of about 12.4 inches, and the range of evaporation for the So. Dakota-WY-Nebraska uranium region is between 40 and 50 inches (NRC GEIS 2009). Thus evaporation is roughly 3 to 4 times the yearly precipitation (ER, pg. 3-176 and 177; Fig. 3.6-27). Because the project is presently expected to operate for between 7 and 20 years, it will require the use of tremendous volumes of local ground water, and will result in losses of significantly greater quantities of water via evaporation.

21. Unfortunately, the DSEIS fails to provide reliable estimates for the volumes and sources of water to be used (consumptive and non-consumptive uses) during all stages of the proposed operation. Actual, detailed data on amounts of water required for operations are not presented (e.g. ISL operations, human consumption, dust suppression, evaporation from disposal ponds, waste disposal, etc.). In mining hydrogeologic studies, such data would routinely be included in a detailed Water Balance.
22. No detailed Water Balance is provided in the DSEIS. Instead the DSEIS provides imprecise, conflicting information on the volumes of water to be used throughout the various sections of the DSEIS (e.g. p.2-15, 2-34, 4-57-59, etc.).
23. Powertech calculates that the sustainable pumping rate from the Inyan Kara Group / Aquifer is about 40 gpm for the life of the project (DSEIS p. 4-59). However, the NRC / Powertech state that the operational requirements for the Burdock CPP alone would require a sustained pumping rate of 65 gpm (at DSEIS p. 4-59). Powertech has applied to the SDDENR for permits to extract water from the Madison Aquifer. Thus, it is presently unclear which aquifer will be the source for long-term, operational phase water. If the permits for using Madison Aquifer waters are denied, additional sources (besides Inyan Kara) would be required.
24. The applicant estimates the wellfield production bleed would be approximately **0.5 to 3.0 percent** of the **production flow rate**, yielding a wellfield production bleed rate between 20 gpm and 120 gpm (DSEIS, P. 2-34).
25. Powertech estimates that approximately 52.6 million gallons of ground water would be required for the Construction phase alone (DSEIS p.5-30). **No data are provided for the volumes of ground water required for the other phases, throughout the life of the project.**
26. Clearly, the DSEIS fails to reveal reliable long-term water use data for all phases of the entire project. Greater uncertainty is shown when one reads the water use data originally presented in the 2009 Powertech Application, ER pg. 8-2 (Table 8.1-1), which states that **ground water consumption will be 320 gpm.**
27. Because no Water Balance is presented, it is unclear how much of this volume is recycled, re-injected as waste in other formations, etc. In addition, one must assume that quality of much of the recycled and re-injected water would be degraded as compared to any reliable preoperational baseline data.
28. Aside from the obvious lack of consistency, the estimates (above) translate into massive amounts of ground water when considered over the full life of the project. Using two of the estimated ground water use rates stated above, total water consumption over the life of the project can be estimated as follows:

**65 gpm = 34.2 Million gpy (gals / yr).**

After 7 yrs = 239,148,000 gallons, or 239.15 Million gallons.  
After 17 yrs = 580,788,000 gals or 580.8 Million gallons.

320 gpm = 168.2 Million gpy (gals. / yr).  
After 7 yrs = 1,177,344,000 = 1.2 Billion gallons  
After 17 years = 2,859,264,000 gallons = 2.86 Billion gallons.

29. Clearly, this range of estimates indicates that vast quantities of ground water will be extracted from these aquifers over the long-term. At a minimum, Powertech should be required to construct a credible project water balance and to more seriously investigate the potential that such large-volume water use might impact local / regional ground water levels and well yields.

30. At present, I see no evidence that the Application contains a reliable compilation of *baseline water level and pumping-rate data for the surrounding domestic and stock wells (see discussion below)*. Without such reliable, summarized data, there will be no viable method to demonstrate that ground water levels (and related pumping costs) have not been impacted by project-related activities.

31. The public must assume that Powertech will pay no cost for the actual water (the commodity) used during operations---while numerous other users do. The specifics of this issue should be addressed by Powertech in writing.

32. Despite the central role of water in the operation of the project, water use, availability, depletion, and consumption are not seriously analyzed through a water balance investigation, or other similar technique. This analysis is critical to understanding the anticipated impacts during project review and for monitoring actual water impacts should this project actually begin using and consuming groundwater.

### **Hydrogeologic Performance of the Water-bearing and Other Geologic Units.**

33. The DSEIS fails to provide detailed, site-specific information / data on the hydrogeologic characteristics of the relevant D-B water-bearing and other bounding geologic units, including the mineralized zones. Such data must be obtained by performing and interpreting *long-term*, aquifer test data. The DSEIS admits that such long-term, detailed testing will not be performed until after the NRC license is issued (e.g. DSEIS at 2-17, 7-11).

34. The hydrogeologic data presented in the DSEIS are **inadequate** to reliably portray and predict the following:  
-the baseline, detailed directions of ground water flow in the relevant water-bearing units;



- the extent of long-term hydraulic connections between the various geologic units, both within the project area and outside;
- the horizontal / regional extent of water level declines (and impacts on pumping rates) outside the project boundaries;
- the degree to which ground water withdrawals may impact local surface waters;
- the operator's ability to contain the migration of contaminants;
- the operator's ability to restore aquifer water quality to baseline / acceptable conditions.

35. Such inadequate hydrogeologic data also mean that any ground water flow simulations based on these data are likely to provide highly imprecise and unreliable predictions (e.g. SEIS, P.2-16, L 30-37).

36. In addition, such inadequate hydrogeologic data, coupled with the lack of reliable baseline water quality data (see below), render the NRC staff predictions about impacts (both incremental and Cumulative) to water resources *largely meaningless* (e.g. the Executive Summary and Section 5.0). For example, despite failing to define the extent (areal, vertical) and specific, detailed chemical compositions of past contamination, the NRC staff predicts that Cumulative Impacts to *Surface Waters and Wetlands* will be MODERATE TO LARGE (p.5-17), but that the D-B project will have a SMALL incremental impact on surface waters and wetlands when added to all other past and present impacts (p. 5-30). *Given the lack of detailed baseline data (hydrogeologic and water quality) such conclusions sound more like public relations statements than science.*

**Impacts from Long-term Pumping of Ground Waters.  
Radius of Impacts / Influence. (modified from Moran Declaration, 2010)**

37. The DSEIS presents no specific hydrogeologic information on the anticipated declines in water levels at domestic and stock wells outside the D-B project. Despite lacking adequate, long-term aquifer test data, the Powertech ER (2009) presented *predictions* of **water level declines** after 8 years of continuous pumping:

- - **9.9 to 42.8 feet** at the nearest domestic well in the Fall River Aquifer, located 15,075 feet [**about 2.9 mi.**] from the approximate center of pumping (ER pg 4-23);
- - **4.9 to 12.6 feet** at the nearest domestic well in the **Lakota Aquifer**, located 10,915 feet [**about 2.07 mi.**] from the approximate center of pumping.

38. With such uncertainty, it is quite possible that some neighboring wells will be negatively impacted (water level declines / reduced pumping rates). These data interpretations indicate that domestic and stock, etc. wells should be inventoried and monitored out to at least 2 miles from the D-B boundary.

## The D-B water-bearing units are hydrogeologically interconnected.

39. The DSEIS avoids discussing definitively the likely hydraulic interconnections between the various D-B water-bearing units. The 2009 Powertech Application does discuss these issues, but presents overly-optimistic conclusions about the isolation of the ore-bearing zones, aquifers, and the lack of fluid excursions that will occur, both vertically and horizontally. Powertech's description and evaluation of possible water-related impacts [2009 Application, ER pg. 8-2 (Table 8.1-1)] are unreasonably optimistic. It is unlikely that the process waters can be contained within the project boundaries given the following pathways that connect the project area with surrounding aquifers: 1) sedimentary formations; 2) geologic fractures, 3) exploration boreholes, 4) mine workings, 5), other anthropogenic fractures and borings.

40. The D-B uranium deposits occur in subsurface, fluvial channel, sandstone deposits in the Lakota and Fall River formations (Smith, 2005). These sandstones *inter-finger* with finer-grained silts and shales, often associated with lignites and coals, which form the typical lithologic sequences often seen in classic sedimentary uranium deposits (Abitz, 2005; Gott, 1974; Henry, 1982; Galloway, 1982; Henry, 1980; Harshman, 1972).

41. Hydraulically, such sedimentary packages typically allow ground waters to flow between the inter-fingering facies, both vertically and horizontally, when the coarser-grained sediments are *stressed by long-term pumping*. The hydraulic inter-connections are verified by conducting ***long-term aquifer tests integrated with sequential water quality sampling and in-situ measurement of field parameters*** (Henry, 1982; Galloway, 1982; Moran, R.E.—hydrogeochemical research activities, U.S.G.S., Water Resources Div., 1973—1978). *The hydraulic interconnections of such inter-fingering facies has been well known for decades within the petroleum industry research groups (e.g. Fisher, et. al., 1969).*

42. Thus, ore-bearing sandstones in typical sedimentary packages associated with roll-front uranium deposits do *not routinely behave as hydraulically-isolated bodies*. Numerous specific lines of evidence from the 2009 D-B Application documents indicate that the project sediments possess various pathways for the migration of water and contaminants from the ore zones into neighboring sediments, both vertically and laterally. For example, thousands of exploration boreholes have been drilled since the 1950's at the D-B site (Smith, 2005; TR, ER), many of which were not correctly plugged and abandoned (TR, Pg. 2-157; Append. 2.7-B, sub-Appendix D, pg. 1484; TR, Append. 2.6- A, pg. 972-1111). In addition, several sources (Smith, 2005, pg. 9; ER, pg. 3-106) report that the area contains historic shallow mine workings, both open pits and short tunnels that would provide additional flow pathways.

43. There are numerous old and existing water wells and old oil test wells in the D-B area, many with rusty and leaky casings, often unplugged or partially-plugged, drilled through several formations which act as potential pathways for

flow between water-bearing units (ER, pg.3-40; TR, Append. 2.2-A, pg. 740-779; 2.2-B, especially pg. 864- 902).

44. The 2009 Application, TR, pg. 2-153-154, states that hydraulic connections between local D-B aquifers often result because confining units are thin or are absent in many areas (ER, pg.3-56-57). In addition, Gott (1974) and others have mentioned the presence of breccia / evaporite pipes (collapse structures), which create vertical permeability pathways between aquifers. Gott (1974, pg. 27-29) and others discuss the common presence of faults and joints throughout the region, which could easily act as flow pathways. The DSEIS states that detailed geologic mapping conducted by Powertech found no indication of such breccia pipes (p. 3-32), but the document fails to state that a detailed examination of all the subsurface data was searched for the presence of such breccia pipes.

45. Vertical and lateral hydraulic connectivity between the ore zones and the neighboring facies / formations are also indicated by the aquifer test results conducted in both 1979 and 2008 (ER, pg.3-56-57; TR, pg. 2-170 & 2-180, for example; TR Append. 2.7-B, Knight-Piesold Pumping Test Report, pg. 1290).

46. The DSEIS fails to assess the forgoing conditions, or likely impacts associated with these conditions in any scientifically meaningful way, nor does it consider that geologic materials with geologic / hydraulic characteristics similar to the D-B target formations frequently yield both water and oil and gas from **geologic fractures**. A classic example is the Florence oil field in Colorado, which has been producing continuously from fractures in the Cretaceous Pierre Formation since 1862, making it the second oldest producing field in the U.S. [<http://ghostdepot.com/rq/library/magazine/florence%20oil.htm> ].

47. The Pierre Formation exists in the Black Hills region and lies stratigraphically above the Inyan Kara Group, the target formations at D-B (Tourtelot, 1962; DSEIS p.3-14). Thus, it is likely that several of the geologic units in the D-B area can also transmit fluids via fracture pathways. This indicates that future computer simulations of D-B ground water flow and leach field performance should be capable of modeling fracture flow characteristics.

48. The aquifer testing already performed *demonstrates leakage between the various formations / facies bounding the ore zone. However, it seems equally likely that longer-duration aquifer tests conducted at even higher pumping rates would demonstrate even more clearly the leaky nature of these site sediments.*

**Potential hydrogeologic pathways to nearby wells have not been adequately investigated and documented.**

49. The discussion above presents ample evidence that the D-B area sediments contain numerous possible subsurface pathways for project leach fluids to migrate vertically between water-bearing units and outside the project

boundaries. Unfortunately, as noted above, Powertech has not adequately defined the baseline water levels or water quality conditions of neighboring wells within a 2-mile radius of the D-B project. In addition, the 2009 Application, TR pg. 2-180, states that no public data are available on the use of aquifers in Fall River or Custer counties. Such data should have been compiled by Powertech as part of the DSEIS and Application, and should be required before any licenses are given.

### **Toxic and Hazardous Substances to be Used at D-B.**

50. The following chemicals are proposed to be used / stored at D-B (DSEIS, p.4-19):

“The applicant proposes to store, use, and receive shipments of the following chemicals: sodium chloride (NaCl), sodium carbonate (NaHCO<sub>3</sub>), sodium hydroxide (NaOH), hydrochloric acid (HCl), hydrogen peroxide (H<sub>2</sub>O<sub>2</sub>), carbon dioxide (CO<sub>2</sub>), oxygen (O<sub>2</sub>), anhydrous ammonia (NH<sub>3</sub>), diesel fuel, gasoline, and bottled gases (Powertech, 2009b).”

51. All these chemicals are likely stored / used in concentrations that would qualify them as toxic or hazardous substances. Releases of such chemicals can contaminate local soils and waters. Despite the proposed use of these chemicals, the proposed water quality (surface and ground waters) and soils monitoring does include constituents adequate to demonstrate the presence of several of these chemicals, especially the fuels / organic compounds (see below).

### **Chemical Analyses (Detailed) of Ores, Pregnant Leach Solutions, Liquid Wastes are not presented in the DSEIS.**

52. The DSEIS fails to provide actual, detailed chemical analyses (numerous) of representative pregnant leach solutions (ore reacted with lixiviant), both before and after undergoing ion exchange treatment. Such data would routinely include both in-situ measurements of fluid temperature, pH, specific conductance, possibly D.O. (dissolved oxygen) and Eh (redox). Similar representative, detailed data should also have been included for the detailed chemical composition of liquid wastes to be disposed of via deep-well injection, land application and evaporation.

53. Because most mining projects at a similar stage of advancement have already conducted extensive laboratory testing and prepared Feasibility Studies to present to potential investors, such detailed chemical composition data would be available. It is not sufficient to present theoretical / expected chemical compositions, as has been done in the 2009 Powertech ER, pg. 4-83. Smith & Assoc. (2005), pg. 5, reports that TVA, one of the previous mineral right holders, had a “pre-mine feasibility study” prepared, probably in the late 1970’s or 1980’s. If TVA had obtained such detailed data in earlier decades, certainly Powertech would have obtained the older Feasibility information and contracted to have an

updated Feasibility Study performed. Clearly some information in Feasibility Studies is considered proprietary, but detailed chemical composition data on the pregnant solutions and liquids / wastes described above should be analyzed and available to the public and included in any complete DSEIS.

### **Characterization of Water Resources: Inadequately Described and Characterized.**

54. The DSEIS fails to clearly distinguish site surface waters, ground waters (including springs and seeps), wetlands, and waters flowing from boreholes. As all of these waters are ultimately interconnected, hydraulically, this prevents a clear understanding of future impacts to water resources. In several sections, the DSEIS actually confusingly describes ground waters as surface waters. For example, on p. 3-23, it discusses ground waters in abandoned mine pits as though they are surface waters. Page 3-23 states that there are *no known natural springs* within the proposed Dewey-Burdock ISR Project area, which does not mean that a detailed attempt to locate and characterize such springs was ever conducted. On p. 3-27-28, the DSEIS confusingly describes water flowing from an old well as the source of a wetland, when it is obviously not a natural wetland.

55. DSEIS page 3-20 contains a section disingenuously entitled "Artificial Penetrations", but which is strangely not included in the discussions pertaining to either Surface or Ground Waters. It states: "According to the environmental report, there are 4,000 exploration drill holes representing historic exploration activities (Powertech, 2009a). The applicant has drilled approximately 115 exploration holes, including 20 monitoring wells in the project area. While the applicant cannot confirm that all historic borings were properly plugged and abandoned, the applicant has made commitments to ensure that unplugged drill holes will not impact human health or the environment during operations (Powertech, 2009b, 2011). In the technical report (Powertech, 2009b), the applicant stated that little evidence of unplugged boreholes has been observed given infrared photography data. However, an infrared map of a portion of the Burdock area shows an alkali pond area (Powertech, 2011). The applicant states unplugged borings appear to explain the presence of this pond area. No other pond areas or springs appear in infrared photography data of the Dewey-Burdock site. There is no other evidence indicating that previously unplugged borings are current groundwater flow pathways (Powertech, 2011)."

56. This section makes several half-explained statements as though they are proven facts, and diverts from the likely hydraulic interconnections these boreholes have created between the site surface and ground waters. It implies that a careful study of the site using infra-red photography has been performed, when it is clear that a map of only a portion of the site was available. Despite this tortured language, there is no reason to dismiss the likelihood that many of the old boreholes are acting as conduits between the various water-bearing units, at least below the land surface. Strangely, the DSEIS describes the presence of

several water-filled mine pits (p. 3-23), yet they are not mentioned as being visible on the “infrared photography data of the Dewey-Burdock site”. Clearly a more thorough investigation using infra-red photography and satellite imagery is called for.

### **Baseline Water Quality**

57. The D-B project area has been historically mined and thousands of exploration holes have been drilled within the properties. Hence, it is imperative that high-quality baseline data be supplied to evaluate the actual extent of past impacts to water resources, and the success of future containment or aquifer restoration.

58. The DSEIS, like the Powertech Application, fails to define pre-operational baseline water quality and quantity—both in the ore zones and peripheral zones, both vertically and horizontally. Without adequate baseline water quality data (both ground water and surface water), there is no reasonable method for either the public or the NRC to evaluate the success or failure of either fluid containment or aquifer restoration. The DSEIS and Powertech Application documents repeatedly attempt to convey the impression that the D-B ground water quality is already degraded, rather than compile statistically-defensible data from both the ore zones and non-mineralized zones.

59. This approach contradicts NRC guidance, which requires that pre-mining baseline conditions be defined *before licensing* (NRC, 2003, pg. 2-24). Failing to define specific baseline conditions prior to license approval also contradicts NEPA regulations (Parsons, 2013, p.2).

60. Failing to define and quantify preoperational baseline is also scientifically unsupportable as it allows Powertech and the DSEIS to avoid discussing which specific water sources are contaminated by past uranium mining activities and which represent naturally-contaminated waters.

61. The DSEIS, Table 3.5-4 misleadingly presents what is entitled: Baseline Groundwater Samples with Values Exceeding the MCLs(p. 3-38). Firstly, this table and related discussion fail to make clear that many of these sites are contaminated by past, un-remediated uranium mining and processing. Secondly, the table leaves out most of the important baseline constituents a competent evaluation would have included. Thirdly, the table leaves out any values below the MCLs. Thus, this table does not represent baseline ground water quality. *Most importantly, the DSEIS does not contain tables of any of the detailed water quality data, baseline or otherwise.* Further, there is no data or analysis of the hydrogeological mechanisms by which the previous contamination occurred, spread, or was contained.

62. Clearly the DSEIS / Powertech ground water baseline data should include, *as a minimum*, the chemical constituents listed in Table 2.7.3.1 of the NRC's Standard Review Plan (NRC, 2003, pg. 2-25), and Table 7.3-1 of the DSEIS. In addition, baseline water quality monitoring (both ground and surface water) should be expanded to include nitrate, ammonia, aluminum, antimony, strontium, lithium, thallium, turbidity, scans for organic compounds, and / or total organic carbon, and be integrated with *in-situ* field measurements (temperature, pH, S.C. turbidity), water levels and well yields and / or flows.

63. It is only logical that the actual list of baseline constituents should be based on analyses of pregnant solutions resulting from leach testing of the D-B ores and lixiviants—not on theoretical assumptions about what might be the chemical compositions. Such pregnant solution analyses should be made public in the DSEIS prior to Application approval.

64. Frequently, uranium roll-front ores will also mobilize significant concentrations of additional constituents, such as antimony, lithium, and strontium (Moran, 1976). In addition, it is common to detect elevated concentrations of aluminum, sometimes as the result of well-drilling and completion techniques. Thus, it is recommended that these constituents be included in routine determinations of baseline water quality. In fact, standard lab analytical scans, such as ICP (inductively-coupled plasma spectroscopy) routinely report all (or most) of these metals and metalloids at the same cost. It should be noted that almost all of these constituents were included in the data in Appendix 3.4-C of the Powertech ER.

65. I suggest that nitrate and ammonia determinations be included to allow future analysis and determinations regarding impacts from agricultural or industrial sources (ammonia may enter the aquifer via numerous agricultural or industrial activities).

66. Section 2.7 of NRC (2003) is unclear whether applicants shall provide water quality data from unfiltered (Total concentrations) or 0.45-micrometer-filtered ("dissolved") samples. Table 7.3-1 of the DSEIS states that only dissolved constituents will be reported. Much of the D-B data in the Powertech Application Appendices includes both dissolved and Total determinations. It is recommended that unfiltered samples be collected and analyzed, as a minimum, for baseline ground water evaluation. These provide more *conservative* characterization of the ground waters, and waters used in rural areas (human and livestock consumption from wells; other agricultural uses; irrigation; fisheries) are not filtered. Furthermore, contaminants carried in particulate form are ingested by humans and other organisms when consuming unfiltered waters. These particles / colloids are dissolved by the extreme biochemical conditions found in the guts of such organisms, mobilizing the contaminants into the blood and other tissues. In addition, many trace constituents are mobile in ground waters as colloidal

particles (McCarthy, 1989; Ramsey, 2000), which would be removed by filtration, generating unreasonably-low concentrations.

67. Determination of “suspended” fractions is of little utility as there are no regulatory criteria or standards for suspended forms, and such data are subject to much greater error (from the combination of sampling and analytical errors) than are either simple filtered (Dissolved) or unfiltered (Total) determinations.

68. To ensure data quality, the D-B baseline data should include:

- statistical comparisons of the field and lab determinations of pH, and S.C. for the same samples;
- comparisons of Dissolved versus Total determinations from the same samples;
- ion balances, to assist in evaluating the reliability of the analytical data, with comparisons of TDS and S.C. (Hem, 1985).

69. No coordinated, statistically-sound data set for all Baseline Water Quality data (both surface and ground water) is presented in these documents—as is required in NUREG-- 1569. The DSEIS makes clear that baseline water quality will actually be established after operations begin (e.g. DSEIS p.7-13, 14: Projectwide GW monitoring ). The DSEIS fails to include reliable baseline water quality data for any of the categories of ground water or surface water.

70. The 2009 Powertech Application, carried forward in the DSEIS, include what it incorrectly calls baseline. For example, on pg. 2-14 and 2-15 of the Technical Report (TR), Sect. 2.2.3.2.2, Powertech states: “At the project site, baseline groundwater sampling was conducted in general (sic) accordance with NRC Regulatory Guide 4.14 (NRC, 1980). ... A summary of the results and methods for the groundwater quality monitoring program, as well as the historical TVA data, is presented in Section 2.7.” However, when the reader goes to TR Section 2.7, there are no tables that actually statistically summarize complete baseline field and lab water quality data for the complete data sets—both historic and recent. Instead, for ground waters, Powertech presents statistics for field data from individual wells or selected aquifers, but fails to statistically-summarize the laboratory data and leaves out the historic TVA data. Powertech then states (TR, pg. 2-203): “Complete groundwater quality data results are available in Appendix 2.7-G.” However, on TR, pg. 2-205 (Sect. 2.7.3.2.2.2, Results for Laboratory Parameters) Powertech then states: “Summary statistics for baseline monitoring program laboratory samples are contained in Appendices 2.7-H and 2.7-I. Appendix 2.7-H gives statistics for all groundwater constituents detected at or above PQL by constituent.” Thus, it appears that Powertech has not included “qualified values,” that is data reported as “less than” some concentration. By deleting the “less than” values, Powertech has severely biased the data set, rendering it useless as a reliable source for evaluating baseline conditions.



71. Furthermore, Powertech states (TR, pg. 2-217-218) that they have arbitrarily selected some analyses from the voluminous historic TVA data, but the reviewer is never allowed to see a statistical summary of the total original data set. This error is carried forward in the DSEIS. Portions of the relevant data are scattered throughout the Appendices of the various documents, and disingenuously organized to leave out all baseline data that had concentrations reported below the detection limits (i.e. "less than" values). Obviously, this approach biases the data. The NRC must require Powertech to statistically summarize all historic water quality data and all recently collected data in separate tables, including all "less than values." Both historic and recent baseline data should be segregated by water-bearing unit. Even should averaging of water quality data over a portion of the aquifer be acceptable, the methodology employed in the Application and DSEIS of discounting relevant data points is untenable.

72. To further confuse the baseline issues, Powertech's Supplement to the Application (August 2009) states on pg. 3-3: "A minimum of eight baseline water quality wells will be installed in the ore zone in the planned well field area." Thus it appears that the Applicant intends that the massive amounts of water quality data (historic and recent) presented in both the TR and ER (Environmental Report) will not actually be used to determine baseline. More importantly, it is unclear whether Powertech has true baseline (pre-operational) ground water quality data that describe the **non-ore zone regions of the relevant aquifers**. It is imperative that baseline data for the non-ore zone ground waters be collected and summarized separate from those of the ore zones – a review the DSEIS fails to conduct.

73. Any revision of the DSEIS should incorporate the comments made in Abitz (2009) regarding baseline characterization and data interpretation.

74. Lastly, the DSEIS should already contain a statistically-reliable database of baseline ground water quality data from all known wells within at least 2 miles of the DB boundary

### **Confusion of Baseline and Background**

75. Table 7.3-1 of the DSEIS (p. 7-8 to 7-11), and the accompanying text confusingly and incorrectly use the terms "Background" and "Baseline" as having the same meaning. For many decades, "background" in geochemical / water quality literature has been defined as: "The normal abundance of an element in unmineralized earth materials is commonly referred to as background." (Rose, Hawkes & Webb, 1979, p. 30). Baseline in environmental studies has routinely been used to define a starting criterion, or yardstick, against which subsequent data are to be compared. Baseline has been used in this sense for many decades. In mining-related studies, the most common "baseline" is either pre-mining or preoperational conditions.

**The DSEIS fails to clearly and adequately describe the detailed methods employed for collecting water quality and water quantity data, for both surface and ground waters.**

76. Because the specific sampling and handling procedures can drastically change the results obtained when collecting water quality samples (both surface and ground water), it is imperative that the DSEIS include detailed descriptions of the various sampling, sample handling, preservation and shipment methods employed. Likewise, the DSEIS contains inadequate detail concerning the specific methods employed in collecting field water quality measurements and measurements of well yield, stream flow, etc.

77. For example, such details should provide information similar to those contained in the U.S.G.S. methods documents cited below:

[USGS] United States Geological Survey, variously dated, National field manual for the collection of water-quality data: U.S. Geological Survey Techniques of Water-Resources Investigations, book 9, chaps. A1-A9, available online at: <http://pubs.water.usgs.gov/twri9A>.

**Surface Water Quality Baseline Data: The DSEIS fails to adequately characterize these resources, or to include statistically-reliable summaries of detailed surface water data.**

78. Tables 3.5-1 and 3.5-2 (p.3-25-26) present totally incomplete and inadequate summaries of surface water quality. Most hydrogeologically-important chemical constituents are missing from these tables and they contain no indication of whether samples were field-filtered, or if the data are Total concentrations. (unfiltered samples).

79. The DSEIS contains no substantive discussion of the interactions between ground and surface waters, especially when the hydrogeologic system would be under pumping stress---as would be expected during the operating life of the D-B project. The DSEIS contains no detailed analysis or discussion of potential impacts to site surface waters due to ground water pumping, or potential spills and permitted discharges to surface waters. All such operations generate short-term impacts to surface waters, as a minimum.

80. The DSEIS no longer contains the questionable statements included in the 2009 application at ER pg. 4-16, which state: "Most ISL operations extract slightly more groundwater than they re-inject into the uranium bearing formation. ***The groundwater extracted from the formation could result in a depletion of flow in nearby streams and springs if the ore-bearing aquifer is hydraulically connected to such features.*** However, because most, if not all ISL operations are expected to occur where the ore-bearing aquifers are

confined, local depletion of streams and springs is unlikely, and potential impacts would be anticipated to be SMALL (NUREG-1910, 2008)." However, the DSEIS provides no detailed technical analysis to support the contention that surface waters will not be impacted because water-bearing units having confined aquifer conditions underlie much of the D-B site.

81. More importantly, the DSEIS and Application fail to provide a summarized, statistically-reliable surface water quality baseline database. As such, there will be no defensible method for verifying whether impacts to surface water quality have or have not occurred.

#### **A Baseline Spring and Seep Survey is not presented in the DSEIS.**

82. Disingenuously the DSEIS states that: "There are **no known natural springs** within the proposed Dewey-Burdock ISR Project area (Powertech, 2011). There is one area in the southwest corner of the Burdock area, known as the "alkali flats" or the "alkali area," where **groundwater is discharging** to the ground surface from the Fall River aquifer and Chilson aquifer (Chilson Member of the Lakota Formation) **through improperly plugged exploratory boreholes** (Powertech, 2011). Two springs are present along the Dewey Fault near the town of Dewey approximately 2 km [1.2 mi] northwest of the proposed project boundary (DSEIS p. 3-23)."

83. The DSEIS presents no information to indicate that either the NRC or Powertech have conducted an actual spring and seep survey. Such a survey would have included and characterized the springs along the Dewey Fault, and any others located within the D-B area and a reasonable perimeter, which should be at least 2-miles from the project boundary—given the results of the short-term pump test data in the 2009 Application.

84. The region surrounding the D-B project contains numerous springs in both the Madison and Minnelusa formations (DEIS p.3-32; Driscoll, et al., 2002). Baseline surveys of springs and seeps are crucial in studies where large volumes of ground water are to be extracted. The flows of such seeps and springs often decline or stop after large-scale, long-term ground water extraction begins, especially in arid or semi-arid regions, such as the D-B area. If such impacts begin to occur, disputes will arise as to the possible roles of the project water extraction and overall climate change, for example. Hence, it is imperative that such a survey be performed prior to issuance of any licenses, and such a survey should include, as a minimum:

- locate and survey all springs and seeps within some reasonable radius of the project boundary;
- measure and record flow / discharge quarterly for at least one year prior to issuance of any licenses;
- during all field episodes, make field measurements of in-situ pH, water temperature,

and S.C.(specific conductance) and collect samples for laboratory analysis.

Samples should be analyzed for the same list of constituents noted in the Baseline water Quality comments above. Spring and seep water quality data should be interpreted as representative of local ground water quality (Freeze and Cherry, 1979; Hem, 1985).

**The presence of high quality ground waters within the D-B Project boundary have not been adequately defined.**

85. Much of the DSEIS discussion concerning ground water quality seems focused on showing that the site waters are already contaminated. This would not be surprising given the presence of the uranium mineralization and the past mining and exploration activities---all of which would have caused increased concentrations of numerous chemical constituents above true pre-mining baseline. However, based on statements and data presented in the DSEIS, Powertech has not adequately defined whether zones peripheral to the D-B ore-bearing geologic formations and bounding formations (above and below) also contain zones of high-quality, possibly potable ground water. Such zones should already have been defined as part of the DSEIS and Application documents.

**Potential impacts to ground waters have been unrealistically minimized and inadequately characterized.**

86. The DSEIS fails to provide adequate baseline data to demonstrate that portions of the ore-bearing zones do not contain high quality ground water. In fact, it is clear that the NRC has relied on Powertech data that clearly are biased against revealing the extent of high quality ground waters. For example, Table 3.5-4 includes only water quality concentrations that exceed the MCLs (maximum contaminant levels), and discards all data having lower concentrations (p. 3-38). The discussion on p. 3-37 also is clearly intended to convey the message that most of the D-B area waters are already contaminated. A similar bias is presented in the DSEIS discussions of D-B area surface water quality (p.3-23, 25, 26, 27).

87. The DSEIS continues the unbalanced discussion of contaminated "baseline" that was presented in the 2009 Application. The ER (pg. 4-18) states that all D-B ore zone ground water quality is degraded by natural mineralization processes, but there are no data provided to support this allegation and in many similar situations it is simply not true. Furthermore, many ground water-bearing zones in mineralized areas do not contain elevated concentrations of metals, non-metals, etc. until they have been exposed to air and bacteria---often as the result of previous mining or exploration drilling---as has occurred here. Even following exploration and mining activities, some portions of ore-bearing formations continue to contain high-quality ground water.

88. Hence, it is not defensible for NRC and Powertech to state, as the company does in ER Sect. 4.6.2.2 (Potential Impacts of Production on Ore Zone Groundwater Quality) that: "Potential environmental impacts to groundwater are changes to water quality in well fields within the exempted aquifer. The impact, in and of itself, is of limited significance, due to the fact that the groundwater quality is very poor prior to ISL operations; due to the presence naturally occurring radionuclides, heavy metals, and other constituents that exceed EPA and/or state drinking water limits. Accordingly, the exempted aquifer is not and can never serve as a USDW (HRI, 1997; NMA, 2007)." The citations provided here by Powertech do not pertain to the specific D-B situation and one, the NMA citation, is simply a routine public relations statement made by the industry's lobbying group. The DSEIS inadequately addresses these issues.

89. The public relations statements continue on ER, pg 4-18, where they state: "Powertech (USA) has proposed to use gaseous oxygen and carbon dioxide lixiviant. The interaction of the lixiviant with the mineral constituents of the exempted ore zone results in a slight increase in trace elements and primary constituents of sulfate, chloride, cations and TDS above pre production levels. There is no introduction of non-naturally occurring constituents from the leach fluids into the ore body."

90. To support these unsubstantiated statements, Powertech needs to supply actual, detailed chemical analyses of the pregnant leach solutions (multiple analyses)--solutions resulting from the chemical interaction of the proposed lixiviant and the ore zone rocks. It is a basic purpose of an ISL operation to introduce these lixiviants to drastically change the local ground water chemistry, routinely producing significantly-elevated concentrations of many major and trace metals and metalloids, plus other constituents: i.e. arsenic, antimony, molybdenum, selenium, vanadium, uranium, strontium, iron, manganese, lead, lithium, nickel, chromium, sulfate, chloride, etc. It is a total "red-herring" to claim that: "There is no introduction of non- naturally occurring constituents....."

91. *In addition, there is ample evidence in the technical and regulatory literature to show that the leached aquifers at most, if not all ISL operations, have never truly been restored to their pre-operational, baseline water quality.*

**Ground Water Monitoring Methods are Inadequate to Reliably Define Past or Future Impacts. Domestic and Stock Wells.**

92. DSEIS p.7-13 and 14 (Project-wide GW monitoring), states that all domestic and stock wells within **2km** (1.2 mi.) of the project area will be sampled quarterly for a year to establish baseline water quality after operations begin [based on NRC, 1980, Regulatory Guide 4.14]. "All the preoperational groundwater samples will be analyzed for the constituents listed in Table 7.3-1."

93. The stated approach presents several *serious flaws*:

- if the samples are collected after operations begin, they cannot be considered true baseline;
- the list of constituents to be monitored is inadequate;
- The NRC Guidance Document cited is inappropriate: it refers only to uranium mills, not ISL operations, and deals only with radiological effluent.
- This Guidance Document does not define the radius to which domestic and stock, etc. wells should be monitored, for any type of uranium operation--ISL or mill. The authors have incorrectly applied the 2-Km distance as the Guidance speaks only with regard to tailings impoundments at conventional mills (section 2.13; p. 4.14-4).
- sampling of these wells *during operations* is proposed to be done *once per year*, which is totally inadequate to note changes in water quality or water level.

94. The definition of the area containing domestic and stock wells to be monitored needs to be expanded and defined more precisely. Because the DSEIS fails to show that Powertech has ever performed a detailed well inventory of all wells outside the proposed DB boundary, such an inventory is needed to evaluate present and future impacts as part of any acceptable EIS. A preliminary inventory should investigate and summarize the characteristics of all wells within at least 2 miles of the DB boundary. The inventory should plot the locations of all such wells on appropriate maps and summarize their uses; date drilled; completion characteristics, including depths; well yields; availability of water quality data. Once such an inventory is completed, all of these wells should be monitored for detailed water quality and water levels quarterly for a year, with all data summarized in a revised EIS.

#### **Baseline Water Quality Within Proposed Operation Areas.**

95. The DSEIS states (p. 7-8) that selected wells completed within the mineralized zones will be used to evaluate "baseline" water quality and they will then be converted into injection or production wells. Clearly the water quality in many of these zones is no longer true baseline due to all of the historical drilling / mining in many of these areas. These activities would have altered the original geochemical and bacteriological conditions, leading to significant changes in the water quality. In addition, if the "baseline" wells are converted to injection or production uses, these wells must be maintained, post-closure, to allow for long-term monitoring to evaluate the success or failure of aquifer restoration.

#### **Land application is not an approved method of radioactive liquid waste disposal.**

96. The DSEIS proposes that various liquid wastes may be disposed via land application. However, US EPA (2008) guidance states that land application is not an approved method for disposal of such wastes. Equally importantly, the DSEIS has failed to supply detailed chemical analyses of these proposed wastes (see discussion below) to clarify the chemical nature of the materials being disposed.

97. Such detailed chemical composition data should be included in the DSEIS available for public comment and technical review prior to FEIS and license approval.

98. It is ironic that the Supplement to the 2009 Application erroneously states on pg. 4-7 that irrigation pivots have been used to dispose of non-hazardous wastes via surface application “with no deleterious effect on the environment” at Hobson, Mount Lucas, and Highland. In 2008, the operators of the Highland and Smith ISL mines in Wyoming were forced into a settlement agreement with the WY Dept. of Environ. Quality, because land application of liquid wastes containing elevated concentrations of selenium had contaminated soils. Part of the settlement agreement required the operators of Highland to immediately pay \$8 million to accelerate reclamation activities and to increase their financial assurance bonds for these two sites to \$80 million (WY DEQ, 2008). Furthermore, Faillace and others (1997) report that release of such waters will contaminate the soil at the land application areas. Radionuclides adsorbed by the soil will become a source term for radioactive release through wind erosion processes.

**Deep Well Injection of Liquid Wastes. The DSEIS fails to provide necessary details on the chemical composition of the wastes and water treatment specifics.**

99. At present, the public has not been told what specific measures will be used to dispose of D-B liquid wastes. One option mentioned is to dispose of such wastes via deep wells completed into the Minnelusa and / or Deadwood Formations (DSEIS p. 2-22). However, the public has no idea of the detailed chemical compositions of these liquid wastes. Detailed chemical analyses of these liquids should have been included in the DSEIS, including, as a minimum, all chemical constituents for which any category of environmental standard or criterion exists. These should include determinations of S.C., TDS, pH, all commonly-reported inorganics, trace elements, radiochemicals, and a detailed organic-constituent scan. Such data should be provided in the EIS for both treated and untreated liquid wastes.

100. While both the Minnelusa and Deadwood Formations are deep below the land surface, it is quite short-sighted to assume that these waters, once contaminated by the process wastes, could never generate negative impacts—especially if one considers the cumulative impact of the other industrial wastes that are or will be injected into these formations, long-term. Long-term scenarios should consider timeframes of at least 100s to 1000s of years in the future, when these deep waters may be required for other foreseeable domestic, agricultural, or industrial uses, and the economics of water are likely to be quite different than has been assumed in the GEIS (DSEIS p. 5-31). Thus, detailed water quality

analyses should be performed on these deep aquifer waters, both pre-injection and at various periods after injection is initiated.

**The technical and regulatory literature amply documents the numerous failures to restore aquifer water quality at other ISL sites. Thus, it is reasonable to assume that portions of the D-B ground water surrounding the leached zones will have degraded water quality and may be unfit for future uses.**

101. GEIS Section 2.5 described aquifer restoration activities within wellfields that *ensure water quality in surrounding aquifers would not be adversely affected by the uranium recovery operations* (DSEIS p. 2-35; NRC, 2009a). However, neither the DSEIS or the GEIS contain detailed discussions to demonstrate that the population of other in-situ operations have been able to do so. Indeed, the historical reality from other operating or closed ISL sites demonstrates an inability to restore to pre-operational or baseline WQ conditions for all constituents. (Otton, 2009; Hall, 2009).

**The public has no detailed information concerning the specific aquifer restoration standards / criteria that will actually be employed. The DSEIS presents no such specific aquifer clean-up standards / criteria.**

102. Because the DSEIS does not contain actual baseline data for D-B water resources, the DSEIS does not contain any such specific aquifer restoration standards / criteria. Instead, the DSEIS has the following convoluted, bureaucratic language (p.2-35):

“The primary goal of aquifer restoration is to return groundwater quality within the production zone of wellfields to the preoperational water quality conditions or to standards consistent with NRC requirements at 10 CFR Part 40, Appendix A, Criterion 5B(5) (Powertech, 2009b, 2011).”

103. The subsequent language makes clear to the reader that the public will not be told what the specific aquifer clean-up criteria will be until long after aquifer restoration has begun, and that the criteria are totally flexible.

“10 CFR Part 40, Appendix A, Criterion 5B(5) requires that groundwater quality in the exempted ore-bearing aquifer be restored to (i) a Commission-approved background (CAB) concentration; (ii) the maximum contaminant levels (MCLs) listed in 10 CFR Part 40, Appendix A, Table 5C, for constituents listed in Table 5C and if the background level of the constituents fall below the listed value; or (iii) an alternate concentration limit (ACL) established by the Commission, if the constituent background level and the values listed in Table 5C are not reasonably achievable. The ACL development is described in SEIS Appendix B. These groundwater quality standards would be implemented, as part of the aquifer restoration phase, to ensure public health and safety.”



**Target Restoration Goals and UCL Parameters and standards should all be selected by the NRC and presented publicly in the EIS, prior to license approval.**

104. The DSEIS uses unnecessarily convoluted and inconsistent terms to describe aquifer restoration standards / criteria. Various parts of the DSEIS use the following terms (DSEIS p. 2-35):

Commission-approved background (CAB)

Maximum contaminant levels (MCLs)

Alternate concentration limit (ACL)

target restoration goals

lixiviant migration indicators (DSEIS p. 7-11)

105. It is impossible to discern whether or not the target restoration goals are the same as lixiviant migration indicators.

106. DSEIS p. 7-11 states: "The constituents and parameters selected as lixiviant migration indicators and for which UCLs will be set at the proposed Dewey-Burdock ISR Project are **chloride, conductivity, and total alkalinity** (Powertech, 2011)."

107. The 2009 Powertech Application Supplement, pg. 5-6, Sect. 5.2.7, states: "Powertech management has always used **Chlorides, Sulfate, and Uranium** as Upper Control Limit (UCL) Parameters. **Sometimes Total dissolved Solids** is used." This statement fails to provide necessary clarity, as Powertech has never operated an ISL mine.

108. The descriptions of proposed water quality monitoring (surface and ground waters) on pages DSEIS 7-4 through 7-15 are unclear and unnecessarily convoluted. Instead of the pages of unclear wording presented here, these details should have been summarized using tables to show: the specific sites / wells to be sampled; specific constituents & parameters; sampling frequency, reporting protocol and frequency.

109. The procedures describing how UCLs will be determined are inconsistent (p. 7-11, L 24-38). The UCLs named in the 2009 Application supplement and the DSEIS (2012) are different. How could the procedures used in both cases comply with NUREG-1569 (NRC 2003)? Furthermore, setting the UCLs at the mean concentration plus 5 standard deviations is excessively lax. It would be much more meaningful to present means plus the 95 percent confidence intervals.

110. Apparently only water level and UCL data (chloride, conductivity, and total alkalinity) will be reported to EPA, and only quarterly (DSEIS p. 7-11). Such reporting is totally inadequate in both frequency and constituents. In essence it

prevents the public and the EPA from understanding what is happening at the site.

111. The NRC has considerable experience with numerous operating and closed ISL / ISR operations. Clearly NRC, not the operator, should select the appropriate "target restoration goals". Yet, the DSEIS p. 2-35, L 37-38, states: "The applicant would establish target restoration goals [CAB concentrations per.....]." Selection of such target restoration goals and UCL parameters and standards should be done by the regulatory agency in the DSEIS to avoid possible conflicts of interest and reveal these foreseeable impacts at the earliest possible stages of project analysis.

112. *Such specific restoration goals and standards should be presented in the DSEIS for public review and comment prior to FEIS or license approval.*

**The SDEIS does not clearly define the various zones that are contemplated to contain, monitor, and control migration of lixiviant-mobilized groundwater and chemical constituents.**

113. D-B Application Supplement, pg. 5-5 describes an aquifer exemption boundary, which acts as an additional buffer zone outside the monitor well rings **"to provide protection to adjacent water from the excursions that occur in the normal course of operations."** Page 5-6 of the Supplement further states that the aquifer exemption boundary is proposed to be up to 1200 ft. outside the monitor well ring, and **would be considered the point of regulatory compliance. Apparently simply pumping to create an inward flow direction is not adequate to control "excursions."** It appears this aquifer exemption boundary is actually an expanded ground water sacrifice zone.

**Mitigation is Not Detailed In a Manner That Allows Any Meaningful Review**

114. The DSEIS portrays mitigation to account for impacts, but the mitigation consists only of proposals to make plans to restore groundwater in the future. There is no detail as to the effectiveness of these proposed mitigation measures, nor any analysis of whether any such plans have succeeded in the past.

115. The DSEIS provides for monitoring of restored groundwater aquifers for only 12 months. DSEIS, P. 2-37. However, there is no assessment as to whether 12 months is adequate. Aquifer restoration activities at numerous other ISL sites have failed to return aquifer water quality to baseline conditions following years of attempts at clean-up. Hence, at minimum, the NRC should conduct these effectiveness reviews and require that post-operational monitoring of D-B aquifer water quality continue until baseline conditions are attained.

## Financial Assurance

116. DSEIS, p. 2-35 states that: "The applicant would also be required to provide financial sureties to cover the costs of both planned and delayed restoration programs, in accordance with 10 CFR Part 40, Appendix A, Criterion 9. NRC reviews financial sureties annually." Although a final decision on surety amounts will come at a later date, the revelation and analysis of the likely amount of surety must be revealed and analyzed in the DSEIS.

117. The NRC and the public know several general facts about the usefulness of most company-generated financial assurance estimates:

1-They generally are based on overly-optimistic assumptions about future water quality, thereby under-estimating costs. Kuipers (2000) conducted a survey of bonding practices at metal mines throughout the western U.S. and found that the bond amounts available were hundreds of millions of dollars below that necessary to conduct actual clean-ups. Many of the "problem" sites have been foreign-owned entities, especially those with their corporate headquarters and assets based in Canada.

2-Aquifer restoration at most, if not all previously-licensed and operated ISL sites has failed to actually return ground water quality to baseline conditions [Hall (2009); Otton and Hall (2009);

3-Predictions of future aquifer restoration success made by the project proponents seldom use truly conservative assumptions. Calculation of financial assurance amounts made by representatives of the party that stands to profit from project licensing represents an extreme conflict of interest.

4-The technical literature is filled with documentation that quantitative predictions of future water quality at *specific* sites cannot be done reliably [Sarewitz, et. al. (2000); Moran (2000); Pilkey & Pilkey-Jarvis(2007); Kuipers & Maest (2006)], and the general failure to restore aquifers back to pre-operational baseline concentrations supports this. This approach must be totally rejected because it assumes one can make accurate and precise *deterministic* predictions.

118. For these reasons, at least preliminary financial assurance calculations should be included in the DSEIS, preferably made by some independent party, not paid or directed by the project proponents. These calculations should also consider the actual reclamation and restoration costs incurred, long-term, from a statistical sampling of the previously-licensed ISL sites. Furthermore, these financial assurance amounts and mechanisms should be made public prior to award of any licenses.

119. To ensure protection of the general public, such financial assurance agreements (bonds, etc.) should be made with the parent corporation, not simply the local operating entity.

Pursuant to 10 C.R.F. § 2.304(d) and 28 U.S.C. § 1746, I declare under penalty of perjury, that the foregoing is true and correct to the best of my knowledge and belief.

Signed on the 24<sup>th</sup> day of January, 2013,

---

Robert E. Moran, PhD.

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FEB - 8 2013

WATER RIGHTS  
PROGRAM

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EST. 1908

RETIRED  
DONN BENNETT

February 6, 2013

Eric Gronlund  
DENR - Water Rights Program  
523 East Capitol Ave., Joe Foss Bldg.  
Pierre, SD 57501-3182

**RE: IN THE MATTER OF 2012 GROUND WATER DISCHARGE  
PLAN APPLICATION - POWERTECH (USA) INC.;  
Our File No. 4500.035012.**

Dear Eric:

Enclosed for filing in the above-referenced matter is the original of  
POWERTECH'S ANSWER TO PETITIONS TO INITIATE CONTESTED CASE.

Thank you for your assistance.

Sincerely,

BENNETT, MAIN & GUBBRUD, P.C.



Max Main

MM/ra

Enc.

cc (w/Enc.): Client

Everett Hoyt, Prehearing Chair  
Roxanne Giedd, Deputy Attorney General  
Diane Best, Assistant Attorney General  
Jeffrey Hallem, Assistant Attorney General

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FEB - 8 2013

WATER RIGHTS  
PROGRAM

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

**IN THE MATTER OF THE 2012  
GROUND WATER DISCHARGE PLAN  
APPLICATION SUBMITTED BY  
POWERTECH (USA) INC.**

**POWERTECH'S  
ANSWER TO PETITIONS  
TO INITIATE  
CONTESTED CASE**

Pursuant to ARSD 74:50:02:04, applicant Powertech (USA) Inc. ("Powertech") answers the petitions to initiate a contested case ("petitions") filed in this matter as follows:

1. Powertech denies each and every allegation, statement and comment in the petitions that are contrary to the approval recommendation of the Secretary of the Department of Environment and Natural Resources in this matter.

2. Powertech's Ground Water Discharge Plan Application (the "Application") is procedurally complete.

3. A water quality variance permit, conditioned as recommended by the Ground Water Quality Program, can be issued to degrade the ambient water quality within the perimeter of operational pollution to the applicable standards, as justified by necessary economic or social development.

4. The implementation of the proposed monitoring plans, conditioned as recommended by the Ground Water Quality Program, is adequate for compliance monitoring to ensure beneficial uses will not be impaired and there will be no hazard to human health.

5. Powertech requests that the Water Management Board conditionally approve Powertech's Application by issuing appropriate water quality variance and ground water discharge facility construction permits, conditioned as recommended by the Ground Water Quality Program.

6. Powertech requests that the Water Management Board recommend that the Secretary of the Department of Environment and Natural Resources issue an appropriate ground water discharge permit to Powertech.

Dated this 6<sup>th</sup> day of February, 2013.

BENNETT, MAIN & GUBBRUD, P.C.  
Attorneys for Powertech

By Max Main  
Max Main  
618 State Street  
Belle Fourche, SD 57717-1489  
Telephone: 605.892.2011

**CERTIFICATE OF SERVICE**

I, MAX MAIN, one of the attorneys for Powertech (USA) Inc., do hereby certify that on February 6<sup>th</sup>, 2013, I caused the original of **POWERTECH'S ANSWER TO PETITIONS TO INITIATE CONTESTED CASE** to be filed as follows:

Eric Gronlund  
DENR – Water Rights Program  
523 East Capitol Ave., Joe Foss Bldg.  
Pierre, SD 57501-3182

and that I caused full, true and complete copies of said document to be served upon the following named persons at their last known mailing addresses, as follows:

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*Also see attached list.*

by depositing the same in the United States Mail in Belle Fourche, South Dakota with first class postage thereon fully prepaid, in envelopes addressed as above.

  
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ELOISE KANESHIRO  
1446 EVANSTON AVE  
HOT SPRINGS SD 57747

COREY KENNEDY  
SHAWNTERA KENNEDY  
140 ADNOIA LN  
RAPID CITY SD 57701

BILL WALSH  
7450 DARK CANYON RD  
RAPID CITY SD 57702

LARRY TEGANTVOORT  
10041 VENTURA LN  
SUMMERSET SD 57718

ROBIN WYNIA  
12750 MERCHEN RD  
HOT SPRINGS SD 57747

SUSAN R HENDERSON  
11507 HWY 471  
EDGEMONT SD 57735

BARBARA SHARP  
445 S 3RD ST  
HOT SPRINGS SD 57747

CYNTHIA MESSENGER  
12750 MERCHEN RD #18  
HOT SPRINGS SD 57747

WAYNE BOOTS  
MARY BOOTS  
RAY BOOTS  
25588 MT SHADOW RD  
EDGEMONT SD 57735

DAHL H MCLEAN  
11853 ACORN RIDGE RD  
SPEARFISH SD 57783

LISA FRESHOUR  
2045 CANTON AVE #535  
HOT SPRINGS SD 57747

ALAN WALKER  
303 CEDAR ST  
BUFFALO GAP SD 57722

ROBERT LEE  
338 S 5TH ST  
HOT SPRINGS SD 57747

VALERIE NAYLOR  
23201 CUSTER TRAILS RD  
RAPID CITY SD 57702

LAURENCE & MARGARET LAMONT  
PO BOX 53  
BUFFALO GAP SD 57722

JEAN NACHTIGALL  
12746 COUNTRY RD  
HOT SPRINGS SD 57747

LINDA M STYGER  
11962 SUNDANCE DR  
HOT SPRINGS SD 57747

DEBRA J WEISHAUPL  
110 N 3RD ST  
HOT SPRINGS SD 57747

KARLA R LARIVE  
839 ALMOND ST  
HOT SPRINGS SD 57747

ELRAY ROSAAEN  
TWYLA AMIATTE  
PO BOX 125  
BUFFALO GAP SD 57722

MATIE TYSON  
2508 CROWN HILL  
RAPID CITY SD 57702

JULI AMES-CURTIS  
PHIL HECKMAN  
11936 HAY CREEK RD  
CUSTER SD 57702

JERRY SIMUNTER  
22769 JENNY RD  
HOT SPRINGS SD 57747

GLEN GRAVES  
GEORGE ANN GRAVES  
304 4TH ST  
BUFFALO GAP SD 57722

BETTY RUNZEREL  
PO BOX 836  
HOT SPRINGS SD 57747

JOE W MONTGOMERY  
210 PINE ST  
BUFFALO GAP SD 57722

LUELLA J HICKS  
PO BOX 144  
BUFFALO GAP SD 57722

GREG LANGER  
PO BOX 141  
BUFFALO GAP SD 57722

HEATHER J BESCO  
PO BOX 82  
BUFFALO GAP SD 57722

SHARON & ALEX CHRISTIE  
PO BOX 74  
209 N 2ND ST  
BUFFALO GAP SD 57722

BILLY JACK MCLAUGHLIN  
PO BOX 25  
BUFFALO GAP SD 57722

FOREST AND ANDY JOHNSON  
610 NELLIE LN  
SPEARFISH SD 57783

ANGIE BALWIN  
PO BOX 191  
PIERPONT SD 57468

DONALD L ACKERMAN  
27128 WONDERLAND  
HOT SPRINGS SD 57747

RICK REWE  
28149 SHEP'S CANYON RD  
HOT SPRINGS SD 57747

RICK BRITTON  
PO BOX 53  
HOT SPRINGS SD 57747

DIANE GROSS  
PO BOX 389  
HOT SPRINGS SD 57747

JASON AND MARY SOLWAY  
910 S 6TH ST  
HOT SPRINGS SD 57747

HANNAH BOCHERT  
SHERMAN ST  
HOT SPRINGS SD 57747

BONNIE MANITY  
545 N RIVER #313  
HOT SPRINGS SD 57747

MARSHA MILLER  
27316 HIDDEN CT  
HOT SPRINGS SD 57747

ELTON ZORNES  
12742 HWY 18  
HOT SPRINGS SD 57747

JANA FIRKINS  
244 GALVESTON AVE  
HOT SPRINGS SD 57747

RUSS SISK  
12619 BOOKE CANYON RD  
HOT SPRINGS SD 57747

ALICA  
MADELINE ORTEGO  
PO BOX 861  
PINE RIDGE SD 57773

JOE AND LEORA DRAPPER  
13174 FALL RIVER RD  
HOT SPRINGS SD 57747

FRANK RUTHER  
545 N RIVER #413

HOT SPRINGS SD 57747

DEBRA WHITE PLUME  
PO BOX 71  
MANDERSON SD 57756

WENDOLYN WEIMERS  
306 N 19TH ST  
HOT SPRINGS SD 57747

LISA MASTERSON  
445 S 6TH ST  
HOT SPRINGS SD 57747

MARGARET IKONEN  
445 S 6TH ST  
HOT SPRINGS SD 57747

WALLY CALN  
690 S 6TH ST  
HOT SPRINGS SD 57747

CHARLES COX  
2307 JENNINGS AVE  
HOT SPRINGS SD 57747

SUSAN MALEWKE  
545 N RIVER ST #401  
HOT SPRINGS SD 57747

RESIDENT  
12560 BEAVER CREEK RD  
HOT SPRINGS SD 57747

HAROLD ARNS  
22723 TAWNEY CT  
BOX ELDER SD 57719

JIM PETERSON  
1203 11ST ST  
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ROSIE ELMORE  
PO BOX 886  
HOT SPRINGS SD 57747

KRISTEN WILDER  
506 JENNINGS AVE  
HOT SPRINGS SD 57747

CHRIS PIERCE  
101 N CHICAGO  
HOT SPRINGS SD 57747

AMBER GILL  
718 HARNEY  
CUSTER SD 57730

JASON NACHTIGALL  
12749 COUNTRY RD  
HOT SPRINGS SD 57747

GLENN MUSHANEY  
PO BOX 272  
HOT SPRINGS SD 57747

GRANT RUSH  
PO BOX 172  
HOT SPRINGS SD 57747

WADE EVANS  
27338 TAYLOR LN  
HOT SPRINGS SD 57747

BETTY RUSSELL  
PO BOX 836  
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HOT SPRINGS SD 57747

PAM LUDWEG  
810 GORDON  
CUSTER SD 57730

TERRY JOHNSON  
26680 BUFFALO BUTTE DR  
HOT SPRINGS SD 57747

DARLA STEVENS  
1622 EVANSTON  
HOT SPRINGS SD 57747

ELLEN HEAFNER  
504 S 19TH  
HOT SPRINGS SD 57747

RUSSELL D WITTE  
301 S CHICAGO  
HOT SPRINGS SD 57747

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HOT SPRINGS SD 57747

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HOT SPRINGS SD 57747

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NIKLAUS TOWNE  
28423 OLD HWY 79  
HOT SPRINGS SD 57747

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545 N RIVER ST APT 503  
HOT SPRINGS SD 57747

MAY GOZELET  
338 S RIVER ST  
HOT SPRINGS SD 57747

JIM MCKEAN  
JODY MCKEAN  
27317 HIDDEN CT

HOT SPRINGS SD 57747

RUBE D  
104 JEFFERSON ST  
EDGEMONT SD 57735

JUDY GAALAUGH  
912 9TH ST  
RAPID CITY SD 57701

JOHN SCHWARZENBACH  
CONNIE SCHWARZENBACH  
CONNLANN SCHOCHZENTED  
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HOT SPRINGS SD 57747

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RAPID CITY SD 57701

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RAPID CITY SD 57701

SUSAN STARECK  
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DAKOTA RURAL ACTION  
2804 WILLOW RD  
RAPID CITY SD 57701

ED HARVEY  
EDWARD HARVEY  
1545 ALBANY AVE  
HOT SPRINGS SD 57747

CARRIE REGELIN  
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RAPID CITY SD 57701

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PO BOX 25  
HULETT WY 85720

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PO BOX 752  
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DALE STEINEKE  
13130 GREG DR  
HOT SPRINGS SD 57747

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PEGGY DETMERS  
13488 SHELTER DR  
RAPID CITY SD 57702

DEWANE STEARNS  
11500 INDIAN CANYON RD  
EDGEMONT SD 57735

TOM EMANUEL  
19 PINE ST  
VERMILLION SD 57069

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WATER RESOURCE DIVISION  
WILLIAM R HANSEN  
1201 OAKRIDGE DR # 250  
FORT COLLINS CO 80525

RAYMOND PALMER  
27221 WINDY RD  
HOT SPRINGS SD 57747

INTEROFFICE -SD DEPT. OF GAME  
FISH & PARKS  
LESLIE MURPHY – SR BIOLOGIST  
523 E. CAPITOL AVE  
PIERRE, SD 57501

FALL RIVER COUNTY COMMISSION  
MICHAEL P ORTNER - CHAIRMAN  
906 N RIVER ST  
HOT SPRINGS SD 57747

LINDA PIRALES  
606 S RIVER  
HOT SPRINGS SD 57747

JEWELL KEOWN  
410 S 4<sup>TH</sup> ST  
HOT SPRINGS SD 57747

LENNIE WALLEEN  
446 S 16<sup>TH</sup> ST  
HOT SPRINGS SD 57747

CASEY NEUGEBAUER  
27552 S BUFFALO GAP RD  
ORAL SD 57766

LOUISE KURSAVE  
27275 SD HWY 79  
BUFFALO GAP SD 57722

DAN JENSEN  
806 GALVESTON AVE  
HOT SPRINGS SD 57747

MAURA SMITH  
306 JOPLIN # 8  
HOT SPRINGS SD 57747

MICHELLE SUGEG  
PO BOX 139  
HOT SPRINGS SD 57747

SHARON PARKER  
1913 JENNINGS AVE  
HOT SPRINGS SD 57747

JENNIE SOTHERLAND  
27735 CASCADE RD  
HOT SPRINGS SD 57747

DAN LANG  
27564 PONDEROSA RD  
HOT SPRINGS SD 57747

DONALD & BONNIE MARITZ  
545 N RIVER ST #313  
HOT SPRINGS SD 57747

GARY PUTNAM  
204 4<sup>TH</sup> AVE  
EDGEMONT SD 57735

CAROLYN HERTEL  
27615 COUNTRY VIEW RD  
HOT SPRINGS SD 57747

SUSAN STOLARCEK  
PO BOX 686  
HOT SPRINGS SD 57747

JUDITH KLEIN  
238 N 6<sup>TH</sup> ST  
HOT SPRINGS SD 57747

MICHELLE BROCK  
26846 HWY 385  
HOT SPRINGS SD 57747

RICH AND JACKIE GERICKE  
305 S 14<sup>TH</sup> STREET  
HOT SPRINGS SD 57747

KAREN YEKEL  
2455 MINNEKAHTA  
HOT SPRINGS SD 57747

PATRICIA HERNANDEZ  
246 SOUTH 6<sup>TH</sup> ST, APT 4  
HOT SPRINGS SD 57747

JAKE HAACKE  
1026 EVANSTON AVENUE  
HOT SPRINGS SD 57747

REX AND MILDRED PIPER  
12616 ARGYLE ROAD  
HOT SPRINGS SD 57747

J SMITH  
2728 HOT BROOK  
HOT SPRINGS SD 57747

MOSES AND CISER HERNANDEZ  
705 N RIVER ST  
HOT SPRINGS SD 57747

RICHARDO JACOUE  
601 ALBANY AVENUE  
HOT SPRINGS SD 57747

PAULA TONEMAH  
306 THOMPSON  
HOT SPRINGS SD 57747

EDDIE BERFORD  
241 GALVESTON AVENUE  
HOT SPRINGS SD 57747

DEANN MCCOMB  
PO BOX 254  
HOT SPRINGS SD 57747

JIM JOHNSON  
12569 W CASCADE MT RD  
HOT SPRINGS SD 57747

GARY MILES  
27582 RATHBUN RD  
HOT SPRINGS SD 57747

RAY POWELL  
2025 LINCOLN AVE  
HOT SPRINGS SD 57747

JOEL HAWKINS  
504 16<sup>TH</sup> ST  
HOT SPRINGS SD 57747

GRADY LOCKHART  
PO BOX 152  
OELRICHS SD 57652

W CINDY GILLIS  
GONZALEZ LAW FIRM  
522 7<sup>TH</sup> ST # 202  
RAPID CITY SD 57701

MARK & JENNIFER BELITZ  
28233 CASCADE RD  
HOT SPRINGS SD 57747

MARK TUBBS  
10891 RIVER RD  
EDGEMONT SD 57735

LARRY & DORIS BELITZ  
12747 OAK ROAD  
HOT SPRINGS SD 57747

CITY OF HOT SPRINGS  
DON DE VRIES  
303 N RIVER RD  
HOT SPRINGS SD 57747

EDWARD H BINNS  
408 N 17<sup>TH</sup> ST  
HOT SPRINGS SD 57747

KARL W BOTHUL  
338 S 17<sup>TH</sup>  
HOT SPRINGS SD 57747

NEAL MILLER  
486 ALMOND ST  
HOT SPRINGS SD 57747

DOROTHY RICHARDS  
340 N 23<sup>RD</sup> ST  
HOT SPRINGS SD 57747

PEGGY SEMLER  
PO BOX 27  
HOT SPRINGS SD 57747

MEL PENCE  
2330 WASHINGTON AVE  
HOT SPRINGS SD 57747

GARY SCHWEIGERT  
279 CASCADE RD  
HOT SPRINGS SD 57747

BETTY WELCH  
PO BOX 14  
EDGEMONT SD 57735

KELLEE WALTON  
1005 S RIVER ST  
HOT SPRINGS SD 57747

MILLI VONG  
333 N RIVER ST  
HOT SPRINGS SD 57747

LYLE JENSEN  
13167 FALL RIVER RD  
HOT SPRINGS SD 57747

LYNDA DAVIES  
PO BOX 1204  
HOT SPRINGS SD 57747

ALISON SWAN  
302 S 16<sup>TH</sup> ST  
HOT SPRINGS SD 57747

CALVIN LARIVE  
713 N RIVER ST  
HOT SPRINGS SD 57747

GARY FRIENDSHUH  
27098 ELK RD  
BUFFALO GAP SD 57722

LEORA & JOE DOPPEN  
13174 FALL RIVER RD  
HOT SPRINGS SD 57747

TRIP WILLIAMS  
27662 SCENIC RD  
HOT SPRINGS SD 57747

CRAIG ROMNEY  
342 N 4<sup>TH</sup>  
HOT SPRINGS SD 57747

NANCY BLATCHFORD  
441 S 4TH STREET  
HOT SPRINGS SD 57747

GEORGIANA CROSS  
2045 CANTON AVENUE #530  
HOT SPRINGS SD 57747

MIRIAM AND KEN MARTIN  
801 N RIVER STREET  
HOT SPRINGS SD 57747

BRIANNA BADURE  
PO BOX 971  
HOT SPRINGS SD 57747

STEVE  
2317 WASHINGTON  
HOT SPRINGS SD 57747

JIM RED CLOUD  
13084 GRAY DRIVE  
HOT SPRINGS SD 57747

SARAH AND AJ PHILLIPS  
705 N RIVER STREET, APT 1  
HOT SPRINGS SD 57747

JULIE AND EMILY CHRISTENSEN  
603 N RIVER STREET  
HOT SPRINGS SD 57747

LORAIN TUCKER  
PO BOX 1129  
HOT SPRINGS SD 57747

VERONICA HERANDEZ  
705 N RIVER ST  
HOT SPRINGS SD 57747

GAIL SAXONIS  
745 HAPPY HOLLOW  
HOT SPRINGS SD 57747

JAMES B WOODWARD  
PO BOX 599  
WELLINGTON CO 80549

JOE BASSINGHAM  
10985 PLEASANT VALLEY RD  
EDGEMONT SD 57735

TERRY HOLCOMB  
105 S 23<sup>RD</sup> ST  
HOT SPRINGS SD 57747

ROSE PETTRIS  
12544 WEST CASCADE RD  
HOT SPRINGS SD 57747

B J HUNTER  
353 BEARS AVE  
HOT SPRINGS SD 57747

MARION MUHM  
1614 COLDBROOK AVENUE  
HOT SPRINGS SD 57747

CINDY BRUNSON  
11122 FORT IGLOO RD  
EDGEMONT, SD 57735

ELAINE EVERHART  
ALLEN CHESSON  
545 N RIVER STREET  
HOT SPRINGS SD 57747

STACY REETZ  
546 JENNINGS AVE  
HOT SPRINGS, SD 57747

END OF LIST

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**SOUTH DAKOTA WATER MANAGEMENT BOARD  
STATE OF SOUTH DAKOTA  
EN RE APPLICATION #2685-2 and #2682-2**

APR 29 2013

DEPT. OF ENVIRONMENT AND  
NATURAL RESOURCES,  
SECRETARY'S OFFICE

**MOTION OF FALL RIVER COUNTY TO DISMISS  
IT'S PETITION TO INTERVENE**

COMES NOW Fall River County, by and through it's Chairman of the Fall River County Commission, Michael P. Ortner, whose address is 906 North River Street, Hot Springs, South Dakota and makes the following motion to dismiss it's Petition to Intervene opposing the two applications for water permits designated as application #2685-2 and #2682-2 in the above entitled matter. The Fall River County Commission made this decision to withdraw from intervening by a vote of 4 to 1. The Motion was based upon a finding by the Fall River County Commission that there is so much conflicting information concerning the applications, that the decisions on these application matters must be left to those charged by state and federal law with making those decisions.

Dated this 25 day of April, 2013.

Fall River County Commission

By: Michael P. Ortner

Michael P. Ortner

Chairman of the Fall River County Commission

906 North River Street

Hot Springs, SD 57747

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that he mailed a true and correct copy of the *Motion to Dismiss Petition of Fall River County to Intervene in Opposition to the application to the individuals hereinafter next designated all on the date below shown by depositing the same in the United States mail with first class postage prepaid in envelopes addressed to:*

✓ Steven N. Pirner  
Secretary of the Department of

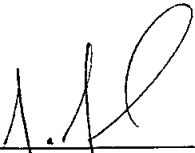


Environment and Natural Resources  
Foss Building  
523 E. Capital Ave.  
Pierre, SD 57501

Chief Engineer  
Water Rights Program  
Foss Building  
523 E. Capital Ave  
Pierre, SD 57501

PowerTech (USA) Inc.  
C/O Richard Blubaugh  
5575 DTC Parkway, Suite 140  
Greenwood Village, CO 80111

On the 25 day of April, 2013.



---

James G. Sword  
Fall River County State's Attorney

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JUL 25 2013

DEPT. OF ENVIRONMENT &  
NATURAL RESOURCES,  
GROUND WATER PROGRAM

Linsey McLean  
14390 Edgewood Place  
Piedmont, SD 57769  
(605)787-4949

July 17, 2013

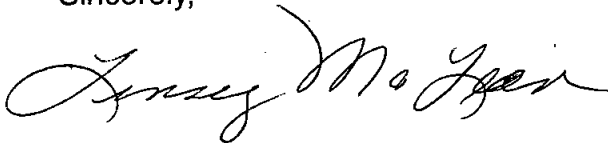
Matt Hicks  
Eric Gronlund  
Water Management Board  
Department of Environment and Natural Resources  
523 E. Capital  
Pierre, SD 57501

Re: Request to Intervene as a Party

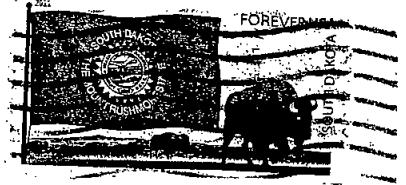
Dear Sirs:

I am writing in reference to the water permits pending before the Water Management Board involving the Powertech matter. I am respectfully requesting that I be allowed to intervene as a party to this matter. Please call me at your earliest convenience to discuss this matter. Thank you in advance for your consideration. 605-787-4949 or cell 605-484-5314.

Sincerely,

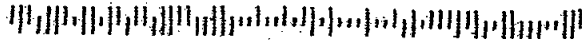


Linsey McLean



Matt Hicks  
Eric Ironlund  
Water Mgmt. Board  
Dept of Env. & Nat. Res.  
523 E. Capital  
Pierre, S.D. 57501

5750193152



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P.O. Box 78

Interior, SD 57730

29 July 2013

South Dakota  
Water Rights Management Board

523 E. Capitol Ave.

Pierre, S.D. 57501

Re: Powertech's Water Permit Hearings

Dear Water Management Board Members;

Please change my intervenor status from Option A to  
Option B.

Thank you.

Sincerely,  
Sylvia Lambert

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State Of South Dakota  
Department of Environment and Natural Resources  
Water Management Board

In the Matter of the Water Permit Applications 2685-2 and 2686-2, Powertech (USA)

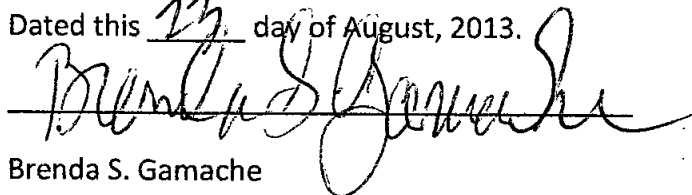
In the Matter of the 2012 Groundwater Discharge Plan Application Submitted by Powertech (USA) Inc.

Motion of Brenda S. Gamache, 2337 Wilson Ave., Hot Springs, South Dakota 57747 to respectively submit a Motion to The Water Management Board.

South Dakota Codified Law 46A-1-8, as I read this law, I request that the Surface Water Quality Program should answer all previous Interrogatories and Requests of documents, from all parties.

That it should be, not only GWQ and WR from DENR but also SWQ, because of questions that can only be answered by SWQ. That in the above stated law that The Water Management Board needs to hear answers from questions to do with surface water. That they have the power under law to execute this motion and decide to make SWQ be a part of this case, as are GWQ and WR.

Dated this 23 day of August, 2013.



Brenda S. Gamache

2337 Wilson Ave., Hot Springs, South Dakota 57747

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State of South Dakota  
Department of Environment and Natural Resources  
Water Management Board

---

In the Matter of Water Permit Applications 2685-2 and 2686-2,  
Powertech(USA) Inc.

In the Matter of the 2012 Groundwater Discharge Plan Application  
Submitted by Powertech(USA) Inc.

---

The undersigned hereby certifies that a true and correct copy of the Notice of Motions by Brenda S. Gamache filed in the above entitled matter was served upon the following by enclosing the same in envelopes with first class postage prepaid and affixed thereto, and depositing said envelopes in the United States mail, at Hot Springs, South Dakota on 23 day of August, 2013.

Sabrina King, 917 Wood Ave., Rapid City, SD 57701

Gary E. Heckenlaible, P.O. Box 422, Rapid City, SD 57709

Bruce Ellison (Attorney for The Clean Water Alliance) P.O. Box 2508, Rapid City, SD 57709

Rebecca R. Leas, 6509 Seminole Lane, Rapid City, SD 57702

Rick V. Summerville, 6509 Seminole Lane, Rapid City, SD 57702

Andy Johnson 610 Nellie Lane, Spearfish, SD 57783

Cindy Gillis (Attorney for Oglala Sioux Tribe) 522 7<sup>th</sup> Street, Suite 202, Rapid City, SD 57701

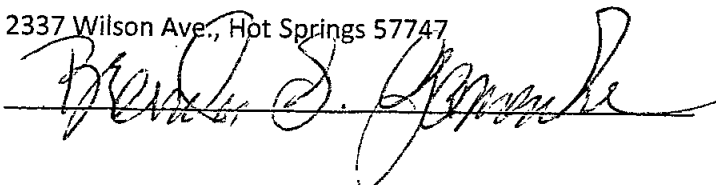
Cheryl A. and Roger Rowe, 7950 Dark Canyon, Rapid City, SD 57702

Office of the Attorney General - Jeffrey P. Hallem (Assistant Attorney General) (Counsel for the Water Management Board) Mickelson Criminal Justice Center, 1302 East Highway 14, Suite 1, Pierre, SD 57501

DENR (Eric Gronlund), Joe Foss Building, 523 E. Capitol Ave., Pierre, SD 57501

Brenda S. Gamache

2337 Wilson Ave., Hot Springs 57747



Max Main  
Attorney Powertech (USA), Inc.  
618 State Street  
Belle Fourche, SD 57717

Douglas C. Uptain  
3213 W. Main #112  
Rapid City, SD 57702

Lilias Jones Jarding  
418 N. 44<sup>th</sup> Street  
Rapid City, SD 57702

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P.O. Box 1914  
Rapid City, SD 57709

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22198 Elkvale Road  
Rapid City, SD 57701

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Edgemont, SD 57735

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P.O. Box 25  
Hulett, WY 82720

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P.O. Box 952  
Hill City, SD 57745

Mark Boddicker  
13850 Battle Creek Road  
Hermosa, SD 57744

Dahl H. McLean  
11853 Acorn Ridge Road  
Spearfish, SD 57783

Michael M. Hickey  
Atty Black Hills Wild Horse Sanc  
P.O. Box 2670  
Rapid City, SD 57709-2670

Angelia Baldwin  
P.O. Box 1914  
Pierpont, SD 57468-0191

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29966 423 Ave.  
Scotland, SD 57059

Susan R. Henderson  
11507 Hwy 471  
Edgemont, SD 57735

Jill Anawaty  
2804 Willow Ave.  
Rapid City, SD 57701

Richard Draeger  
617 Saint Cloud  
Rapid City, SD 57701

Gwen E. Kaneshiro / William M C Ing  
1446 Evanston Ave.  
Hot Springs, SD 57747

Brenda Gamache  
2337 Wilson Ave.  
Hot Springs, SD 57747

Diane Best  
Office of Attorney General  
317 N. Main  
Sioux Falls, SD 57104

Roxanne Giedd  
Office of Attorney General  
1302 E. Highway 14, Suite 1  
Pierre, SD 57501

STATE OF SOUTH DAKOTA



**OFFICE OF ATTORNEY GENERAL**

1302 East Highway 14, Suite 1  
Pierre, South Dakota 57501-8501  
Phone (605) 773-3215  
Fax (605) 773-4106  
TTY: (605) 773-6585  
[www.state.sd.us/atg](http://www.state.sd.us/atg)

**MARTY J. JACKLEY**  
ATTORNEY GENERAL

**CHARLES D. McGUIGAN**  
CHIEF DEPUTY ATTORNEY GENERAL

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SEP 05 2013

WATER RIGHTS  
PROGRAM

September 4, 2013

Brenda S. Gamache  
2337 Wilson Ave  
Hot Springs SD 57747

Re: *In the Matter of Water Permit Application Nos. 2685-2 and 2686, and In the Matter of the 2012 Groundwater Discharge Plan Application Submitted by Powertech (USA) Inc.*

Ms. Gamache:

Enclosed please find a copy of *DENR WR and GWQ Response to Gamache Motion Dated August 23, 2013*, in regards to the above-entitled matter

If you have any questions, please give our office a call.

Sincerely,

A handwritten signature in cursive script, appearing to read "Roxanne Giedd".

Roxanne Giedd  
Deputy Attorney General

RG/jm  
Enclosures

cc/encl: All Parties of Record Noted in Certificate of Service



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SEP 05 2013  
WATER RIGHTS  
PROGRAM

STATE OF SOUTH DAKOTA

BEFORE THE WATER MANAGEMENT BOARD

IN THE MATTER OF WATER	)	
PERMIT APPLICATION NOS.	)	DENR WR and GWQ
2685-2 and 2686, POWERTECH	)	RESPONSE
(USA) INC,	)	TO GAMACHE MOTION
	)	DATED AUGUST 23, 2013
IN THE MATTER OF THE 2012	)	
GROUNDWATER DISCHARGE	)	
PLAN APPLICATION SUBMITTED	)	
BY POWERTECH (USA), INC.	)	

The Water Rights Program (“WR”) and the Groundwater Quality Program (“GWQ”) of the South Dakota Department of Environment and Natural Resources (“GWQ”), submits the following response to the Motion filed by Brenda S. Gamache dated August 23, 2013.

Ms. Gamache requests that the Surface Water Quality Program of the South Dakota Department of Environment and Natural Resources “answer all previous Interrogatories and Requests of documents, from all parties”.

Ms. Gamache cites SDCL 46A-1-8 as authority for this request.

1. The Gamache Motion is untimely.

The Gamache Motion demands certain discovery responses from the Surface Water Quality Program. Subject and in addition to the responses below, this discovery request is untimely. More specifically, the Board, through its pre-hearing chair, issued a Procedural Order on February 14, 2013. This Order states:

- (6) The following prehearing schedule and obligations apply to Applicant, DENR, and all parties who elect Option A:
  - (a) Discovery requests must be initiated (and served upon the applicable Party) by April 1, 2013;
  - (b) Discovery completion deadline is 45 days prior to the initial date scheduled for the contested case hearing.

The discovery completion deadline was therefore August 23, 2013. The Gamache Motion was filed on August 23, 2013, four and one-half months after discovery was required to be initiated; and on the discovery completion deadline. Even assuming the motion is proper discovery, it is untimely.

2. SDCL 46A-1-8 provides no authority for the Gamache Motion.

SDCL 46A-1-8 is a statute that concerns the activities of another Board (the Board of Water and Natural Resources, not the Water Management Board) regarding water development projects, not applications for either water rights or groundwater discharge plans. It states in pertinent part, “The objectives and purposes to be served by the Board of Water and Natural Resources shall be to resolve conflicting special interests of federal, state and local agencies or entities or private interests in *proposed water projects* ....” The water projects to which it refers are defined in SDCL 46A-2-4(14) as “contracts for the marketing of water service or the facilities ... intended either to generate or sell hydroelectric power....” This definition is specifically applicable to SDCL 46A-1-8 through the definition of “project” in SDCL 46A-1-3(10).

Indeed, SDCL 46A-1-4 specifically states that, “The enactment of this chapter ... does not affect any existing legislation with respect to water or water

rights....” SDCL 46A-1-8 is inapplicable to any decision of the Water Management Board concerning Powertech’s water permit application or groundwater discharge plan application.

Further, the Water Management Board does not have jurisdiction to act under SDCL 46A-1-8. The Water Management Board’s jurisdiction is limited to the specific requirements established in statute and rule for issuance of water appropriation applications and groundwater discharge plans.

In addition, and specifically with regard to the discovery issue that is the subject of the Gamache Motion, SDCL 46A-1-8 does not concern administrative procedure at all. It does not address in any sense authority for the Board to require a non-party to the proceeding to respond to discovery requests served on parties to the proceeding.

3. The fact one or more state programs are parties does not confer jurisdiction on the Board to require other state programs to respond to discovery.

As stated, the Surface Water Quality Program is a separate program within the DENR. There is no surface water quality discharge permit application pending before the Board. In fact, the Board lacks authority over such applications; they are issued by the Secretary of the DENR. SDCL 34A-2-36.

The Board’s authority over water permit applications and groundwater discharge permits simply does not authorize reaching out to other programs in the DENR or elsewhere for discovery or additional analysis.

This is similar to other situations where courts have held that a state Board cannot require specific study or responses from agencies not before them. See, *In the Matter of the Prevention of Significant Deterioration (PSD) Air Quality Permit Application of Hyperion Energy Center*, 2013 S.D. 10, ¶19, which states with regard to another Board's jurisdiction to order an Environmental Impact Statement:

..., the Board's jurisdiction *in this proceeding* did not include regulatory authority over "all the [other environmental] factors which the [Citizens] deem relevant to the [permit] consideration." The Board's jurisdiction was limited to the specific requirements established in the statutes and regulations for issuance of the air quality permit. Thus, the Board correctly recognized that its jurisdiction was limited to the PSD permit issues, and the Board had no jurisdiction to regulate the other environmental effects of the proposed facility in this PSD proceeding.

(Emphasis in original.)

The foregoing matter dealt with the South Dakota Board of Minerals and Environment, which has authority to deal with air quality permits and to hear evidence from the DENR air quality program. The Court's ruling made it clear that the Board of Minerals and Environment cannot require further analysis for environmental effects other than that before it.

The law on discovery requests is consistent. Courts have denied requests to obtain discovery from nonparty programs when the propounding party seeks documents from a nonparty state agency that is not directly part of the investigation at issue. For example, a prisoner facing a criminal prosecution for murdering his cellmate cannot obtain prison records pertaining to a prisoners' custody when the custodial branch of the prison has no

investigatory authority involving the murder. *People ex. Rel. Lockyer v. Superior Court*, 122 Cal.App.4th 1060, 19 Cal.Rptr.3d 324 (2004).

4. The Gamache Motion does not comply with the Rules of Civil Procedure applicable to administrative actions.

The matter at issue is a contested case under the state administrative procedures law, ch. 1-26. SDCL 1-26-19.2 states:

Each agency and the officers thereof charged with the duty to administer the laws and rules of the agency shall have power to cause the deposition of witnesses residing within or without the state or absent therefrom to be taken *or other discovery procedure to be conducted* upon notice to the interested person, if any, *in like manner that depositions of witnesses are taken or other discovery procedure is to be conducted in civil actions pending in circuit court in any matter concerning contested cases.*

The procedures concerning written discovery requests (Requests for Interrogatories and Requests for the Production of Documents) applicable to civil actions are established in SDCL 15-6-26. Parties may obtain discovery *from other parties* under this statute. Obtaining answers to questions and copies of documents from *non-parties* requires *issuance of and proper service, including witness fees and mileage, of a subpoena* under SDCL 15-6-45.

The Surface Water Quality Program is not a party to this proceeding. It has not been served with a subpoena demanding a deposition, answers to written questions, or the production of documents as required by SDCL 15-6-45. This is the procedure that would be applicable to a non-party such as the Surface Water Quality Program, and is the procedure that Gamache could have used to obtain discovery from the Surface Water Quality Program.

At this late date, however, after the close of the discovery completion date, even this procedure must be rejected due to the untimeliness of the request. Discovery was to have been completed by now so that the Parties could prepare for hearing, and forcing continued discovery will prejudice WR and GWQ by interfering with that preparation.

5. Gamache's Motion is not likely to result in the discovery of relevant evidence.

The Surface Water Quality Program was not involved in reviewing or processing either of these applications, with were analyzed and processed by employees in the WR or GWQ Programs. Therefore, the extent of any relevant evidence it would have would be limited to surface water quality sampling in the area.

This information on sampling sites is public record and Ms. Gamache has already obtained it. More specifically, on August 15, 2013, Gamache filed "Claimant's Interrogatories and request for Production of Documents to Plaintiff" with WR.<sup>1</sup> WR responded to this discovery request under separate filing. Although it objected to the requests for the reasons listed above, WR did disclose the names and titles of surface water quality officials, the website for the surface water sampling network for South Dakota surface water sampling data, a map of sampling sites, and instructions on how to obtain the surface water quality data. The WR response was mailed to Ms. Gamache on August

---

<sup>1</sup>This discovery request was not served on any party and was not served on the Surface Water Quality Program.

23, 2013, only a few days after WR received the request (and on the same day that she filed the presently pending motion). This should afford Ms. Gamache with the ability to gather and examine South Dakota surface water quality data from the locations that she deems relevant.

Further response by the Surface Water Quality Program, who holds no responsibility for review of the pending applications for water rights and approval of a groundwater discharge plan, would not be likely to lead to relevant evidence as is required for a proper discovery request.

Dated this 4th day of September, 2013.



---

Roxanne Giedd  
Deputy Attorney General  
Office of the Attorney General  
1302 E. HWY 14  
Pierre, SD 57501  
Telephone: (605) 773-3215

Diane Best  
Assistant Attorney General  
Office of the Attorney General  
317 N. Main Ave.  
Sioux Falls, SD 57104  
Telephone: (605) 367-5880, Ext. 105

CERTIFICATE OF SERVICE

The undersigned hereby certifies that true and correct copies of the *DENR WR and GWQ Response to Gamache Motion Dated August 23, 2013*, in the above entitled matter was served upon the following by enclosing the same in envelopes with first class postage prepaid and affixed thereto, and depositing said envelopes in the United States mail, at Pierre, South Dakota, on this 4th day of September, 2013:

Michael M. Hickey  
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Belle Fourche, SD 57717

Sabrina King  
917 Wood Avenue  
Rapid City, SD 57701

Gary E. Heckenlible  
PO Box 422  
Rapid City SD 57709

Brenda Gamache  
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Hot Springs SD 57747

Rebecca R Leas  
Rick V Summerville  
6509 Seminole Ln  
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Andy Johnson  
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Hermosa SD 57744

Angelia Baldwin  
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Pierpont SD 57468-0191

Jill Anawaty  
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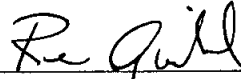
Gwen E Kaneshiro  
William M.C. Eng  
1446 Evanston Ave  
Hot Springs SD 57747

Attn: Ashley Cortney  
Edgemont Public Library  
P.O. A / 412<sup>nd</sup>  
Edgemont, SD 57735

Attn: Government Documents  
Rapid City Public Library  
610 Quincy St.  
Rapid City, SD 57701

Attn: Doris Ann Mertz  
Custer County Library  
447 Crooks Street, Suite 4  
Custer, SD 57730

And on the same date the original was mailed by interoffice mail to Eric Gronlund, Joe Foss Building, 523 E. Capitol Ave, Pierre, SD 57501 and a copy was hand-delivered to Jeffrey P. Hallem, Office of the Attorney General 1302 E. HWY 14, Suite 1, Pierre, SD 57501.



---

Roxanne Giedd  
Deputy Attorney General  
Office of the Attorney General  
1302 E. HWY 14  
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Telephone: (605) 773-3215

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SEP 09 2013

WATER RIGHTS  
PROGRAM

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

---

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

POWERTECH'S  
MOTION TO ALLOW NARRATIVE  
TESTIMONY

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

---

Powertech (USA) Inc. ("Powertech") hereby moves Hearing Chair Everett Hoyt for entry of an order allowing testimony in narrative form during the hearing in this matter. This motion is made on the grounds and for the reasons set forth below.

SDCL 1-26-19(1) states that in agency contested cases, "[t]he rules of evidence as applied under statutory provisions and in the trial of civil cases in the circuit courts of this state . . . shall be followed." Rule 611(a) of the South Dakota Rules of Evidence provides:

The court shall exercise reasonable control over the mode and order of interrogating witnesses and presenting evidence so as to:

- (1) Make the interrogation and presentation effective for the ascertainment of the truth;
- (2) Avoid needless consumption of time; and
- (3) Protect witnesses from harassment or undue embarrassment.

SDCL 19-14-18.

South Dakota Rule of Evidence 611(a) is almost identical to Rule 611(a) of the Federal Rules of Evidence, which states:

**(a) Control by the Court; Purposes.** The court should exercise reasonable control over the mode and order of examining witnesses and presenting evidence so as to:

- (1) make those procedures effective for determining the truth;
- (2) avoid wasting time; and
- (3) protect witnesses from harassment or undue embarrassment.

In *United States v. Pless*, 982 F.2d 1118 (7th Cir. 1992), the court applied Fed.R.Evid. 611(a) to the issue of whether or not it was proper to allow testimony in narrative form. The court held:

On such evidentiary matters we give special deference to the trial court, reversing the district judge's decision to admit testimony only where there has been a clear abuse of discretion (*United States v. Allen*, 930 F.2d 1270, 1273 (7th Cir. 1991) ). That is not at all the case here: Fed.R.Evid. 611(a) provides district judges with authority to allow testimony in narrative form rather than as answers to specific questions (see 3 Jack Weinstein and Margaret Berger, *Weinstein's Evidence* ¶ 611[01], at 611-19-611-20 (1991)), and we ourselves have said that “[t]here is . . . nothing particularly unusual, or incorrect, in a procedure of letting a witness relate pertinent information in a narrative form as long as it stays within the bounds of pertinency and materiality” (*United States v. Garcia*, 625 F.2d 162, 169 (7th Cir. 1980)). Indeed, both *Weinstein's Evidence* and *Garcia* suggest that the narrative may well be the preferable form in some respects.

*Pless* at 1123.

In *In re Air Crash Disaster at Stapleton Int'l., Denver, Colorado, on November 15, 1987*, 720 F.Supp.1493 (D. Colo. 1989), the court also applied Fed.R.Evid. 611(a) to allow narrative testimony of deposition summaries to be used, and noted that due to “the efficient application of summary testimony techniques, and elongated trial days, a trial estimated to extend over a six week period was completed in less than three weeks.” *In re Air Crash Disaster at Stapleton Int'l. Airport* at 1504 (footnote omitted).

The hearing in the instant matter is scheduled for two weeks, and the parties have identified numerous expert witnesses. Allowing testimony in narrative form will be efficient and will avoid needless consumption of time, and will still be effective for the ascertainment of the truth.

Dated this 6<sup>th</sup> day of September, 2013.

BENNETT, MAIN & GUBBRUD, P.C.  
Attorneys for Powertech

By Max Main  
Max Main  
618 State Street  
Belle Fourche, SD 57717-1489  
(605) 892.2011

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

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

**CERTIFICATE OF SERVICE**

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

I, MAX MAIN, as one of the attorneys for Powertech (USA) Inc., do hereby certify that on the 6<sup>th</sup> day of September, 2013, I caused the original of the following documents:

- 1. POWERTECH'S MOTION TO ALLOW NARRATIVE TESTIMONY;**
- and**
- 2. CERTIFICATE OF SERVICE,**

to be filed with:                   Eric Gronlund  
  DENR  
  Foss Building, 523 E. Capitol Ave.  
  Pierre, SD 57501-3182

and full, true and complete copies of said documents to be served upon the following named persons at their last known mailing addresses, as follows:

Roxanne Giedd  
Deputy Attorney General  
Office of the Attorney General  
1302 E. Hwy. 14, Ste. 1  
Pierre, SD 57501-8501

Michael M. Hickey  
Attorney for Black Hills Wild Horse  
Sanctuary, Dayton Hyde & Susan Watt  
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Sabrina King  
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Cheryl A. and Roger Rowe  
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Oglala Lakota College  
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Attn: Ashley Cortney  
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Attn: Jason Walker  
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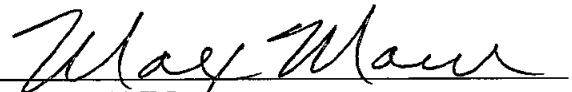
Jill Anawaty  
2804 Willow Avenue  
Rapid City, SD 57701

Richard Draeger  
617 Saint Cloud  
Rapid City, SD 57701

Gwen E. Kaneshiro &  
William M. C Ing  
1446 Evanston Ave.  
Hot Springs, SD 57747

Everett E. Hoyt, Hearing Chair  
4422 Carriage Hills Dr.  
Rapid City, SD 57702

by depositing the same in the United States Mail in Belle Fourche, South Dakota with first class postage thereon fully prepaid, in envelopes addressed as above.

  
MAX MAIN



**RAPID CITY**

Charles L. Riter  
Allen G. Nelson  
James P. Hurley  
Michael M. Hickey  
Terry L. Hofer  
Rod Schlauger  
Daniel F. Duffy  
Jeffrey G. Hurd  
John H. Raforth  
Terry G. Westergaard  
Steven R. Nolan  
Gregory J. Erlandson  
Eric J. Pickar  
Sarah E. Baron Houy  
Jacob M. Quasney  
Jessica L. Fjerstad  
Mark F. Marshall  
*Of Counsel*

**SIOUX FALLS**

Victoria M. Duehr  
Kathryn L. Hoyme

*Attorneys also admitted in  
Nebraska, North Dakota,  
Minnesota and Missouri*



**BANGS McCULLEN**  
— LAW FIRM —

**Reply to Rapid City Office**

Writer's e-mail address: mhickey@bangsmccullen.com

**RECEIVED**

**SEP 11 2013**

**WATER RIGHTS  
PROGRAM**

September 9, 2013

Mr. Eric Gronlund  
DENR  
523 East Capitol Ave.  
Joe Foss Building  
Pierre, SD 57501-3182

**Re: IN THE MATTER OF THE WATER PERMIT APPLICATION NOS.  
2685-2 AND 2686 POWERTECH (USA) INC. AND**

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

Dear Mr. Gronlund:

I enclose for your information and records the following original documents:

1. **Black Hills Wild Horse Sanctuary, Susan Watt, & Dayton Hyde's Motion to Disclose;**
2. **Black Hills Wild Horse Sanctuary, Susan Watt, & Dayton Hyde's Brief in Support of Motion to Disclose;**
3. **Affidavit of Michael M. Hickey in Support of Motion to Disclose;**
4. **Black Hills Wild Horse Sanctuary, Susan Watt, & Dayton Hyde's Motion to Continue; and**
5. **Certificate of Service.**

**RAPID CITY**

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57109-8208  
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F. (605) 339-6801

Eric Gronlund  
September 9, 2013  
Page 2

By a copy of this correspondence, all counsel of record and the Status A List are being served. Thank you.

Sincerely,

BANGS, McCULLEN, BUTLER,  
FOYE & SIMMONS, L.L.P.



Michael M. Hickey

MMH/ke  
Enclosures  
cc w/enc.: Clients  
Everett Hoyt  
Jeff Hallem  
Max Main  
Diane Best  
Bruce Ellison  
Full Status Participants

**RAPID CITY**

Charles L. Riter  
Allen G. Nelson  
James P. Hurley  
Michael M. Hickey  
Terry L. Hofer  
Rod Schlauger  
Daniel F. Duffy  
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Terry G. Westergaard  
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Sarah E. Baron Houy  
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Mark F. Marshall  
*Of Counsel*

**SIOUX FALLS**

Victoria M. Duehr  
Kathryn L. Hoyme

*Attorneys also admitted in  
Nebraska, North Dakota,  
Minnesota and Missouri*

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**BANGS McCULLEN**  
— LAW FIRM —

Reply to Rapid City Office

Writer's e-mail address: mhickey@bangsmccullen.com

September 9, 2013

Mr. Everett Hoyt  
4422 Carriage Hills Drive  
Rapid City, SD 57702

**Re: POWERTECH (USA) INC.**

Dear Mr. Hoyt:

On behalf of my clients, Black Hills Wild Horse Sanctuary, Susan Watt and Dayton Hyde, I have filed a *Motion to Disclose* in this action. The purpose of my motion is to be able to disclose to my clients and otherwise use at the hearing the contents of discovery I received from Powertech concerning shareholders of Powertech Uranium Corporation. I have enclosed a copy of Exhibit D (the Confidentiality Agreement) as referenced in the *Affidavit of Michael M. Hickey in Support of Motion to Disclose* for your in-camera review. By separate correspondence, I have sent you a copy of my *Motion to Disclose, Affidavit in Support of Motion to Disclose, Brief in Support of Motion to Disclose, and Motion to Continue*.

According to the terms of the agreement, I have provided this document only to you for your *in-camera* inspection. I have, however, sent a copy of this correspondence only to all counsel of record and the Status A List so that they are aware of my communication to you.

Thank you for your consideration of this matter. If you have any questions or comments, please advise.

Sincerely,

BANGS, McCULLEN, BUTLER,  
FOYE & SIMMONS, L.L.P.

Michael M. Hickey

MMH:bah  
Enclosures

cc w/o encl: Clients; Eric Gronlund; Jeff Hallem; Max Main; Dianc Best;  
Bruce Ellison; Status A Participants

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SEP 11 2013

WATER RIGHTS  
PROGRAM

**STATE OF SOUTH DAKOTA**

**BEFORE THE WATER MANAGEMENT BOARD**

---

**IN THE MATTER OF THE WATER  
PERMIT APPLICATION NOS. 2685-2  
2686 POWERTECH (USA) INC.**

**Black Hills Wild Horse  
Sanctuary, Susan Watt,  
& Dayton Hyde's  
Motion to Disclose**

and

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

---

Michael M. Hickey of the law firm of Bangs, McCullen, Butler, Foye and Simmons, LLP, hereby respectfully moves the Hearing Officer for authority to disclose to his clients and otherwise use in this proceeding the contents of Powertech's disclosure of shareholder information of Powertech Uranium Corporation. This motion is based upon the supporting affidavit and brief filed herewith.

Dated this 9<sup>th</sup> day of September, 2013.

BANGS, McCULLEN, BUTLER,  
FOYE & SIMMONS, L.L.P.

BY: 

MICHAEL M. HICKEY  
333 West Blvd., Suite 400  
P.O. Box 2670  
Rapid City, SD 57709  
Phone: (605) 343-1040  
[mhickey@bangsmccullen.com](mailto:mhickey@bangsmccullen.com)

**Attorneys for Black Hills  
Wild Horse Sanctuary,  
Dayton Hyde and Susan Watt**

STATE OF SOUTH DAKOTA

BEFORE THE WATER MANAGEMENT BOARD

---

IN THE MATTER OF THE WATER  
PERMIT APPLICATION NOS. 2685-2  
2686 POWERTECH (USA) INC.

Black Hills Wild Horse  
Sanctuary, Susan Watt,  
& Dayton's Hyde's  
Brief in Support of  
Motion to Disclose

and

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

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This brief is offered in support of Wild Horse's Motion to Disclose the shareholder information received from Powertech (USA) ("Powertech") in this litigation. Throughout this brief the parties will be identified by name.

**A. Factual Summary.**

As set forth in the affidavit of Michael M. Hickey, counsel for Wild Horse has in his possession shareholder information of Powertech Uranium Corporation which he wishes to disclose to his clients and otherwise use in the proceeding. In order to do so, however, counsel has agreed to file a motion seeking consent from the hearing officer to disclose the information provided.

**B. Legal Authority.**

This administrative hearing is governed by the provisions of the South Dakota Administrative Procedures Act (SD Ch. 1-26). Under the terms of that Act, a party in a contested case proceeding may appear in person or by counsel, or both, may be present during the giving of all evidence, may have reasonable opportunity to inspect all documentary evidence, may examine and cross-examine witnesses and present evidence in support of the party's interest. See SDCL § 1-26-18.

As part of that process, parties may conduct discovery as provided in the South Dakota Rules of Civil Procedure. SDCL § 1-26-19.2. One of the discovery procedures authorized in civil actions is the use of interrogatories and requests for production of documents.

In the course of litigation, if a discovery dispute arises, the rules provide that a party may seek an order compelling discovery. SDCL § 15-6-37(a). Specifically, if "a party fails to answer an interrogatory submitted under § 15-6-33, or if a party in response

to a request for inspection submitted under § 15-6-34, fails to respond that inspection will be permitted as requested or fails to permit inspection as requested,” then the discovering party may “move for an order compelling an answer, or a designation, or an order compelling inspection in accordance with the request.” *Id.*

Here Wild Horse sought discovery concerning information about the names of shareholders of Powertech’s parent corporation, Powertech Uranium Corporation. Powertech Uranium Corporation is a Canadian corporation which owns all of the shares of Powertech. The president of Powertech Uranium Corporation is also the president of Powertech.

Powertech initially objected to disclosing some of the information requested, claiming that under the rules of the Toronto Stock Exchange, it was prohibited from disclosing the information requested. The fact of the matter is this is an administrative hearing in the State of South Dakota and discovery is governed by the South Dakota Rules of Civil Procedure, not the rules of the Toronto Stock Exchange. Powertech Uranium Corporation and its

subsidiary Powertech (USA) have purposely invoked the jurisdiction of the State of South Dakota to obtain approval to appropriate water and operate a large scale uranium mine for the purpose of extracting South Dakota mineral resources. Powertech's efforts to exploit South Dakota resources are governed by the laws of the State of South Dakota, not the rules of the Toronto Stock Exchange.

Here the parties engaged in an informal discussion in an effort to resolve this discovery dispute. Such an effort to meet and confer is prerequisite under the Rules of Civil Procedure to further efforts to compel discovery. Following those discussions, Powertech disclosed certain information under an agreement whereby Wild Horse needs to obtain approval from the hearing officer prior to disclosing the shareholder information to the clients or otherwise using this information in this proceeding.

Rule 1.4(4) of the Rules of Professional Conduct requires a lawyer to keep the client reasonably informed about the status of the matter and promptly comply with reasonable requests for



information. Wild Horse has asked its counsel to obtain the information concerning the shareholders of Powertech Uranium Corporation. Thus, your undersigned is under an ethical obligation to attempt to obtain that information and provide the information in his possession to Wild Horse.

Moreover, one of the overriding issues in this matter is whether granting Powertech's applications is in the public interest. While the parties may dispute the actual amounts, it seems fair to say Powertech wants to exploit significant amounts of water and minerals that belong to the citizens of the State of South Dakota.

Not only does Powertech want to exploit those public assets, but Powertech wants to do so for nothing more than the cost of extraction. South Dakota and its citizens will not be the beneficiaries of this project if it comes to fruition. The beneficiaries of this project will be the shareholders of Powertech Uranium Corporation. It does not seem too much to ask of Powertech to reveal the identity of those who would enjoy the fruits of this

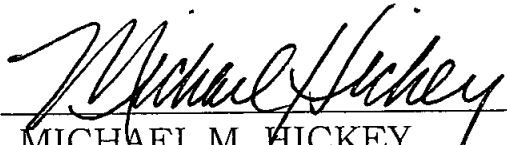
project, and to ensure that the administrative process is conducted above board.

**C. Conclusion.**

Accordingly, counsel for Wild Horse respectfully requests the hearing officer grant permission to disclose and utilize the shareholder information previously produced.

Dated this 9<sup>th</sup> day of September, 2013.

BANGS, McCULLEN, BUTLER,  
FOYE & SIMMONS, L.L.P.

BY:   
MICHAEL M. HICKEY  
333 West Blvd., Suite 400  
P.O. Box 2670  
Rapid City, SD 57709  
Phone: (605) 343-1040  
[mhickey@bangsmccullen.com](mailto:mhickey@bangsmccullen.com)  
**Attorneys for Black Hills Wild  
Horse Sanctuary, Dayton Hyde  
and Susan Watt**

RECEIVED

SEP 11 2013

WATER RIGHTS  
PROGRAM

STATE OF SOUTH DAKOTA

BEFORE THE WATER MANAGEMENT BOARD

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IN THE MATTER OF THE WATER  
PERMIT APPLICATION NOS. 2685-2  
2686 POWERTECH (USA) INC.

**Affidavit of Michael M.  
Hickey in Support of  
Motion to Disclose**

and

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

---

STATE OF SOUTH DAKOTA:

SS

COUNTY OF PENNINGTON:

Michael M. Hickey being first duly sworn on his oath deposes  
and states as follows:

1. I am a lawyer duly admitted to practice and in good  
standing before the Supreme Court of the State of South Dakota.

2. I am a member of the law firm of Bangs, McCullen,  
Butler, Foye and Simmons, LLP ("Law Firm") and make this  
affidavit based upon my own personal knowledge and belief.

3. The Law Firm represents the Wild Horse Sanctuary,  
Susan Watt and Dayton Hyde ("Wild Horse") in the above matter

and in the related administrative hearing concerning an application for a permit to conduct a large scale mine.

4. That in such capacity, your applicant served on Powertech certain interrogatories and requests for production of documents. As set forth in the attached Interrogatories and Requests for Production marked as Exhibit A, Wild Horse requested in Interrogatory No. 7 that Powertech identify the 10 largest shareholders of its parent corporation, Powertech Uranium Corporation, at the time the application was filed, the number of shares held and the date of acquisition.

5. In Interrogatory No. 8, Powertech was requested to identify the largest 10 shareholders of Powertech Uranium Corporation at the time the interrogatories were served and state the number of shares held and the date of acquisition.

6. In Interrogatory No. 9, Powertech was requested to identify all South Dakota residents or entities that were shareholders in Powertech or Powertech Uranium Corporation and to state the date the shares were acquired and the number of shares held.

7. In Interrogatory No. 7, served in the hearing concerning the Large Scale Mining Permit, Powertech was requested to list each individual, corporation, or organization that Powertech or its employees, officers or directors had communicated with regarding a merger or buy out of Powertech.

8. Additionally, in Request for Production No. 8, Powertech was requested to produce a list of all shareholders who live in the State of South Dakota.

9. As set forth in the attached Exhibits B and C, Powertech refused to respond to all of these discovery requests claiming that it did not have legal authority to identify individual shareholders of Powertech Uranium Corporation under the rules of the Toronto Stock exchange.

10. In accordance with the requirements of our Rules of Civil Procedure, Wild Horse communicated with Powertech in an effort to resolve this discovery dispute. As a result of those discussions, Powertech agreed to provide to Wild Horse's attorney the information requested under a Confidentiality Agreement.

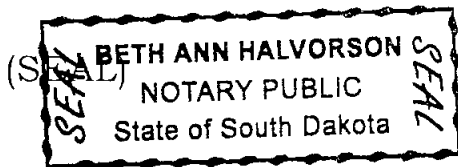
11. Pursuant to that agreement, a copy of which is identified as Exhibit D and is being only provided to the hearing officer for his *in-camera* inspection, Wild Horse may file its request with the Hearing Officer to obtain permission to disclose the information provided.


12. Accordingly, your affiant has filed its Motion hereto requesting authorization to disclose the contents of the stockholder information to his clients and to otherwise use the same in this proceeding as well as in the proceeding before the South Dakota Water Management Board.

Dated this 9<sup>th</sup> day of September, 2013.

  
MICHAEL M. HICKEY

Subscribed and sworn to, before me, the undersigned officer,  
this 9<sup>th</sup> day of September, 2013.



  
Notary Public, South Dakota  
My Commission Expires: **My Commission Expires**  
**September 18, 2015**

**STATE OF SOUTH DAKOTA  
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES  
BOARD OF MINERALS AND ENVIRONMENT**

---

**IN THE MATTER OF THE LARGE  
SCALE MINE PERMIT APPLICATION  
OF POWERTECH (USA) INC.**

**WILD HORSE SANCTUARY,  
SUSAN WATT, & DAYTON  
HYDE'S FIRST SET OF  
INTERROGATORIES AND  
REQUESTS FOR PRODUCTION  
OF DOCUMENTS TO  
POWERTECH (USA), INC.**

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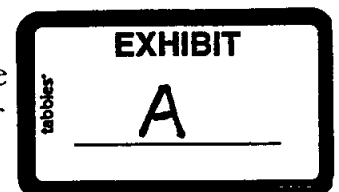
TO: PETITIONER, POWERTECH (USA), Inc., AND ITS ATTORNEY, MAX MAIN:

You are hereby requested to provide answers and produce the documents specified below, within thirty (30) days of service, to Michael M. Hickey, Bangs, McCullen, Butler, Foye & Simmons, L.L.P., P.O. Box 2670, Rapid City, South Dakota, 57709, or at such other time and place, or in such other manner, as may be mutually agreed upon by the parties.

These Interrogatories and Requests for Production shall be deemed to be continuing. If information is discovered by or becomes known to you, your attorney, or to anyone acting on your behalf, after answering and before trial, which would change or add to the answers given, you are hereby directed and requested to furnish the information, under oath, to the undersigned in a timely manner. It is intended that any information held by any person acting on behalf of you will be revealed in the answers hereto.

Demand is also made that when any document is identified in your answers to these interrogatories, or if reference is made to any document in order to provide an answer to these interrogatories, you produce the document for inspection and copying at a mutually agreed upon time, date, and place after service of your response. In lieu of such formal inspection, you may submit a legible copy of such document with your answers, and we shall pay you the reasonable cost of reproduction of such document if requested in advance.

When documents that are in your possession, custody, or control are requested, such request includes documents in the possession, custody, or control of your shareholders, officers, directors, employees, agents, representatives, partners, and attorneys (including the attorneys' partners, employees, agents, and representatives). When production of any document in your possession is requested, such request includes documents subject to your possession, custody or control. In the event that you are able to provide only part of the document(s) called for in any particular Request for Production,



**INTERROGATORY NO. 2:** Please explain what steps have been taken by Powertech to avoid a vertical excursion of mining fluids at the Project site and, if such steps to fail, how Powertech will handle a vertical excursion.

**INTERROGATORY NO. 3:** What specific response actions will Powertech take in the event that leakage from any of the ponds in the permit area reach the environment?

**INTERROGATORY NO. 4:** What specific response actions will Powertech take in the event a rain event that is greater than pond specifications occurs and pond contents reach the environment.

**INTERROGATORY NO. 6:** What are Powertech's plans and procedures in the event metals or radioactivity bioaccumulate in vegetation during land application?

**INTERROGATORY NO. 7:** List each individual, corporation, or organization that Powertech or any employee, officer, director, or other representative of Powertech has communicated with regarding a merger or buy-out of Powertech.

**INTERROGATORY NO. 8:** List each individual, corporation, or organization that any Powertech employee, officer, director, or other representative of Powertech has communicated with regarding processing that entity's uranium at the Dewey-Burdock site.

**INTERROGATORY NO. 9:** Knowing groundwater restoration has typically taken far longer than originally planned at other in situ leach uranium mines, how does Powertech expect to adhere to its reclamation schedule?

**INTERROGATORY NO. 10:** Does Powertech expect the permit area or the affected area to expand during the life of the project?

**INTERROGATORY NO. 11:** If the answer to the above interrogatory is yes, where does Powertech expect the expansion to occur.

**INTERROGATORY NO. 12:** Powertech's large scale mining permit application provides partial information on personnel and job descriptions for the project. What other positions will Powertech have available? Please include the number of persons needed for each position and a job description for each position, including required qualifications.

**INTERROGATORY NO. 13:** Please provide what the full qualifications are for each position described in the large scale mining permit application.



- iii. Restoration;
- iv. Chemical storage and feeding;
- v. Utility water;
- vi. Wastewater;
- vii. Drum storage and decontamination; and
- viii. Byproduct storage?

**INTERROGATORY NO. 49:** What are the specific risks of radiological exposure following any type of accident or release of hydrochloric acid, sulfuric acid, hydrogen peroxide, or sodium hydroxide during the ISL mining process?

**INTERROGATORY NO. 50:** Powertech states on p. 5-36 of its large scale mining permit application that the maximum distance for the perimeter monitor wells is based on standard monitoring practices at operating ISR facilities. Please specify which facilities Powertech is referring to.

#### **REQUESTS FOR PRODUCTION OF DOCUMENTS**

**REQUEST NO. 1:** Please produce a map showing the location and types of fencing that will be located on the project area during the active mining stage.

**REQUEST NO. 2:** Please produce documentation showing the planned sediment and erosion control locations and types for the permit area.

**REQUEST NO. 3:** Please produce documentation showing the locations and types of planned berms, catchment basins, and sediment and erosion control features for each proposed land application site, with each site individually identified as to location relative to waterways and wetlands.

**REQUEST NO. 4:** Please produce a copy of Powertech's detailed specifications for wildlife protection features at all ponds in the permit area.

**REQUEST NO. 5:** Please produce a copy of Powertech's South Dakota Scientific Collector's Permit.


**REQUEST NO. 6:** Please produce copies of all well plugging records for any and all wells that Powertech has plugged on the Dewey-Burdock site.

**REQUEST NO. 7:** Please produce copies of all results for baseline testing done on soils and vegetation in the permit area.

**REQUEST NO. 8:** Please produce a list of all Powertech shareholders who live in the state of South Dakota.

Dated this 3<sup>RD</sup> day of July, 2013.

BANGS, McCULLEN, BUTLER,  
FOYE & SIMMONS, L.L.P.

BY:   
MICHAEL M. HICKEY  
333 West Blvd., Suite 400  
P.O. Box 2670  
Rapid City, SD 57709-2670  
Phone: (605) 343-1040  
E-mail: [mhickey@bangsmccullen.com](mailto:mhickey@bangsmccullen.com)  
**ATTORNEYS FOR BLACK HILLS  
WILD HORSE SANCTUARY,  
SUSAN WATT, & DAYTON HYDE**

**CERTIFICATE OF SERVICE**

The undersigned certifies that on July 3, 2013, he caused true and correct copies of the above to be served upon each of the persons identified below as follows:

- |                                     |                  |                          |                |
|-------------------------------------|------------------|--------------------------|----------------|
| <input checked="" type="checkbox"/> | First Class Mail | <input type="checkbox"/> | Overnight Mail |
| <input type="checkbox"/>            | Hand Delivery    | <input type="checkbox"/> | Facsimile      |
| <input type="checkbox"/>            | Electronic Mail  | <input type="checkbox"/> | ECF System     |

**Max Main  
Bennett, Main & Gubbrud  
618 State Street  
Belle Fourche, SD 57717-1489  
ATTORNEYS FOR POWERTECH (USA), INC.**

  
Michael M. Hickey

**STATE OF SOUTH DAKOTA**

**BEFORE THE WATER MANAGEMENT BOARD**

---

**IN THE MATTER OF THE WATER  
PERMIT APPLICATION NOS. 2685-2  
AND 2686 POWERTECH (USA) INC.**

**BLACK HILLS WILD HORSE  
SANCTUARY, SUSAN WATT, &  
DAYTON HYDE'S FIRST SET  
OF INTERROGATORIES AND  
REQUESTS FOR PRODUCTION  
OF DOCUMENTS to  
POWERTECH (USA), Inc.**

---

TO: PETITIONER, POWERTECH USA, AND ITS ATTORNEY, MAX MAIN:

You are hereby requested to provide answers and produce the documents specified below, within thirty (30) days of service, to Michael M. Hickey, Bangs, McCullen, Butler, Foye & Simmons, L.L.P., P.O. Box 2670, Rapid City, South Dakota, 57709, or at such other time and place, or in such other manner, as may be mutually agreed upon by the parties.

These Interrogatories and Requests for Production shall be deemed to be continuing. If information is discovered by or becomes known to you, your attorney, or to anyone acting on your behalf, after answering and before trial, which would change or add to the answers given, you are hereby directed and requested to furnish the information, under oath, to the undersigned in a timely manner. It is intended that any information held by any person acting on behalf of you will be revealed in the answers hereto.

Demand is also made that when any document is identified in your answers to these interrogatories, or if reference is made to any document in order to provide an answer to these interrogatories, you produce the document for inspection and copying at a mutually agreed upon time, date, and place after service of your response. In lieu of such formal inspection, you may submit a legible copy of such document with your answers, and we shall pay you the reasonable cost of reproduction of such document if requested in advance.

When documents that are in your possession, custody, or control are requested, such request includes documents in the possession, custody, or control of your shareholders, officers, directors, employees, agents, representatives, partners, and attorneys (including the attorneys' partners, employees, agents, and representatives). When production of any document in

## Interrogatories

1. Please state the organizational structure of Powertech (USA) and provide copies of its Articles of Incorporation, By-laws and Authority to conduct business in the State of South Dakota.
2. Please identify the Board of Directors of Powertech (USA) and for each such official state their educational background and work history for the last 30 years.
3. Please identify the Officers of Powertech (USA) and for each such official state their educational background and work history for the last 30 years.
4. As to each director and officer please state the nature and extent of the experience said individual has in the operation and management of an in situ leach mining operation.
5. Identify the largest 10 shareholders of Powertech (USA) at the time the applications were filed in the instant proceeding, the number of shares held and the date of acquisition.
6. State the legal and/or contractual relationship between Powertech (USA) and Powertech Uranium Corporation. Please identify and produce copies of any agreements or documents between Powertech (USA) and Powertech Uranium Corporation that relates to the Project.
7. Identify the largest 10 shareholders of Powertech Uranium Corporation at the time the applications were filed in this proceeding, the number of shares held and the date of acquisition.
8. Identify the 10 largest shareholders of Powertech Uranium Corporation at the present time and state the number of shares held and the date of acquisition.
9. Identify all South Dakota residents or South Dakota entities that are shareholders in Powertech (USA) or Powertech Uranium Corporation and for each such shareholder state the date said individual acquired shares in Powertech (USA) or Powertech Uranium Corporation and the number of shares held.
10. Have your attorneys employed an expert to act on your behalf in any manner pertaining to this action? If so, state his or her name, address, phone number, occupation, profession and field of specialization.

Dated this 1<sup>st</sup> day of April, 2013.

BANGS, McCULLEN, BUTLER,  
FOYE & SIMMONS, L.L.P.

BY: 

MICHAEL M. HICKEY

333 West Blvd., Suite 400

P.O. Box 2670

Rapid City, SD 57709-2670

Phone: (605) 343-1040

*E-mail: [mhickey@bangsmccullen.com](mailto:mhickey@bangsmccullen.com)*

**ATTORNEYS FOR BLACK HILLS**

**WILD HORSE SANCTUARY,**

**SUSAN WATT, & DAYTON HYDE**

COPY

STATE OF SOUTH DAKOTA  
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES  
BOARD OF MINERALS AND ENVIRONMENT

IN THE MATTER OF THE LARGE SCALE MINE  
PERMIT APPLICATION OF POWERTECH (USA)  
INC.

POWERTECH'S ANSWERS TO BLACK  
HILLS WILD HORSE SANCTUARY,  
SUSAN WATT, & DAYTON HYDE'S  
FIRST SET OF INTERROGATORIES  
AND REQUESTS FOR PRODUCTION  
OF DOCUMENTS

Answers to Black Hills Wild Horse Sanctuary, Susan Watt, and Dayton Hyde's First Set of Interrogatories

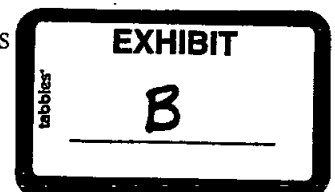
**INTERROGATORY NO. 1:** Please explain what steps have been taken by Powertech to avoid a horizontal excursion of mining fluids at the Project site and, if such steps to fail, how Powertech will handle a horizontal excursion.

**ANSWER:** Section 5.6.3.2 of the large scale mine (LSM) permit application describes the mitigation measures that will be used to avoid a horizontal excursion of ISR solutions at the project site. Pre-operational excursion preventative measures will include but will not be limited to:

1. Proper well construction and mechanical integrity testing (MIT) of each well before use;
2. Monitor well design schema based upon delineation drilling to further characterize the zones of mineralization and to identify the target completion zones for all monitor wells; and
3. Pre-operational pumping tests with monitoring systems in place to obtain a detailed understanding of the local hydrogeology and to demonstrate the adequacy of the monitoring system.

Operational excursion preventative measures will include but will not be limited to:

1. Regular monitoring of flow and pressure on each production and injection well;
2. Regular flow balancing and adjustment of all production and injection flows appropriate for each production pattern;



- Modify land application system operating parameters to reduce the discharge rate in specific pivots or throughout the land application area.
- Implement water treatment if necessary for radionuclides, metals or metalloids.
- Implement a phytoremediation plan to control buildup of selenium in soil.
- Plant alternate crops that have increased tolerance to the specific ions of concern.

**INTERROGATORY NO. 7:** List each individual, corporation, or organization that Powertech or any employee, officer, director, or other representative of Powertech has communicated with regarding a merger or buy-out of Powertech.

ANSWER: As required by Canadian law and Toronto Stock Exchange rules, the relevant information in Powertech's possession is being provided pursuant to a Confidentiality and Nondisclosure Agreement.

**INTERROGATORY NO. 8:** List each individual, corporation, or organization that any Powertech employee, officer, director, or other representative of Powertech has communicated with regarding processing that entity's uranium at the Dewey-Burdock site.

ANSWER: None.

**INTERROGATORY NO. 9:** Knowing groundwater restoration has typically taken far longer than originally planned at other in situ leach uranium mines, how does Powertech expect to adhere to its reclamation schedule?

ANSWER: NRC has regulatory authority over groundwater restoration, and timely groundwater restoration will be required by the NRC license. Draft license condition 10.6 states that, "The licensee shall conduct groundwater restoration activities in accordance with Section 6.1 of the approved license application. Permanent cessation of lixiviant injection in a production area would signify the licensee's intent to shift from the principal activity of uranium recovery to the initiation of groundwater restoration and decommissioning for any particular production area. If the licensee determines that these activities are expected to exceed 24 months for any particular production area, the licensee shall submit an alternate schedule request ..." (NRC, 2013a).

Section 6.2.2.3 of the LSM permit application describes how Powertech will use the following operational practices to minimize the duration of groundwater restoration:

- (i) Daily balancing of injection and extraction flow rates during production. This flow rate balancing is designed to ensure that a proper aquifer bleed is maintained both at the well field level and also within each 5-spot pattern within the well field.

**REQUEST NO. 8:** Please produce a list of all Powertech shareholders who live in the state of South Dakota.

ANSWER: As required by Canadian law and Toronto Stock Exchange rules, the relevant information in Powertech's possession is being provided pursuant to a Confidentiality and Nondisclosure Agreement.

**REQUEST NO. 9:** Provide five examples in which groundwater restoration at an in situ leach uranium mine returned the water to its baseline condition.

ANSWER: Powertech is not aware of any ISR facility for which the groundwater restoration standard has been restricted to baseline conditions. In the case of the Dewey-Burdock Project, NRC license conditions and federal regulations will require Powertech to restore groundwater to (i) NRC Commission-approved background (also referred to as post-licensing, preoperational baseline water quality) or (ii) maximum contaminant levels (MCLs), whichever is higher, or (iii) an alternate concentration limit (ACL) established by the NRC Commission, if the constituent background level and the MCLs are not reasonably achievable and if it is demonstrated that the ACL is adequately protective of groundwater and surface water.

Documentation of successful groundwater restoration at ISR facilities is readily available and can be found in Section 6.2.2.2 of the LSM permit application and in the NRC Technical Report Request for Additional Information (RAI) responses (Powertech, 2011). Numerous ISR facilities in Nebraska, Texas and Wyoming have achieved regulatory approval of successful groundwater restoration in accordance with NRC and state standards. Several examples are given in Powertech (2011) including the Ruth R&D Project (Wyoming), Crow Butte R&D Project (Nebraska) and Bison Basin Commercial ISR Mine (Wyoming). Groundwater restoration also has been approved by NRC and Wyoming DEQ at the Irigaray Ranch Facility (Wyoming). See also the Answer to Interrogatory No. 35.

In addition, USGS Open-File Report 2009-1143 (Hall, 2009) provides two examples of ISR well fields that restored all groundwater constituents with federal maximum contaminant levels (MCLs) to baseline. Following is documentation from that report:

"Regarding the original question of whether or not groundwater has been restored to baseline in Texas uranium ISR well fields, it was observed that no well field for which final sample results were found in TCEQ records returned every element to baseline. However, two PAAs returned all elements for which USEPA has established MCLs to baseline: the O'Hem-2 and Trevino-1 PAAs [production area authorizations].



Dated this 30<sup>th</sup> day of July, 2013.

**POWERTECH (USA) INC.**

By: \_\_\_\_\_

**RICHARD F. CLEMENT, JR.**

Its: President

STATE OF Colorado )

County of Arapahoe ) SS.

**RICHARD F. CLEMENT, JR.**, in his capacity as President of Powertech (USA) Inc., being duly sworn, verifies the Responses contained in the foregoing **POWERTECH'S ANSWERS TO BLACK HILLS WILD HORSE SANCTUARY, SUSAN WATT, & DAYTON HYDE'S FIRST SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS**, are true to the best of his knowledge and belief.

\_\_\_\_\_  
**RICHARD F. CLEMENT, JR.**

Subscribed and sworn to before me on July 30, 2013.

Barbara Houston  
\_\_\_\_\_  
Notary Public

My commission expires: 3/9/2014

(Seal)

**BARBARA HOUSTON  
NOTARY PUBLIC  
STATE OF COLORADO  
NOTARY ID: 20114071570  
MY COMMISSION EXPIRES 03/09/2016**

**FOR PURPOSES OF ALL OBJECTIONS:**

Dated July 30, 2013.

**BENNETT, MAIN & GUBBRUD, P.C.**  
Attorneys for Powertech (USA) Inc.

By Max Main  
\_\_\_\_\_  
Max Main

618 State Street  
Belle Fourche, SD 57717-1489  
(605) 892.2011

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

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

**POWERTECH'S ANSWERS TO  
BLACK HILLS WILD HORSE  
SANCTUARY, SUSAN WATT, &  
DAYTON HYDE'S FIRST SET OF  
INTERROGATORIES AND  
REQUESTS FOR PRODUCTION OF  
DOCUMENTS**

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

**Answers to Black Hills Wild Horse Sanctuary, Susan Watt, and Dayton Hyde's First Set of Interrogatories**

1. Please state the organizational structure of Powertech (USA) and provide copies of its Articles of Incorporation, By-laws and Authority to conduct business in the State of South Dakota.

ANSWER:

Powertech (USA) Inc. is a South Dakota corporation and a wholly owned subsidiary of Powertech Uranium Corporation. The Articles of Incorporation for Powertech (USA) Inc. are publicly available for viewing or downloading on the South Dakota Secretary of State website:

<http://sdsos.gov/business/search.aspx>.

By-laws are provided as Attachment A.

2. Please identify the Board of Directors of Powertech (USA) and for each such official state their educational background and work history for the last 30 years.

ANSWER:

As described in the response to #1, Powertech (USA) Inc. is a wholly owned subsidiary of Powertech Uranium Corporation. The Powertech (USA) Inc. directors are the same as the Powertech Uranium Corporation directors. Table 2-1 lists the Powertech Uranium Corporation officers and directors. None of the Canadian officers and directors has any education or training in the construction, operation, or reclamation of ISR uranium mines and/or mills. The Canadian officers and directors provide expertise to Powertech (USA) Inc. in corporate finance, administration, and corporate governance.

Engineer/Vice President; February 2008-Present, Powertech (USA) Inc., Denver, CO, VP of Engineering.

b. ISR Experience: The work experience under item #a illustrates extensive, direct experience in construction, operation and reclamation of ISR facilities. Mr. Mays at times has been directly responsible for managing ISR well field operations to maintain compliance with groundwater monitoring requirements.

4. As to each director and officer please state the nature and extent of the experience said individual has in the operation and management of an in situ leach mining operation.

ANSWER:

Please refer to the responses to #2 and #3.

5. Identify the largest 10 shareholders of Powertech (USA) at the time the applications were filed in the instant proceeding, the number of shares held and the date of acquisition.

ANSWER:

Powertech (USA) Inc. is a wholly owned subsidiary of Powertech Uranium Corp. As such, it only has one shareholder.

6. State the legal and/or contractual relationship between Powertech (USA) and Powertech Uranium Corporation. Please identify and produce copies of any agreements or documents between Powertech (USA) and Powertech Uranium Corporation that relates to the Project.

ANSWER:

Powertech (USA) Inc. is a wholly owned subsidiary of Powertech Uranium Corp.

7. Identify the largest 10 shareholders of Powertech Uranium Corporation at the time the applications were filed in this proceeding, the number of shares held and the date of acquisition.

ANSWER:

Toronto Stock Exchange requires only shareholders with 10% of the outstanding shares or greater or insiders of the Company to disclose their holdings. Based on information available through insider filings (which includes officers and directors of Powertech as well as shareholders who own more than 10% of the company's outstanding shares) on the SEDI web site, the largest reporting beneficial shareholders of the company are as follows:

Greg Burnett – Currently holds 4,219,000 shares. Acquired position between July 2006 and January 2013. Held 2,185,000 shares when NRC application was filed in 2009.

Richard Clement – Currently holds 3,528,000 shares. Acquired position between August and December 2007. Held 3,528,000 shares when NRC application was filed in 2009.

Thomas Doyle – Currently holds 4,997,400 shares. Acquired position between July 2006 and January 2013. Held 2,813,400 shares when NRC application was filed in 2009.

Synatom – Currently holds 23,390,000 shares. Acquired position between 2008 and November 2012. Held 10,890,000 shares when NRC application was filed in 2009.

K2 Principal Fund LP – Currently holds 24,650,000 shares. Acquired position between March 2011 and February 2013. Held 0 shares when NRC application was filed in 2009.

8. Identify the 10 largest shareholders of Powertech Uranium Corporation at the present time and state the number of shares held and the date of acquisition.

ANSWER:

Refer to the response to #7.

9. Identify all South Dakota residents or South Dakota entities that are shareholders in Powertech (USA) or Powertech Uranium Corporation and for each such shareholder state the date said individual acquired shares in Powertech (USA) or Powertech Uranium Corporation and the number of shares held.

ANSWER:

Powertech does not have the legal authority to identify individual shareholder residents or entities of South Dakota. The Company is a public company. Investors hold shares with brokerage firms and in depositories, which appear on the shareholder records of the Company. Unless a shareholder is a registered shareholder or becomes a reporting shareholder as an insider (as shown in the response to #7) the Company does not have access to information about shareholdings. The exception is that some shareholders allow their names to be provided to the Company by their brokerage firms on a confidential basis. These shareholders are termed NOBO shareholders (Non-objecting beneficial owners). The Company does not have the legal authority to publicly release NOBO shareholder information, nor registered shareholder information under the Personal Information Protection and Electronic Documents Act.

Notwithstanding the limitations in accessing shareholder information as discussed above, Powertech can confirm that as of April 8, 2013 there was one registered shareholder residing in South Dakota holding a total of 5,000 shares (representing approximately 0.004% of the company's issued outstanding shares). Further, no U.S. shareholders are reported on the NOBO lists that are maintained by the Company's transfer agent.

Dated this 2<sup>nd</sup> day of May, 2013.

POWERTECH (USA) INC.

By: [Signature]  
RICHARD F. CLEMENT, JR.  
Its: President

STATE OF Colorado )  
 ) SS.  
County of Denver )

RICHARD F. CLEMENT, JR., in his capacity as President of Powertech (USA) Inc., being duly sworn, verifies the Responses contained in the foregoing **POWERTECH'S ANSWERS TO BLACK HILLS WILD HORSE SANCTUARY, SUSAN WATT, & DAYTON HYDE'S FIRST SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS**, are true to the best of his knowledge and belief.

[Signature]  
RICHARD F. CLEMENT, JR.

Subscribed and sworn to before me on May 2, 2013.

[Signature]  
Notary Public

My commission expires: July 9, 2016  
(Seal)

AUTUMN LEON GUERRERO  
COMMISSION # 20124043754  
STATE OF COLORADO  
NOTARY PUBLIC  
MY COMMISSION EXPIRES JULY 9, 2016

FOR PURPOSES OF ALL OBJECTIONS:

Dated May 3, 2013.

BENNETT, MAIN & GUBBRUD, P.C.  
Attorneys for Powertech (USA) Inc.

By: [Signature]  
Max Main  
618 State Street  
Belle Fourche, SD 57717-1489  
(605) 892.2011

COPY

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

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

POWERTECH'S SUPPLEMENTAL  
ANSWERS TO BLACK HILLS WILD  
HORSE SANCTUARY, SUSAN  
WATT, & DAYTON HYDE'S FIRST  
SET OF INTERROGATORIES AND  
REQUESTS FOR PRODUCTION OF  
DOCUMENTS

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

In making these Supplemental Answers, Powertech does not admit any deficiencies in its initial answers, and Powertech preserves and does not waive all applicable objections. Powertech's initial answers, responses and objections are incorporated herein.

Supplemental Answers to Black Hills Wild Horse Sanctuary, Susan Watt, and Dayton Hyde's First Set of Interrogatories

7. Identify the largest 10 shareholders of Powertech Uranium Corporation at the time the applications were filed in this proceeding, the number of shares held and the date of acquisition.

ANSWER:

As required by Canadian law and Toronto Stock Exchange Rules, the relevant information in Powertech's possession is being provided pursuant to a Confidentiality and Nondisclosure Agreement.

8. Identify the 10 largest shareholders of Powertech Uranium Corporation at the present time and state the number of shares held and the date of acquisition.

ANSWER:

As required by Canadian law and Toronto Stock Exchange Rules, the relevant information in Powertech's possession is being provided pursuant to a Confidentiality and Nondisclosure Agreement.



9. Identify all South Dakota residents or South Dakota entities that are shareholders in Powertech (USA) or Powertech Uranium Corporation and for each such shareholder state the date said individual acquired shares in Powertech (USA) or Powertech Uranium Corporation and the number of shares held.

ANSWER:

As required by Canadian law and Toronto Stock Exchange Rules, the relevant information in Powertech's possession is being provided pursuant to a Confidentiality and Nondisclosure Agreement.

10. Have your attorneys employed an expert to act on your behalf in any manner pertaining to this action? If so, state his or her name, address, phone number, occupation, profession and field of specialization.

ANSWER: No.

16. Please advise whether or not Petrotek hydrogeologic modeling assumes that fractures and other geologic structures transmit water?

ANSWER:

For the reasons stated in detail in Powertech's initial Answer, the Petrotek modeling does not assume that fractures and other geologic structures will transmit water.

17. What assumptions were made in the Petrotek model regarding the ability of the thousands of Dewey-Burdock site boreholes to transmit water vertically and/or horizontally?

ANSWER:

For the reasons stated in detail in Powertech's initial Answer, the Petrotek model does not assume the transport of water vertically and/or horizontally by the boreholes. Further, as described in the initial Answer, this will be verified during development of the well field hydrogeologic data packages, which will be submitted to NRC for review and verification/approval and submitted to DENR prior to operating each well field.

18. What assumptions were made in the other Powertech (USA) hydrogeologic models regarding the ability of the thousands of Dewey-Burdock site boreholes to transmit water vertically and/or horizontally?

ANSWER:

Petrotek's 2010 groundwater model presented in Appendix 6.2-A of the LSM permit application is a well field-scale model developed to evaluate well field balance and bleed, flare during ISR

Dated this 30<sup>th</sup> day of July, 2013.

**POWERTECH (USA) INC.**

By: [Signature]  
**RICHARD F. CLEMENT, JR.**  
Its: President

STATE OF Colorado )  
County of Arapahoe ) SS.

**RICHARD F. CLEMENT, JR.**, in his capacity as President of Powertech (USA) Inc., being duly sworn, verifies the Responses contained in the foregoing **POWERTECH'S SUPPLEMENTAL ANSWERS TO BLACK HILLS WILD HORSE SANCTUARY, SUSAN WATT, & DAYTON HYDE'S FIRST SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS**, are true to the best of his knowledge and belief.

[Signature]  
**RICHARD F. CLEMENT, JR.**

Subscribed and sworn to before me on Jul, 30, 2013.

Barbara Houston  
Notary Public

My commission expires: 3/9/2016

(Seal)

**BARBARA HOUSTON  
NOTARY PUBLIC  
STATE OF COLORADO  
NOTARY ID 20114071570  
MY COMMISSION EXPIRES 03/09/2016**

**FOR PURPOSES OF ALL OBJECTIONS:**

Dated July 30, 2013.

**BENNETT, MAIN & GUBBRUD, P.C.**  
Attorneys for Powertech (USA) Inc.

By Max Main  
Max Main  
618 State Street  
Belle Fourche, SD 57717-1489  
(605) 892.2011



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SEP 11 2013

WATER RIGHTS  
PROGRAM

STATE OF SOUTH DAKOTA

BEFORE THE WATER MANAGEMENT BOARD

---

IN THE MATTER OF THE WATER  
PERMIT APPLICATION NOS. 2685-2  
2686 POWERTECH (USA) INC.

**Black Hills Wild Horse  
Sanctuary, Susan Watt,  
& Dayton Hyde's  
Motion to Continue**

and

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

---

Black Hills Wild Horse Sanctuary, Susan Watt, and Dayton Hyde, by and through their attorney, for the reasons discussed below respectfully move the Board to continue the hearing on Powertech's Applications to appropriate water from the Inyan Kara formation (Application 2686-2), the Madison formation (Application 2685-2) and a Groundwater Discharge Plan until such time as Powertech has received final approval from the Nuclear Regulatory Commission and the Environmental Protection Agency.

**A. Factual Summary**

On or about February 25, 2009, Powertech (USA) ("Powertech") filed its application for a Nuclear Regulatory Commission Uranium Recovery License for its Proposed Dewey-Burdock In-Situ Leach Uranium Recovery Facility in Custer and Fall River Counties, South Dakota. This

application was later withdrawn and a new application was submitted on August 10, 2009. Several parties, including Dayton Hyde, petitioned to intervene in that proceeding. Recently, the Atomic Safety and Licensing Board<sup>1</sup> has admitted Dayton Hyde as a party and granted a hearing on the adequacy of the presentation and analysis of baseline water quality, aquifer confinement, artesian and horizontal flow that could impact surrounding aquifers and surface waters; adequacy of the Inyan Kara aquifer which makes the proposed operation inimical to public health and safety; Powertech's failure to describe faults and fractures between aquifers through which groundwater can spread uranium, thorium, radium 22 and 228, arsenic and other heavy metals; and an inadequate, inaccurate and incomplete identification and protection of cultural and historic resources. Thus Powertech's application is still pending before the United States Nuclear Regulatory Commission ("NRC") and whether it will obtain final approval is certainly very much up in the air.

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<sup>1</sup> See Memorandum and Order of Atomic Safety and Licensing Board dated August 5, 2010.

On April 22, 2009<sup>2</sup>, Powertech also filed with the Environmental Protection Agency (“EPA”) an application to obtain an Underground Injection Control Permit. A replacement application was filed on February 5, 2010. On July 2, 2010, the DENR filed its comments concerning the permit. In those comments, concern was expressed about the incompleteness and inadequacy of Powertech’s application and the need for additional information and testing including the drilling of test holes. Again, the EPA has not ruled on that application.

On June 12, 2012, Powertech filed its initial applications for the appropriation of water from the Inyan Kara and Madison formations. On November 12, 2012, Ken Buhler issued his reports to the Chief Engineer. Four days later on November 6, 2012, the Chief Engineer, Garland Erbele, issued his recommendation of Approval for both applications. The recommendations contain certain conditions and a concluding note that “Powertech will be subject to *compliance* with all other state of South Dakota and federal government regulations relating to water use and insitu mining.” Significantly, the recommendation does

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<sup>2</sup> On March 9, 2012, Powertech filed a Groundwater Discharge Plan Application for discharges associated with the land application of treated wastewater. The DENR also recommended approval for that application with conditions. On January 13, 2013, the Secretary appointed the Water Management Board to conduct a hearing and make a recommendation to him concerning the issuance of the permit. The hearing on the Groundwater Discharge Plan Application has been consolidated with the hearing on the applications to appropriate water.

not contain a specific requirement that Powertech obtain a Source and Byproduct Material License from the NRC, an aquifer exemption and Underground Injection permit from the EPA, or a 404 Permit from the Army Corps of Engineers. Given the fact that no *in-situ* mining operation can commence until and unless the NRC issues its license and the EPA makes a determination as to whether deep well injection will be permitted, the interests of justice and judicial economy require that this proceeding be continued until such time as Powertech actually obtains the federal license and permits needed to operate this large scale in-situ mine.

On or about November 8, 2012, the Chief Engineer advised Powertech of its obligation to publish a notice of hearing at least once in at least one official newspaper in each county where the water will be diverted or used or where project works will be located. Public Notice was thereafter given in November 2012.

### **B. Argument and Authorities**

Hearings before the Water Management Board are conducted under the provisions of SDCL Chapter 1-26. That statute also governs the procedure required to be followed with regard to setting a date for hearing.

Wild Horse seeks a continuance of this hearing on the grounds and for the reasons that since neither the NRC nor the EPA has issued their final permits in this case, it is premature for the Board to proceed when there are so many unanswered questions. The applications currently pending before the NRC and the EPA are inextricably intertwined with the applications currently pending before the Board. At the present time, it is completely unknown if or when Powertech will obtain the federal license and permits necessary to operate an in-situ recovery operation. If either NRC or the EPA do not approve Powertech's applications, then this project cannot go forward and there is no need for the Board to consider these applications.

For reasons that are not immediately apparent, the South Dakota legislature adopted Senate Bill 158 during the 2011 legislative session. The act was entitled "An Act to toll the Department of Environment and Natural Resources administrative rules on underground injection control Class III wells and in situ leach mining until the department obtains primary enforcement authority of comparable federal programs." A copy of Senate Bill 158, as enrolled is attached as Exhibit A.

"[S]tatutes are presumed to have prospective application and may be construed as retroactive only when such intention plainly appears." *Ernest & Young v. SD Dept. of Revenue & Regulation*, 2004 SD 122, ¶ 11,

689 N.W.2d 449 quoting *Gasper v. Friedel*, 450 N.W.2d 226, 233 (S.D. 1990) (citing *Arndt v. Hannum Trucking*, 324 N.W.2d 680 (S.D. 1982)).

As the South Dakota Supreme Court has noted, “[t]he principal rationale for allowing prospective application is the reliance of parties on the old rule of law.” *Burgard v. Benedictine Living Communities*, 2004 SD 58, ¶17, 680 N.W.2d 296.

When Powertech filed its applications before the EPA and the NRC, South Dakota citizens were relying on the DENR to protect the public’s interest. The DENR apparently did so by noting the deficiencies in Powertech’s applications. Since that initial questioning, the DENR has sat on the sidelines and no assurances have been given by the NRC that the Department’s concerns will be addressed.

Having deferred regulatory authority over Class III injection wells and in situ leach mining to the federal government, it seems at best disingenuous to entertain this application before the federal government has acted. In simpler terms, the Department has the cart before the horse.

These federal agencies are primarily responsible for determining if Powertech will be authorized to construct and operate an in-situ recovery mine. The Board is being asked to shirk its regulatory authority by holding hearings on an application that does not adequately address the

full nature and extent of Powertech's proposed operations, sequence of order of operations, the location of proposed wells and the method and means being utilized to dispose of waste water. All of the questions should be answered by the NRC and the EPA before permits should be granted by this Board.

It is completely incomprehensible for the Chief Engineer to make a recommendation for conditional approval when there are so many unanswered questions. By proceeding in this manner, Powertech's actual operations avoid public scrutiny and only the DENR staff is left to ensure that the health, safety and general welfare of the people are not endangered, while those opposed to the application are left without a voice. Surely that was not the legislature's intent when it deferred responsibility to this kind of project to federal authorities.

### **C. Conclusion**

Powertech's applications for the appropriation of water and ground water discharge plan should be continued until such time as it has actually received its operating license from the NRC and its injection permits from the EPA. If the Board goes forward with this hearing and ultimately decides to grant permits, it must expressly condition the existence and validity of those permits on Powertech's obtaining federal approval by the NRC and the EPA. Failure to do so may allow Powertech

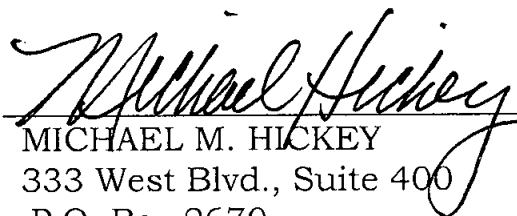
to claim it has a constitutionally protected property interest in the permit<sup>3</sup>. By issuing a permit even if there are conditions subsequent, the voices of interveners' will be silenced. Why the rush? It seems as if Powertech's interests are paramount to the public interest.

As a country we have come a long way from the view that "what is good for General Motors is good for the USA". By the same token, there is no proof that what is good for Powertech is good for the citizens of the State of South Dakota. Wild Horse respectfully urges the Board to continue this matter and defer a decision as to what is in the public interest until such time as the NRC and EPA have completed their action.

Dated this 9<sup>th</sup> day of September, 2013.

BANGS, McCULLEN, BUTLER,  
FOYE & SIMMONS, L.L.P.

BY:



MICHAEL M. HICKEY  
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P.O. Box 2670

Rapid City, SD 57709

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[mhickey@bangsmccullen.com](mailto:mhickey@bangsmccullen.com)

**Attorneys for Black Hills  
Wild Horse Sanctuary,  
Dayton Hyde and Susan Watt**

---

<sup>3</sup> Matter of SDDS, Inc., 472 N.W.2d 502 (S.D. 1991).



# State of South Dakota

EIGHTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2011

921S0681

## SENATE BILL NO. 158

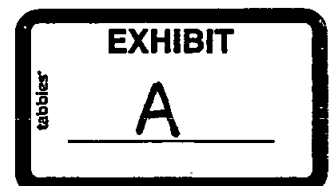
Introduced by: Senators Rave, Brown, Gray, Hundstad, Olson (Russell), and Rampelberg and Representatives Rausch, Cronin, Dennert, Gosch, Lust, Russell, and Verchio

1 FOR AN ACT ENTITLED, An Act to toll the Department of Environment and Natural  
2 Resources administrative rules on underground injection control Class III wells and in situ  
3 leach mining until the department obtains primary enforcement authority of the comparable  
4 federal programs.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

6 Section 1. That chapter 34A-2 be amended by adding thereto a NEW SECTION to read as  
7 follows:

8 The legal force and effect of the underground injection control Class III rules promulgated  
9 under subdivision 34A-2-93(15) are tolled until the department obtains primary enforcement  
10 authority for underground injection control Class III wells from the United States Environmental  
11 Protection Agency. The in situ leach mining rules promulgated under subdivision 45-6B-81(10)  
12 as they relate to uranium are tolled until the department obtains agreement state status from the  
13 United States Nuclear Regulatory Commission.



An Act to toll the Department of Environment and Natural Resources administrative rules on underground injection control Class III wells and in situ leach mining until the department obtains primary enforcement authority of the comparable federal programs.

I certify that the attached Act originated in the

SENATE as Bill No. 158

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
President of the Senate

Attest:

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
Speaker of the House

Attest:

\_\_\_\_\_  
Chief Clerk

Senate Bill No. 158

File No. \_\_\_\_\_

Chapter No. \_\_\_\_\_

Received at this Executive Office this \_\_\_\_\_ day of \_\_\_\_\_,

20\_\_\_\_ at \_\_\_\_\_ M.

By \_\_\_\_\_  
for the Governor

The attached Act is hereby approved this \_\_\_\_\_ day of \_\_\_\_\_, A.D., 20\_\_\_\_

\_\_\_\_\_  
Governor

STATE OF SOUTH DAKOTA,  
ss.  
Office of the Secretary of State

Filed \_\_\_\_\_, 20\_\_\_\_  
at \_\_\_\_\_ o'clock \_\_ M.

\_\_\_\_\_  
Secretary of State

By \_\_\_\_\_  
Asst. Secretary of State

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SEP 11 2013

WATER RIGHTS  
PROGRAM

STATE OF SOUTH DAKOTA

BEFORE THE WATER MANAGEMENT BOARD

---

IN THE MATTER OF THE WATER  
PERMIT APPLICATION NOS. 2685-2  
2686 POWERTECH (USA) INC.

and

**Certificate of Service**

IN THE MATTER OF THE 2012  
GROUNDWATER DISCHARGE PLAN

APPLICATION SUBMITTED BY  
POWERTECH (USA), INC.

---

The undersigned hereby certifies that he filed the original with

Eric Gronlund and served copies of the following:

1. **Black Hills Wild Horse Sanctuary, Susan Watt, & Dayton Hyde's Motion to Disclose;**
2. **Black Hills Wild Horse Sanctuary, Susan Watt, & Dayton Hyde's Brief in Support of Motion to Disclose;**
3. **Affidavit of Michael M. Hickey in Support of Motion to Disclose;**  
and
4. **Black Hills Wild Horse Sanctuary, Susan Watt, & Dayton Hyde's Motion to Continue.**

upon the persons herein next designated, all on the date below shown:

**Everett Hoyt**  
4422 Carriage Hills Drive  
Rapid City, SD 57702

**Jeff Hallem**  
Office of the Attorney General  
1302 E. Hwy. 14, Suite 1  
Pierre, SD 57501-8501

**Max Main**  
**Bennett, Main & Gubbrud**  
**618 State Street**  
**Belle Fourche, SD 57717-1489**

**Diane Best**  
**Office of the Attorney General**  
**317 North Main Avenue**  
**Sioux Falls, SD 57104**

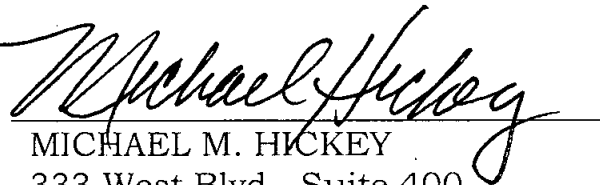
**Bruce Ellison**  
**P.O. Box 2508**  
**Rapid City, SD 57709-2508**

and upon each of the persons shown on the attached full participation list, including the Libraries, by depositing copies thereof in the United States mail at Rapid City, South Dakota, postage prepaid, in envelopes addressed to said addressees, which are the last addresses of the addressees known to the subscriber.

Dated this 9<sup>th</sup> day of September, 2013.

BANGS, McCULLEN, BUTLER,  
FOYE & SIMMONS, L.L.P.

BY:



MICHAEL M. HICKEY  
333 West Blvd., Suite 400  
P.O. Box 2670  
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Phone: (605) 343-1040  
[mhickey@bangsmccullen.com](mailto:mhickey@bangsmccullen.com)  
**Attorneys for Black Hills  
Wild Horse Sanctuary,  
Dayton Hyde/Susan Watt**

Full Status Participants

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Pierpont, SD 57468-0191

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Hermosa, SD 57744

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Edgemont, SD 57735-7346

Ashley Cortney  
Edgemont Public Library  
P.O. A / 412nd  
Edgemont, SD 57735

Richard Draeger  
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Rapid City, SD 57701

Brenda Gamache  
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Hot Springs, SD 57747-1123

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522 7<sup>th</sup> Street, Suite 202  
Rapid City, SD 57701

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Edgemont, SD 57735-7322

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Rapid City, SD 57709-0591

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Spearfish, SD 57783-1191

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Spearfish, SD 57783-3307

Doris Mertz  
Custer County Library  
447 Crooks St., #4  
Custer, SD 57730

Cindy Messenger  
Hot Springs Public Library  
2005 Library Dr.  
Hot Springs, SD 57747

Gena Parkhurst  
P.O. Box 1914  
Rapid City, SD 57709-1914

Cheryl and Roger Rowe  
7950 Dark Canyon Rd.  
Rapid City, SD 57701-4766

Rick Summerville  
6509 Seminole Ln.  
Rapid City, SD 57702-7088

Douglas Uptain  
3213 W. Main, #112  
Rapid City, SD 57702-2314

Attn: Government Documents  
Rapid City Public Library  
610 Quincy St.  
Rapid City, SD 57701

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SEP 11 2013

WATER RIGHTS  
PROGRAM

STATE OF SOUTH DAKOTA

BEFORE THE WATER MANAGEMENT BOARD

---

IN THE MATTER OF THE WATER  
PERMIT APPLICATION NOS. 2685-2  
AND 2686 POWERTECH (USA) INC.

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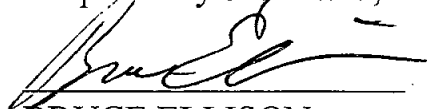
JOINING MOTIONS OF BLACK HILLS WILD HORSE SANCTUARY

The Clean Water Alliance, by and through its attorney, hereby joins the Motions and arguments, reasoning and authority therein, submitted to the Board of Minerals and Environment by the Black Hills Wild Horse Sanctuary, Susan Watt and Dayton Hyde, including:

1. Motion to Continue;
2. Motion to Disclose Shareholders.

Dated this 7 day of September, 2013.

Respectfully submitted,



BRUCE ELLISON

328 East NY Street

P.O. Box 2508

Rapid City, SD 57709

[belli4law@aol.com](mailto:belli4law@aol.com)

Attorney for Clean Water Alliance

Certificate of Service

A true and correct copy of the Clean Water Alliance's Joining of Motions of Black Hills Wild Horse Sanctuary was mailed, US postage paid to:

MAX MAIN  
618 State Street  
Belle Fourche, SD 57717

ROXANNE GIEDD  
Office of Attorney General  
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SUSAN WATT  
DAYTON HYDE  
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Hot Springs SD 57747

MICHAEL HICKEY  
P.O. Box 2670  
Rapid City, SD 57709

REBECCA LORD  
P.O. Box 952  
Hill City, SD 57745

Dated this 9 day of September, 2013



Ben E. Lord



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SEP 13 2013

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

WATER RIGHTS  
PROGRAM

**In the Matter of Water Permit  
Applications 2685-2 and 2686-2  
Powertech (USA) Inc.**

**In the Matter of the 2012  
Groundwater Discharge Plan  
Application Submitted by Powertech  
(USA) Inc.**

**Re: Powertech's Motion to Allow Narrative Testimony**

Comes now, Susan R. Henderson, representing herself to strenuously object to Powertech's Motion to Allow Narrative Testimony in the upcoming water permit and groundwater discharge plan hearings.

Please consider that the Water Management Board has a fiduciary duty to protect the public, its resources, including but not limited to clean water, clean air, and the reasonable pursuit of its traditional livelihood. This includes protecting water for municipalities, towns and cities as well as supplies used by private citizens for homes and livestock watering for agriculture operations.

The State of South Dakota, its legislature, local county and city governments, and many other influential groups in South Dakota have been lobbied extensively since 2005 by Powertech and its employees, stockholders, and professional lobbyists. It is my view that much of the information provided by Powertech has been biased towards Powertech's interests. In many cases key issues have been misrepresented or downright lied about.

The upcoming hearings will be difficult at best for laymen to navigate properly. We need all the due process we can get. This includes the right to question all witnesses, the right to ask specific questions and the right to introduce any and all documents, maps, pictures, newspaper and magazine articles, government reports, water samples, and any and all such exhibits we may wish to provide which will present the other side of this case.

Please note that however this case comes out, it will have far reaching effects on South Dakota for decades to come. Please rule against this motion and allow everyday citizens the proper chance to be heard about this very important issue.

Respectfully submitted,



Susan R. Henderson  
September 9, 2013

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

RG Attorney General  
SEP 13 2013  
359246

IN THE MATTER OF THE WATER

SABRINA KING'S

PERMIT APPLICATIONS

OBJECTIONS TO APPLICANT'S MOTION

OF POWERTECH (USA) INC.

I, Sabrina King, full "A" party intervenor in the consolidated contested case proceedings, object to Powertech's motion to allow narrative testimony on the following grounds:

1. Improper citation and use of statute: Powertech cites, as justification for their motion, SDCL 1-29-19(1), yet declined to cite the entire statute which clearly states, "[t]he rules of evidence as applied under statutory provisions and in the trial of civil cases in the circuit courts of this state, or as may be provided in statutes relating to the specific agency, shall be followed." Full and proper reading of 1-29-19 shows the Board of Minerals and Environment is not limited to following the rules of evidence as applied under statutory provisions and in the trial of civil cases in the circuit courts.
2. Legal right for all parties to cross-examine: SDCL 1-29-19(2) clearly states "[a] party may conduct cross-examinations required for a full and true disclosure of the facts." The Board of Minerals and Environment is obligated by statute to allow for cross-examination by all parties. As various parties may have questions which relate directly to ascertaining the full and true disclosure of the facts, testimony in this case should remain open to the specific question method of testimony.
3. Rule 611(a) can be met without limiting parties' right to cross-examination: The intent of Rule 611(a), to ensure reasonable control over the mode and order of interrogating witnesses, can be met throughout the hearing proceedings without limiting parties' rights before the hearing has begun. The request for narrative testimony precludes parties' from exercising their full right to a proper hearing by cross-examining all witnesses and is thus untimely and should be denied.

Dated this 11 day of September, 2013.



SABRINA KING

"A" Full Party Intervenor

917 WOOD AVE

**RAPID CITY, SD 57702**

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that true and correct copies of the Objections of Sabrina King, an "A" full party intervenor, to Powertech's Motion to Allow Narrative Testimony were served upon all listed "A" intervenors and necessary parties listed by the South Dakota Department of Environment and Natural Resources online on September 11, 2013 by enclosing the same in envelopes with first class postage prepaid and affixed thereto, and depositing said envelopes in the United States mail in Rapid City, South Dakota on this 11 day of September, 2013.



---

Sabrina King

"A" Full Party Intervenor



Government Documents  
Rapid City Public Library  
610 Quincy St  
Rapid City, SD 57701

Doris Ann Mertz  
Custer County Library  
447 Crook St., Suite 4  
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Ashley Cortney  
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Eric Gronlund  
DENR-Water Rights Program  
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Prehearing Chair  
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*Gardner B. Gray*  
*GARDNER B. GRAY*  
*A' Full Party Intervenor*

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WATER RIGHTS  
PROGRAM

STATE OF SOUTH DAKOTA  
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

WATER MANAGEMENT BOARD

---

IN THE MATTER OF WATER PERMIT

GENA M. PARKHURST

APPLICATIONS 2685-2 & 2686-2,

OBJECTIONS TO APPLICANT'S MOTIONS

POWERTECH (USA) INC.

IN THE MATTER OF THE 2012 GROUND


WATER DISCHARGE PLAN APPLICATION

SUBMITTED BY POWERTECH (USA) INC.

---

I object to Powertech's motion in limine (narrative motion) because it improperly seeks to limit the inclusion of certain testimony and exhibits filed by intervenors. I also object because the motion is too vague and premature, and any objection must be done on a document by document basis if at all.

Dated this 11 day of September, 2013.



---

GENA M. PARKHURST

"A" Full Party Intervenor

PO Box 1914, Rapid City, SD 57709

CERTIFICATE OF SERVICE

The undersigned hereby certifies that true and correct copies of the Objections of Gena M. Parkhurst, an "A" full party intervenor, to Powertech's Motion to Allow Narrative Testimony and Powertech's Motion *In Limine* were served upon the following by enclosing the same in envelopes with first class postage prepaid and affixed thereto, and depositing said envelopes in the United States mail at Rapid City, South Dakota on this 11 day of September, 2013.

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ATTN: Ashley Cortney  
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Jerri Baker  
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Bruce Ellison  
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~~Rodney G. Knudson~~  
~~P.O. Box 25~~  
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Attorney for Oglala Sioux Tribe  
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Jillian Anawaty  
2804 Willow Ave.  
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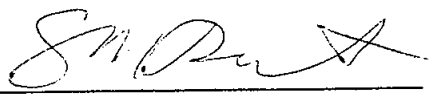
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617 Saint Cloud  
Rapid City, SD 57701



GENA M. PARKHURST  
"A" Full Party Intervenor



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WATER RIGHTS  
PROGRAM

State of South Dakota  
Department of Environment and Natural Resources  
Water Management Board

---

In the Matter of Water Permit  
Applications 2685-2 and 2686-2,

Rebecca R. Leas

Powertech (USA) Inc.


Objections to Applicant's  
Motions

In the Matter of the  
2012 Groundwater Discharge Plan  
Application submitted by Powertech  
(USA), Inc.

---

I object to the motion filed by Powertech for narrative testimony. I see this effort as an attempt to prevent due process and contribution by the citizens of South Dakota. A narrative format does not provide the citizens with a fair and comprehensive opportunity to present their case. I believe a fair and quality democratic process as provided by law should be carried out.

Dated this 10<sup>th</sup> day of September, 2013.

  
\_\_\_\_\_  
Rebecca R. Leas  
"A" Full Party Intervenor  
6509 Seminole Lane, Rapid City, SD 57702

### Certificate of Service

The undersigned hereby certifies that true and correct copies of the objections of **Rebecca R. Leas**, an "A" full party intervenor, to Powertech's Motion to Allow Narrative Testimony were served upon the following by enclosing the same in envelopes with first class postage prepaid and affixed thereto, and depositing said envelopes in the United States mail at RAPID CITY, SD on the 10<sup>th</sup> day of September 2013.

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Kyle, SD 57752

Attn: Ashley Cortney  
Edgemont Public Library  
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Edgemont, SD 57735

Attn: Jason Walker  
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Michael M. Hickey  
Attorney, Black Hills Wild Horse  
Sanctuary : Dayton O. Hyde & Susan  
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Everett E. Hoyt, Hearing Chair  
4422 Carriage Hills Dr.  
Rapid City, SD 57702



Rebecca R. Leas

"A" Full Party Intervenor

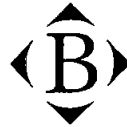
**RAPID CITY**

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Allen G. Nelson  
James P. Hurley  
Michael M. Hickey  
Terry L. Hofer  
Rod Schlauger  
Daniel F. Duffy  
Jeffrey G. Hurd  
John H. Raforth  
Terry G. Westergaard  
Steven R. Nolan  
Gregory J. Erlandson  
Eric J. Pickar  
Sarah E. Baron Houy  
Jacob M. Quasney  
Jessica L. Fjerstad  
Mark F. Marshall  
*Of Counsel*

**SIOUX FALLS**

Victoria M. Duehr  
Kathryn L. Hoyme

*Attorneys also admitted in  
Nebraska, North Dakota,  
Minnesota and Missouri*



**BANGS McCULLEN**  
— LAW FIRM —

**Reply to Rapid City Office**

Writer's e-mail address: mhickey@bangsmccullen.com

September 11, 2013

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**SEP 13 2013**

**WATER RIGHTS  
PROGRAM**

Mr. Eric Gronlund  
DENR  
523 East Capitol Ave.  
Joe Foss Building  
Pierre, SD 57501-3182

**Re: IN THE MATTER OF THE WATER PERMIT APPLICATION NOS.  
2685-2 AND 2686-2 POWERTECH (USA) INC. AND**

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

Dear Mr. Gronlund:

I enclose for your information and records the following original documents:

1. **Black Hills Wild Horse Sanctuary, Susan Watt, & Dayton Hyde's Response to Powertech's Motion for Narrative Testimony; and**
2. **Certificate of Service.**

By a copy of this correspondence, all counsel of record and the Status A List are being served. Thank you.

Sincerely,

BANGS, McCULLEN, BUTLER,  
FOYE & SIMMONS, L.L.P.

Michael M. Hickey

MMH/bah  
Enclosures  
cc w/enc.:

Clients; Everett Hoyt; Jeff Hallem; Max Main; Diane Best;  
Bruce Ellison; Full Status Participants

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WATER RIGHTS  
PROGRAM

**STATE OF SOUTH DAKOTA**

**BEFORE THE WATER MANAGEMENT BOARD**

---

**IN THE MATTER OF THE WATER  
PERMIT APPLICATION NOS. 2685-2  
2686-2 POWERTECH (USA) INC.**

and

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

---

**Black Hills Wild Horse  
Sanctuary, Susan Watt, &  
Dayton Hyde's Response  
to Powertech's Motion to  
Allow Narrative  
Testimony**

Black Hills Wild Horse Sanctuary, Susan Watt, and Dayton Hyde, ("Wild Horse") offer the following response to Powertech's Motion to Allow Narrative Testimony.

Wild Horse opposes Powertech's Motion to Allow Narrative Testimony as written. Wild Horse notes that even Powertech's own authority acknowledges that narrative testimony may be permissible only "as long as it stays within the bounds of pertinency and materiality."

*United States v. Pless*, 982 F.2d 1118, 1123 (7<sup>th</sup> Cir. 1992) quoting *United States v. Garcia*, 625 F.2d 162, 169 (7<sup>th</sup> Cir. 1980).

To assure that the narrative testimony remains pertinent and material, Wild Horse reserves its right to object to specific testimony for any reason contemplated by the South Dakota Rules of Evidence, and may request that counsel for Powertech ask specific questions depending

upon the area of testimony. Moreover, Wild Horse also opposes the Motion to Allow Narrative Testimony to the extent Powertech would have it apply to cross examination or the examination of a hostile witness.

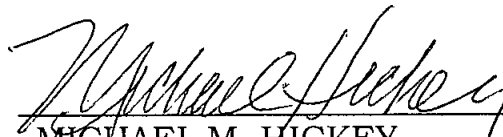
While Powertech's motion does not make a distinction between direct and cross examination or the testimony of an adverse witness, Wild Horse contends this type of evidence is simply not amenable to narrative testimony. In fact, to permit narrative testimony on cross examination or from an adverse witness would be less efficient and prolong the hearing and undermine the utility of cross examination as is the "greatest legal engine ever invented for the discovery of truth."

*California v. Green*, 399 U.S. 149, 158 (1970).

Dated this 11<sup>th</sup> day of September, 2013.

BANGS, McCULLEN, BUTLER,  
FOYE & SIMMONS, L.L.P.

BY:



MICHAEL M. HICKEY

333 West Blvd., Suite 400

P.O. Box 2670

Rapid City, SD 57709

Phone: (605) 343-1040

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**Attorneys for Black Hills**

**Wild Horse Sanctuary,**

**Dayton Hyde and Susan Watt**

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WATER RIGHTS  
PROGRAM

STATE OF SOUTH DAKOTA

BEFORE THE WATER MANAGEMENT BOARD

---

IN THE MATTER OF THE WATER  
PERMIT APPLICATION NOS. 2685-2  
2686-2 POWERTECH (USA) INC.

and

**Certificate of Service**

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

---

The undersigned hereby certifies that he filed the original with

Eric Gronlund and served copies of the following:

1. **Black Hills Wild Horse Sanctuary, Susan Watt, & Dayton Hyde's  
Response to Powertech's Motion to Allow Narrative Testimony;**

upon the persons herein next designated, all on the date below shown:

**Everett Hoyt**  
4422 Carriage Hills Drive  
Rapid City, SD 57702

**Jeff Hallem**  
Office of the Attorney General  
1302 E. Hwy. 14, Suite 1  
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**Max Main**  
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Belle Fourche, SD 57717-1489

**Diane Best**  
Office of the Attorney General  
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Sioux Falls, SD 57104

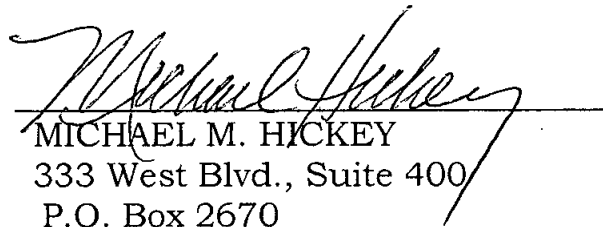
**Bruce Ellison**  
P.O. Box 2508  
Rapid City, SD 57709-2508

and upon each of the persons shown on the attached full participation list, including the Libraries, by depositing copies thereof in the United States mail at Rapid City, South Dakota, postage prepaid, in envelopes addressed to said addressees, which are the last addresses of the addressees known to the subscriber.

Dated this 11<sup>th</sup> day of September, 2013.

BANGS, McCULLEN, BUTLER,  
FOYE & SIMMONS, L.L.P.

BY:



MICHAEL M. HICKEY

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**Attorneys for Black Hills**

**Wild Horse Sanctuary,**

**Dayton Hyde/Susan Watt**



IN THE MATTER OF THE WATER PERMIT APPLICATION NOS. 2685-2 2686-2 POWERTECH (USA) INC. And  
IN THE MATTER OF THE 2012 GROUNDWATER DISCHARGE PLAN APPLICATION SUBMITTED BY POWERTECH (USA), INC.

Full Status Participants

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Cindy Messenger  
Hot Springs Public Library  
2005 Library Dr.  
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Cheryl and Roger Rowe  
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6509 Seminole Ln.  
Rapid City, SD 57702-7088

Douglas Uptain  
3213 W. Main, #112  
Rapid City, SD 57702-2314

Attn: Government Documents  
Rapid City Public Library  
610 Quincy St.  
Rapid City, SD 57701

State of South Dakota  
Before The Water Management Board

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SEP 13 2013

WATER RIGHTS  
PROGRAM

In the Matter of Water Permit  
Application Nos.  
2685-2 and 2686, Powertech  
(USA) Inc.,  
By Powertech (USA), Inc.

Brenda Gamache Response  
and correction of law and  
adding Ground Water Discharge  
Plan Application Submitted  
By Powertech (USA), Inc.  
September 11, 2013

In the Matter of the 2012  
Groundwater Discharge  
Plan Application Submitted  
By Powertech (USA), Inc.

To The Water Management Board,

I would like to correct my motion and again request to The Water Management Board, that the exhibits I am entering with this motion, support the fact that by law The Water Management Board does have the power to protect the surface waters of South Dakota, and in this motion would ask The Water Management Board to make the Surface Water Quality Program be part of the hearing without being subpoenaed, but for all petitioners to have the right in this hearing to have questions answered by all DENR programs that were involved in the recommendations, for the 2012 Discharge Plan Application Submitted by Powertech (USA), Inc. and Water Permit Application Nos. 2685-2 and 2686.

Exhibit 1) Law 46-2A-20

Exhibit 2) DENR WR and GWQ Response to Gamache Motion Dated August 23,2013

Page 6 . (5)

Exhibit 3) DENR Ground Water Quality Program Disclosure Of Expert Report

Page Attachment A : d and #4,and #12

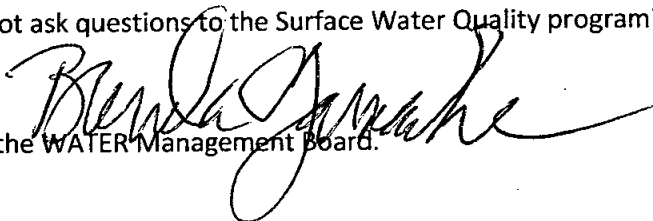
Exhibit 4) Brenda Gamache's response only given from WR Program, no response was given from GWQ Program Answer to question (9) States that the question would be answered thru other programs.

Exhibit 5) Surface Water Quality (what we do)

How can The Water Management Board be able to make a decision on the behalf of the Public Interest and Beneficial Use of our water, if they cannot ask questions to the Surface Water Quality program?

I respectfully ask this motion be granted by the WATER Management Board.

Brenda Gamache



46-2A-20. Term limitation on water withdrawal from Madison formation in certain counties. Notwithstanding §§ 46-1-14 and 46-2A-7, no water permit for construction of works to withdraw water from the Madison formation in Butte, Fall River, Custer, Lawrence, Meade and Pennington counties may be issued for a term of more than twenty years, unless the Water Management Board determines, based upon the evidence presented at a hearing that:

(1) Sufficient information is available to determine whether any significant adverse hydrologic effects on the supply of water in the Madison formation would result if the proposed withdrawal were approved; and

(2) The information, whether provided by the applicant or by other means, shows that there is a reasonable probability that issuance of the proposed permit would not have a significant adverse effect on nearby Madison formation wells and springs.

**Source:** SL 1992, ch 315, § 1.

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At this late date, however, after the close of the discovery completion date, even this procedure must be rejected due to the untimeliness of the request. Discovery was to have been completed by now so that the Parties could prepare for hearing, and forcing continued discovery will prejudice WR and GWQ by interfering with that preparation.

5. Gamache’s Motion is not likely to result in the discovery of relevant evidence.

The Surface Water Quality Program was not involved in reviewing or processing either of these applications, with were analyzed and processed by employees in the WR or GWQ Programs. Therefore, the extent of any relevant evidence it would have would be limited to surface water quality sampling in the area.

This information on sampling sites is public record and Ms. Gamache has already obtained it. More specifically, on August 15, 2013, Gamache filed “Claimant’s Interrogatories and request for Production of Documents to Plaintiff” with WR.<sup>1</sup> WR responded to this discovery request under separate filing. Although it objected to the requests for the reasons listed above, WR did disclose the names and titles of surface water quality officials, the website for the surface water sampling network for South Dakota surface water sampling data, a map of sampling sites, and instructions on how to obtain the surface water quality data. The WR response was mailed to Ms. Gamache on August

---

<sup>1</sup> This discovery request was not served on any party and was not served on the Surface Water Quality Program.

Herald-Tribune, Hot Springs Star, Lakota Country Times, and Rapid City Journal), which included newspapers located within one or both of the two affected counties (Custer and Fall River Counties) per ARSD 74:54:02:08; and on the DENR website.

- d. DENR recommends conditional approval of the application as set out in GWQ AR Exh. 137, incorporated herein as if fully set out, which contains the Plan, associated permits, and conditions to the Plan. The conditions being proposed were developed by myself and other staff in the Ground Water Quality Program, with additional input from staff in the Minerals and Mining and Surface Water Quality Programs; comments from Powertech on draft conditions were received and some changes were made as a result.
1. Condition 1 is a standard condition incorporated into all ground water discharge plans. The intent of the condition is to require that the proposed activities stated in the plan application, including, but not necessarily limited to monitoring, discharge minimization measures and contingency plans, become requirements of the plan without restating the application in the conditions. Similarly, any future technical revision or amendments shall be treated as if they are a condition of the plan.
  2. Condition 2 prevents land application from occurring prior to the issuance of other permits required for the operation. Additionally, condition 3 is related to condition 2, as the discharge criteria for land application stipulated under condition 3 are directly related to the disposal capacity of an Environmental Protection Agency (EPA) issued Class V underground injection control (UIC) permit.
  3. Condition 3 was added as the land application system is a backup to the primary disposal means via Class V UIC wells. The plan application states in Section 1.0, that "The first and preferred alternative is treatment followed by injection in Class V wells completed in the Minnelusa or Deadwood Formations" and "In the event that the Class V UIC permit is not approved or insufficient disposal capacity is available, Powertech (USA) proposes to treat the liquid waste and dispose it in land application systems permitted under a Groundwater Discharge Plan through the South Dakota Department of Environment and Natural Resources (DENR)".
  4. Condition 4 was added after consulting with staff from the Surface Water Quality Program, as Surface Water Quality Program has previously permitted land application systems at wastewater collection and treatment facilities under surface water discharge permits. This condition comes from standard wording used in these surface water discharge permits and ultimately comes from the DENR publication: *Recommended Design Criteria Manual for Wastewater Collection and Treatment Facilities*.
  5. Condition 5 establishes that accidental and non-regulated releases are not permitted under the plan. The plan is regulating only land application of treated wastewater that would occur during normal operations at the site. The intent of this condition is to clarify that accidental releases or intentional dumping are not approved under ARSD 74:54:02:03, are not automatic or preapproved with the issuance of this plan, and must be cleaned up or remediated as required under South Dakota codified law (SDCL) 34A-2-48. The application of fertilizer

statistical calculation, and also provide indications of seasonal variations in the natural ground water.

8. Condition 8 is a standard requirement of the water quality variance permit under ARSD 74:54:02:11, facility construction permit under ARSD 74:54:02:13 and periodic submission of monitoring reports under ARSD 74:54:02:20.
9. Condition 9 was added to further protect ground water. Footnote 1 was included because the radium standard under ARSD 74:54:01:04 is for combined radium 226 and 228, whereas effluent limits stated under 10 CFR 20, Appendix B, Table 2, Column 2 are separate for the radium 226 and 228 isotopes. Footnote 2 was included because the unit of compliance for uranium under ARSD 74:54:01:04 is mass per volume (mg/L), and the unit of compliance under 10 CFR 20, Appendix B, Table 2, Column 2 is radioactivity per volume of (pCi/L). While DENR is aware of conversion formulas between mg/L and pCi/L, DENR research yielded differing conversion formulas; therefore, both compliance units are listed. Footnote 3 was included based on a review of beta particles (man-made) under ARSD 74:54:01:04, which states a standard of 4 mrem/yr. This standard was adopted, based on EPA's Drinking Water Standards. However, unlike most standards, the mrem/yr is a dosage rate rather than volumetric concentration; which could be difficult to quantify in water that is non-potable. Therefore an alternate method for determining beta particle compliance was investigated. This footnote was developed based on guidance from 40 CFR 141.26, which governs monitoring and compliance for radionuclides in community drinking water systems, and EPA publications: *Implementation Guidance for Radionuclides*; and *EPA 816-F-00-002* (March 2002), Appendix I.
10. Condition 10 was added to expand upon the soil monitoring plan outlined in Section 6.4 of the plan application, by specifying the time of year to collect the soil samples. The schedule was set for the fall in order to gauge the soil loading at, or near the end of each growing season, and during the months of more average seasonal precipitation according to Table 3.1-5 of the plan application.
11. Condition 11 is a standard condition incorporated into all ground water discharge plans. The intent for this condition is to account for potential unknowns or unanticipated changes that may arise after the plan is issued, and to correct these issues should they occur. This condition is intended to work similar to ARSD 74:54:02:22, with the intent to correct any issues prior to, and prevent a plan violation, rather than after a violation has occurred.
12. Condition 12 was added to strengthen the surface water monitoring plan outlined in Section 6.2 of the plan application. After consulting with Surface Water Quality Program staff, additional parameters were added to those listed on Table 6.2-2 in the plan application, based on those parameters on Table 5.8-2 that are estimated to be above the numeric ground water standards (ARSD 74:54:01:04) in the land application effluent.
13. Condition 13 is a modification of a standard condition incorporated into all ground water discharge plans at mine sites. The intent of this condition is to determine effluent quality prior to initiation of land application and to allow for

Answer: See the answer to Interrogatory 4 for water sampling data.

**8. Has SWQ done any tests of the Angostura Reservoir or the Cheyenne entering into the Reservoir for Radiation or Radium concentrations? (Please provide me a copy).**

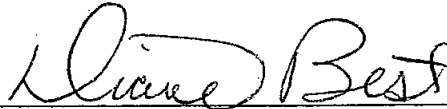
Answer: See the answer to Interrogatory 4 for water sampling data.

**9. Pass Creek is a contributory to Beaver Creek, which Beaver Creek contributes to Cheyenne River, which contributes to Angostura. What are the recommendations of SWQ if a flood would occur in the area of the proposed project site, since Pass Creek and Beaver Creek run in the project site, what would SWQ do or suggest needs to be done, to protect these 4 South Dakota surface waters for the use of recreation, irrigation, aquatic life so they would not end up with high amount of radiation, radium and all the chemicals proposed to be on the site from contaminating these waters?**

Answer: Water Rights has no information on these flooding claims. DENR information on this issue, if any, would be in other programs in the DENR. Please note that information on the Groundwater Discharge Permit (to be heard at the same time as the Water Rights Applications) is available on the DENR website and discovery has been provided to all parties regarding that application.

SIGNATURES AS TO OBJECTIONS:

Dated this 23rd day of August, 2013.



Diane Best  
Assistant Attorney General  
317 N. Main Ave.  
Sioux Falls, SD 57104  
Telephone: (605) 367-5880, Ext. 105

## Surface Water Quality Program

**Kelli Buscher  
Administrator**

**Contact Information | Staff  
Directory**

<b>2012 Integrated Report</b>
<b>Manure Management Training</b>
<b>Pesticide General Permit</b>
<b>Hyperion Energy Center - New Water Quality Data</b>
<b>Spearfish FERC 401 Certification</b>
<b>Storm Water Permit Database</b>
<b>Electronic Discharge Monitoring Reporting (Net DMR)</b>

### What we do:

The primary responsibilities of the Surface Water Program are:

- o regulate (permit) and monitor discharges of wastewater;
- o establish surface water quality standards; and
- o conduct routine monitoring of surface water to ensure the state's natural resources are protected.

To find information about a surface water issue, choose a topic from the left border of this page or browse the list in this box:

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

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

POWERTECH'S  
RESPONSE TO WILD HORSE  
SANCTUARY'S MOTION TO  
DISCLOSE and REQUEST  
FOR PROTECTIVE ORDER

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

---

This is Powertech's response to the Motion to Disclose filed by the Black Hills Wild Horse Sanctuary, Susan Watt and Dayton Hyde.

Powertech Uranium Corporation ("Powertech") is a publicly traded company on the Toronto Stock Exchange. As such, Powertech is subject to Canadian law and Canada's Personal Information Protection and Electronic Documents Act ("PIPEDA"). The undersigned attorney has been advised by Canadian counsel that this Act prohibits the disclosure of personal information (*i.e.* shareholder information) to third parties under most circumstances unless the shareholder consents<sup>1</sup>. If personal shareholder information is wrongfully disclosed, Powertech faces possible monetary sanctions and civil lawsuits for violating PIPEDA. PIPEDA, 2000, ch.5 s. 1-50, S.C. 2000 (Can.)

Powertech is committed to conducting its business in conformance with the laws of the United States and the nation of Canada. The Motion to Disclose filed by Wild Horse Sanctuary ("WHS") places Powertech in the center of a conflict between the laws of Canada and the Rules of Civil Procedure for the State of South Dakota. In an effort to comply with South Dakota's discovery procedures, Powertech provided shareholder information to legal counsel for WHS only after a very stringent confidentiality agreement was negotiated. WHS counsel now seeks to publicly disclose this protected personal shareholder information to his clients and the public.

WHS argues that Canada's laws should not be followed in these proceedings. But Courts have held that when a conflict such as this arises, each case should be evaluated on an individual basis and Courts should recognize and comply with foreign laws, such as PIPEDA, when appropriate. *Affordable Healthcare, LLC v. Protus IP Solutions Inc.*, 2009 WL 975150.

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<sup>1</sup> The Privacy Commissioner of Canada has opined that an order of a foreign court cannot compel disclosure of personal information. [www.priv.gc.ca/media/nr-c/2004/sub-usapa-04818-e.asp](http://www.priv.gc.ca/media/nr-c/2004/sub-usapa-04818-e.asp).

The United States Supreme Court wrote,

American Courts, in supervising pretrial proceedings, should exercise special vigilance to protect foreign litigants from the danger that unnecessary, or unduly burdensome, discovery may place them in a disadvantageous position . . . [W]e have long recognized the demands of comity<sup>2</sup> in suits involving foreign states, either as parties or as sovereigns with a coordinate interest in the litigation. American Courts should therefore take care to demonstrate due respect for any special problem confronted by the foreign litigant on account of its nationality or the location of its operations and for any sovereign interests expressed by a foreign state.

*Societe Nationale Industrielle Aerospatiale v. U.S. Dist. Court for Southern Dist. of Iowa*, 482 U.S. 522, 546, 107 S.Ct. 2542, 96 L.Ed.2d 461 (1987).

**Good cause exists for denying the Motion to Disclose.**

Powertech is committed to conducting its business in conformance with the laws of the State of South Dakota, the United States and the nation of Canada. However, Powertech and its employees face possible monetary sanctions and civil lawsuits if this personal shareholder information is publicly disclosed.

By enacting PIPEDA, Canada clearly expressed its national interest in protecting personal information from public disclosure. "PIPEDA also does not distinguish between the privacy interests of Canadians and Americans." *AGV Sports Group Inc. v. Protus IP Solutions Inc.*, 2010 WL 1529195.

There is no legitimate need for public disclosure of this personal shareholder information. Mr. Hickey's clients do not have a need to know this personal shareholder information. The shareholder information is not germane to the issues before this Board. The potential harm to Powertech and its shareholders far exceeds any alleged benefit of disclosure. Disclosure of this information may seriously impact the interests of individuals who are not parties to this proceeding; *i.e.* Powertech's shareholders. The Motion to Disclose should be denied.

---

<sup>2</sup> "Comity refers to the spirit of cooperation in which a domestic tribunal approaches the resolution of cases touching the laws and interests of other sovereign states." *Societe Nationale Industrielle Aerospatiale v. U.S. Dist. Court for Southern Dist. of Iowa*, 482 U.S. 522, 544, 107 S.Ct. 2542, 96 L.Ed.2d 461 (1987).

## REQUEST FOR PROTECTIVE ORDER

In the alternative, if WHS counsel seeks to disclose this personal information to his clients or the public, a protective order should be entered requiring WHS counsel to comply with the following procedures:

1. WHS must request an *in camera* hearing prior to any disclosure;
2. WHS must identify the witness who will testify about the personal shareholder information it wishes to disclose;
3. WHS must identify exactly what personal shareholder information it wishes to disclose;
4. WHS must demonstrate that the identified personal shareholder information is "relevant evidence"<sup>3</sup> that is germane to an issue before the Board or that his client has a legitimate need to know the identified personal shareholder information; and
5. WHS must demonstrate that the probative value of disclosing the personal shareholder information outweighs any potential prejudice to Powertech or its shareholders.

These procedures will allow the chairman to determine what, if any, disclosure is appropriate. Furthermore, these procedures will help preserve the interests of Canada in protecting personal information without interfering with the interests of this Board in considering relevant evidence.

"American courts should . . . take care to demonstrate due respect for any special problem confronted by the foreign litigant on account of its nationality or the location of its operations." *Id.* Because this situation could not be avoided by Powertech and was not self imposed, it is appropriate to require WHS counsel to follow these simple procedures

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<sup>3</sup> "Relevant evidence" is defined by SDCL 19-12-1 as evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.

before disclosing personal shareholder information to his clients or the public in these proceedings.

**WHEREFORE**, Powertech requests that the Motion to Disclose be denied. In the alternative, a protective order should be issued requiring WHS legal counsel to follow simple procedures before disclosing any personal shareholder information to his clients or the public.

**Powertech also requests that the Motion to Disclose be considered *in camera*.**

Dated this 12<sup>th</sup> day of September, 2013.

BENNETT, MAIN & GUBBRUD, P.C.  
Attorneys for Powertech

By 

Dwight A. Gubbrud  
618 State Street  
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WATER RIGHTS  
PROGRAM

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

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

POWERTECH'S  
RESPONSE TO MOTION TO  
CONTINUE

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

---

This response is made by Powertech (USA) Inc. ("Powertech") to the motion to continue made by Black Hills Wild Horse Sanctuary, Susan Watt and Dayton Hyde (collectively "WHS").

1.

**Nuclear Regulatory Commission ("NRC") and  
Environmental Protection Agency ("EPA") Proceedings**

WHS argues that Powertech should first obtain a NRC license and EPA permits before the hearing on its water permit applications and groundwater discharge plan is held. There is no legal requirement that these must be in place before the Water Management Board ("Board") can hold its hearing on the water permit applications and groundwater discharge plan.

One of the recommended conditions for Powertech's large-scale mine permit requires Powertech to obtain a NRC license and an EPA Class III permit "[p]rior to commencing operations in the permit are." Powertech's water permits and ground water discharge plan both apply to Powertech's in situ mining project. This mining project, and the usage and discharge of water during the course of mining operations will not occur

until or unless the large-scale mining permit is issued, with the conditions that Powertech obtain a NRC license and an EPA Class III permit prior to commencing operations. There is therefore no detriment in this matter proceeding prior to Powertech obtaining a NRC license and EPA permits.

Regarding the NRC license, it should be pointed out that in the March 2013 Safety Evaluation Report issued by the NRC for the Dewey-Burdock Project, the NRC staff recommends approval of Powertech's license application.

2.

**Legislative Changes.**

As to the 2011 enactment of Senate Bill 158, now codified at SDCL 34A-2-126, that law was enacted and in force over a year before Powertech submitted its water permit applications and groundwater discharge plan application. Prospective application of the law means the tolled administrative rules do not apply to Powertech's applications.

WHS asserts in its motion that DENR "deferred regulatory authority over Class III injection wells and in situ leach mining to the federal government." In fact, South Dakota has never had regulatory primacy over these matters. South Dakota has never been an agreement state for NRC licensing, and it has never had primary regulatory authority over Class III UIC permits.

**Conclusion**

For the reasons set forth above, WHS's motion to continue should be denied.

Dated this 12th day of September, 2013.

BENNETT, MAIN & GUBBRUD, P.C.  
Attorneys for Powertech

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WATER RIGHTS  
PROGRAM

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

---

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

CERTIFICATE OF SERVICE

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

---

I, DWIGHT GUBBRUD, as one of the attorneys for Powertech (USA) Inc., do hereby certify that on the 12th day of September, 2013, I caused the originals of the following documents:

1. **POWERTECH'S RESPONSE TO WILD HORSE SANCTUARY'S MOTION TO DISCLOSE AND REQUEST FOR PROTECTIVE ORDER;**
2. **POWERTECH'S RESPONSE TO MOTION TO CONTINUE; and**
3. **CERTIFICATE OF SERVICE,**

to be filed with:                Eric Gronlund  
    DENR  
    Foss Building, 523 E. Capitol Ave.  
    Pierre, SD 57501-3182

and full, true and complete copies of said documents to be served upon the following named persons at their last known mailing addresses, as follows:

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Gwen E. Kaneshiro &  
William M. C Ing  
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Hot Springs, SD 57747

Everett E. Hoyt, Hearing Chair  
4422 Carriage Hills Dr.  
Rapid City, SD 57702

by depositing the same in the United States Mail in Belle Fourche, South Dakota with first class postage thereon fully prepaid, in envelopes addressed as above.



DWIGHT GUBBRUB

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STATE OF SOUTH DAKOTA

BEFORE THE WATER MANAGEMENT BOARD

IN THE MATTER OF POWERTECH, )  
 )  
APPLICATION NOS. 2786-2 )  
 2686-2 )

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**OBJECTION TO POWERTECH'S MOTION  
TO ALLOW NARRATIVE TESTIMONY**

The Clean Water Alliance CWA, by and through its attorney, hereby objects to the Motion of Powertech To Allow Narrative Testimony (hereinafter, "Motion").

In its Motion, Powertech fails to state what testimony of what witness it proposed to present in narrative form. This makes a response by this Intervenor and a determination by the Board of propriety more difficult. Therefore, the CWA objects in general to such a procedure being utilized in these proceedings.

In support of its Motion, Powertech sites no South Dakota case law supporting the use of narrative form testimony, but merely the similarity between SDCL 1-26-19(1) and Federal Rule of Evidence 611(a) as to the authority of a "court" to "exercise reasonable control over the mode and order of examining witnesses." See, Powertech's Motion, p. 1. It then cites decades old Seventh Circuit U.S. Court of Appeals criminal cases, *United States v. Pless*, 982 F.2d 1118, 1123 (7<sup>th</sup> Cir. 1992)

and *United States v. Garcia*, 625 F.2d 162, 169 (7<sup>th</sup> Cir. 1980), as well as a District Court, not Court of Appeals case of *In re Air Crash Disaster at Stapleton Int'l, Denver, Colorado*, 720 F.Supp. 1493 (D.Colo. 1989), as authority.

While these cases lend some support that in “some respects,” the use of narrative form testimony “may well be preferable,” [*Pless*, 982 F.2d at 1123], the cases reveal the limited nature and circumstances in which such testimony was utilized in those cases and not considered reversible error.

In *Pless*, a methamphetamine conspiracy case, the Court of Appeals found no “undue prejudice” in the prosecution’s question during cross-examination of the Defendant to “just tell the story” about an “untrue story that he had told to a chemical distributor,” which resulted in a “few sentences” of a narrative answer. *Ibid*, 982 F.2d at 1123. Powertech has not indicated whether it intends to elicit narrative answers constituting a few sentences or whether it proposes a more lengthy version.

A more lengthy version would make cross-examination prejudicially more difficult due to the absence of a question and answer format which would specifically help frame issues for which evidence is being given. It would also create a greater likelihood that the narrative would stray beyond the bounds of pertinency and materiality resulting in increased time being wasted with the making and arguing of objections thereto.

In *Garcia*, a murder and illegal conveyance of a weapon in prison prosecution, the prosecutor asked an FBI agent in charge of the respective criminal investigation, during direct-examination “Why?” he had visited the prison as part of his investigation. The agent responded with a relatively short narrative which took up some two pages of the entire trial transcript. Since the narrative given was outside “the bounds of pertinency and materiality,” it was struck from the record. *Ibid*, 625 F.2d at 169. At best, the case stands for the propriety of the use of limited narrative testimony where to do otherwise, the proceedings would “substantially” and “unnecessarily” lengthen a trial. *Ibid*. Powertech has made no showing how the use of question and answer examination of any particular witness would substantially and unnecessarily lengthen these highly important proceedings so as to make any use of such narrative the best form for the receipt of evidence by this Board.

Finally, in *In re Air Crash Disaster*, summary deposition testimony was allowed for limited witnesses in two categories to avoid delay under Federal Rule of Evidence 611(a): The first was a plaintiff’s witness for an unavailable witness under Federal Rule of Evidence 804(a). The second was in the presentation of otherwise “corroborative” witness testimony of a key witnesses, thereby “lessening the delay of repetitive testimony.” Of particular note for this Board was the District Court’s reasoning that: “Because the applicability of summary testimony is tempered by the

Court's preference for oral testimony in court, the parties were neither requested nor allowed to present the testimony of key witnesses in summary form." *Ibid.* As Powertech has not indicated what witness(es) it requests to use narrative testimony, whether the witness is or is not a key witness, a showing that the witness is unavailable and that opposing parties have had an opportunity for meaningful prior examination of the witness on this testimony, that it proposes to use deposition summaries to simply corroborate key witness testimony and avoid corroborative/repetitive testimony, the case is in apposite.

Furthermore, the deposition summaries permitted in *In re Air Crash Disaster* were "agreed to" by the attorneys for opposing parties and "[o]pposing counsel [were] given an opportunity to review the summary and the deposition for accuracy." *Ibid.*, 720 F.Supp. at 1504. No summary has been provided by Powertech of the proposed narrative testimony and none has been agreed to upon such disclosure and review.

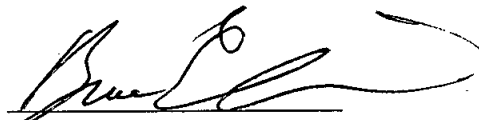
This case involves important proceedings before this Board regarding the first ISL uranium mine and mill in the Inyan Kara formation of the Black Hills and any time reasonably spent on presenting and questioning material evidence relevant to the issues in these proceedings could not possibly involve undue delay. Powertech has previously indicated that it expects the presentation of its evidence to take three days. How much time prior to cross-examination and with what witness and regarding what

testimony would be saved by the use of any narrative form answers remains unanswered.

For all these reasons and absent any such specificity as planned use of narrative testimony provided by Powertech, the Motion should be denied.

Dated this 17 day of August, 2013.

Respectfully submitted:



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Attorney for Clean Water Alliance

**STATE OF SOUTH DAKOTA**

**BEFORE THE WATER MANAGEMENT BOARD**

---

<b>IN THE MATTER OF POWERTECH,</b>	)
	)
<b>APPLICATION NOS. 2786-2</b>	)
<b>2686-2</b>	)

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**OBJECTION AND RESPONSE TO POWERTECH’S MOTION IN LIMINE**

The Clean Water Alliance CWA, by and through its attorney, hereby objects to the Motion of Powertech In Limine (hereinafter, “Motion”).

Powertech, by its Motion, seeks to bar unnamed Intervenor from presenting and this Board considering evidence it describes as “inadmissible hearsay,” contrary to SDCL §§19-16-1(relevancy) and 4 (hearsay). Certainly the Rules of Evidence applies, as does §19-16-40, the “Residual exception.”

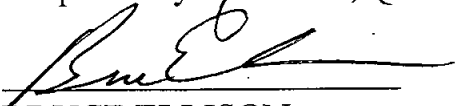
§19-16-40 states:

- A statement not specifically covered by §§ 19-16-5 to 19-16-8, inclusive, or §§ 19-16-9 to 19-16-34, inclusive, but having equivalent circumstantial guarantees of trustworthiness, is not excluded by § 19-16-4, if the court determines that:
- (A) The statement is offered as **evidence of a material fact**;
  - (B) The statement is **more probative** on the point for which it is offered **than any other evidence which the proponent can procure** through reasonable efforts; and
  - (C) The general purposes of chapters 19-9 to 19-18, inclusive, and the **interests of justice will best be served** by admission of the statement



into evidence. However, a statement may not be admitted under this exception unless the proponent of it makes known to the adverse party sufficiently in advance of the trial or hearing to provide the adverse party with a fair opportunity to prepare to meet it, the proponent's intention to offer the statement and the particulars of it, including the name and address of the declarant. (Emphasis added).

Dated this 12 day of September, 2013.

Respectfully submitted, 

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Attorney for Clean Water Alliance

STATE OF SOUTH DAKOTA  
BEFORE THE WATER MANAGEMENT BOARD

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IN THE MATTER OF THE WATER  
PERMIT APPLICATION NOS. 2685-2  
AND 2686-2 POWERTECH (USA), INC.

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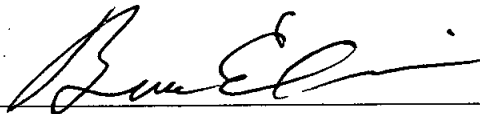
JOINING MOTION RESPONSE OF  
BLACK HILLS WILD HORSE SANCTUARY

The Clean Water Alliance, by and through its attorney, and Liliias Jarding, "A" Status Participant, hereby join the response and arguments, reasoning and authority therein, submitted to the Water Management Board, by the Black Hills Wild Horse Sanctuary, Susan Watt and Dayton Hyde, including:

1. Response to Powertech's Motion to Allow Narrative Testimony.

Dated this 11<sup>th</sup> day of September, 2013.

Respectfully Submitted,



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Dated this 11<sup>th</sup> day of September, 2013.



LILIAS JARDING  
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**STATE OF SOUTH DAKOTA**

**BEFORE THE WATER MANAGEMENT BOARD**

**IN THE MATTER OF POWERTECH, )**  
**)**  
**APPLICATION NOS. 2786-2 )**  
**2686-2 )**

**Certificate of Service**

A true and correct copy of the Clean Water Alliance's Objections to Powertech's Motions to Allow Narrative Testimony and In Limine, and Joining Moitions Response of Wild Horse Sanctuary, were mailed, US postage paid to:

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Dated this 15<sup>th</sup> day of September, 2013



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