



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

denr.sd.gov

November 9, 2012

Michael Catches Enemy
Oglala Sioux Tribe
PO Box 320
Pine Ridge SD 57770

Dear Mr. Catches Enemy:

Enclosed is the public notice of hearing for Water Right Permit Application Nos. 2685-2 and 2686-2 filed by Powertech (USA). The water right permit applications are for primarily industrial use in a proposed uranium in-situ mining project called Dewey-Burdock Project located in the Custer and Fall River Counties of South Dakota. The notice of hearing is scheduled to be published in Fall River, Custer, Pennington, Lawrence Counties and the Lakota Country Times on November 13th or 14th. The notice of hearing schedules a December 5, 2012 hearing before the Water Management Board. The date to petition to intervene is November 26, 2012.

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

The notice of hearing provides an opportunity to petition to be a party to any contested case hearing before the South Dakota Water Management Board.

Sincerely,

Eric Gronlund
Water Rights Program, DENR
605 773-3352
eric.gronlund@state.sd.us

enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

denr.sd.gov

November 9, 2012

Bruce H Ellison
Ellison Law Office
PO Box 2508
Rapid City SD 57709

Dear Mr. Ellison:

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Sincerely,

A handwritten signature in cursive script that reads "Eric Gronlund".

Eric Gronlund
Water Rights Program, DENR
605 773-3352
Eric.gronlund@state.sd.us

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November 9, 2012

STEVEN & ELIZABETH LAESCH
7509 VISTA RIDGE COURT
GARLAND TX 75044

Dear Surface and or Mineral Rights Owner:

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Sincerely,

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November 9, 2012

WILLIAM J LAESCH
40275 N PATRIOT WAY
ANTHEM AZ 85086

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523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182

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November 9, 2012

CLIFFORD LOVELL & PATRICIA JOHNSON
PO BOX 473
HOT SPRINGS SD 57747

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

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November 9, 2012

PAUL LOWHAM
480 S CACHE ST # 2
JACKSON WY 83001

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November 9, 2012

AGNES MEDSKER
62 CYPRESS CR
PORT ANGELES WA 98362

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November 9, 2012

REV RICHARD & IRENE MUELLER
1520 LAKESIDE TERRACE
WATERTOWN WI 53094

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November 9, 2012

PETERSON & SONS INC
27389 BURDOCK LOOP
EDGEMONT SD 57735

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PUTNAM & PUTNAM LLP
27150 N FLAT TOP RD
BURDOCK SD 57735

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CLAYTON SANDER
12469 WILLOW CREEK RD
CUSTER SD 57730

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DONALD & PAT SPENCER
27269 ELBOW CANYON RD
EDGEMONT SD 57735

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523 EAST CAPITOL
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JEAN SWIRCZYNSKI
PO BOX 1848
CASPER WY 82602

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November 9, 2012

TERATECTONICS CORP
10852 ONTARIO AVE
LITTLETON CO 80127

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BUREAU OF LAND MANAGEMENT
310 ROUNDUP ST
BELLE FOURCHE SD 57717

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November 9, 2012

CHRISTOPHER & KELLY ANN VIEL
10916 JEFFREY LN
MILWAUKEE WI 53225

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Eric.gronlund@state.sd.us

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ALLEN & BARBARA WILSON
PO BOX 731
HOT SPRINGS SD 57747

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JAMES & ROSE ANDERSEN
PO BOX 33
HERMOSA SD 57744

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BAKEWELL-ANDIS RANCH LLP
PO BOX 2012
BEUNA VISTA CO 81211

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EVERETT & DAWN ENGLEBERT
27449 DEWEY RD
BURDOCK SD 57735

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GCC DACOTAH INC
501 N ST ONGE ST
RAPID CITY SD 57702

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CLINT ANDERSEN
1703 OMARR AVE
SHERIDAN WY 82801

Dear Surface and or Mineral Rights Owner:

Enclosed is the public notice for Water Right Permit Application Nos. 2685-2 and 2686-2 filed by Powertech (USA). The water right permit applications are for primarily industrial use in a proposed uranium in-situ mining project called Dewey-Burdock Project located in the Custer and Fall River Counties of South Dakota. The public notice is scheduled to be published in Fall River, Custer, Pennington and Lawrence Counties the week of November 12th. The notice of hearing schedules a December 5, 2012 hearing before the Water Management Board.

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This information is being sent to those listed as either surface or mineral right owners within the project area. If you have any questions regarding DENR's review of the applications, please contact us at (605) 773-3352.

Sincerely,

A handwritten signature in cursive script that reads 'Eric Gronlund'.

Eric Gronlund
Water Rights Program, DENR
605 773-3352
Eric.gronlund@state.sd.us

Enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

denr.sd.gov

November 9, 2012

IRENE ANDERSEN
27360 S FLAT TOP RD
EDGEMONT SD 57735

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Sincerely,

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Water Rights Program, DENR
605 773-3352
Eric.gronlund@state.sd.us

Enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

denr.sd.gov

November 9, 2012

ROBERT & ALICE BARNARD
480 S CACHE ST # 2
JACKSON WY 83001

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605 773-3352
Eric.gronlund@state.sd.us

Enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

denr.sd.gov

November 9, 2012

WILLIAM & JOYCE BARNARD
480 S CACHE ST # 2
JACKSON WY 83001

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Water Rights Program, DENR
605 773-3352
Eric.gronlund@state.sd.us

Enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

denr.sd.gov

November 9, 2012

BLACK STONE MINERALS CO
1001 FANNIN # 2020
HOUSTON TX 77002

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Sincerely,

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605 773-3352
Eric.gronlund@state.sd.us

Enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

denr.sd.gov

November 9, 2012

CHRIS & AMY DANIEL
48235 334TH ST
JEFFERSON SD 57038

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Eric.gronlund@state.sd.us

Enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

denr.sd.gov

November 9, 2012

DANIEL PROPERTIES LLC
48235 334TH ST
JEFFERSON SD 57038

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Eric Gronlund
Water Rights Program, DENR
605 773-3352
Eric.gronlund@state.sd.us

Enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

denr.sd.gov

November 9, 2012

BARBARA JACQUELINE S LAESCH ELLISON
10012 MAYFIELD DR
BETHESDA MD 20817

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Water Rights Program, DENR
605 773-3352
Eric.gronlund@state.sd.us

Enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

denr.sd.gov

November 9, 2012

ELSTON BROS REALTY CO LLC
2227 S 185TH ST
OMAHA NE 68130

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Eric.gronlund@state.sd.us

Enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

denr.sd.gov

November 9, 2012

RICHARD E ELSTON
3312 W CONNAUGHT DR
SPOKANE WA 99208

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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

November 9, 2012

ROY GUESS
1865 BEVERLY ST # 101
CASPER WY 82609

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Eric.gronlund@state.sd.us

Enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

denr.sd.gov

November 9, 2012

FRANCIS & PHYLLIS JOZWIK
2941 PILOT DR
CASPER WY 82604

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Eric Gronlund
Water Rights Program, DENR
605 773-3352
Eric.gronlund@state.sd.us

Enclosures



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

November 9, 2012

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2938 PILOT DR
CASPER WY 82604

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Eric.gronlund@state.sd.us

Enclosures



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

November 9, 2012

HELEN & CARL KELLBERG
14516 SE 112TH PLACE
RENTON WA 98059

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Water Rights Program, DENR
605 773-3352
Eric.gronlund@state.sd.us

Enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

denr.sd.gov

November 9, 2012

KATHLEEN KLAUSEN
23000 MORNINGSIDE DR
RAPID CITY SD 57703

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Eric.gronlund@state.sd.us

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and NATURAL RESOURCES**

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

denr.sd.gov

November 9, 2012

CAROL A LAESCH
6 CLEARBROOK CT
ST CHARLES MO 63304

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Eric.gronlund@state.sd.us

Enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

denr.sd.gov

November 9, 2012

FREDERICK & MARILYN LAESCH
524 N 14TH ST
NILES MI 49120

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Water Rights Program, DENR
605 773-3352
Eric.gronlund@state.sd.us

Enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

denr.sd.gov

November 9, 2012

REV NORMAN & JOYCE LAESCH
3114 W VIA DE PEDRO MIGUEL DR
PHOENIX AZ 85086

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and NATURAL RESOURCES**

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

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November 9, 2012

ROGER C & JEANETTE R LAESCH
4503 N 106TH ST
WAUWATOSA WI 53225

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Enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

denr.sd.gov

November 9, 2012

Craig Bobzien USDA
National Forest Service
1019 N 5th Street
Custer SD 57730

Dear Mr. Bobzien:

Enclosed is the public notice of hearing for Water Right Permit Application Nos. 2685-2 and 2686-2 filed by Powertech (USA). The water right permit applications are for primarily industrial use in a proposed uranium in-situ mining project called Dewey-Burdock Project located in the Custer and Fall River Counties of South Dakota. The notice of hearing is scheduled to be published in Fall River, Custer, Pennington and Lawrence Counties on November 13th or 14th. The notice of hearing schedules a December 5, 2012 hearing before the Water Management Board. The date to petition to intervene is November 26, 2012.

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The notice of hearing provides an opportunity to petition to be a party to any contested case hearing before the South Dakota Water Management Board.

Sincerely,

A handwritten signature in cursive script that reads 'Eric Gronlund'.

Eric Gronlund
Water Rights Program, DENR
605 773-3352
Eric.gronlund@state.sd.us

enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

denr.sd.gov

November 9, 2012

Susan Henderson
11507 Highway 471
Edgemont, SD 57735

Dr. Rebecca R. Leas, Ph.D.
Professor Emeritus
6509 Seminole Lane
Rapid City, SD 57702-7088

Dear Ms. Henderson and Dr. Leas,

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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

November 9, 2012

Jarrold Johnson, Commissioner
School and Public Lands
500 E Capitol Avenue
Pierre SD 57501

Dear Commissioner Johnson:

Enclosed is the public notice of hearing for Water Right Permit Application Nos. 2685-2 and 2686-2 filed by Powertech (USA). The water right permit applications are for primarily industrial use in a proposed uranium in-situ mining project called Dewey-Burdock Project located in the Custer and Fall River Counties of South Dakota. The notice of hearing is scheduled to be published in Fall River, Custer, Pennington and Lawrence Counties on November 13th or 14th. The notice of hearing schedules a December 5, 2012 hearing before the Water Management Board. The date to petition to intervene is November 26, 2012.

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Eric Gronlund
Water Rights Program, DENR
605 773-3352
Eric.gronlund@state.sd.us

enclosures

Instruction to Newspaper - Publish Notice on November 14, 2012. The applicant is responsible for payment.

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 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 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 once at the total approximate cost of _____.