Minutes of the
Board of Minerals and Environment Meeting
Matthew Environmental Education and Training Center
523 East Capitol Avenue
Pierre, South Dakota

November 19-20, 2008

NOVEMBER 19, 2009 – 10:00 A.M. CST

CALL TO ORDER AND ROLL CALL: The meeting was called to order by Chairman Richard Sweetman. Secretary Linda Hilde noted that a quorum was present.

BOARD MEMBERS PRESENT: Richard Sweetman, Lee McCahren, Linda Hilde, Glenn Blumhardt, Dennis Landguth, Peter Bullene, Chuck Monson, and Bob Duxbury.

BOARD MEMBERS ABSENT: Mike DeMersseman.

OTHERS PRESENT: See attached attendance sheet.

APPROVAL OF MINUTES FROM OCTOBER 16, 2008, MEETING: Motion by Monson, seconded by Blumhardt, to approve the minutes from the October 16, 2008, Board of Minerals and Environment meeting. Motion carried.

OIL AND GAS CASE NO. 22-2008, SPYGLASS CEDAR CREEK, LP: Chairman Sweetman had previously appointed Pete Bullene as hearing chairman.

Mr. Bullene opened the hearing at 10:05 a.m. CST.

Max Main, attorney from Belle Fourche, represented Spyglass Cedar Creek, LP.

Rich Williams, Assistant Attorney General, represented the Department of Environment and Natural Resources (DENR).

Case No. 22-2008 is the application of Spyglass Cedar Creek, LP for an Order amending Oil and Gas Order No. 5-81 to: (1) allow an operator the option of locating a well in either quarter section within each 320-acre spacing unit for wells drilled to the Shannon Zone of the Eagle Member of the Pierre Shale; (2) allow the drilling of up to two gas wells per 320-acre spacing unit; and (3) reduce the spacing unit boundary setback from 660 feet to 500 feet.

Chris Knight, Denver, CO, was administered the oath and testified on behalf of Spyglass Cedar Creek LP.

Exhibits offered and admitted into the record on behalf of Spyglass Cedar Creek LP:

Spyglass Exhibit 1 – Oil and Gas Case No. 22-2008 proposed amendment to Spacing Order 5-81 (copy of slide presentation, pages 1 through 9)
Spyglass Exhibit 2 – Board of Water and Natural Resources Oil and Gas Order No. 8-80

Gerald "Mack" McGillivray, DENR Oil and Gas Program, was administered the oath and testified on behalf of DENR.

Exhibits offered and admitted into the record on behalf of DENR:

DENR Exhibit A – Location map
DENR Exhibit B – 2008 monthly salable gas production graph

Notice of the hearing was published twice on or before October 15, 2008, in the Black Hills Pioneer, the Pierre Capital Journal, the Rapid City Journal, and the Nation's Center News. Affidavits of Publication are on file in the DENR Rapid City office.

The department received no petitions to intervene in this matter.

Following the testimony, Mr. Bullene requested board action.

Motion by Landguth, seconded by Hilde, to approve Oil and Gas Case No. 22-2008, Spyglass Cedar Creek LP. Motion carried.

Motion by Sweetman, seconded by Blumhardt, to adopt the Findings of Fact, Conclusions of Law, and Order in the matter of Oil and Gas Case No. 22-2008, Spyglass Cedar Creek LP, and to authorize Mr. Bullene to execute the Order. Motion carried.

Mr. Bullene declared the hearing closed.

PUBLIC HEARING TO CONSIDER THE APPLICATION OF POWERTECH (USA), INC. FOR A URANIUM EXPLORATION PERMIT: Lee McCahren, who was appointed hearing chairman for this matter, opened the hearing at 10:35 a.m. CST.

Max Main, attorney from Belle Fourche, represented Powertech (USA), Inc.

Rich Williams, Assistant Attorney General, represented DENR.

The following intervenors, who filed petitions opposing the application, appeared pro se: Charmaine White Face, Clifford White Eyes, Sr., Wambli Okizah, Pam Blue Horse, Vincent Brings Plenty, Garvard Good Plume, Jr., and Janice Larson.

The following submitted letters of intervention but were not present at the hearing: Thomas Cook, Jose Esparza, Virgil Good, Saka Cook, Brady Hankins, Buffalo Bruce, Elizabeth Kills In Sight, Alice Four Horns, Rebecca Horned Antelope, Noah White Lance, Harley Sazue, Sylvester Thin Elk, Priscilla Long Turkey, Patricia Lundell, Kermit Swift Cloud, Darlene Traversie, Eva Swift Cloud, Gary Heckenliable, Byron Peterson, Wayne Prindle, and R. Schultz.

The purpose of the hearing was to consider the permit application to conduct exploration for uranium from Powertech (USA), Inc., Greenwood Village, Colorado. The exploration area is located approximately 13 miles northwest of Edgemont in Sections 29, 30, and 32; T6S-R1E, Custer County and Sections 2, 10, and 11; T7S-R1E, Fall River County.

The operation will consist of drilling 30 condemnation and exploration holes for uranium in the Lakota and Fall River Formations. Each condemnation/exploration hole will be approximately 300 feet to 800 feet in depth. The holes will be logged radiometrically for uranium.

Approval of the permit only authorizes those exploratory activities identified in the permit application and does not authorize the commencement of uranium mining activities. If the company decides to proceed with uranium mining at a later date, a state mine permit application and additional public hearings will be required.

Notice of the hearing was published on November 5 and 12, 2008, in the Black Hills Pioneer, Brookings Register, Capital Journal, Custer County Chronicle, Edgemont Herald-Tribune, Hot Springs Star, and Rapid City Journal.

Notice of the hearing was also mailed to the Custer County Commission, Fall River County Commission, Board of Minerals and Environment mailing list, the department's interested persons mailing list, Richard Blubaugh, Powertech, Max Main, attorney, and the intervenors.

The department recommended conditional approval of the exploration permit.

Witnesses administered the oath and testifying on behalf of Powertech (USA), Inc.:

Mark Hollenbeck, Project Manager, Edgemont, SD
Frank Lichnovsky, Chief Geologist, Hot Springs, SD

Exhibits offered and admitted into the record for Powertech (USA), Inc.:

Powertech Exhibit 1 – Hard copy of Powertech's slide presentation (pages 1-30)

Witnesses administered the oath and testifying on behalf of DENR:

Roberta Fivecoate, Natural Resources Project Engineer, Pierre, SD
Michael Fosha, Assistant State Archaeologist, Rapid City, SD

Exhibits offered and admitted into the record for DENR:

State's Exhibit 1A – General maps of exploration area
State's Exhibit 1B – Notice of filing
State's Exhibit 1C – Notice of hearing
State's Exhibit 1D – Procedural completeness checklist
State's Exhibit 1E – Uranium exploration permit application form and reclamation plan
State's Exhibit 1F – Permit conditions
State's Exhibit 1G – Bond calculations and assumptions
State's Exhibit 1H – Inspection report
State's Exhibit 1I – SD Game, Fish and Parks recommendations
State's Exhibit 1J – SD State Archaeologist correspondence
State's Exhibit 1K – Intervention petitions and comment letters
State's Exhibit 1K1 – Defenders of the Black Hills letter dated October 24, 2008
State's Exhibit 1L – Intervention petitions and comment letters received after deadline
State's Exhibit 2 – Copy of slide presentation on Powertech's uranium exploration permit application (pages 1-8)
State's Exhibit 3 – Copy of slide presentation on Powertech's South Dakota operations and permit modifications (pages 1-2)

Pam Blue Horse read a letter dated November 17, 2008, submitted by Shirley Frederick.

Garvard Good Plume read a letter dated November 12, 2008, which he had submitted.

Charmaine White Face read a statement from Gary Heckenliable.

Ms. White Face submitted a letter on behalf of the Defenders of the Black Hills objecting to the application. She read a letter, which she had submitted. This letter is the same as the letter submitted by the Defenders of the Black Hills.

Wambli Okizah presented a statement in opposition of the application.

Pam Blue Horse presented a statement in opposition of the application.

Following testimony, Mr. McCahren requested board action. Board discussion took place.

Motion by Hilde, seconded by Monson, to conditionally approve the uranium exploration permit for Powertech (USA), Inc. Motion carried.

Mr. Main provided proposed Findings of Fact, Conclusions of Law and Order. He stated that the permit will not be issued until Powertech files the reclamation surety in the amount of $78,600. Mr. Main noted that Powertech intends to provide the reclamation surety in the form of a Certificate of Deposit.

Motion by Sweetman, seconded by Blumhardt, to adopt the Findings of Fact, Conclusions of Law and Order, and the authorize Mr. McCahren to execute the Order. Motion carried.

Mr. McCahren declared the hearing closed.

A court reporter was present for this hearing and a transcript of the proceedings may be obtained by contacting Precision Reporting, 105 S. Euclid Avenue, Suite E, Pierre, SD 57501; telephone number 605-945-0573.

The hearing was also digitally recorded and a copy of the recording may be obtained by contacting the Department of Environment and Natural Resources, 523 East Capitol Avenue, Pierre, SD 57501; telephone number 605-773-3886.

RECESS: Chairman Sweetman declared a recess until the following morning.

NOVEMBER 20, 2008, 9:00 A.M. CST

CALL TO ORDER AND ROLL CALL: Chairman Sweetman called the meeting back to order. All of the board members were present, with the exception of Mr. DeMersseman.

PREHEARING CONFERENCE IN THE MATTER OF THE PSD AIR QUALITY PERMIT APPLICATION OF HYPERION ENERGY CENTER-HYPERION REFINING, LLC: A court reporter was present for the hearing and a transcript of the proceedings was prepared.

Lee McCahren was the hearing chairman for this matter.

Charles McGuigan, Deputy Attorney General, appeared as counsel for the Board of Minerals and Environment.

Todd Meierhenry, Meierhenry Argent, LLP, Sioux Falls, and Fredrick Addison, Munsch, Hardt, Kopf & Harr, Dallas, TX , represented Hyperion Energy Center-Hyperion Refining, LLC.

Roxanne Giedd, Deputy Attorney General, and Scott Swier, Assistant Attorney General, Pierre, SD, represented the Department of Environment and Natural Resources.

Robert Graham, Jenner & Block, Chicago, IL, and John Davidson, Jr., Attorney from Vermillion, SD, represented the Sierra Club, Save Union County, and Citizens Opposed to Oil Pollution.

A copy of the transcript may be obtained by contacting Capital Reporting Services, PO Box 903, Pierre, SD 57501; telephone number 605-224-7611.

The hearing was also digitally recorded and a copy of the recording may be obtained by contacting the Department of Environment and Natural Resources, 523 East Capitol Avenue, Pierre, SD 57501; telephone number 605-773-3886.

CLOSING ARGUMENTS BY PARTIES, BOARD DECISION, AND ADOPTION OF FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER IN THE MATTER OF OTTER TAIL POWER COMPANY APPLICATION FOR AN AIR QUALITY PSD PERMIT AND APPLICATION FOR A TITLE V AIR QUALITY PERMIT AND ACID RAIN PERMIT FOR THE BIG STONE II FACILITY: A court reporter was present for the hearing and a transcript of the proceedings was prepared.

Lee McCahren was the hearing chairman for this matter.

Charles McGuigan, Deputy Attorney General, appeared as counsel for the Board of Minerals and Environment.

Harry (Pete) Johnson, Hunton & Williams, Richmond, VA; and Thomas Welk, Boyce, Greenfield, Pashby & Welk, Sioux Falls, SD, represented Otter Tail Power Company.

Roxanne Giedd, Deputy Attorney General, and Scott Swier, Assistant Attorney General, Pierre, SD, represented the Department of Environment and Natural Resources.

William Moore, attorney from Jacksonville, FL, and Aaron Emerson, Myers and Billion, Sioux Falls, SD, represented the Sierra Club and Clean Water Action.

A copy of the transcript may be obtained by contacting Capital Reporting Services, PO Box 903, Pierre, SD 57501; telephone number 605-224-7611.

The hearing was also digitally recorded and a copy of the recording may be obtained by contacting the Department of Environment and Natural Resources, 523 East Capitol Avenue, Pierre, SD 57501; telephone number 605-773-3886.

OTHER BUSINESS

Next Board Meeting: The next Board of Minerals and Environment meeting is January 15, 2009, in Pierre.

ADJOURNMENT: Chairman Sweetman declared the meeting adjourned.

1/15/08
Secretary Date

1/15/09
Witness Date

ATTENDANCE SHEET

BOARD OF MINERALS AND ENVIRONMENT MEETING

Location Matthew Training Center
Pierre, SD

Date Nov. 19, 2008

NAME *(PLEASE PRINT)*	ADDRESS	REPRESENTING
Mike Cepak	Pierre, SD	SD DENR
Eric Holm	Pierre, SD	SD DENR
Max Main	Belle Fourche	Spyglass and Powertech
Chris Knight	Denver, Co.	SPYGLASS SOUTH Cedar Creek.
Michael Fosha	Rapid City, SD	SDSHS, ARC
Charmaine White Face	Rapid City	Self & Defenders of the Black Hills
Clifford White Eyes Sr	Rosebud Rap. Co.	Defenders of B.H.
Wambli Ohizizol	Pine Ridge S.D.	BH
[illegible]	Pierre, SD	SD DENR
Richard Blubaugh	Denver, CO	Powertech
LARRY MANN	RC	Powertech
Mary [illegible]	Pierre	SPL.

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BOARD OF MINERALS AND ENVIRONMENT MEETING

Location Matthew Training Center Pierre

Date Nov. 19, 2008

NAME *(PLEASE PRINT)*	ADDRESS	REPRESENTING
Pam BlueHORSE	815 E New York	Defender BH
Vincent Brizy Plenty	Pine Ridge SD	Defenders
Gerard Goodplum	P.O. Box 815 Pine Ridge SD	Defender
Clifford White Eyes Jr.	Rosebud Res. S.D.	Defenders B.H.
Wanbli Chizizah	Pine Ridge S.D.	Defender of B.H.
Michele Brick	Pierre, SD	Powertech
Chet Brokaw	Pierre, S.D.	the Associated Press
GL (Mark) McGillivray	Rapid City	DENR
Edd Charging Elk	P.O. Box 606 Rosebud SD	Sicangu Lakota Treaty Coal
Patty McQuay		DENR/M&M
Janice (Badhorse) Larson	PO Box 98 Lower Brule SD 57548	Defenders of Blk Hills
Frank Lichnovsky	P.O. Box 723 Hot Springs	Powertech USA Inc
Lindsay Kruger	KEVN Rapid City	
Mark Hollenbech	Box 812 Edgemont SD	Powertech (USA)

ATTENDANCE SHEET

BOARD OF MINERALS AND ENVIRONMENT MEETING

Location Training Center Pierre

Date Nov. 20, 2008

NAME *(PLEASE PRINT)*	ADDRESS	REPRESENTING
ED CABLE	31992 Highway 11 Elk Point	Save Union County
Todd Meierhenry	315 S. Phillips Ave	Sioux Falls SD
Preston Phillips	109 W. Main St Elk Point	Hyperion
Rick Addison	DALLAS, TX 75201 500 N. Akard Ste 3800	HYPERION
Ross Buttermore	109 W. Main St. Elk Point	Hyperion
John Davidson	31275 Aagaard Vermillion	Sierra Club et al
Allison Torrence	330 N Wabash, Chicago IL	Sierra Club et al
Robert Graham	330 N Wabash, Chicago IL	Sierra Club et. al.
Scott Swier	AG	AG
Pete Johnson	HW Richmond VA	Attorney
Tom Welle	Sioux Falls	Big Stone II
MARK ROLFES	BIG STONE CITY	BIG STONE II
Bill Swanson	Corona	Big Stone II
James Heisinger	Vermillion	Sierra Club
Tonny Grannman	Fergus Falls MN	Big Stone II
Stacie Hebert	Fergus Falls, MN	Otter Tail Power
Lori Dawkins	Fergus Falls, MN	Big Stone II
Ward Uggerud	Fergus Falls, MN	Otter Tail Power Co.
Kim Olson	Pierre, SD	Governor's Office of Economic Development
Nate Jones	Madison, SD	Big Stone II

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BOARD OF MINERALS AND ENVIRONMENT MEETING

Location Training Center
Pierre

Date Nov. 20, 2008

NAME *(PLEASE PRINT)*	ADDRESS	REPRESENTING
Adam Graff	Madison, SD	Big Stone II
Rob Schulte	Eden Prairie, MN	Big Stone II
Ray Wahle	Sioux Falls, SD	Big Stone II
Brent Moeller	Sioux Falls, SD	Big Stone II
Steve Schultz	Fergus Falls, MN	Big Stone II
Mark Bring	Fergus Falls MN	Otter Tail Corp.
DUANE STEEN	400 N 4TH ST. BIS ND.	MONTANA-DAKOTA UTILITIES