



The Office of the State's Attorney  
Fall River and Shannon Counties

James G. Sword

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906 North River Street, Suite 301    Hot Springs, SD 57747    Phone: (605) 745-3866    Facsimile: (605) 745-3855

May 17, 2013

Rex Haag  
Attorney at Law  
PO Box 8008  
Rapid City, SD 57709

Re: Powertech-Application for Large Scale Mining Permit

Dear Mr. Haag:

By way of introduction I am the Deputy State's Attorney for Fall River County, South Dakota. In that capacity, I represent Fall River County and its commissioners. The Fall River County Commissioners executed an election of participation and that has been mailed to Mike Cepak.

I am enclosing a copy of that election of participation for your information.

As I understand it, you will be the hearing officer in this matter.

The Fall River County Commissioners have elected to participate as offering sworn testimony at the beginning of the contested case.

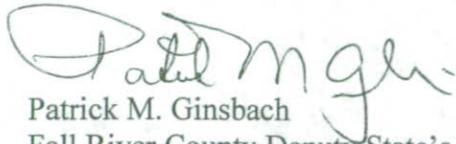
The Fall River County Commissioners asked for a ruling from you to this effect:

There are five Commissioners. Each Commissioner may wish to testify on this and give sworn testimony under subparagraph B of their election. Will they be allowed to do so, or is the County limited to presenting only one witness at the beginning of the contested case hearing?

If you wish me to present this to you in a formal motion or petition, I can do so. I am providing

a copy of this letter to Max Main, lawyer for Powertech, Charles McGuigan, Chief Deputy Attorney General and Mike Cepak with the Minerals and Mining Program.

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "Patrick M. Ginsbach".

Patrick M. Ginsbach  
Fall River County Deputy State's Attorney

Cc: Max Main  
Charles McGuigan  
Mike Cepak  
Steven R. Blair

STATE OF SOUTH DAKOTA  
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

BOARD OF MINERALS AND ENVIRONMENT

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IN THE MATTER OF POWERTECH )  
(USA), INC. APPLICATION FOR ) ELECTION OF PARTICIPATION  
LARGE SCALE MINING PERMIT )  
(Dewey-Burdock Project) )

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TO: All Persons who filed Petitions to Intervene in the above captioned matter:

You filed or signed a petition or sent comments to the Department of Environment and Natural Resources regarding the Powertech large scale mine permit application currently pending before the Board of Minerals and Environment. To clarify your intent, you must elect: A) to 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 only during the public comment period of the contested case proceeding subject to cross examination by the parties and questioning by the Board; or C) rely on the information you may have already filed with the Department. Election of options B or C will waive some of the rights, and relieve you of some of the obligations, you have if you participate as a full party under Option A.

**YOU MUST RETURN THIS FORM TO MIKE CEPAK, DENR**

**MINERALS AND MINING PROGRAM, ON OR BEFORE JUNE 14, 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  
BOARD'S PROCEDURAL ORDER.

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\_\_\_\_\_ (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.

X (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 the rights nor obligations of a full party.

\_\_\_\_\_ (C) I wish to rely on the petition or any other comments I have already submitted to the Department. I do not wish to testify or participate as a full party in these proceedings.

DATE: 5-16-2013

SIGNATURE: Michael P. Ortner, Chairman

PRINTED NAME: Michael P. Ortner

ADDRESS: 906 N. River St.

Hot Springs, SD 57747

TELEPHONE: 605-745-5130

EMAIL: \_\_\_\_\_

Mail to: Mike Cepak, DENR Minerals and Mining Program, Foss Building,  
523 E. Capitol Ave., Pierre, SD 57501

RECEIVED  
MAY 20 2013

SOUTH DAKOTA BOARD OF MINERALS AND ENVIRONMENT MINERALS & MINING PROGRAM  
STATE OF SOUTH DAKOTA  
IN RE APPLICATION OF POWERTECH FOR A LARGE SCALE MINING PERMIT

AMENDED PETITION OF FALL RIVER COUNTY TO INTERVENE

COMES NOW Fall River County, by and through it's Chairman of the County Commission, Michael P. Ortner, of 906 North River Street, room 301, Hot Springs, South Dakota and makes the following Petition to intervene in the application of Powertech, Inc. for a Large Scale Mining Permit.

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 permit for a large scale mine will protect contain conditions to protect the environment in Fall River County where any mining operation is permitted by the Board.

Dated this 16 day of May, 2013.

  
\_\_\_\_\_  
Fall River County Commission  
By: \_\_\_\_\_  
Michael P. Ortner  
Chairman of the Fall River County Commission  
906 North River Street, Room 301  
Hot Springs, SD 57747

## CERTIFICATE OF SERVICE

The undersigned hereby certifies that he mailed a true and correct copy of the Amended *Petition of Fall River County to Intervene in Application of Powertech, Inc. for Large Scale Mining Permit* 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

Mike Cepak  
Minerals and Mining Program  
South Dakota Department of Environment and Natural Resources  
523 East Capital Ave  
Joe Foss Building  
Pierre, SD 57501-3181

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

On the 16 day of May, 2013.

  
Patrick M. Ginsbach  
Fall River County Deputy State's Attorney  
906 North River Street  
Hot Springs, SD 57747  
Phone: 605-745-3866