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MINERALS & MINING PROGRAM

State of South Dakota
Department of Environment and Natural Resources
Board of Minerals and Environment

In the Matter of the Application of
Powertech, Inc. Large Scale Mining
Permit

Motion to Dismiss

I ask Hearing Chair Rex Haag and the Minerals Board to dismiss the motion from Powertech Inc. to allow Narrative Testimony. I personally have a few questions that I need answers too. The time frame allowed has put an undo strain all groups involved. If I am possibly to be questioned than so should everyone. We have the right to the answers this is our water, air and time also. I believe that the board will be able to control the hearing by not allowing harassment or embarrassment. We have all devoted great effort towards this hearing.

Jerri Baker dated this 8th day of September, 2013.

Jerri Baker

705 North River Street

Hot Springs, SD 57747

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As per the motion of limine proposed by Powertech Inc. on the 6th day of September, I request the Hearing Chair Rex Hagg and the board move to dismiss the motion. I ask that the state must find that the evidence of exhibits will be relevant to the issues in the case, that it is reliable, and that it will be helpful to the trier of fact.

My exhibits are real, demonstrative, and testimonial. Please admit all evidences according to FED RULES EVID. 401 Evidence is relevant when it has tendency in reason to make the fact that it is offered to prove or disprove either more or less probable. FED RULES EVID.901 Its competence by showing that it is really what it is supposed to be. SDCL 19-16-27 RULE 803 (23) Judgments establishing history or boundaries.

I ask all news articles be permissible under RULE 803 (16) as they were obtained from the library in Edgemont and are copied by the library and more than 30 years old. SDCL 19-16-20 Evidence of an out of court statement that is used to prove something other than the truth of its content is not hearsay.

This motion is a needless consumption of time to the public involved that are not experts but rely on information to support our objections. SDCL 19-16-21 RULE 803(17) Market reports and directories admissible. Market quotations, tabulations, lists, directories or other published compilations, generally used and relied upon by the public..... SCDL 19-16-3 (RULE 801(d)(2) Statement offered against declarant not hearsay. A statement is not hearsay if it is offered against a party and is: (1) His own statement.

Jerri Baker dated this 8th day of September, 2013.

Jerri Baker

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Hot Spring, South Dakota 57747

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**In the Matter of the Application of
Powertech, Inc. Large Scale Mining
Permit**

Motion to Dismiss

I move that the Hearing Chair and the Board of Minerals enter a Motion to Dismiss the Large Scale Mining Application placed with the State of South Dakota on the grounds as follows:

SDCL 45-6D-29 (1) the application is incomplete- Failure to comply with the requirements of the National Environmental Policy Act (NEPA) 42 U.S.C 4321. In order to comply with the requirements you need a complete SEIS of the site. DENR recommendation states "This recommendation does not cover those elements of the mine that were previously subject to regulation under ARDS Chapter 74:29:11 (in situ leach mining) including well fields, well filled monitoring, well construction, excursion detection and mitigation, uranium processing facilities, and groundwater restoration. These elements will be regulated by the U.S. EPA and the Federal Nuclear Regulatory Commission.

SDCL 45-6D-29 (3) adverse effects of the proposed uranium exploration on historic uranium past mines will further impact recreational aspects and reduce long-range productivity of watersheds. If there are to be impacts it should be to remediate the area. Executive Order 12898 entitled "Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations." The order calls each Federal Agency to make environmental justice a part of its mission by "identifying and addressing as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies and activities on minority population and low income populations."

SDCL 45-6D-29 according to the DENR web site "after the application is considered complete, DENR will publish a notice of filing which will allow the public to submit comments in support of or intervene in the hearing on the application before the Board of Minerals and Environment." Both Powertech and DENR have extended, revised or added to after it was submitted. (DENR February 27, 2013 please refer to minutes of prehearing May 23, 2013). One document being over 4000 pages long.

SDCL 45-6B-33 Unsuitable land—No Permit issued. No permit may be issued for a mining operation proposed on unsuitable land. Land is unsuitable if the following conditions cannot be mitigated: (2) Substantial disposition of sediment in stream or lake beds, landslides, or water pollution cannot feasibly be prevented. (4) The proposed mining operation will result in the loss or reduction of long-range productivity of aquifer, public and domestic water wells, watershed lands, aquifer recharge areas, or significant agriculture areas; (5) the biological productivity of the land is such that the loss would jeopardize threatened or endangered species of wildlife indigenous to the area.

According to the DENR recommendation, Powertech is to take the "necessary safeguards to protect the environment during and following the term of its operation and ensures that the land is appropriately reclaimed". This is an unreclaimed area via the state and federal agencies.

Jerri Baker dated this 8th day of September, 2013.

Jerri Baker

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Hot Springs, SD 57747

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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 Inc.

Certificate of Service

I, Jerri Baker hereby certify the true and correct copies of:

Motions to Dismiss: Powertech's Motion in Limine, Powertech's Motion to Allow Narrative Testimony
Motion to Dismiss: The Large Scale Mining Permit before the State of South Dakota

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Dated this 9th day of September, 2013.

Terri Baker

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