

**STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
BOARD OF MINERALS AND ENVIRONMENT**

RECEIVED
SEP 13 2013
MINERALS & MINING PROGRAM

**IN THE MATTER OF THE APPLICATION OF
POWERTECH (USA) INC. FOR A LARGE
SCALE MINING PERMIT (Dewey-Burdock
Project) (designated Permit No. 480).**

**POWERTECH'S
RESPONSE TO WILD HORSE
SANCTUARY'S MOTION TO
DISCLOSE and REQUEST
FOR PROTECTIVE ORDER**

This is Powertech's response to the Motion to Disclose filed by Wild Horse Sanctuary.

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 consents¹. 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.

¹ 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.

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 comity² 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; Powertech's shareholders. The Motion to Disclose should be denied.

² "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"³ 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.

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 before disclosing personal shareholder information to his clients or the public in these proceedings.

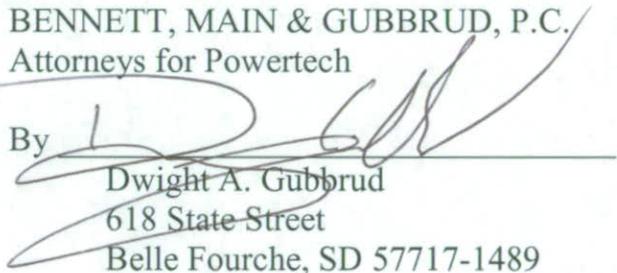
³ "Relevant evidence" is defined by SDCL 19-12-1 as evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.

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 11th day of September, 2013.

BENNETT, MAIN & GUBBRUD, P.C.
Attorneys for Powertech

By 

Dwight A. Gubbrud
618 State Street
Belle Fourche, SD 57717-1489
(605) 892.2011

RECEIVED

SEP 13 2013

MINERALS & MINING PROGRAM

STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
BOARD OF MINERALS AND ENVIRONMENT

<p>IN THE MATTER OF THE APPLICATION OF POWERTECH (USA) INC. FOR A LARGE SCALE MINING PERMIT (Dewey-Burdock Project) (designated Permit No. 480).</p>	<p>POWERTECH'S RESPONSE TO MOTION TO CONTINUE</p>
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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.

All Required Notices Timely Given.

Powertech's large-scale mine permit application was submitted to the Department of Environment and Natural Resources ("DENR") on October 1, 2012. Under ARSD 74:29:01:08, a mine permit application is not considered "filed" until it is procedurally complete. DENR considered Powertech's application to be procedurally complete and filed as of January 16, 2013. A copy of DENR's January 16, 2013 letter notifying Powertech of this determination is attached as Exhibit A.

Pursuant to SDCL 45-6B-30, the hearing on Powertech's application was to be held no more than 90 days after the date of filing, or by April 16, 2013. As allowed by SDCL 45-6B-30, DENR and Powertech agreed to extend the 90 day limit by 45 days. See Exhibits B and C attached hereto. The 45-day extension expired May 31, 2013. If an extension exceeds

45 days, then the applicant must republish the notice of filing of application. SDCL 45-6B-30.

On May 23, 2013, a prehearing conference was held in this matter to address prehearing and scheduling issues, and to consider petitions to intervene. By a Procedural and Scheduling Order dated May 28, 2013, the Hearing Chair granted all petitions to intervene that were on file with DENR prior to the prehearing conference. *See* paragraph 1 of the Procedural and Scheduling Order. Paragraph 6 of the Procedural and Scheduling Order states that “[f]or purposes of compliance with SDCL 45-6B-30, the contested case proceedings in this matter are hereby deemed to have commenced with the granting of any written petition to intervene.” The proceedings herein therefore commenced no later than May 28, 2013, which was within the 45-day extension period. As a consequence, Powertech was not required to republish the notice of filing of application.

WHS asserts that DENR has not or will not meet the notice of hearing publication requirements in SDCL 45-6B-30. The publication requirements are that notice of the time, date, and location of the hearing on Powertech's application be published in a newspaper of general circulation in the locality of the proposed mining operation once a week for two consecutive weeks immediately prior to the hearing. Attached as Exhibit D is a copy of the Notice of Hearing issued by DENR for the hearings in this matter that begin September 23, 2013. Attached as Exhibit E are DENR's cover letters to six newspapers requesting that the Notice of Hearing be published during the two weeks immediately prior to the hearing.

DENR therefore is clearly meeting the statutory publication requirements in SDCL 45-6B-30.

The Notice of Hearing attached as Exhibit D is also the "formal Notice of Hearing" referenced in the June 7, 2013 Notice of Date, Time and Location of Hearing entered in this matter.

2.

No State Environmental Impact Statement Required.

WHS asserts that a state environmental impact statement regarding Powertech's large-scale mine permit application is "required" under SDCL ch. 34A-9. A state environmental impact statement is not required. The South Dakota Supreme Court expressly answered this issue very recently when it wrote, "[u]nder SDCL 34A-9-4, 'an EIS is optional, not mandatory.'" *In the Matter of the Prevention of Significant Deterioration (PSD) Air Quality Permit Application of Hyperion Energy Center*, 2013 S.D. 10, ¶ 20, 826 N.W.2d 649, 655 (citations omitted).

It is pointed out that a comprehensive Draft Supplemental Environmental Impact Statement has been completed by the Nuclear Regulatory Commission for the Powertech Dewey-Burdock Project. The Draft Supplemental Environmental Impact Statement supplements the Generic Environmental Impact Statement for *In Situ* Leach Uranium Milling Facilities completed earlier by the Nuclear Regulatory Commission.

3.

Socioeconomic Assessment Timely Updated.

WHS states in its motion that Powertech has not updated its socioeconomic assessment. This statement is incorrect. As allowed by ARSD 74:29:01:11, Powertech updated the socioeconomic assessment in the large-scale mine permit application more than 20 days before the September 23, 2013 hearing date. A copy of Powertech's August 29, 2013 filing cover letter for the update from DENR's website is attached hereto as Exhibit F.

4.

**Nuclear Regulatory Commission ("NRC")
and the Environmental Protection Agency ("EPA") Proceedings.**

WHS argues that Powertech should first obtain an NRC license and EPA permits before the hearing on its South Dakota large-scale mine permit application is held. There is no legal requirement that an NRC license and EPA permits must first be in place before the Board of Minerals and Environment can hold its hearing on a large-scale in situ uranium mining permit application. As set forth in the recommended conditions to Powertech's large-scale mining permit, Powertech is required to obtain a NRC license and an EPA Class III permit "[p]rior to commencing operations in the permit area". See Exhibit G attached hereto.

5.

Legislative Changes.

Regarding 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 large-scale mine permit application. Prospective application of the law means the tolled administrative rules do not apply to Powertech's large-scale mine permit application.

Conclusion

For the reasons set forth above, WHS's motion to continue should be denied.

DATED this 11th day of September, 2013.

BENNETT, MAIN & GUBBRUD, P.C.
Attorneys for Powertech

By 
Max Main
618 State Street
Belle Fourche, SD 57717-1489
(605) 892.2011



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

January 16, 2013

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

Dear Mr. Blubaugh:

In accordance with ARSD 74:29:01:07(2), the department has reviewed the supplemental information submitted on January 10, 2013 to complete Powertech's Large Scale Permit application. Based on this review, the department considers the application to be procedurally complete and filed as of January 16, 2013.

Please find enclosed a copy of the Notice of Filing that you should have published in the **Custer County Chronicle and the Edgemont Herald-Tribune** for **two consecutive weeks on January 23 and 30, 2013**. To ensure that the Notice is published on the above dates, please make sure that the newspapers receive the Notice of Filing by Friday, January 18, 2013. If this notice cannot be published on these dates, please let me know as soon as possible so that the necessary correction to the Notice can be made. After the Notice of Filing has been published on the two dates, please forward the "Affidavits of Publication" to our office. The newspapers should supply you with an "Affidavit" at the time you are billed for the publication.

It will be necessary for you to mail (by certified mail) a copy of the first week's advertisement to all owners and lessees of the surface of the land to be affected by your mining operation and mail a copy of the certified mail receipts to our office. If the same individual owns both the surface **and** minerals, this mailing is not required

In accordance with ARSD 74:29:01:10, the department is currently working on a draft copy of the summary document for the permit application. We are required to consult with Powertech during development of the summary document. We will send you a draft copy of the summary document for your review in the next few weeks.

If you have any questions, please feel free to contact our office.

Blumberg No. 9119

EXHIBIT

A

Sincerely,

\s/

Eric Holm
Natural Resources Engineer III
Minerals and Mining Program
Telephone: (605) 773-4201
FAX: (605) 773-5286
E-mail: eric.holm@state.sd.us

Enclosure



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

January 16, 2013

Richard Blubaugh
Vice President of Health, Safety and Environmental Resources
Powertech (USA), Inc.
5575 DTC Parkway, Suite #140
Greenwood Village, CO 80111

Re: Request for Time Extension – Powertech Dewey – Burdock Project Large Scale Mine Permit Application

Dear Mr. Blubaugh:

Due to the complex technical issues regarding the Powertech Dewey – Burdock Project Large Scale Mine Permit application and a tight review schedule, the department has determined that additional time is required to do a thorough review of the technical contents of the application. The department requests that Powertech concur with, and stipulate to, a time extension not to exceed 45 days (reference SDCL 45-6B-30). Normally, the Board of Minerals and Environment has 90 days to set the hearing date (reference SDCL 45-6B-30).

The technical review will involve complex considerations of site geochemistry and water quality issues which are vital to understanding the environmental impacts of the project. In addition, as this is expected to be a contested case hearing, the department and Powertech will need time to prepare their presentations.

With a time extension, a hearing before the Board of Minerals and Environment would need to be scheduled within 135 days of the date of filing (January 16, 2013). This would place the hearing in mid-May.

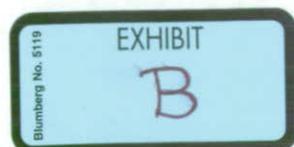
The department appreciates your cooperation in this matter. Should you have any questions concerning this time extension, please contact the Minerals and Mining Program at (605) 773-4201.

Sincerely,

/s/

Michael D Cepak
Engineering Manager I
Minerals and Mining Program
South Dakota Department of Environment and natural Resources

cc: Roxanne Giedd, Attorney General's Office





POWERTECH (USA) INC.

John Mays
Vice President – Engineering

January 31, 2013

Department of Environment and Natural Resources
PMB 2020
Joe Foss Building
523 East Capital
Pierre, South Dakota 57501-3182

ATTN: Mike Cepak, Engineering Manager 1, Mining and Minerals Program

Re: Request for Time Extension – Powertech Dewey-Burdock Project Large Scale Mine Permit Application

Dear Mr. Cepak:

I am filling in for Mr. Blubaugh as he is temporarily out on leave due to a death in the family.

The letter is in response to your letter dated January 16, 2013.

Powertech concurs with your request for a time extension not to exceed 45 days as referenced by SDCL 45-6B-20.

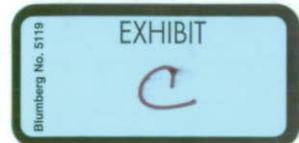
Sincerely,

John Mays
Vice President – Engineering

cc: R.F. Clement
M. Hollenbeck
R. Blublaugh
Max Main



POWERTECH (USA) INC.



RECEIVED

SEP 13 2011

NOTICE OF HEARING
APPLICATION FOR LARGE SCALE MINE PERMIT
POWERTECH (USA) INC.'S DEWEY-BURDOCK PROJECT

Notice is hereby given that the South Dakota Department of Environment and Natural Resources has received a large scale mining permit application from Powertech (USA) Inc., PO Box 812, Edgemont, South Dakota 57735, for its proposed Dewey-Burdock Project, a uranium in situ recovery mining operation. Powertech (USA) Inc.'s resident agent is CT Corporation System, 319 South Coteau Street, Pierre, South Dakota 57501. The primary minerals to be mined are uranium and vanadium.

The legal location of the proposed operation is:

E1/2 NE1/4, E1/2 SE1/4, SW1/4 SE1/4, S1/2 NW1/4 SE1/4, SE1/4 SW1/4, and S1/2 NE1/4 SW1/4 Section 20; W1/2, W1/2 W1/2 NE1/4, and W1/2 NW1/4 SE1/4 Section 21; S1/2 Section 27; N1/2 NW1/4, SW1/4 NW1/4, and SW1/4 Section 28; Section 29; Section 30; E1/2 Section 31; Section 32; NW1/4, SW1/4, SE1/4, and S1/2 NE1/4 Section 33; Section 34; and Section 35; T6S-R1E, Custer County

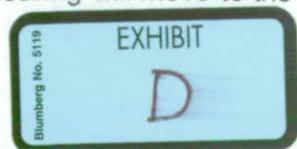
Section 1; Section 2; Section 3; W1/2 W1/2 Section 4; Section 5; Section 10; Section 11; Section 12; NW1/4, W1/2 NE1/4, and NE1/4 NE1/4 Section 14; and N1/2 Section 15; T7S-R1E, Fall River County

General Location: Approximately 13 miles northwest of Edgemont, South Dakota

The proposed mining operation will involve in situ recovery methods. Powertech will use injection wells to pump groundwater fortified with oxygen and carbon dioxide water into ore deposits to dissolve uranium. Production wells will be used to pump the uranium-laden fluids to the surface for recovery. The fluids from the production wells will be processed at two separate facilities at the mine site to extract and concentrate the uranium. Powertech may also recover vanadium in the future which will require additional processing equipment. After uranium has been removed from a well field, the groundwater will be restored to meet water quality standards. Wastewater generated by the operation will be treated and disposed primarily by injection in Class V injection wells permitted through the EPA Underground Injection Control Program. If there is not sufficient capacity in the Class V wells, the excess wastewater may be disposed by land application permitted by a DENR Groundwater Discharge Plan. The proposed post-mining land uses are rangeland and agricultural or horticultural crops.

The total acreage within the proposed permit boundary is about 10,580 acres, mostly on private land. About 240 acres of BLM land are included in the permit boundary. Powertech proposes to affect 2,528 to 3,792 acres depending upon whether primary deep injection or secondary land application is used for wastewater disposal. Estimated production is one million pounds of uranium oxide (U_3O_8) per year. Estimated duration of the operation is 20 years.

In accordance with SDCL 45-6B and SDCL 1-26, a hearing on the issuance of the permit will take place before the South Dakota Board of Minerals and Environment on September 23, 24, 25, 26, and 27, 2013, beginning at 10:00 a.m. MDT on September 23 at the Best Western Ramkota Hotel and Convention Center, 2111 N. LaCrosse Street, Rapid City, South Dakota. On September 27, 2013, the hearing will move to the Rushmore Plaza Civic Center, 444 N. Mt. Rushmore Road, Rapid City, South Dakota. If necessary to complete the hearing, the Board will reconvene on November 11, 12, 13, 14 and 15, 2013, beginning at 10:00 a.m. MST on November 11 at the Best Western Ramkota Hotel and Convention Center, 2111 N. LaCrosse Street, Rapid City, South Dakota. On November 15, 2013, the hearing will move to the Hilton Garden Inn, 815 E. Mall Drive, Rapid City, South Dakota.



The Board's action will be either to approve or disapprove the permit application. This hearing is an adversary proceeding. In accordance with ARSD 74:29:01:09, individuals that have become party to the proceeding have the following rights at the hearing: to be present, to be represented by a lawyer. Individuals may represent themselves at the hearing; organizations must be represented by a lawyer. These and other due process rights will be forfeited if not exercised at the hearing. The decision, based on the hearing, may be appealed to the circuit court and the State Supreme Court as provided by law.

If the amount of controversy exceeds two thousand five hundred dollars 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.

Notice is further given to individuals with disabilities that this hearing is being held in physically accessible locations. Please notify the Department of Environment and Natural Resources at least 48 hours before the public hearing if you have a disability for which special arrangements must be made at the hearing. The telephone number for making special arrangements is (605) 773-4201.

Persons desiring further information may contact Mike Cepak, Minerals and Mining Program, at (605) 773-4201.

Steven M. Pirner
Secretary
Department of Environment and Natural Resources



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

August 28, 2013

Black Hills Pioneer
ATTENTION: LEGAL AD DEPARTMENT
PO Box 7
Spearfish, SD 57783-0007

Dear Sir:

Please publish the enclosed notice in your paper as "legal notice" for two issues on **September 11 and 18, 2013**. If for any reason you are unable to publish this notice on the dates specified, please immediately notify the Minerals and Mining Program at 773-4201.

After publication, submit a statement of billing for publishing the notice along with an Affidavit of Publication. Your billing should be sent to the following:

Minerals and Mining Program
523 East Capitol Avenue
Pierre, SD 57501-3182

Sincerely,

/s/
Patty McQuay
Minerals and Mining Program
(605) 773-4201

Enclosure: Notice of Hearing Application for Large Scale Mine Permit Powertech (USA) Inc.





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

August 28, 2013

Custer County Chronicle
ATTENTION: LEGAL AD DEPARTMENT
PO Box 551
Custer, SD 57730-0551

Dear Sir:

Please publish the enclosed notice in your paper as "legal notice" for **two** issues on **September 11 and 18, 2013**. If for any reason you are unable to publish this notice on the dates specified, please immediately notify the Minerals and Mining Program at 773-4201.

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523 East Capitol Avenue
Pierre, SD 57501-3182

Sincerely,

/s/
Patty McQuay
Minerals and Mining Program
(605) 773-4201

Enclosure: Notice of Hearing Application for Large Scale Mine Permit Powertech (USA) Inc.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

August 28, 2013

Lakota Country Times
ATTENTION: LEGAL AD DEPARTMENT
PO Box 386
Martin, SD 57551-0386

Dear Sir:

Please publish the enclosed notice in your paper as "legal notice" for **two** issues on **September 11 and 18, 2013**. If for any reason you are unable to publish this notice on the dates specified, please immediately notify the Minerals and Mining Program at 773-4201.

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523 East Capitol Avenue
Pierre, SD 57501-3182

Sincerely,

/s/
Patty McQuay
Minerals and Mining Program
(605) 773-4201

Enclosure: Notice of Hearing Application for Large Scale Mine Permit Powertech (USA) Inc.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

August 28, 2013

Hot Springs Star
ATTENTION: LEGAL AD DEPARTMENT
PO Box 1000
Hot Springs, SD 57747-1000

Dear Sir:

Please publish the enclosed notice in your paper as "legal notice" for **two** issues on **September 10 and 17, 2013**. If for any reason you are unable to publish this notice on the dates specified, please immediately notify the Minerals and Mining Program at 773-4201.

After publication, submit a statement of billing for publishing the notice along with an Affidavit of Publication. Your billing should be sent to the following:

Minerals and Mining Program
523 East Capitol Avenue
Pierre, SD 57501-3182

Sincerely,

/s/
Patty McQuay
Minerals and Mining Program
(605) 773-4201

Enclosure: Notice of Hearing Application for Large Scale Mine Permit Powertech (USA) Inc.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

August 28, 2013

Rapid City Journal
ATTENTION: LEGAL AD DEPARTMENT
PO Box 450
Rapid City, SD 57709-0450

Dear Sir:

Please publish the enclosed notice in your paper as "legal notice" for **two** issues on **September 11 and 18, 2013**. If for any reason you are unable to publish this notice on the dates specified, please immediately notify the Minerals and Mining Program at 773-4201.

After publication, submit a statement of billing for publishing the notice along with an Affidavit of Publication. Your billing should be sent to the following:

Minerals and Mining Program
523 East Capitol Avenue
Pierre, SD 57501-3182

Sincerely,

/s/
Patty McQuay
Minerals and Mining Program
(605) 773-4201

Enclosure: Notice of Hearing Application for Large Scale Mine Permit Powertech (USA) Inc.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

August 28, 2013

Edgemont Herald-Tribune
ATTENTION: LEGAL AD DEPARTMENT
PO Box 660
Edgemont, SD 57735-0660

Dear Sir:

Please publish the enclosed notice in your paper as "legal notice" for **two** issues on **September 11 and 18, 2013**. If for any reason you are unable to publish this notice on the dates specified, please immediately notify the Minerals and Mining Program at 773-4201.

After publication, submit a statement of billing for publishing the notice along with an Affidavit of Publication. Your billing should be sent to the following:

Minerals and Mining Program
523 East Capitol Avenue
Pierre, SD 57501-3182

Sincerely,

/s/
Patty McQuay
Minerals and Mining Program
(605) 773-4201

Enclosure: Notice of Hearing Application for Large Scale Mine Permit Powertech (USA) Inc.

August 29, 2013

Mr. Eric Holm
Natural Resources Engineer III
Minerals and Mining Program
South Dakota Department of Environment & Natural Resources
523 East Capitol Avenue
Joe Foss Building
Pierre, SD 57501-3182

**Re: Dewey-Burdock Project Large Scale Mine Permit Application
Revised Appendix 4.0-A Socioeconomic Assessment**

Dear Mr. Holm:

On behalf of Powertech (USA) Inc., please find enclosed an updated Appendix 4.0-A, Socioeconomic Assessment, for the Dewey-Burdock Project. The primary updates to the appendix are as follows:

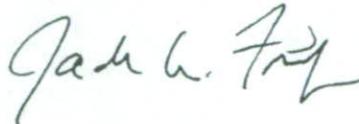
- 1) Section 2.0 Baseline Socioeconomics has been updated to include Census 2010 data, the 2011 U.S. Census Bureau American Community Survey data, and 2012 U.S. Census Bureau population estimates.
- 2) Section 3.0 Potential Socioeconomic Impacts has been updated to reflect current project employment and state and local tax revenue estimates.

Please find enclosed the following:

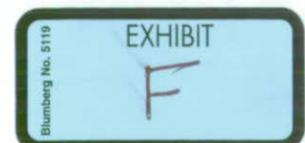
- Updated Appendix 4.0-A, Socioeconomic Assessment (3 hard copies)
- Change index (3 hard copies)
- CD containing electronic copies of the updated appendix, change index, and cover letter in Adobe PDF format.

Please let me know if you have any questions or need additional information.

Sincerely,



Jack Fritz, P.E.
WWC Project Manager



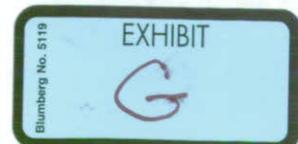
**RECOMMENDED CONDITIONS
POWERTECH (USA) INC.
DEWEY-BURDOCK PROJECT**

General

1. The conditional approval of this permit application incorporates by reference those representations made by Powertech, as to plans, specifications, operations, environmental impacts, and reclamation as contained in the permit application submitted October 1, 2012, with supplemental information submitted on December 4, 2012, January 10, 2013 and April 2, 5, 9 and 11, 2013. The representations contained in these documents are general conditions of this permit unless modified by a future technical revision, amendment, or permit, or modified by other conditions imposed by the Board of Minerals and Environment (board).
2. This permit and all rights under it are expressly conditioned on the truth of representations made by the applicant, Powertech, its officers, and employees in the application and supporting documentation relating to the application. Should any material representation prove to be false, this permit and all rights under it may be canceled by the board.
3. The operation shall be conducted in compliance with all Custer and Fall River County requirements. All Custer County permits shall be obtained as necessary.
4. This permit is conditioned upon compliance with all applicable laws and regulations.
5. Powertech shall abide by the recommendations of the South Dakota Department of Tourism, the South Dakota Department of Agriculture, the South Dakota Department of Game, Fish and Parks, and the South Dakota Department of Health, except as modified or restated in these conditions.

Other Permits

1. Prior to appropriating water for its operations, Powertech shall obtain the necessary State of South Dakota Water Rights permits.
2. Prior to commencing operations in the permit area, Powertech shall obtain a Source and Byproduct Material License (License) from the United States Nuclear Regulatory Commission (NRC).
3. Prior to commencing operations in the permit area, Powertech shall obtain an aquifer exemption and Underground Injection Control (UIC) Class III permit from the United States Environmental Protection Agency (EPA).



4. Powertech shall obtain a UIC Class V permit from the EPA prior to disposal of mine waste waters through underground injection.
5. Powertech shall obtain a State of South Dakota Ground Water Discharge Plan prior to disposal of mine waste waters by land application. 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 EPA. If insufficient Class V UIC capacity is available as determined by Powertech and demonstrated to the Department of Environment and Natural Resources (department), the excess treated liquid wastes may be disposed via land application in accordance with the Ground Water Discharge Plan and associated conditions, with department approval.
6. Powertech shall obtain a US Army Corps of Engineers 404 permit, if required, prior to initiating construction or mining activities that affect the waters of the United States.
7. Powertech shall obtain a South Dakota Surface Water Discharge Permit, if required, prior to discharging to surface waters. No discharge or release to surface water is allowed without a Surface Water Discharge Permit.
8. Powertech shall obtain, as necessary, a South Dakota Surface Water Discharge Permit for Storm Water Discharges associated with construction activities (Storm Water Permit for Construction Activities) and/or industrial activities (General Storm Water Discharges Associated with Industrial Activities).

Water Quality

1. Process solutions, waste water disposal, or surface water runoff from the site shall not cause violations of South Dakota Ground Water Discharge Permit requirements, ground water quality standards (ARSD 74:54:01) outside of EPA's approved aquifer exemption boundary, or surface water quality standards (ARSD 74:51:01), as appropriate. There shall not be any unauthorized loss or release of solutions from the uranium recovery process to the surface environment or ground water outside EPA's approved aquifer exemption boundary.
2. On or prior to March 1 of each year the mine is in operation, Powertech shall submit an annual surface and ground water characterization report beginning the year the mine permit is granted. This report shall include, but not be limited to, water quality and water level data gathered and an interpretation of the data.
3. Referencing Powertech's Large Scale Mine Permit application, Powertech shall sample the surface water sites listed in Table 5.5-2 and the ground water sites listed in Table 5.5-1 on a quarterly basis, and shall sample monthly the sites listed in Table 5.5-3 for the parameters listed in Table 6.2-1.

RECEIVED

SEP 13 2013

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 (USA) INC. FOR A LARGE
SCALE MINING PERMIT (Dewey-Burdock
Project) (designated Permit No. 480).

CERTIFICATE OF SERVICE

I, MAX MAIN, as one of the attorneys for Powertech (USA) Inc., do hereby certify that on the 11th day of September, 2013, I caused the original 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: Mike Cepak
Minerals & Mining Program - 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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RAPID CITY, SD 57709-8008

CHIEF DEPUTY ATTORNEY GENERAL
CHARLES McGUIGAN
1302 E. HWY. 14, SUITE 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