

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 (USA) INC.

POWERTECH'S OBJECTIONS AND
RESPONSE TO BAKER'S MOTION
TO DISMISS APPLICATION

These objections and response are made by Powertech (USA) Inc. ("Powertech") to the motion to dismiss made by Jerri Baker ("Baker").

OBJECTIONS

The motion to dismiss application made by Baker is untimely. Pursuant to the August 14, 2013 Notice of Prehearing Conference and Motion Hearing entered herein, all motions were to be served upon the parties on or before September 6, 2013. Baker's motion was served September 8, 2013.

Powertech further objects to Baker's motion to dismiss application for the reason that it was not even served on the undersigned.

RESPONSE

1.

SDCL 45-6D-29 Inapplicable

In support of her motion, Baker cites SDCL 45-6D-29. The entirety of SDCL ch. 45-6D is inapplicable to Powertech's large-scale mine permit application. SDCL ch. 45-6D applies to **uranium exploration permits**, not large-scale mine permits governed by SDCL ch. 45-6B.

2.

No Facts Stated to Support Citation to SDCL 45-6B-33

Baker cites to definitions in SDCL 45-6B-33 of land that is unsuitable for mining, but does not set forth any facts to support application of the definitions.

Conclusion

Baker's motion to dismiss should be denied.

Dated this 13th day of September, 2013.

BENNETT, MAIN & GUBBRUD, P.C.
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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 (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 13th day of September, 2013, I caused the original of the following documents:

1. POWERTECH'S OBJECTIONS AND RESPONSE TO BAKER'S MOTION TO DISMISS APPLICATION; and
2. CERTIFICATE OF SERVICE,

to be filed with: Mike Cepak
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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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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