



# CITY OF RAPID CITY

RAPID CITY, SOUTH DAKOTA 57701-2724

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## Office of the City Attorney

300 Sixth Street

Rapid City, South Dakota 57701-2724

Telephone: 605-394-4140

FAX: 605-394-6633

E-mail: [attorney@rcgov.org](mailto:attorney@rcgov.org)

[www.rcgov.org/attorney/attorneyhomepage.htm](http://www.rcgov.org/attorney/attorneyhomepage.htm)

September 11, 2013

Mike Cepak  
DENR Minerals & Mining Program  
Joe Foss Building  
523 East Capitol Ave.  
Pierre, SD 57501

RECEIVED  
SEP 13 2013  
MINERALS & MINING PROGRAM

**Re: Powertech (USA), Inc. Application for Large Scale Mine Permit – City of Rapid City’s Petition to Intervene**

Dear Mr. Cepak:

Please find the enclosed *Petition to Intervene* and *Election of Participation* filed on behalf of the City of Rapid City. These documents have been filed in regard to the application submitted by Powertech for a large scale mining permit, currently pending before your department. With this filing, the City seeks to gain intervener status under option (C) of the *Election of Participation*. Specifically, the City requests that Rapid City Resolution No. 2013-083, a copy which has been provided, be included in the official record as the City’s official position on this mining application.

If you have any questions or concerns, feel free to contact me directly.

Sincerely,



Ryan Soye  
Assistant City Attorney

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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 LARGE ) PETITION TO INTERVENE  
SCALE MINING PERMIT )  
)  
)

COMES NOW, the City of Rapid City, by and through the undersigned attorney, and submits this *Petition to Intervene* in the above-captioned matter, which is currently pending before the Board of Minerals and Environment, and states as follows:

The City understands Powertech has requested approval of an in situ mining project permit to recover uranium from a site approximately 13 miles north-northwest of Edgemont, South Dakota. Powertech has indicated in its application the proposed project involves extracting uranium by injecting groundwater fortified with oxidizing and complexing agents into a series of injection wells. After the uranium is removed, the groundwater will be refortified with oxygen and carbon dioxide and recirculated. In order to achieve this process, Powertech proposes to utilize groundwater resources throughout the area. The most significant water resource to Rapid City is the Madison Aquifer, which serves as the City's primary water supply.

The use and recirculation of this groundwater has the potential to directly impact the citizens of Rapid City. The Rapid City Common Council has been provided with a great deal of information indicating the potential risks of the proposed mining project. It appears there is a very real danger that approval of this application may result in polluting, impairing, or destroying the air, water, or other natural resources surrounding the mining site. Any contaminants that invade the land and aquifers have the potential to adversely impact the health, safety, and general

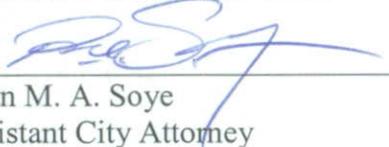
welfare of nearly 70,000 Rapid City citizens for decades to come. The City has a real interest in protecting the health, safety and general welfare of its citizens, and approval of this application has the potential to impair and impede the City's ability to protect that interest.

The City's goal in seeking intervention is only to ensure the official position of the City Common Council, as reflected in Rapid City Resolution No. 2013-083, is made part of the official record in this matter. The City does not intend to request any change or delay in the established *Procedural and Scheduling Order*, participate in prehearing discovery, or provide live testimony, as indicated by its *Election of Participation*. As such, no party will be adversely impacted by this Petition to Intervene.

For the aforementioned reasons, the City respectfully requests this Petition be granted.

Dated this 11<sup>th</sup> day of September, 2013.

THE CITY OF RAPID CITY

By:   
Ryan M. A. Soye  
Assistant City Attorney  
300 Sixth Street  
Rapid City, SD 57701  
Ph: (605) 394-4140  
Email: [ryan.soye@rcgov.org](mailto:ryan.soye@rcgov.org)

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RESOLUTION NO. 2013-083

A RESOLUTION EXPRESSING GRAVE CONCERN ABOUT THE IN SITU MINING OF URANIUM BY POWERTECH IN CUSTER AND FALL RIVER COUNTIES.

WHEREAS, Powertech Uranium Corp. has submitted applications to the South Dakota Water Management Board for permits to use water from the Madison and Inyan Kara Aquifers to conduct in situ mining of uranium in Custer and Fall River Counties in the Black Hills of South Dakota; and

WHEREAS, In situ mining, or in situ recovery involves pumping solutions incorporating water from the aquifers into an ore body through wells which will then circulate through the porous rock and recovering the minerals from the ground by dissolving them and pumping the solution containing the ore to the surface where the minerals can be recovered.

WHEREAS, hearings on Powertech's water permit applications will be held by the South Dakota Water Management Board in Rapid City at the beginning of October of 2013; and

WHEREAS, the City of Rapid City obtains a majority of its drinking water from the Madison Aquifer; and

WHEREAS, the safety of the water in the Madison Aquifer is of utmost importance to the City of Rapid City; and

WHEREAS, due to the unanswered questions regarding the safety of the community's water supply, the Common Council of the City of Rapid City believes that the proposed in situ mining of uranium in the Black Hills poses an unacceptable risk to the primary source of Rapid City's drinking water.

NOW THEREFORE, BE IT RESOLVED, by the City of Rapid City that due to the potential risk to the Madison Aquifer the City expresses grave concern about the proposed in situ mining of uranium in the Black Hills.

Dated this 19 day of August, 2013.

CITY OF RAPID CITY

Sam Kooiker  
Sam Kooiker, Mayor  
SOUTH DAKOTA )  
COUNTY OF PENNINGTON ) SL  
CITY OF RAPID CITY )

ATTEST:

Pauline Sumption  
Pauline Sumption, Finance Officer

I, Pauline Sumption, the duly appointed, qualified and acting ~~Assistant~~ Finance Officer of the City of Rapid City, South Dakota do hereby certify that the foregoing is a true, correct and complete copy of a Resolution No. 2013-083 and that this same was adopted at a regular meeting of the Common Council of the City of Rapid City on Aug 19, 2013 or appears upon the files in my office.

Dated at Rapid City, South Dakota, this 14<sup>th</sup> day of September 2013

Pauline Sumption  
Finance Officer of the City of Rapid City, South Dakota  
(Seal)

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MINERALS & MINING PROGRAM

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.

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

X  (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: 09/09/13

SIGNATURE: Sam Koiker

PRINTED NAME: Sam Koiker

ADDRESS: Office of the Mayor

300 Sixth Street

Rapid City, SD 57701

TELEPHONE: (605) 394-4110

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

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

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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 POWERTECH )  
(USA), INC. APPLICATION FOR LARGE ) CERTIFICATE OF SERVICE  
SCALE MINING PERMIT )  
)

The undersigned hereby certifies that on the date herein indicated, he served copies of the following documents:

- 1. PETITION TO INTERVENE
- 2. RAPID CITY RESOLUTION NO. 2013-083
- 3. ELECTION OF PARTICIPATION
- 4. CERTIFICATE OF SERVICE

upon the persons designated below, by way of depositing copies thereof in United States mail, postage prepaid, at the following addresses which are the last known addresses of the persons listed, to wit:

Mike Cepak  
DENR Minerals and Mining Program  
Joe Foss Building  
523 E. Capital Ave.  
Pierre, SD 57501

Rex Hagg  
Whiting, Hagg, Hagg, Dorsey, & Hagg  
PO Box 8008  
Rapid City, SD 57709

Charles McGuigan  
Chief Deputy Attorney General  
Mickelson Criminal Justice Center  
1302 E. Hwy. 14, Suite 1  
Pierre, SD 57501

Max Main  
Bennett, Main, & Gubbrud, PC  
618 State Street  
Belle Fourche, SD 57717

Steven R. Blair  
Assistant Attorney General  
Mickelson Criminal Justice Center  
1302 E. Hwy. 14, Suite 1  
Pierre, SD 57501

Richard M. Williams  
Assistant Attorney General  
Mickelson Criminal Justice Center  
1302 E. Hwy. 14, Suite 1  
Pierre, SD 57501

Michael M. Hickey  
Wild Horse Sanctuary  
Bangs, McCullen Law Firm  
PO Box 2670  
Rapid City, SD 57709

Attn: Ashley Cortney  
Edgemont Public Library  
PO Box A/412 2<sup>nd</sup>  
Edgemont, SD 57735

Attn: Doris Mertz  
Custer County Library  
447 Crooks Street, Ste. 4  
Custer, SD 57730

Attn: Michelle May  
Woksape Tipi  
Oglala Lakota College  
PO Box 310  
Kyle, SD 57752

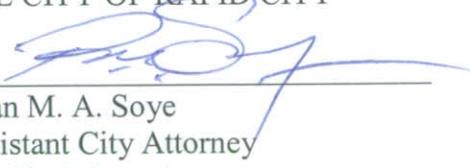
Dated this 11<sup>th</sup> day of September, 2013.

Bruce Ellison  
Clean Water Alliance  
PO Box 2508  
Rapid City, SD 57709

Attn: Jason Walker  
Rapid City Public Library  
610 Quincy Street  
Rapid City, SD 57701

Attn: Cindy Messenger  
Hot Springs Public Library  
2005 Library Dr.  
Hot Springs, SD 57747

THE CITY OF RAPID CITY

By:   
Ryan M. A. Soye  
Assistant City Attorney  
300 Sixth Street  
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Email: [ryan.soye@rcgov.org](mailto:ryan.soye@rcgov.org)