



Preserving the Land, Cultural
Heritage, Tradition for the
Future Generation

Rosebud Sioux Tribe

Tribal Historic Preservation Office

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Russell Eagle Bear
Officer

Kathy Arcoren
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RECEIVED

January 9, 2009

JAN 22 2009

Mr. Steven M. Pirner
Department Secretary
Department of Environment & Natural Resources
PMB 2020
Joe Foss Building
523 E. Capitol
Pierre, South Dakota 57501

DEPT. OF ENVIRONMENT AND
NATURAL RESOURCES,
SECRETARY'S OFFICE

RE: Powertech (USA) Inc. Permit Application and exploratory drilling.

Dear Sirs;

Greetings from the Rosebud Sioux Tribe. We are sending this communiqué to your Office regarding recent reporting of activities concerning a Canadian company, Powertech USA, Inc. It is our understanding that Powertech submitted an application for exploratory drilling and potentially a uranium processing plant location in Custer and Fall River Counties of the Black Hills of South Dakota. We, as signatories to the Ft. Laramie Treaties of 1851 and 1868 have grave and major concerns regarding this application that are important to the Indigenous peoples.

It has been noted and objected to previously that the exploratory drilling is in an environmentally and culturally sensitive area significant to the Oceti Sakowin. The Oceti Sakowin is comprised of the Lakota, Dakota, and Nakota peoples and their allies. And in reference to the location of drilling in the Black Hills, which serves as the central place of origin for the tribes and embodies the physical and cultural homeland landscape of the Oceti Sakowin. The Black Hills' are mentioned and referenced repeatedly in the aforementioned Treaty(s) language, which clearly demonstrates their importance to the Oceti Sakowin.

It has been reported in various media that exploratory drilling for uranium is continuing unabated within the Black Hills proper. Objections by Native people, primarily, the Defenders of the Black Hills and ACTION for the Environment to the rule of law contained in such statutes as i.e. - **National Historic Preservation Act (NHPA)**, Public Law 89-665; 16 U.S.C. 470 *et seq.* (Section 106); the **Migratory Bird Treaty Act of 1918 (MBTA)** USC Title 16, Chapter 7, Subchapter II; the **Golden Eagle Protection Act of 1940 (GEA)** (16 U.S.C. 668-668c); **National Environmental Policy Act of 1969**

(NEPA) P.L. 91-190, 42 U.S.C. § 4321 & 42 U.S.C. § 4347 specifically 36 CFR Part 800; are being flaunted by Powertech.

Concurrences and compliance by your office regarding the drilling is being condoned in this undertaking that will and are severely impacting the cultural and natural resources of Native and non-Native peoples. Specifically, our concerns are as follows:

- 1.) Archaeological; traditional cultural properties (TCP'S); and sacred sites locales.
- 2.) Impacts and disturbance to bald eagle and redtail hawk nesting area(s).
- 3.) Environmental impacts related to water and air quality from intrusion into aquifers and wind blown (Aeolian) contamination.
- 4.) Damage assessments; reclamation strategies/contingencies; funding for cleanup (bond); and a fine system to support assessment findings.

While four areas of concern are listed here, the Rosebud Sioux Tribe Office of Historic Preservation (RSTTHPO) is addressing specifically the impacts and unwarranted destruction of sites that have cultural and historic value. We are concerned that the recommendations of the Assistant State Archaeologist, Mr. Mike Fosha, have been ignored concerning significance of sites on and near the area of potential effect of the drill operations. Mr. Fosha has been ignored and his recommendations disregarded. The recommendation of further assessment by a qualified archaeologist has not been heeded and nor have knowledgeable Native peoples been consulted for TCP's or sacred site(s) proximity. It is required under the NHPA that sites, either newly discovered or previously known or unknown, that may be in danger of destruction be evaluated for significance.

We, as the Sicangu Nation of the Oceti Sakowin hereby state to your Office and to the Nuclear Regulatory Commission (NRC) that the drilling taking place in Custer and Fall River Counties are injurious to the cultural and sacred landscape of the Oceti Sakowin. A proper evaluation of the area of impact for cultural resources, sacred sites, and traditional cultural properties within the surrounding countryside must be assessed. The Black Hills are considered as a sacred landscape and any and all development must be assessed.

Criteria stipulations are very direct and specific regarding the regulatory process and procedures that ensure important cultural resources are properly protected from undue impact or destruction. The National Register of Historic Places criteria must be adhered to by any company permitted by a federal agency (NRC), in this case, as the permit serves as the starting point for the compliance agenda format.

At this point it is understood that the current situation is exploratory in nature; the sub-surface damage to and exposure of water resources from nuclides contamination is eminent. This threat to private and public wells will constitute a major hazard to the health and welfare of all in the vicinity of this undertaking or those reliant on aquifer use.

Additional concerns that are known which can result in environmental impacts are as follows;

- 1) Public exposure to radon and radiation.
- 2) Contamination of groundwater and surface water supplies (via acid drainage and the mobilization of heavy metals);
- 3) Natural habitat disturbance;
- 4) Increased instability of the land such as erosion and slope stability failure;
- 5) The remaining physical safety hazards that are left exposed to the environment pose hazards to the local community and biota;
- 6) Radioactive wastes could be subject to potential misuse as building materials in the long term;
- 7) Cumulative effects of concentrated nuclides that will render areas inhospitable and dangerous to future generations.

While, as stated above, we are concerned about the protection of our cultural resources, it must be understood that we view ALL the resources as significant to the safety and welfare of our homeland.

We are notifying the major parties involved that the scope of this project extends beyond the physical boundaries of the drilling operation per se and needs further assessment to guarantee protections as provided by law.

Thank you for your time and consideration of this letter.

Sincerely,



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Tribal Historic Preservation Officer
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Cc: Tim Tollefsrud- Department of Environment and Natural Resources
Valerie Hauser- ACHP Native American coordinator
Peggy Livingston- United States Environmental Protection Agency
Stephen Cohen- Nuclear Regulatory Commission

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Subject line: Attn: Steve M. Pirner- Department Secretary; State of South Dakota

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Subject line: Attn: Mr. Tim Tollefsrud- Director Environmental Services

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Saturday, December 6, 2008 10:41 AM

From:

"C WHITE FACE" <bhdefenders@msn.com>

Add sender to Contacts

To:

"Tim Mentz" <mentz_tim@yahoo.com>, "Ben Rhodd" <brhodd1@yahoo.com>

I'm sending this info to you both as in Powertech's application for Unique, Scenic...Lands etc., so they can get "clearance" to build their uranium processing plant, they state that there is a cultural resource site every 8 acres. Yet they will be destroying so much land. I have pictures of what happened in WY if you wish. Even the SDHPO told them he could not give approval to the 30 exploratory wells, but the Board of Minerals granted the permit anyway. We brought it up in our objections. We need to go to court now. Give me a call if you would like to help as we will need expert testimony.

Thanks.

Charmaine

Notice of Press Conference

"Environmental Groups Outraged over SD Gov ties to Uranium Company"

Dec. 6, 2008

The news yesterday in the Rapid City Journal by reporter Keven Woster, regarding Governor Mike Round's family ties to a uranium mining company, has regional environmental groups outraged. The members of the SD Board of Minerals and Environment, who give approval to uranium exploration and mining, are appointed by the Governor.

In 2007, two groups, ACTion for the Environment and Defenders of the Black Hills, tried to stop the drilling of 155 more uranium exploratory wells in southwestern South Dakota. Powertech, the uranium mining company already owns more than 4,000 bore holes in that area but wanted more. The local state court refused to issue an injunction while the permit was being appealed. Eventually the groups lost their case. Powertech has asked for approval of a permit for 30 more wells, and submitted an application to the Board of Minerals and Environment for 'clearance' for an area to build their nuclear processing plant.

Representatives from Coloradans Against Resource Destruction have been asked to be at the Press Conference. They also opposed uranium exploration in Colorado by Powertech and the company recently pulled out of that state. Representatives from two Wyoming environmental groups have also been invited as Powertech is located in Wyoming as well.

The Press Conference is scheduled for 11:30 AM on Monday, Dec. 8, 2008, in the Helen Hoyt Conference Room at the Rapid City Public Library, 7th and Quincy, Rapid City, SD.

For more information contact Charmaine White Face, Coordinator, Defenders of the Black Hills at (605) 399-1868.

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Defenders of the Black Hills
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