

## **Powertech (USA) Inc. EXNI-409 Permit Conditions**

### **General**

1. The conditional approval of this uranium exploration permit application hereby incorporates by reference those representations made by Powertech (USA) Inc. (Powertech) as to plans, specifications, operations, environmental impacts, and reclamation as contained in the original uranium exploration permit application submitted July 7, 2008, and submittal of additional materials on August 29, September 15, 18 and 24, October 16, and November 4, 2008. The representations contained in these documents are general conditions of the uranium exploration permit unless modified by the following conditions, or by other conditions as may be 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 Powertech, its officers, employees, and contractors in the application, supporting documentation related to the application, and evidence presented to the board. If any material representation proves to be false, this permit and all rights under it may be canceled upon findings by the board.
3. This permit is conditioned upon compliance with all applicable laws and regulations.
4. Powertech shall follow the recommendations of the Custer County Natural Resource Conservation Service and Fall River County Natural Resource Conservation Service (NRCS), the Department of Game, Fish, and Parks, and the State Archaeological Research Center except as modified or restated in these conditions. The NRCS shall be consulted for technical assistance and seeding schedules in reclaiming the land surface in their respective counties.
5. Prior to any drilling activity, Powertech shall survey and clearly mark the corners of each planned drilling area with survey stakes.
6. Powertech shall limit the number of holes drilled in each drilling area to the amount denoted in the permit application.

### **Other Permits**

1. Powertech is required to maintain coverage under the South Dakota general permit for storm water associated with industrial activities.
2. These conditions do not change the requirements of other existing and future permits for the project.

### **Drilling and Plugging of Test Holes**

1. Upon completion of logging a test hole, Powertech shall plug the hole in accordance with SDCL 45-6D-33 and ARSD Chapter 74:11:08.
2. Topsoil overlying mud pit locations shall be removed and stockpiled separately from the rest of the pit material. Upon plugging of the hole, the pit shall be filled and the dirt mounded to allow for subsidence. The pit shall then be leveled, topsoil replaced and the entire site reseeded with the approved seed mix in the permit application. The NRCS shall be consulted for seeding schedules in reclaiming the land surface in their respective counties.
3. A hole abandonment report shall be made available to the department upon request. It shall include the drilling fluid viscosity (seconds/qt.), the abandonment fluid viscosity (seconds/qt.), the mud density (lbs/gal.), and the amount and kind of approved abandonment product used to plug each hole.
4. Powertech shall notify the department by telephone or in person 48 hours prior to commencement of plugging any exploration holes so the department can witness plugging of the holes. The department reserves the right to collect samples of the plugging material and test it to ensure that it meets statutory and regulatory requirements before a hole is plugged.
5. Powertech is required to complete the addition of chipped bentonite in the top eight feet of each new test hole within 10 days after bentonite or cement grouting is completed. If Powertech cannot complete the addition of chipped bentonite within the 10 day period because of adverse weather conditions, the company shall notify the department and place a temporary cover over the hole until conditions improve.

### **Water Management**

1. The uranium exploration operation shall be conducted and reclaimed in a manner to prevent any violation of the beneficial uses of specified water quality criteria of any water resources in the area. Please note that Beaver Creek has been classified as:
  - a. Coldwater Marginal Fish Life Propagation Waters; and
  - b. Limited-Contact Recreation Waters.
2. Discharge of water into surface waters of the state, including Beaver Creek, is not allowed without a South Dakota Surface Water Discharge Permit.

### **Erosion and Sediment Control**

1. Powertech shall, as soon as possible, contact the department and the Department of Game, Fish and Parks if any sediment is found entering adjacent creeks or wetlands as a result of uranium exploration activities.

2. Erosion and sediment control structures shall be in place where necessary and functional during all operational and reclamation phases. Periodic maintenance shall be required on all erosion and sediment control structures to ensure control effectiveness.

### **Spill Contingency Plan**

1. Powertech shall take all reasonable steps to minimize or correct any adverse impacts to the environment resulting from spills or noncompliance with this permit. All petroleum products used in exploration operations shall be appropriately contained to prevent overland flow to any waters of the state. Any mechanized drilling equipment using oils and fuels will be operated and maintained to prevent degradation of state resources. All fueling is required to be conducted away from Beaver Creek, and any spills during fueling shall be promptly cleaned up. Spills shall be reported to the department in accordance with SDCL 34A-12-9 and ARSD Chapter 74:34:01.

### **Reclamation**

1. Powertech shall reclaim all affected land surfaces to conserve the soil and water resources in the affected areas in accordance with SDCL 45-6D-37 and 38.
2. All topsoil shall be salvaged and stockpiled whenever possible for use in reclamation. The topsoil shall be reapplied as soon as practicable after exploration activity is complete.
3. The following seed mix shall be used for the affected area, as agreed upon by the department, the Custer County NRCS, and the Fall River County NRCS:

Western Wheatgrass	6.2 lb. PLS/acre
Green Needlegrass	3.0 lb. PLS/acre
Blue Grama	0.6 lb. PLS/acre
Sideoats Grama	1.8 lb. PLS/acre

4. Powertech shall seed all drill sites during the first fall or spring seeding period following the completion of hole plugging, regrading, and topsoil replacement activities. Fall seeding can occur anytime from September through early November, while spring seeding can occur anytime from April to mid-June. Seeding of each reclaimed drilling location shall be completed no later than six months after regrading and topsoil placement activities and are completed.

### **Property Rights**

1. The issuance of this permit does not convey any property right of any sort, or any exclusive privileges, nor does it authorize any injury to private property or any

invasion of a person's rights, nor any infringement of federal, state or local laws, or regulations.

### **Wildlife Habitat**

1. All raptor nests identified within the project area shall be reported to the Department of Game, Fish, and Parks (GFP) Energy and Minerals Coordinator (phone (605) 394-2589). For exploration activities near active nests GFP reserves the right to require additional restrictions, including distance or timing restrictions.
2. Drilling activity in Sections 29 and 30 T6S-R1E shall be avoided between February 1 and August 31 annually to avoid disruption of the active bald eagle nest and redtail hawk nest in the vicinity of these sections. Powertech is required to contact the Department of Game, Fish, and Parks if exploration activity is conducted between February 1 and August 31 so that distance and/or timing restrictions may be issued.

### **Archeological or Cultural Resources**

1. If any artifacts or other archaeological or cultural resources are discovered during exploration activities, the activities shall be temporarily halted and the state archaeologist notified at once.
2. Powertech shall conduct a cultural resources survey of any exploration area designated by the Department of Tourism and State Development (DTSD). Based on results of the survey, Powertech shall develop a mitigation plan for any cultural resources identified in the survey for submission to, and approval by, the DTSD.
3. Sites 39CU557, 39CU558, 38CU560, 39CU3598, 39FA1885 and 39FA1892 will require additional archeologic investigation before drilling activities can commence on these sites. If Powertech is unable to avoid these sites, further evaluation of these sites shall be submitted to DTSD to receive clearance for drilling or to obtain instructions regarding necessary mitigative measures. Prior to drilling being allowed on these sites, Powertech must submit to the DENR a copy of a letter from the DTSD stating that the area is acceptable for drilling.

### **Reclamation Surety**

1. Powertech shall submit a \$78,600 reclamation surety to the department prior to the issuance of the permit by the board. The department reserves the right to adjust the reclamation surety amount for inflation, unanticipated conditions encountered during the exploration operation, or changes in the proposed plugging method.

## **Permit Renewal Requirements**

1. In accordance with SDCL 45-6D-30, this permit shall expire three years from the date of issuance unless reopened or terminated for cause.
2. In accordance with SDCL 45-6D-43, Powertech shall submit an application for permit renewal at least 30 days before the date of permit expiration if Powertech wishes to continue an activity regulated by this permit. The current permit shall not expire and shall remain in effect until the Secretary takes final action on the timely permit renewal application.
3. Thirty days prior to the renewal date of the uranium exploration operation permit, Powertech shall submit the aquifer penetration report in accordance with SDCL 45-6D-40.
4. In accordance with SDCL 44-6D-50, permit expiration terminates Powertech's right to continue uranium exploration activities by this permit.

## **Required Reports**

1. In accordance with SDCL 45-6D-39, Powertech shall notify, in writing, the board of the penetration of an aquifer and the location of the test hole penetrating such aquifer as soon as practically possible, but not more than ninety days after penetration.
2. In accordance with SDCL 45-6D-41, within six months after the expiration of the permit, Powertech shall submit a clear and complete report concerning the geological conditions in the permit area.
3. Powertech shall report all permit violations. A permit violation shall be reported as soon as possible, but no later than the first business day following the day the violation was discovered. The permit violation may be reported by telephone to the department at (605) 773-4201 or by FAX at (605) 773-5286.

A written report shall be submitted within five days of discovering the permit violation. Upon prior approval from the department, the submittal deadline for the written report may be extended up to 30 days. The written report shall contain:

- a. Description of the permit violation and its cause(s);
  - b. Duration of the permit violation, including exact dates and times; and
  - c. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the permit violation.
4. Powertech shall submit an annual report of exploration activities under EXNI-409. The report shall include the following information:

- a. Number of holes drilled and plugged and the method used to plug each hole;
- b. Total acres affected by exploration activities;
- c. Total acres reclaimed (hole plugging, regrading, topsoil replacement, and seeding completed for each drill area);
- d. Total number of drill holes remaining to be plugged;
- e. Total affected acres remaining to be reclaimed; and
- f. Planned activities under the permit for the coming year.

A form for this report will be mailed to Powertech each November and will be due on January 1 of each year until the permit is closed. A map which clearly depicts the information required in the annual report shall be submitted with the annual report. Since the map will show drill hole locations, it can be marked confidential as allowed under SDCL 45-6D-15.