



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

denr.sd.gov

May 31, 2013

NOTICE

TO: Max Main, Counsel for Powertech (USA) Inc, 618 State St, Belle Fourche SD 57717

Parties that Elected Full Party Participation in the matter of Powertech's Water Permit Applications and Ground Water Discharge Plan Application

FROM: Jeanne Goodman, Chief Engineer
Water Rights Program, DENR

SUBJECT: Order Granting Fall River County's Motion to Dismiss in the matter of 2012 Ground Water Discharge Plan and Water Permit Applications filed by Powertech (USA) Inc.

Notice is provided of Prehearing Chair Hoyt's order granting Fall River County's Motion to Dismiss in the matter of the 2012 Ground Water Discharge Plan and Water Permit Application Nos. 2685-2 and 2686-2 filed by Powertech (USA) Inc. Enclosed is the motion filed by Fall River County and the Order granting the motion to dismiss.

Enclosures

C: Parties that Elected Full Party Participation (attached)
James G Sword, Fall River County State's Attorney, 906 N River St, #301, Hot Springs SD 57747
Everett Hoyt, Prehearing Chairman
Jeff Hallem, Assistant Attorney General, Counsel to Water Management Board
Roxanne Giedd, Deputy Attorney General, Counsel to Groundwater Quality Program
Diane Best, Assistant Attorney General, Counsel to Water Rights Program
Doris Ann Mertz, Custer County Library, 447 Crooks Street, Ste 4, Custer SD 57730
Cindy Messenger, Hot Springs Public Library, 2005 Library Drive, Hot Springs SD 57747
Michelle May, Woksape Tipi, Oglala Lakota College, PO Box 310, Kyle SD 57752
Ashley Cortney, Edgemont Public Library, PO Box A, Edgemont SD 57735
Jason Walker, Rapid City Public Library, 610 Quincy Street, Rapid City SD 57701

STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
WATER MANAGEMENT BOARD

IN THE MATTER OF WATER)
PERMIT APPLICATIONS 2685-2)
and 2686-2, POWERTECH (USA),)
INC.)

ORDER GRANTING
FALL RIVER COUNTY'S
MOTION TO DISMISS

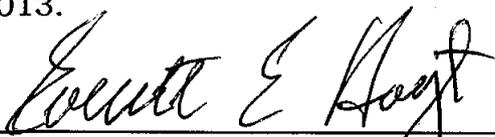
IN THE MATTER OF THE 2012)
GROUNDWATER DISCHARGE)
PLAN APPLICATION SUBMITTED)
BY POWERTECH (USA), INC.)

The South Dakota Department of Environment and Natural Resources received a Motion of Fall River County to Dismiss It's Petition To Intervene, dated April 25, 2013, submitted by its State's Attorney and Chairman of the Fall River County Commission. The motion seeks dismissal of Fall River County as a party to the above-captioned action. There has been no additional filing by a party regarding the motion to dismiss.

Upon review of the motion to dismiss and consideration of the administrative record, the prehearing chair finds that the motion was timely filed, will cause no prejudice to any other party to the action and, given the stated decision of the County Commission, that dismissal of Fall River County is appropriate; therefore it is hereby

ORDERED that the Motion of Fall River County to Dismiss its Petition to Intervene is granted and that Fall River County is no longer a party to the administrative action.

Dated this 24th day of May, 2013.



Everett Hoyt, Prehearing Chair
South Dakota Water Management Board

R'CEIVED

APR 29 2013

WATER RIGHTS
PROGRAM

**SOUTH DAKOTA WATER MANAGEMENT BOARD
STATE OF SOUTH DAKOTA
EN RE APPLICATION #2685-2 and #2682-2**

**MOTION OF FALL RIVER COUNTY TO DISMISS
IT'S PETITION TO INTERVENE**

COMES NOW Fall River County, by and through it's Chairman of the Fall River County Commission, Michael P. Ortner, whose address is 906 North River Street, Hot Springs, South Dakota and makes the following motion to dismiss it's Petition to Intervene opposing the two applications for water permits designated as application #2685-2 and #2682-2 in the above entitled matter. The Fall River County Commission made this decision to withdraw from intervening by a vote of 4 to 1. The Motion was based upon a finding by the Fall River County Commission that there is so much conflicting information concerning the applications, that the decisions on these application matters must be left to those charged by state and federal law with making those decisions.

Dated this 25 day of April, 2013.

Fall River County Commission

By: Michael P. Ortner

Michael P. Ortner

Chairman of the Fall River County Commission

906 North River Street

Hot Springs, SD 57747

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he mailed a true and correct copy of the *Motion to Dismiss Petition of Fall River County to Intervene in Opposition to the application to the individuals hereinafter next designated all on the date below shown by depositing the same in the United States mail with first class postage prepaid in envelopes addressed to:*

Steven N. Pirner

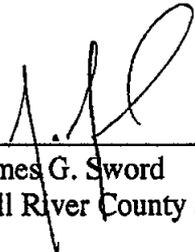
Secretary of the Department of

Environment and Natural Resources
Foss Building
523 E. Capital Ave.
Pierre, SD 57501

✓ Chief Engineer
Water Rights Program
Foss Building
523 E. Capital Ave
Pierre, SD 57501

PowerTech (USA) Inc.
C/O Richard Blubaugh
5575 DTC Parkway, Suite 140
Greenwood Village, CO 80111

On the 25 day of April, 2013.



James G. Sword
Fall River County State's Attorney

CERTIFICATION

I hereby certify that on May 31, 2013, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated May 31, 2013, regarding Order of Prehearing Chair Hoyt granting Fall River County's Motion to Dismiss in the matter of 2012 Ground Water Discharge Plan and Water Permit Application Nos. 2685-2 and 2686-2 filed by Powertech (USA) Inc., as addressed below and upon each of the persons electing fully participation status shown on the attached parties of record:

James G Sword, Fall River County State's Attorney, 906 N River St, #301, Hot Springs SD 57747

Max Main, Counsel for Powertech (USA) Inc, 618 State St, Belle Fourche SD 57717

Everett Hoyt, 4422 Carriage Hills Drive, Rapid City SD 57702

Jeff Hallem, Assistant Attorney General, Office of the Attorney General, 1302 E Hwy 14 Suite 1, Pierre SD 57501-8501

Diane Best, Assistant Attorney General, Office of Attorney General, 317 North Main Avenue, Sioux Falls SD 57104

Roxanne Giedd, Deputy Attorney General, Office of the Attorney General, 1302 E Hwy 14, Suite 1, Pierre SD 57501-8501

Doris Ann Mertz, Custer County Library, 447 Crooks Street, Ste 4, Custer SD 57730

Cindy Messenger, Hot Springs Public Library, 2005 Library Drive, Hot Springs SD 57747

Michelle May, Woksape Tipi, Oglalla Lakota College, PO Box 310, Kyle SD 57752

Ashley Cortney, Edgemont Public Library, PO Box A, Edgemont SD 57735

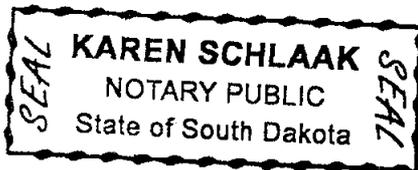
Jason Walker, Rapid City Public Library, 610 Quincy Street, Rapid City SD 57701

Gail Jacobson
Gail Jacobson
Water Rights Program, DENR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 31st day of May, 2013

Karen Schlaak
Karen Schlaak
Notary Public
My Commission expires April 1, 2019



Parties that Elected Full Party Participation in the matter of Powertech's Water Permit
Applications and Ground Water Discharge Plan Application

SABRINA KING	917 WOOD AVENUE	RAPID CITY SD 57701
GARY E HECKENLAIBLE	PO BOX 422	RAPID CITY SD 57709
BRUCE ELLISON	PO BOX 2508	RAPID CITY SD 57709
Attorney for Clean Water Alliance		
REBECCA R LEAS	6509 SEMINOLE LANE	RAPID CITY SD 57702
RICK V SUMMERVILLE	6509 SEMINOLE LANE	RAPID CITY SD 57702
ANDY JOHNSON	610 NELLIE LANE	SPEARFISH SD 57783
CINDY GILLIS	522 7TH STREET, SUITE 202	RAPID CITY SD 57701
Attorney for Oglala Sioux Tribe		
CHERYL A and ROGER ROWE	7950 DARK CANYON	RAPID CITY SD 57702
DOUGLAS C UPTAIN	3213 W MAIN #112	RAPID CITY SD 57702
LILIAS JONES JARDING	418 N 44TH ST	RAPID CITY SD 57702
GENA M PARKHURST	PO BOX 1914	RAPID CITY SD 57709
MARVIN KAMMERER	22198 ELKVALE RD	RAPID CITY SD 57701
CINDY BRUNSON	11122 FORT IGLOO RD	EDGEMONT SD 57735
RODNEY G KNUDSON	PO BOX 25	HULETT WY 82720
REBECCA M LORD	PO BOX 952	HILL CITY SD 57745
MARK BODDICKER	13850 BATTLE CREEK RD	HERMOSA SD 57744
DAHL H MCLEAN	11853 ACORN RIDGE RD	SPEARFISH SD 57783
MICHAEL M HICKEY	PO BOX 2670	RAPID CITY SD 57709-2670
Attorney for Black Hills Wild Horse Sanctuary		
ANGELIA BALDWIN	PO BOX 1914	PIERPONT SD 57468-0191
FRANK J KLOUCEK	29966 423 AVENUE	SCOTLAND SD 57059
SYLVIA M LAMBERT	PO BOX 78	INTERIOR SD 57750-0078
SUSAN R HENDERSON	11507 HWY 471	EDGEMONT SD 57735
JILL ANAWATY	2804 WILLOW AVENUE	RAPID CITY SD 57701
RICHARD DRAEGER	617 SAINT CLOUD	RAPID CITY SD 57701
GWEN E KANESHIRO & WILLIAM M C ING	1446 EVANSTON AVENUE	HOT SPRINGS SD 57747
BRENDA GAMACHE	2337 WILSON AVENUE	HOT SPRINGS SD 57747