

RECEIVED

NOV 26 2012

WATER RIGHTS PROGRAM

AFFIDAVIT OF PUBLICATION

State of South Dakota)
) ss.
County of Fall River)

Brett Nachtigall of Hot Springs, Fall River County, South Dakota, being duly sworn, upon oath says that he is the publisher of the Hot Springs Star, as a legal newspaper, as defined in SDCL 17-2-2.1 through 17-2-2.4 inclusive, and is published at Hot Springs, county and state aforesaid; that the advertisement headed -

#384 Notice

a true printed copy thereof is hereto annexed, was published in the said Hot Springs Star, in the regular and entire issue of said paper,

for one

successive issues, beginning with the

issue dated

Nov. 13, 2012

and ending with the issue dated

20

That the full amount of the fee charged for the publication of said notice is

\$ 129.44

and that no agreement or understanding, for the division thereof, has been made with any other person, and that no part thereof has been agreed to be paid to any person whomsoever, that the whole amount insures to the benefit of the publishers of said newspaper.

Subscribed and sworn to before me

this 20 day of Nov

2012

[Signature] Notary Public

My Commission Expires March 16, 2013

384

NOTICE OF HEARING on Water Permit Application Nos. 2685-2 and 2686-2 to Appropriate Water for Powertech (USA) Inc.

Notice is given that Powertech (USA) Inc., c/o Richard Blubaugh, 5575 DTC Parkway Suite #140, Greenwood Village CO 80111, has filed two applications for water permits for primarily industrial use in a uranium in-situ mining project called the Dewey-Burdock Project located in Custer and Fall River Counties. The Dewey-Burdock Project area (project area) encompasses approximately 10,580 acres including portions of Sections 1 through 5, 10 through 12, and 14 through 15 in T7S, R1E and Sections 20 through 21, and 27 through 35 in T6S, R1E, Black Hills Meridian.

Project Overview: Powertech (USA) proposes to recover uranium by a method known as in-situ recovery, or ISR, in which groundwater from the formation containing uranium (the Inyan Kara Group) is pumped to the surface from a field of wells, fortified with oxygen and carbon dioxide, and recirculated through the formation. The oxidized groundwater changes the uranium to a soluble form and is pumped to the surface, where uranium is removed from the solution. ISR circulates water through the uranium ore zone. Only a small fraction of the water is a net withdrawal because most water is recirculated back through the ore zone. A portion of the water extracted from the Inyan Kara Aquifer will be "bled off" to maintain a cone of depression so native groundwater continually flows toward the center of the production zone. Production bleed rates may vary in the range of 0.5 to 3 percent over the life of the project. Restoration bleed rates up to 17 percent may be used briefly but would be limited to well fields undergoing aquifer restoration. The ISR process is repeated until the economic reserves of uranium are fully removed from that particular well field. The process moves to another well field, and the uranium depleted well field is restored by continuing to circulate clean water through the wells until the water is similar in quality to the water that existed in the formation prior to the ISR operations. Most of the water removed from the Inyan Kara Aquifer during the ISR process is recirculated and re-injected through the well field, resulting in the net consumptive use of water being a small portion of the gross withdrawal rate. Most of the water used in the ISR operations will be obtained from the Inyan Kara

Group. However, Powertech (USA) plans to use water from the Madison Aquifer to make up for water that is not provided from the ISR process. The amount of "make-up" from the Madison Aquifer will depend upon the water disposal method which is either deep disposal well or land application. The use of water from these two formations necessitates obtaining water permits from each source. The applications listed below describe the proposed points of diversion, amount of water to be used, the maximum annual diversion rate and annual volume that may be diverted. The eastern portion of the project area is known as the Burdock area. It will include a series of ISR well fields and a central processing plant. The western portion of the project area is the Dewey area which will include ISR well fields and a satellite processing plant.

Each application, Water Rights Program staff report and Chief Engineer's recommendation may be viewed online at http://denr.sd.gov/Powertech.a.spx.

Water Permit Application No. 2685-2 proposes to appropriate and place to beneficial use up to 1.228 cubic feet of water per second (cfs) with an annual consumptive use up to 888.8 acre feet of water annually from up to two or more wells completed into the Madison Aquifer at an approximate depth between 2,700 to 3,400 feet. The instantaneous peak diversion rate of 1.228 cubic feet of water per second (cfs) equates to 551 gallons per minute (gpm). The wells are to be located in the NW 1/4 NW 1/4 Section 32, T6S, R1E and the NW 1/4 NE 1/4 Section 11, T7S, R1E. Madison Aquifer water is primarily proposed for aquifer restoration following in-situ recovery but also may serve as the general facility water supply including the central processing plant, satellite plant and for domestic and livestock use for area landowners inside and near the project area.

The required yield may be obtained from one Madison well or several wells dependent on a number of factors. Powertech (USA) listed two potential well locations on this water permit application, one in the Dewey portion of the project and one in the Burdock portion. The final decision as to number and location of wells will depend upon water requirements, well yield, water quality and economic factors.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2685-2 subject to a 20-year term limitation because 1) although evidence is not available to justify issuing the permit without a 20-year term limitation, there is reasonable probability that there is unappropriated water available, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) it is in the public interest.

Water Permit Application No. 2686-2 proposes to appropriate and place to beneficial use up to 18,938 cfs limited to an annual consumptive use volume up to 274.2 acre feet of water (equivalent to 0.38 cfs or 170 gpm) from multiple wells completed into the Inyan Kara aquifer at a depth between 200 to 800 feet. The wells will be located within the project area as defined in the first paragraph of this notice of hearing. The application is for a gross withdrawal (flow) rate of 18,938 cfs which equates to 8,500 gpm. The net consumptive use of water is a small portion of the gross withdrawal rate. Approximately two percent of the water is "bled off" during the process in order to maintain flow gradients toward the center of the well field. The remaining approximately ninety eight percent of the water is recirculated and continuously re-injected as part of the ISR process. The maximum net withdrawal rate equates to 0.38 cfs (170 gpm) from the Inyan Aquifer for an annual volume of up to 274.2 acre feet of water annually consumptively removed from the aquifer during the project.

Uranium recovery operations will continue for approximately 7 to 20 years. A typical well field grid of Inyan Kara wells consists of a 100 by 100 foot grid with one production well in the center and four surrounding wells for injection into the ore body. The well pattern may differ from well field to well field and be modified as needed to fit the characteristics of each ore body. Well fields will be completed along the various uranium zones. Current development plans include construction of approximately 600 ISR production wells in the Dewey portion of the project area and 900 ISR production wells in the Burdock portion of the project area. The maximum number of production wells in operation at any one time within the entire

project area including production and restoration is 1,000 wells. Based on the project life and number of production wells scheduled as the well fields are developed, Powertech (USA) anticipates requesting a future permit amendment for an extension of the five year construction period pursuant to SDCL 46-2A-8. Powertech (USA) will provide an annual diversion report to DENR describing the number and location of pumping production wells. This report will include request for change in the number and designated locations of pumping wells pursuant to SDCL 46-5-13.1. This statute allows for the location of point of diversion or additional points of diversion to be approved without application or publication if the wells are completed into the same source, no additional water is appropriated and the Chief Engineer makes a finding that the change does not increase the potential for interference with existing diversions.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends Approval of Application No. 2686-2 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest.

SDCL 46-2A-4(10) provides that "if the applicant does not contest the recommendation of the Chief Engineer and no petition to oppose the application is received, the Chief Engineer shall act on the application pursuant to the Chief Engineer's recommendation and no hearing may be held before the board, unless the Chief Engineer makes a finding that an application, even if uncontested, presents important issues of public policy or public interest that should be heard by the board." In this case, the Chief Engineer finds that these applications present important issues of public interest that should be heard by the Water Management Board.

The Water Management Board will consider these applications at 8:30 AM on December 5, 2012 in the Matthew Training Center, 523 E. Capitol Ave. Pierre SD. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny these applications based on the facts presented at the public hearing.

Any interested person who intends to participate in the hearing shall file a petition to oppose or support the applications and the petition shall be filed with BOTH the applicant and Chief Engineer. The appli-

cant must also file a petition if opposed to the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by November 26, 2012. The petition may be informal, but shall be in writing and shall include a statement describing the petitioner's interest in either application, the petitioner's reasons for opposing or supporting either application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. The hearing is an adversary proceeding and any party has the right to be present at the hearing and to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised at the hearing and decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

The December 5, 2012 hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any person who has

filed a petition to oppose or support either application. The request for an automatic delay must be filed by November 26, 2012. If an automatic delay is requested, the hearing will be rescheduled for a future Board meeting and personal notice will be provided to all petitioners regarding the time, date and location.

Contact Eric Gronlund by November 26, 2012, at the above Chief Engineer's address to request copies of the staff reports, recommendations, applications or other information. Additionally each application, Water Rights Program staff report and Chief Engineer's recommendation may be viewed on-line at <http://denr.sd.gov/Powertech.aspx>. Notice is given to individuals with disabilities that this hearing is being held in a physically accessible place. Please notify the Department of Environment and Natural Resources at least 48 hours before the hearing if you have a disability for which special arrangements must be made at the hearing. The telephone number for making arrangements is (605) 773-3352.

Under SDCL 1-26-17(7) notices must state that "if the amount in controversy exceeds \$2,500.00 or if a property right may be terminated, any party to the contested case may require the agency to use the Office of Hearing Examiners by giving notice of the request to the agency no later than ten days after service of a notice of hearing issued pursuant to SDCL 1-26-17." This is a Notice of Hearing, service is being provided by publication, and the applicable date to give notice to the Chief Engineer is November 26, 2012. However, since this particular matter involves water permit applications and not a monetary controversy in excess of \$2,500.00 or termination of a property right the Chief Engineer disputes the applicability of this provision and maintains that the hearing must be conducted by the Board.

The legal authority and jurisdiction under which the hearing is to be held are the following as applicable: SDCL 1-26-16 thru 1-26-28; SDCL 46-1-1 thru 46-1-9, 46-1-14 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-14, 46-2A-15; 46-5-6.11, 46-5-10 thru 46-5-13, 46-5-30 thru 46-5-30.3, 46-5-32; 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-26; and Board rules ARSD 74:02:01:01 thru 74:02:01:15.

The particular section of statutes and rules pertaining to these permit applications are, in addition to the above, the following: SDCL 46-2A-9, 46-6-3.1, 46-2A-15, 46-2A-20, 46-2A-21 46-5-10 thru 46-5-13.1, 46-5-26, 46-6-10, 46-6-26; the above listed administrative rules and the following rules pertaining to qualifications recommended by the Chief Engineer: ARSD Chapter 74:02:01 and 74:02:04.

Steven M. Pirner, Secretary
Department of Environment
and Natural Resources.

Published once at the total
approximate cost of \$129.44.

Nov. 13

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NOV 19 2012

WATER RIGHTS PROGRAM

Affidavit of Publication

STATE OF SOUTH DAKOTA:
COUNTY OF LAWRENCE:

Letitia Lister of said County and State being first duly sworn, on her oath says: That the BLACK HILLS PIONEER is a legal daily newspaper of general circulation, printed and published in the City of Spearfish, in said County and State by Letitia Lister, and has been such a newspaper during the times hereinafter mentioned; and that said newspaper has a bonafide circulation of at least 200 copies weekly, and has been published within said County in the English language for at least one year prior to the first publication of the notice herein mentioned, and is printed in whole or in part in an office maintained at the place of publication; and that I, Letitia Lister, the undersigned, am the Publisher of said newspaper and have personal knowledge of all the facts stated in this affidavit; and that the advertisement headed:

Notice Of Hearing on Water Permit Application Nos. 2685-2 and 2686-2

a printed copy of which is hereto attached, was printed and published in said newspaper for 1 successive and consecutive weeks, the first publication being made on the 14th day of Nov, 2012, and the last publication on the _____ day of _____, _____, that the full amount of fees charged for publishing same, to-wit: The sum of \$ 124.35, insures solely to the benefit of the publisher of the BLACK HILLS PIONEER, that no agreement or understanding for a division thereof has been made with any person and that no part thereof has been agreed to be paid to any other person whomsoever.

Subscribed and sworn to before me this 16th day of Nov, 2012

Deborah Richards

Notary Public, Lawrence County, South Dakota
My commission expires: 10-24-2016

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Any interested person who intends to participate in the hearing shall file a petition to oppose or support the applications and the petition shall be filed with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by November 26, 2012. The petition may be informal, but shall be in writing and shall include a statement describing the petitioner's interest in either application, the petitioner's reasons for opposing or supporting either application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. The hearing is an adversary proceeding and any party has the right to be present at the hearing and to be represented by

a lawyer. The hearing and other due process rights will be forfeited if they are not exercised at the hearing and decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

The December 5, 2012 hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any person who has filed a petition to oppose or support either application. The request for an automatic delay must be filed by November 26, 2012. If an automatic delay is requested, the hearing will be rescheduled for a future Board meeting and personal notice will be provided to all petitioners regarding the time, date and location.

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The particular section of statutes and rules pertaining to these permit applications are, in addition to the above, the following: SDCL 46-2A-9, 46-6-3.1, 46-2A-15, 46-2A-20, 46-2A-21 46-5-10 thru 46-5-13.1, 46-5-26, 46-6-10, 46-6-26; the above listed administrative rules and the following rules pertaining to qualifications recommended by the Chief Engineer: ARSD Chapter 74:02:01 and 74:02:04.

Steven M. Pirmer, Secretary, Department of Environment and Natural Resources.

Published once at the total approximate cost of \$122.99.

#228
Nov. 14

November 19, 2012

PAYMENT REQUEST FORM

PAYEE: Black Hills Pioneer
PO Box 7
Spearfish SD 57783

FROM: DENR Water Rights Program
523 E. Capitol Ave
Pierre, SD 57501-3181

DESCRIPTION OF SERVICE, PRODUCE OR TRANSFER

Pub notice on 2685-2 & 2686-2 Powertech

AMOUNT: \$124.35

FUNDING SOURCE:

GENERAL: X

FEDERAL:

COMMENTS:

AUTHORIZATION:

Paul Jackson 11/19/12

I declare and affirm under the penalties of perjury that this claim is in all things, true and correct. I further agree to comply with the provisions of the Civil Rights Act of 1964 and regulations issued thereunder relating to nondiscrimination in federal assisted programs.

Form 8

RECEIVED

DEC - 3 2012

WATER RIGHTS PROGRAM

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County of Fall River) SS

I, Anne Cassens

certify that the attached printed Notice was taken

from the Edgemont Herald Tribune

printed and published in Edgemont

County of Fall River Co and

state of South Dakota. The notice was published

in the newspaper on the following date:

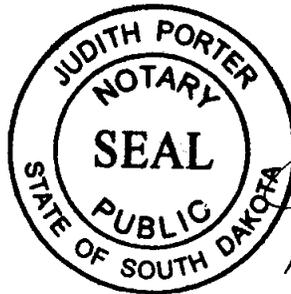
11-14-2012

Cost of Printing \$116.⁸⁹

Anne Cassens
(Signature)

Publisher
(Title)

11-28-2012
(Date Signed)



Judith Porter
Notary Public
My Commission Expires: 07-12-2013

Public Notices

Notice:2012-172 FR Weed & Pest Minutes 11-1-12

FALL RIVER COUNTY WEED & PEST BOARD MEETING

November 1, 2012 Minutes

The Fall River County Weed and Pest Board meeting was called to order by President Jerry Wyatt at 1:00 p.m., November 1, 2012 at the Fall River County jury meeting room. Attending members were Jerry Wyatt, John Sides, Joe Falkenberg, Wade Wilkins, Nina Steinmetz and guest Wayne Childers. All motions unanimous unless otherwise stated. Motion to approve the agenda and minutes of the last meeting was made by Joe Falkenberg and seconded by John Sides.

Old Business: Nina Steinmetz forwarded three new trailer quotes from businesses to board members earlier in the week. John Sides made a motion that the Board recommend to the County Commissioners to purchase the larger trailer with the warranty and a trailer for the old trailer from Goldie's Auto and Trailer Sales, Hot Springs, SD. Seconded by Wade Wilkins.

There were about 500 news-letters sent out on October 29, 2012 in cooperation with the NRCS tree order form.

New Business: Jerry Wyatt and Nina Steinmetz conducted interviews for part-time spray help last week. Of the three applicants interviewed, Mike Heller will be our suggested hire to the county commissioners at their next meeting November 8, 2012.

The supervisor is planning a airplane ride to be able to survey the amount of Salt Cedar that is growing in areas along the Cheyenne River that are very difficult to get to. Site is also working with Pennington Co. to write a grant for application and spray along the Cheyenne River for next spring.

November 7, 2012 - District 4 meeting - Rapid City, SD - Jerry Wyatt and Nina Steinmetz will attend.

November 8, 2012 - IH Regional MFLP Legislators and community leader briefing - Rapid City.

December 5, 2012 - IH Digital Mapping Assoc. Conference - supervisor is planning on attending with FRC GIS department.

Wayne Childers asked the Board what they could do to help with the issue of prairie dogs encroaching on BLM land on to his lease ground. After listening to Mr. Childers' circumstances the supervisor will GPS the dog town to help determine the size and location of the town and then draft a letter of support from landowners to the BLM and see what can be done this year to help with control of pests.

The next scheduled Weed & Pest Board Meeting is set for Thursday, December 6, 2012 - 2:00 p.m. - at the Fall River County jury room.

Motion to adjourn made by Wade Wilkins and seconded by John Sides.

UNAPPROVED MINUTES Nina Steinmetz, Secretary Published once at the total approximate cost of \$22.52

Published 11-14-2012 in the Edgemont Herald Tribune

Notice:2012-173 Notice of Hearing Powertech

NOTICE OF HEARING on Water Permit Application Nos. 2685-2 and 2686-2 to Appropriate Water for Powertech (USA) Inc.

Notice is given that Powertech (USA) Inc., c/o Richard Buckingham, 5375 DTC Parkway Suite #140, Greenwood Village CO 80111 has filed two applications for water permits for primarily industrial use in a uranium in-situ leaching project located in the Dewey-Burdock Project area (project area encompasses approximately 10,580 acres including portions of Sections 1 through 5, 10 through 12, and 14 through 15 in T7S, R1E and Sections 20 through 31, and 27 through 35 in T6S, R1E, Black Hills Meridian.

is restored by continuing to circulate clean water through the wells until the water is similar in quality to the water that existed in the formation prior to the ISR operations. Most of the water removed from the Inyan Kara Aquifer during the ISR process is recirculated and re-injected through the well field resulting in the net consumptive use of water being a small portion of the gross withdrawal rate. Most of the water used in the ISR operations will be obtained from the Inyan Kara Group. However, Powertech (USA) plans to use water from the Madison Aquifer to make up for water that is not provided for interference with existing diversions.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends Approval of Application No. 2686-2 because 1) inappropriate water is available to existing rights well that are not unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest.

SDCL 46-2A-4(10) provides that "if the applicant does not contest the recommendation of the Chief Engineer and no petition to oppose the application is received, the Chief Engineer shall on the application pursuant to the Chief Engineer's recommendation and no hearing may be held before the board."

The Water Management Board will consider these applications at 8:30 AM on December 5, 2012 in the Mathew Training Center, 523 E. Capitol Ave. Pierre SD. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny these applications based on the information as presented at the public hearing.

Any interested person who intends to participate in the hearing shall file a petition to oppose or support the applications and the petition shall be filed with BOTH the applicant and Chief Engineer. The applicant must file the petition if opposed to the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Fossil Building, 523 E. Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above.

A petition filed by either an interested person or the applicant must be filed by November 26, 2012. The petition may be informal, but shall be in writing and shall include a statement describing the petitioner's interest in either application, the petitioner's reasons for opposing or supporting either application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if applicable. The hearing, if held, shall include a statement describing the petitioner's interest in either application, the petitioner's reasons for opposing or supporting either application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if applicable.

The December 5, 2012 hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any person who has filed a petition to oppose or support either application. The request for an automatic delay must be filed by November 26, 2012. If an automatic delay is requested, the hearing will be rescheduled for a future Board meeting and personal notice will be provided to all petitioners regarding the time, date, and location.

Contact Eric Gronlund by November 26, 2012, at the above Chief Engineer's address to request copies of the staff reports, recommendations, applications or other information. Additionally each application, Water Rights Program staff report and Chief Engineer's recommendation may be viewed on-line at http://dear.sd.gov/Powertech.aspx. Notice is given to this hearing with disabilities that this hearing is being held in a physically accessible place. Please notify the Department of Environment and Natural Resources at least 48 hours before the hearing if you have a disability for which special arrangements must be made at the hearing. The telephone number for making arrangements is (605) 773-3352.

Under SDCL 1-26-1(77) notices must state that "if the amount of controversy exceeds \$2,500.00 or if a property right may be terminated, any party to the contested case may require the agency to use the Office of Hearing Examiners by giving notice to the agency no later than ten days after service of a notice of hearing issued pursuant to SDCL 1-26-1(77). This is a Notice of Hearing service is being provided by publication, and the applicable date to give notice to the Chief Engineer is November 26, 2012. However, since this particular matter involves water permit applications and not a monetary controversy in excess of \$2,500.00 or termination of a property right, the Chief Engineer dispenses the applicability of this provision and maintains that the hearing must be conducted by the Board.

The legal authority and jurisdiction under which the hearing is to be held are the following as applicable: SDCL 1-26-16 thru 1-26-17, SDCL 46-1-6 thru 46-1-11, 46-2-9, 46-2-11, 46-2-17, 46-2A-1 thru 46-2A-10, 46-2A-14, 46-2A-15, 46-5-1, 46-5-6, 46-5-11, 46-5-10 thru 46-5-13, 46-6-3, 46-6-3-1, 46-6-3-1.1, 46-6-10, 46-6-26, and Board rules ARSD 74:02-01.01 thru 74:02-02.01.

The particular section of statutes and rules pertaining to these permit applications are, in addition to the above listing, administrative rules and the following rules pertaining to qualifications recommended by the Chief Engineer: ARSD Chapter 74:02-01 and 74:02-04.

Notice:2012-171 CFR Waste Management Minutes

Custer Fall River Regional Waste Management District Custer-Fall River Regional Waste Management District Box 11, 28470 Lookout Road Edgemont, SD 57735

The November 8, 2012 meeting of the Custer Fall River Regional Waste Management District was called to order at 7:00pm by Chairman Jim Turner at the Mueller Civic Center in Hot Springs.

Present were Turner, Hazelizne, Livingston, Besco, Romy and Messino. Absent were Cassens, Morgan and Lipp.

All motions were approved unanimously unless otherwise noted. Motion by Besco, 2nd by Messino, to approve the agenda as presented. No conflicts were noted.

Motion by Hazelizne, 2nd by Livingston to approve the minutes of Sept 13, 2012 meeting. Romy abstained.

Motion by Romy, 2nd by Livingston to approve the treasurer's report and to pay the bills outstanding including the payment to Independent Audit Services for the draft audit; final payment of \$950 where final audit report is accepted by DLA prior to the next meeting, an invoice for \$14,504.00 presented by Cheyenne Sanitation for cutting fees. (District will be reimbursed by state grant), and the DENR loan payment \$54,119.23 due Dec 1, 2012.

Tompage: Sept 2012 - 618.29 tons Sept 2011 - 702.32 tons Oct 2012 - 670.09 tons Oct 2011 - 402.31 tons Total 2012 - 6724.22 tons Total 2011 - 6702.90 tons Rubble 2012 YTD - 625.24 Rubble 2011 YTD - 980.64

Bank balances were discussed. CD rates from area banks will be presented at the next meeting with the intention of redistributing some of the district's cash balances to other banks or credit unions.

Motion by Livingston, 2nd by Hazelizne to make an additional payment on Loan #1 in the amount of \$32,700.41 with the Dec 2012 payment. The initial audit draft was discussed, some financial data will be changed and the report will be sent to Legislative Audit for approval.

Motion by Besco, 2nd by Livingston to approve the 2013 budget. Romy-opposed. After discussion on accrued liability with Alex Fisher and examination of the projections he provided to the board, the consensus was that the District has a budget that set aside for closure and post closure stream would be started for the 2014 budget.

Motion by Hazelizne, 2nd by Livingston to table action on the 2013 engineering contract until the next meeting. Kerry Baker reported that more gravel may be needed to enable paving of municipal water. Permit was received from DENR and we can now take production water motion.

Motion by Hazelizne, 2nd by Livingston to add to the rate schedule. Production Water Water: Yearly permit \$500 - Jan to Jan (permits purchased this year will be pro-rated) \$50 per barrel Romy questioned the lack of a scale at landfill facility. Discussion was held with no action taken. Romy also recommended that there be better signage for direction to the Edgemont landfill. Signage will be placed on the Jan 2013 meeting.

Tompage: 50 Recovery Systems Company \$2400.00 SD Dept of Revenue 2,740.65 Verizon 47.82 TOTAL \$35,992.19 Bills Outstanding: Board mileage and compensation \$650.00(EST.) Transfer out of checking 114,300.00 DENR loan payments \$54,119.23 (due Dec 1, 2012) Total Bills due 568,969.23 Landfill fees (Sept 13, 2012 Nov-2012) \$98,094.34 Landfill fees Year to Date 2012 \$454,301.15 Landfill year to date 2011 \$383,225.99 Steven M. Pinner, Secretary, Department of Environment and Natural Resources. Published 11-14-2012 in the Edgemont Herald Tribune

Notice:2012-174 Notice to Creditors

NOTICE TO CREDITORS, IN CIRCUIT COURT, 7th JUDICIAL CIRCUIT - File No. 12-29 STATE OF SOUTH DAKOTA

COUNTY OF Fall River) vs) IN THE MATTER OF THE) ESTATE OF) PAULETTE L. EZERNAK,) Deceased.

NOTICE TO CREDITORS: Notice is given that on Nov 9, 2012, Shannon L Bryan, whose address is 5069 Pengra Lane, Black Hawk, SD 57718, was appointed as personal representative of the estate of Paulette L. Ezernek.

Creditors of decedent must file their claims within four (4) months after the date of the first publication of this notice or their claims may be barred. Claims may be filed with the personal representative or may be filed with the clerk, and a copy of the claim mailed to the personal representative.

Shannon L. Bryan, 5069 Pengra Lane, Black Hawk, SD 57718 Carol E Foster, Clerk of Courts, Fall River County Courthouse, 906 N. River St., Hot Springs, SD 57747 (605) 745-1131 Michael P. Ormer, Attorney, P.O. Box 629, Hot Springs, SD 57747-0629 (605) 745-6415

Published three times at the total approximate total cost of \$36.24. Dated 11-14-2012 in the Edgemont Herald Tribune

Notice:2012-175 Notice of Ordinance

Notice of Adoption of Ordinance in Revision of the Ordinances of the City of Edgemont, South Dakota. NOTICE IS HEREBY GIVEN, that the Common Council of the City of Edgemont has adopted Ordinance No. 2012 Entitled "An Ordinance in Revision of the Ordinances of the City of Edgemont, South Dakota," that said Ordinance passed its first reading at a regular meeting of said Common Council held on Tuesday November 20, 2012, and said Ordinance passed its second reading at a regular meeting of the Common Council held on Tuesday November 20, 2012, and said Ordinance was signed by the Mayor and filed with the Finance Officer of said City. NOTICE IS ALSO GIVEN that pursuant to the provisions of SDCL 19-19-17 this Notice will be published once each week for two successive weeks in the Edgemont Herald Tribune, the official newspaper of said City; that the first publication thereof will be made on November 14, 2012, and the second publication thereof will be made on November 21, 2012; and twenty days after the completed publication of said notice, unless the referendum shall have been invoked, such ordinance shall become effective without publication in a newspaper. Dated at Edgemont, South Dakota, this 20th day of November, 2012. /s/ Tammi Haback, Finance Officer The referendum shall be an approximate cost of \$27.60. Published 11-14-2012 in the Edgemont Herald Tribune

YOU are the PUBLIC in Public Notices because YOU have a right to KNOW

RECEIVED
DEC - 3 2012
WATER RIGHTS PROGRAM

Affidavit of Publication

STATE OF SOUTH DAKOTA

County of Pennington SS:

Brandyn Crawford being first duly sworn, upon his/her oath says: That he/she is now and was at all time hereinafter mentioned, an employee of the RAPID CITY JOURNAL, a corporation of Rapid City, South Dakota, the owner and publisher of the RAPID CITY JOURNAL, a legal and daily newspaper printed and published in Rapid City, in said County of Pennington, and has full and personal knowledge of all the facts herein stated as follows: that said newspaper is and at all of the times herein mentioned has been a legal and daily newspaper with a bonafide paid circulation of at least Two Hundred copies daily, and has been printed and published in the English language, at and within an office maintained by the owner and publisher thereof, at Rapid City, in said Pennington County, and has been admitted to the United States mail under the second class mailing privilege for at least one year prior to the publication herein mentioned; that the advertisement, a printed copy of which, taken from said Rapid City Journal, the paper in which the same was published, is attached to this sheet and made a part of this affidavit, was published in said paper once each week for one successive week, the first publication there of being on the fourth day of November that the fees charged for the publication there of are 267 dollars and 38 cents.

Brandyn Crawford

Subscribed and sworn to before me this 30th day of November, _____.

Lorraine K. Cumming

Notary public
Dec. 18, 2016
My commission expires



NOTICE OF HEARING
on Water Permit Application Nos.
2685-2 and 2686-2 to Appropriate
Water for Powertech (USA) Inc.

Notice is given that Powertech (USA) Inc., c/o Richard Blubaugh, 5575 DTC Parkway Suite #140, Greenwood Village CO 80111 has filed two applications for water permits for primarily industrial use in a uranium in-situ mining project called the Dewey-Burdock Project located in Custer and Fall River Counties. The Dewey-Burdock Project area (project area) encompasses approximately 10,580 acres including portions of Sections 1 through 5, 10 through 12, and 14 through 15 in T7S, R1E and Sections 20 through 21, and 27 through 35 in T6S, R1E, Black Hills Meridian.

Project Overview: Powertech (USA) proposes to recover uranium by a method known as in-situ recovery, or ISR, in which groundwater from the formation containing uranium (the Inyan Kara Group) is pumped to the surface from a field of wells, fortified with oxygen and carbon dioxide, and recirculated through the formation. The oxidized groundwater changes the uranium to a soluble form and is pumped to the surface, where uranium is removed from the solution. ISR circulates water through the uranium ore zone. Only a small fraction of the water is a net withdrawal because most water is recirculated back through the ore zone.

A portion of the water extracted from the Inyan Kara Aquifer will be "bled off" to maintain a cone of depression so native groundwater continually flows toward the center of the production zone. Production bleed rates may vary in the range of 0.5 to 3 percent over the life of the project. Restoration bleed rates up to 17 percent may be used briefly but would be limited to well fields undergoing aquifer restoration. The ISR process is repeated until the economic reserves of uranium are fully removed from that particular well field. The process moves to another well field, and the uranium depleted well field is restored by continuing to circulate clean water through the wells until the water is similar in

quality to the water that existed in the formation prior to the ISR operations.

Most of the water removed from the Inyan Kara Aquifer during the ISR process is recirculated and re-injected through the well field, resulting in the net consumptive use of water being a small portion of the gross withdrawal rate. Most of the water used in the ISR operations will be obtained from the Inyan Kara Group. However, Powertech (USA) plans to use water from the Madison Aquifer to make up for water that is not provided from the ISR process. The amount of "make-up" from the Madison Aquifer will depend upon the water disposal method which is either deep disposal well or land application.

The use of water from these two formations necessitates obtaining water permits from each source. The applications listed below describe the proposed points of diversion, amount of water to be used, the maximum annual diversion rate and annual volume that may be diverted. The eastern portion of the project area is known as the Burdock area. It will include a series of ISR well fields and a central processing plant. The western portion of the project area is the Dewey area which will include ISR well fields and a satellite processing plant.

Each application, Water Rights Program staff report and Chief Engineer's recommendation may be viewed on-line at <http://denr.sd.gov/Powertech.aspx>.

Water Permit Application No. 2685-2 proposes to appropriate and place to beneficial use up to 1,228 cubic feet of water per second (cfs) with an annual consumptive use up to 888.8 acre feet of water annually from up to two or more wells completed into the Madison Aquifer at an approximate depth between 2,700 to 3,400 feet. The instantaneous peak diversion rate of 1,228 cubic feet of water per second (cfs) equates to 551 gallons per minute (gpm). The wells are located in the NW 1/4 NW 1/4 Sec 32, T6S, R1E and NW 1/4 NE 1/4 Sec 11, T7S, R1E. Madison Aquifer water is primarily proposed for aquifer restoration following in-situ recovery but also may serve as the general facility water supply including the central processing plant, satellite plant and for domestic and livestock use for area landowners inside and near the project area.

The required yield may be obtained from one Madison well or several wells dependent on a number of factors. Powertech (USA) listed two potential well locations on this water permit application, one in the Dewey portion of the project and one in the Burdock portion. The final decision as to number and location of wells will depend upon water requirements, well yield, water quality and economic factors.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2685-2 subject to a 20-year term limitation because 1) although evidence is not available to justify issuing the permit without a 20-year term limitation, there is reasonable probability that there is unappropriated water available, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) it is in the public interest.

Water Permit Application No. 2686-2 proposes to appropriate and place to beneficial use up to 18,938 cfs limited to an annual consumptive use volume up to 274.2 acre feet of water (equivalent to 0.38 cfs or 170 gpm) from multiple wells completed into the Inyan Kara aquifer at a depth between 200 to 800 feet. The wells will be located within the project area as defined in the first paragraph of this notice of hearing. The application is for a gross withdrawal (flow) rate of 18,938 cfs which equates to 8,500 gpm. The net consumptive use of water is a small portion of the gross withdrawal rate. Approximately two percent of the water is "bled off" during the process in order to maintain flow gradients toward the center of the well field. The remaining approximately ninety eight percent of the water is recirculated and continuously re-injected as part of the ISR process. The maximum net withdrawal rate equates to 0.38 cfs (170 gpm) from the Inyan Aquifer for an annual volume of up to 274.2 acre feet of water annually consumptively removed from the aquifer during the project.

Uranium recovery operations will continue for approximately 7 to 20 years. A typical well field grid of Inyan Kara wells consists of a 100 by 100 foot grid with one production well in the center and four surrounding wells for injection into the ore body. The well pattern may differ from well field to well field and be modified as needed to fit the characteristics of each ore body. Well fields will be completed along the various uranium

zones. Current development plans include construction of approximately 600 ISR production wells in the Dewey portion of the project area and 900 ISR production wells in the Burdock portion of the project area. The maximum number of production wells in operation at any one time within the entire project area including production and restoration is 1,000 wells. Based on the project life and number of production wells scheduled as the well fields are developed, Powertech (USA) anticipates requesting a future permit amendment for an extension of the five year construction period pursuant to SDCL 46-2A-8. Powertech (USA) will provide an annual diversion report to DENR describing the number and location of pumping production wells. This report will include request for change in the number and designated locations of pumping wells pursuant to SDCL 46-5-13.1. This statute allows for the location of point of diversion or additional points of diversion to be approved without application or publication if the wells are completed into the same source, no additional water is appropriated and the Chief Engineer makes a finding that the change does not increase the potential for interference with existing diversions.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends Approval of Application No. 2686-2 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest.

SDCL 46-2A-4(10) provides that "if the applicant does not contest the recommendation of the Chief Engineer and no petition to oppose the application is received, the Chief Engineer shall act on the application pursuant to the Chief Engineer's recommendation and no hearing may be held before the board, unless the Chief Engineer makes a finding that an application, even if uncontested, presents important issues of public policy or public interest that should be heard by the board." In this case, the Chief Engineer finds that these applications present important issues of public interest that should be heard by the Water Management Board.

The Water Management Board will consider these applications at 8:30 AM on December 5, 2012 in the Matthew Training Center, 523 E. Capitol Ave. Pierre SD. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny these applications based on the facts presented at the public hearings.

Any interested person who intends to participate in the hearing shall file a petition to oppose or support the applications and the petition shall be filed with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by November 26, 2012. The petition may be informal, but shall be in writing and shall include a statement describing the petitioner's interest in either application, the petitioner's reasons for opposing or supporting either application, and the signature and mail-

ing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. The hearing is an adversary proceeding and any party has the right to be present at the hearing and to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised at the hearing and decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

The December 5, 2012 hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any person who has filed a petition to oppose or support either application. The request for an automatic delay must be filed by November 26, 2012. If an automatic delay is requested, the hearing will be rescheduled for a future Board meeting and personal notice will be provided to all petitioners regarding the time, date and location.

Contact Eric Gronlund by November 26, 2012, at the above Chief Engineer's address to request copies of the staff reports, recommendations, applications or other information. Additionally each application, Water Rights Program staff report and Chief Engineer's recommendation may be viewed on-line at <http://denr.sd.gov/Powertech.aspx>. Notice is given to individuals with disabilities that this hearing is being held in a physically accessible place. Please notify the Department of Environment and Natural Resources at least 48 hours before the hearing if you have a disability for which special arrangements must be made at the hearing. The telephone number for making arrangements is (605) 773-3352.

Under SDCL 1-26-17(7) notices must state that "if the amount in controversy exceeds \$2,500.00 or if a property right may be terminated, any party to the contested case may require the agency to use the Office of Hearing Examiners by giving notice of the request to the agency no later than ten days after service of a notice of hearing issued pursuant to SDCL 1-26-17." This is a Notice of Hearing, service is being provided by publication, and the applicable date to give notice to the Chief Engineer is November 26, 2012. However, since this particular matter involves water permit applications and not a monetary controversy in excess of \$2,500.00 or termination of a property right the Chief Engineer disputes the applicability of this provision and maintains that the hearing must be conducted by the Board.

The legal authority and jurisdiction under which the hearing is to be held are the following as applicable: SDCL 1-26-16 thru 1-26-28; SDCL 46-1-1 thru 46-1-9, 46-1-14 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-14, 46-2A-15; 46-5-6.11, 46-5-10 thru 46-5-13, 46-5-30 thru 46-5-30.3, 46-5-32; 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-26; and Board rules ARSD 74:02:01:01 thru 74:02:01:15.

The particular section of statutes and rules pertaining to these permit applications are, in addition to the above, the following: SDCL 46-2A-9, 46-4-3.1, 46-2A-15, 46-2A-20, 46-2A-21 46-5-10 thru 46-5-13.1, 46-5-26, 46-6-10, 46-6-26; the above listed administrative rules and the following rules pertaining to qualifications recommended by the Chief Engineer: ARSD Chapter 74:02:01 and 74:02:04. /s/ Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

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operation at any one time within the entire project area including production and restoration is 1,000 wells. Based on the project life and number of production wells scheduled as the well fields are developed, Powertech (USA) anticipates requesting a future permit amendment for an extension of the five year construction period pursuant to SDCL 46-2A-8. Powertech (USA) will provide an annual diversion report to DENR describing the number and location of pumping production wells. This report will include request for change in the number and designated locations of pumping wells pursuant to SDCL 46-5-13.1. This statute allows for the location of point of diversion or additional points of diversion to be approved without application or publication if the wells are completed into the same source, no additional water is appropriated and the Chief Engineer makes a finding that the change does not increase the potential for interference with existing diversions.

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or termination of a property right the Chief Engineer disputes the applicability of this provision and maintains that the hearing must be conducted by the Board.

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The particular section of statutes and rules pertaining to these permit applications are, in addition to the above, the following: SDCL 46-2A-9, 46-6-3.1, 46-2A-15; 46-2A-20, 46-2A-21 46-5-10 thru 46-5-13.1, 46-5-26, 46-6-10, 46-6-26; the above listed administrative rules and the following rules pertaining to qualifications recommended by the Chief Engineer: ARSD Chapter 74:02:01 and 74:02:04.

Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

Published once at an approximate cost of \$118.23.

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Form 8

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DEC 12 2012

WATER RIGHTS PROGRAM

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County of Bennett) SS

I, Cora White Horse

certify that the attached printed Notice was taken

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County of Bennett and

state of South Dakota. The notice was published

in the newspaper on the following date:

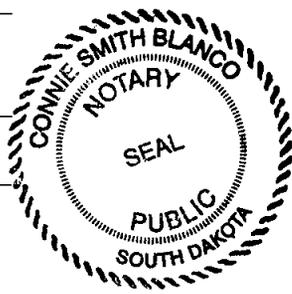
Nov. 14, 2012

Cost of Printing 217.60

Connie Smith
(Signature)

owner
(Title)

Dec. 1, 2012
(Date Signed)



NOTICE OF HEARING

Department of Environment and Natural Resources

NOTICE OF HEARING on Water Permit Application Nos. 2685-2 and 2686-2 to Appropriate Water for Powertech (USA) Inc.

Notice is given that Powertech (USA) Inc., c/o Richard Blubaugh, 5575 DTC Parkway Suite #140, Greenwood Village CO 80111 has filed two applications for water permits for primarily industrial use in a uranium in-situ mining project called the Dewey-Burdock Project located in Custer and Fall River Counties. The Dewey-Burdock Project area (project area) encompasses approximately 10,580 acres including portions of Sections 1 through 5, 10 through 12, and 14 through 15 in T7S, R1E and Sections 20 through 21, and 27 through 35 in T6S, R1E, Black Hills Meridian.

Project Overview: Powertech (USA) proposes to recover uranium by a method known as in-situ recovery, or ISR, in which groundwater from the formation containing uranium (the Inyan Kara Group) is pumped to the surface from a field of wells, fortified with oxygen and carbon dioxide, and recirculated through the formation. The oxidized groundwater changes the uranium to a soluble form and is pumped to the surface, where uranium is removed from the solution. ISR circulates water through the uranium ore zone. Only a small fraction of the water is a net withdrawal because most water is recirculated back through the ore zone. A portion of the water extracted from the Inyan Kara Aquifer will be "bled off" to maintain a cone of depression so native groundwater continually flows toward the center of the production zone. Production bleed rates may vary in the range of 0.5 to 3 percent over the life of the project. Restoration bleed rates up to 17 percent may be used briefly but would be limited to well fields undergoing aquifer restoration. The ISR process is repeated until the economic reserves of uranium are fully removed from that particular well field. The process moves to another well field, and the uranium depleted well field is restored by continuing to circulate clean water through the wells until the water is similar in quality to the water that existed in the formation prior to the ISR operations. Most of the water removed from the Inyan Kara Aquifer during the ISR process is recirculated and re-injected through the well field, resulting in the net consumptive use of water being a small portion of the gross withdrawal rate. Most of the water used in the ISR operations will be obtained from the Inyan Kara Group. However, Powertech (USA) plans to use water from the Madison Aquifer to make up for water that is not provided from the ISR process. The amount of "make-up" from the Madison Aquifer will depend upon the water disposal method which is either deep disposal well or land application. The use of water from these two formations necessitates obtaining water permits from each source. The applications listed below describe the proposed points of diversion, amount of water to be used, the maximum annual diversion rate and annual volume that may be diverted. The eastern portion of the project area is known as the Burdock area. It will include a series of ISR well fields and a central processing plant. The western portion of the project area is the Dewey area which will include ISR well fields and a satellite processing plant.

Each application, Water Rights Program staff report and Chief Engineer's recommendation may be viewed on-line at <http://denr.sd.gov/Powertech.aspx>.

Water Permit Application No. 2685-2 proposes to appropriate and place to beneficial use up to 1.228 cubic feet of water per second (cfs) with an annual consumptive use up to 888.8 acre feet of water annually from up to two or more wells completed into the Madison Aquifer at an approximate depth between 2,700 to 3,400 feet. The instantaneous peak diversion rate of 1.228 cubic feet of water per second (cfs) equates to 551 gallons per minute (gpm). The wells are to be located in the NW 1/4 NW 1/4 Section 32, T6S, R1E and the NW 1/4 NE 1/4 Section 11, T7S, R1E. Madison Aquifer water is primarily proposed for aquifer restoration following in-situ recovery but also may serve as the general facility water supply including the central processing plant, satellite plant and for domestic and livestock use for area landowners inside and near the project area.

The required yield may be obtained from one Madison well or several wells dependent on a number of factors. Powertech (USA) listed two potential well locations on this water permit application, one in the Dewey portion of the project and one in the Burdock portion. The final decision as to number and location of wells will depend upon water requirements, well yield, water quality and economic factors.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2685-2 subject to a 20-year term limitation because 1) although evidence is not available to justify issuing the permit without a 20-year term limitation, there is reasonable probability that there is unappropriated water available, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) it is in the public interest.

Water Permit Application No. 2686-2 proposes to appropriate and place to beneficial use up to 18.938 cfs limited to an annual consumptive use volume up to 274.2 acre feet of water (equivalent to 0.38 cfs or 170 gpm) from multiple wells completed into the Inyan Kara aquifer at a depth between 200 to 800 feet. The wells will be located within the project area as defined in the first paragraph of this notice of hearing. The application is for a gross withdrawal (flow) rate of 18.938 cfs which equates to 8,500 gpm. The net consumptive use of water is a small portion of the gross withdrawal rate. Approximately two percent of the water is "bled off" during the process in order to maintain flow gradients toward the center of the well field. The remaining approximately ninety eight percent of the water is recirculated and continuously re-injected as part of the ISR process. The maximum net withdrawal rate equates to 0.38 cfs (170 gpm) from the Inyan Aquifer for an annual volume of up to 274.2 acre feet of water annually consumptively removed from the aquifer during the project.

Uranium recovery operations will continue for approximately 7 to 20 years. A typical well

C6 WEDNESDAY, NOVEMBER 14, 2012

field grid of Inyan Kara wells consists of a 100 by 100 foot grid with one production well in the center and four surrounding wells for injection into the ore body. The well pattern may differ from well field to well field and be modified as needed to fit the characteristics of each ore body. Well fields will be completed along the various uranium zones. Current development plans include construction of approximately 600 ISR production wells in the Dewey portion of the project area and 900 ISR production wells in the Burdock portion of the project area. The maximum number of production wells in operation at any one time within the entire project area including production and restoration is 1,000 wells. Based on the project life and number of production wells scheduled as the well fields are developed, Powertech (USA) anticipates requesting a future permit amendment for an extension of the five year construction period pursuant to SDCL 46-2A-8. Powertech (USA) will provide an annual diversion report to DENR describing the number and location of pumping production wells. This report will include request for change in the number and designated locations of pumping wells pursuant to SDCL 46-5-13.1. This statute allows for the location of point of diversion or additional points of diversion to be approved without application or publication if the wells are completed into the same source, no additional water is appropriated and the Chief Engineer makes a finding that the change does not increase the potential for interference with existing diversions.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends Approval of Application No. 2686-2 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest.

SDCL 46-2A-4(10) provides that "if the applicant does not contest the recommendation of the Chief Engineer and no petition to oppose the application is received, the Chief Engineer shall act on the application pursuant to the Chief Engineer's recommendation and no hearing may be held before the board, unless the Chief Engineer makes a finding that an application, even if uncontested, presents important issues of public policy or public interest that should be heard by the board." In this case, the Chief Engineer finds that these applications present important issues of public interest that should be heard by the Water Management Board.

The Water Management Board will consider these applications at 8:30 AM on December 5, 2012 in the Matthew Training Center, 523 E. Capitol Ave. Pierre SD. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny these applications based on the facts presented at the public hearing.

Any interested person who intends to participate in the hearing shall file a petition to oppose or support the applications and the petition shall be filed with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E. Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by November 26, 2012. The petition may be informal, but shall be in writing and shall include a statement describing the petitioner's interest in either application, the

petitioner's reasons for opposing or supporting either application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. The hearing is an adversary proceeding and any party has the right to be present at the hearing and to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised at the hearing and decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

The December 5, 2012 hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any person who has filed a petition to oppose or support either application. The request for an automatic delay must be filed by November 26, 2012. If an automatic delay is requested, the hearing will be rescheduled for a future Board meeting and personal notice will be provided to all petitioners regarding the time, date and location.

Contact Eric Gronlund by November 26, 2012, at the above Chief Engineer's address to request copies of the staff reports, recommendations, applications or other information. Additionally each application, Water Rights Program staff report and Chief Engineer's recommendation may be viewed on-line at <http://denr.sd.gov/Powertech.aspx>. Notice is given to individuals with disabilities that this hearing is being held in a physically accessible place. Please notify the Department of Environment and Natural Resources at least 48 hours before the hearing if you have a disability for which special arrangements must be made at the hearing. The telephone number for making arrangements is (605) 773-3352.

Under SDCL 1-26-17(7) notices must state that "if the amount in controversy exceeds \$2,500.00 or if a property right may be terminated, any party to the contested case may require the agency to use the Office of Hearing Examiners by giving notice of the request to the agency no later than ten days after service of a notice of hearing issued pursuant to SDCL 1-26-17." This is a Notice of Hearing, service is being provided by publication, and the applicable date to give notice to the Chief Engineer is November 26, 2012. However, since this particular matter involves water permit applications and not a monetary controversy in excess of \$2,500.00 or termination of a property right the Chief Engineer disputes the applicability of this provision and maintains that the hearing must be conducted by the Board.

The legal authority and jurisdiction under which the hearing is to be held are the following as applicable: SDCL 1-26-16 thru 1-26-28; SDCL 46-1-1 thru 46-1-9, 46-1-14 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-14, 46-2A-15; 46-5-6.11, 46-5-10 thru 46-5-13, 46-5-30 thru 46-5-30.3, 46-5-32; 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-26; and Board rules ARSD 74:02:01:01 thru 74:02:01:15.

The particular section of statutes and rules pertaining to these permit applications are, in addition to the above, the following: SDCL 46-2A-9, 46-6-3.1, 46-2A-15, 46-2A-20, 46-2A-21 46-5-10 thru 46-5-13.1, 46-5-26, 46-6-10, 46-6-26; the above listed administrative rules and the following rules pertaining to qualifications recommended by the Chief Engineer: ARSD Chapter 74:02:01 and 74:02:04.

Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

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