

APPENDIX 3.8-B

**USACE Jurisdictional
Determination**

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REPLY TO
ATTENTION OF :

DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT
SOUTH DAKOTA REGULATORY OFFICE
28563 POWERHOUSE ROAD, ROOM 118
PIERRE SD 57501-6174

DM
1/14/09

January 14, 2009

South Dakota Regulatory Office
28563 Powerhouse Road, Room 118
Pierre, South Dakota 57501

Powertech (USA) Inc.
ATTN: Mr. Richard Blubaugh
5575 DTC Parkway, Suite 140
Greenwood Village, Colorado 80111

Dear Mr. Blubaugh:

Reference is made to Powertech's November 18, 2008, request for approved jurisdictional determinations (JDs) for sites 1 through 17, located within proposed disturbance areas of the Dewey-Burdock In Situ Uranium Project. The project is located in portions of southern Custer County and northern Fall River Counties, South Dakota.

We have completed Approved JDs, for the requested sites, as well as sites 18 through 20. The Approved JDs (Enclosed) are valid for 5 years from the date of this letter. If you are not in agreement with the JDs, you may request an administrative appeal under Corps of Engineers regulations found at 33 C.F.R. 331. Enclosed you will also find a Notification of Administrative Appeal Options and Process and Request for Appeal form (RFA). Should you decide to submit an RFA form, it must be received by the Corps of Engineers Northwestern Division Office within 60 days from the date of this correspondence (March 15, 2009). If you request to appeal this determination you must submit a completed RFA form to the Northwest Division Office at the following address:

US Army Corps of Engineers
Northwestern Division
Attn: David Gesl
Regulatory Program Manager
PO Box 2870
Portland, OR 97208-2870
(503) 808-3888

It is not necessary to submit a RFA if you do not object to the JD.

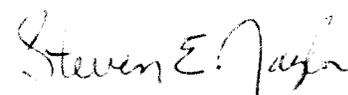
Should your proposed project require work in any of the jurisdictional waterbodies identified in the JDs, prior Department of the Army (DA) authorization may be required and you should contact this office for a permit determination. In addition, should your project plans change or should the project require work in any other waters of the United

States, including wetlands, not previously identified in your August 21, 2008, JD request, you should notify this office and seek additional jurisdictional and permit determinations prior to the commencement of work in these waterbodies.

You can obtain additional information about the Regulatory Program and download forms from our website: <https://www.nwo.usace.army.mil/html/od-rsd/frame.html> .

If you have any questions concerning this determination, please feel free to contact this office at the above Regulatory Office address, or telephone Mr. Matthew Mikulecky at (605) 224-8531 and reference action ID NWO-2008-2206.

Sincerely,

A handwritten signature in black ink that reads "Steven E. Naylor". The signature is written in a cursive style with a large, stylized 'S' and 'N'.

Steven E. Naylor
Regulatory Program Manager,
South Dakota

Enclosures

**USACOE Approved Jurisdictional Determination of Wetlands at
Dewey-Burdock, Action IS: NOW-2008-2206¹**

Site #	Latitude: Northing (GPS)	Longitude: Westing (GPS)	Description	COE Determination
1	43.50106	104.02757	Upland Swale	Nonjurisdictional
2	43.49590	104.02211	Upland Swale	Nonjurisdictional
3	43.48897	104.02025	Ephemeral Tributary to Beaver Creek	Jurisdictional WOUS
4	43.48654	104.01299	Upland Swale	Nonjurisdictional
5	43.48819	104.01023	Upland Swale	Nonjurisdictional
6	43.46919	103.98704	Upland Swale	Nonjurisdictional
7	43.46591	103.98474	Ephemeral Tributary to Pass Creek	Jurisdictional WOUS
8	43.45801	103.97643	Upland Swale	Nonjurisdictional
9	43.45117	103.98366	Upland Swale	Nonjurisdictional
10	43.47719	103.99297	Pass Creek (NonRPW)	Jurisdictional WOUS
11	43.48869	103.96516	Upland Swale	Nonjurisdictional
12	43.48794	103.96532	Upland Swale	Nonjurisdictional
13	43.45098	103.96838	Upland Swale	Nonjurisdictional
14	43.45080	103.96185	Upland Vegetated Drainage lacking a downstream connection to WOUS	Nonjurisdictional
15	43.47863	103.95662	Upland Swale	Nonjurisdictional
16	43.46359	103.94818	Upland Hillside Gully	Nonjurisdictional
17	NA	NA	Artificial Pond created by diking uplands	Nonjurisdictional
18	NA	NA	Beaver Creek (Perennial RPW)	Jurisdictional WOUS
19	NA	NA	Isolated Wetland	Nonjurisdictional
20	NA	NA	Isolated Wetland	Nonjurisdictional

¹Completion date for Approved Jurisdictional Determination (JD): January 13, 2009
District Office, File Name, and Number: Omaha – Powertech (USA) Inc.- NOW-2008-2206-3-PIE