

July 2, 2012

William J. Froehlich, Chair
Administrative Judge
Atomic Safety and Licensing Board Panel
Mail Stop T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Mark O. Barnett
Administrative Judge
Atomic Safety and Licensing Board Panel
Mail Stop T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Richard F. Cole
Administrative Judge
Atomic Safety and Licensing Board Panel
Mail Stop T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

In the Matter of
POWERTECH (USA) INC.,
Docket No. 40-9075-MLA; ASLBP No. 10-898-02-MLA-BD01

Dear Administrative Judges:

Pursuant to 10 C.F.R. §§ 2.336(b) and (c) and 2.1203, the Nuclear Regulatory Commission (NRC) Staff provides the Licensing Board and the parties with an updated index listing documents required to be disclosed by the Staff. (Attachment 1.) These documents may be viewed by accessing the hearing file for this proceeding that is maintained by the NRC's Office of the Secretary.

Along with the attached update to its hearing file index, the Staff is providing an affidavit certifying that all relevant materials have been disclosed to the extent required by 10 C.F.R. § 2.336(c). The Staff is also attaching two (2) indices listing documents that, under 10 C.F.R. § 2.390, are exempt from disclosure and for which the Staff is asserting a privilege or immunity. (Attachments 2 and 3.)

The Staff will update its mandatory disclosures, hearing file, and privilege logs in accordance with 10 C.F.R. §§ 2.336(d) and 2.1202(c) no later than August 1, 2012.

Sincerely,

***/Signed (electronically) by/
Patricia Jehle***

Patricia Jehle
Counsel for NRC Staff

Enclosures: Attachment 1: Hearing File Index
Attachment 2: Deliberative Process Log
Attachment 3: Sensitive Info - Official Use Only Log
Declaration of Keith McConnell
Affidavit of Ronald Burrows

cc: Electronic Information Exchange Service List

ATTACHMENT 1
POWERTECH HEARING FILE AND MANDATORY DISCLOSURES
July 2, 2012 Update (Publicly Available Documents)

ID Number	Accession Number	Document Date	Title
00-720	ML120730509	03/09/2012	Tribal Historic Preservation Officer ltr. re: Statement of Work for Crow Butte North Trend, Crow Butte License Renewal, and Dewey-Burdock.
00-721	ML120860538	03/26/2012	A.T. Rusty Stafne ltr. re: Transmittal of Transcripts from February 14 and 15, 2012 Section 106 Consultation Meetings.
00-722	ML120860557	03/26/2012	Michael Jandreau ltr. re: Transmittal of Transcripts from February 14 and 15, 2012 Section 106 Consultation Meetings.
00-723	ML120860564	03/26/2012	Gabe Prescott ltr. re: Transmittal of Transcripts from February 14 and 15, 2012 Section 106 Consultation Meetings.
00-724	ML120870155	03/27/2012	M. St. Claire ltr. re: Transmittal of Transcripts and Attendance Lists from Section 106 Consultation Meetings.
00-725	ML121250122	05/07/2012	A. T. Stafne ltr. re: Transmittal of Applicant's Statement of Work for Crow Butte and Dewey Burdock Projects.
00-726	ML12130A104	02/14/2012	February 14 2012 Attendance List for Tribal Consultation Meeting Regarding Dewey Burdock and Crow Butte Projects.
00-727	ML12130A143	02/29/2012	Cancellation of March 14 & 15, 2012 Section 106 Tribal Consultation Meeting for Dewey-Burdock and Crow-Butte.
00-728	ML12151A003	05/30/2012	Summary of 05/01/2012 Meeting with Powertech in Denver, Co. to Discuss Review of Application for a New In Situ Recovery Facility at the Dewey-Burdock Site.
00-729	ML12152A292	05/25/2012	Letter from S. Dakota Environment and Natural Resources to Powertech (USA) Inc. Re: Preliminary Technical Comments on Ground Water Discharge Plan Application for Dewey-Burdock Project.
00-730	ML12156A098	05/31/2012	R. Blubaugh ltr. re: Dewey-Burdock Project, Revised and Final Exhibit RAI-CH1.
00-731	ML12158A438	06/01/2012	E-mail from Powertech Re: Location of New House Under Construction Near Dewey-Burdock.
00-732	ML12166A033	06/08/2012	R. Blubaugh Ltr. re: Dewey-Burdock Project, Proposed Operational Facilities with Vegetation Overlay and Associated Table.
00-733	ML12166A049	06/08/2012	Map of Proposed Deep Disposal Well Facilities Showing Disturbance of Vegetation Communities.
00-734	ML12166A052	06/08/2012	Map of Proposed Land Application Facilities Showing Disturbance of Vegetation Communities.
00-735	ML12167A178	05/24/2012	Replacement CD Cover Letter for Groundwater Discharge Permit Application to SD DENR.

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POWERTECH HEARING FILE AND MANDATORY DISCLOSURES
July 2, 2012 Update (Publicly Available Documents)

ID Number	Accession Number	Document Date	Title
00-736	ML12167A179	05/24/2012	Powertech, Inc., Ground Water Discharge Plan Application.
00-737	ML12167A180	05/24/2012	Powertech (USA), Inc., Section 7.0, Proposed Perimeter of Operation Pollution (POP) of the Groundwater Discharge Application.
00-738	ML12167A181	05/24/2012	Powertech (USA), Inc., Section 12.0, References of the Groundwater Discharge Application.
00-739	ML12171A036	06/13/2012	Additional Regional Meteorological Data for Powertech's Proposed Dewey-Burdock Project.
00-740	ML12171A039	06/13/2012	Met Data Package for Powertech's Dewey-Burdock Project.
00-741	ML12171A255	06/20/2012	Letter to Steven Vance of Cheyenne River Sioux Transmitting Evaluative Testing Report and Associated Map.
00-742	ML12171A356	06/26/2012	Letter to Apache Tribe re: Transmittal of Transcript of April 24, 2012 Teleconference.
00-743	ML12172A176	06/20/2012	Letter to Hurbert Two Leggings of Crow Tribe Transmitting Evaluative Testing Report and Associated Map.
00-744	ML12172A178	06/20/2012	Letter to Oglala Sioux Tribe Transmitting Evaluative Testing Report and Associated Map.
00-745	ML12172A194	06/20/2012	Letter to the Ponca Tribe re: Transmittal of Evaluative Testing Report and Associated Map.
00-746	ML12172A207	06/20/2012	Letter to Wanda Wells of Crow Creek Sioux Tribe Transmitting Evaluative Testing Report and Associated Map.
00-747	ML12172A213	06/20/2012	Letter to Rosebud Sioux Tribe re: Transmittal of Evaluative Testing Report and Associated Map.
00-748	ML12172A236	06/20/2012	Letter to Wilfred Ferris of Eastern Shoshone Tribe transmitting Evaluative Testing Report and associated Map.
00-749	ML12172A238	06/20/2012	Letter to Santee Sioux Tribe re: Transmittal of Evaluative Testing Report and Associated Map.
00-750	ML12172A252	06/20/2012	Letter to James Weston of Fladreau-Santee Sioux Tribe Transmitting Evaluative Testing Report and Associated Map.
00-751	ML12172A253	06/20/2012	Letter to Sisseton-Wahpeton Tribe re: Transmittal of Evaluative Testing Report and Associated Map.
00-752	ML12172A270	06/20/2012	Letter to Darrell "Curley" Youpee of Fort Peck Tribes transmitting Evaluative Testing Report and associated Map.
00-753	ML12172A271	06/20/2012	Letter to Spirit Lake Tribe re: Transmittal of Evaluative Testing Report and Associated Map.

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POWERTECH HEARING FILE AND MANDATORY DISCLOSURES
July 2, 2012 Update (Publicly Available Documents)

ID Number	Accession Number	Document Date	Title
00-754	ML12172A281	06/20/2012	Letter to Ms. Clair Green of Lower Brule Sioux Tribe Transmitting Evaluative Testing Report and Associated Map.
00-755	ML12172A295	06/20/2012	Letter to Standing Rock Sioux re: Transmittal of Evaluative Testing Report and Associated Map.
00-756	ML12172A312	06/20/2012	Letter to Anthony Morse of Lower Sioux Tribe Transmitting Evaluative Testing Report and Associated Map.
00-757	ML12172A323	06/20/2012	Letter to Three Affiliated Tribes Letter re: Transmittal of Evaluative Testing Report and Associated Map.
00-758	ML12172A327	06/20/2012	Letter to Ms. Darlene Conrad of Northern Arapaho Business Committee Transmitting Evaluative Testing Report and Associated Map.
00-759	ML12172A342	06/20/2012	Letter to Turtle Mountain Chippewa re: Transmittal of Evaluative Testing Report and Associated Map.
00-760	ML12172A356	06/20/2012	Letter to Conrad Fisher of Northern Cheyenne Tribe Transmitting Evaluative Testing Report and Associated Map.
00-761	ML12172A363	06/20/2012	Letter to Yankton Sioux Letter re: Transmittal of Evaluative Testing Report and Associated Map.
00-762	ML12173A038	06/13/2012	Powertech (USA) Inc.'s Additional Regional Meteorological Data for Proposed Dewey-Burdock Project.
00-763	ML12174A348	06/26/2012	Letter to Cheyenne River Sioux Transmitting Transcript from April 24, 2012 Teleconference.
00-764	ML12174A359	06/26/2012	Letter to Comanche Nation Tribe Transmitting Transcript from April 24, 2012 Teleconference.
00-765	ML12174A367	06/26/2012	Letter to Kiowa Indian Tribe of Oklahoma Transmitting Transcript from April 24, 2012 Teleconference.
00-766	ML12174A393	06/26/2012	Letter to Pawnee Nation of Oklahoma Transmitting Transcript from April 24, 2012 Teleconference.
00-767	ML12174A404	06/26/2012	Letter to Cheyenne and Arapaho Tribe transmitting Transcript from April 24, 2012 Teleconference.
00-768	ML12174A420	06/26/2012	Letter to Crow Tribe Transmitting Transcript from April 24, 2012 Teleconference.
00-769	ML12177A060	06/26/2012	Letter to Crow Creek Tribe Transmitting Transcript for April 24, 2012 Teleconference.
00-770	ML12177A082	06/26/2012	Letter to Eastern Shoshone Tribe transmitting Transcript from April 24, 2012 Teleconference.

ATTACHMENT 1
POWERTECH HEARING FILE AND MANDATORY DISCLOSURES
July 2, 2012 Update (Publicly Available Documents)

ID Number	Accession Number	Document Date	Title
00-771	ML12177A087	06/26/2012	Letter to Flandreau-Santee Sioux Tribe Transmitting Transcript from April 24, 2012 Teleconference.
00-772	ML12177A094	06/26/2012	Letter to Fort-Peck Tribes Transmitting Transcript from April 24, 2012 Teleconference.
00-773	ML12177A109	06/26/2012	Ltr. to Oglala Sioux Tribe re: Transmitting Transcript of April 24, 2012 Teleconference.
00-774	ML12177A134	06/26/2012	Ltr. to Ponca Tribe re: Transmittal of Transcript of April 24, 2012 Teleconference.
00-775	ML12177A157	06/26/2012	Ltr. to Rosebud Sioux Tribe re: Transmittal of Transcript of April 24, 2012 Teleconference.
00-776	ML12177A176	06/26/2012	Letter to Lower Brule Sioux Tribe Transmitting Transcript from April 24, 2012 Teleconference.
00-777	ML12177A202	06/26/2012	Letter to Santee Sioux Tribe re: Transmittal of Transcript of April 24, 2012 Teleconference.
00-778	ML12177A246	06/26/2012	Ltr. to Sisseton-Wahpeton Tribe re: Transmittal of Transcript of April 24, 2012 Teleconference.
00-779	ML12177A249	06/26/2012	Letter to Lower Sioux Tribe transmitting Transcript from April 24, 2012 Teleconference.
00-780	ML12177A257	06/26/2012	Letter to Northern Arapaho Tribe Transmitting, Transcript from April 24, 2012 Teleconference.
00-781	ML12177A263	06/26/2012	Letter to Norther Cheyenne Tribe Transmitting Transcript from April 24, 2012 Teleconference.
00-782	ML12177A265	06/26/2012	Letter to Spirit Lake Tribe re: Transmittal of Transcript of April 24, 2012 Teleconference.
00-783	ML12177A319	06/26/2012	Letter to Standing Rock Sioux re: Transmittal of Transcript of April 24, 2012 Teleconference.
00-784	ML12177A333	06/26/2012	Letter to Three Affiliated Tribes re: Transmittal of Transcript from April 24, 2012 Teleconference.
00-785	ML12177A340	06/26/2012	Letter to Turtle Mountain Chippewa re: Transmittal of Transcript of April 24, 2012 Teleconference.
00-786	ML12177A355	06/26/2012	Letter to Yankton Sioux re: Transmittal of Transcript of April 24, 2012 Teleconference.
00-787	ML12179A534	06/27/2012	2012/06/27 Powertech Dewey-Burdock LA - PM-to-PM Clarification Re TR RAI 5.7.8-3(b)

ATTACHMENT 2
POWERTECH HEARING FILE AND MANDATORY DISCLOSURES
DELIBERATIVE PROCESS PRIVILEGE LOG
July 2, 2012

Certain documents otherwise subject to inclusion in the hearing file and mandatory disclosures for this proceeding have been determined by the NRC Staff to contain information subject to withholding from public disclosure as predecisional, deliberative information. Pursuant to 10 C.F.R. § 2.336(b)(5), the Staff is providing this log to identify the following documents withheld under the deliberative process privilege.

ID#	Accession Number	Author/ Affiliation	Title/Description	Document Date	Document Type	Addressee/ Affiliation	Comment	Page Count
DP-00-267	ML12170A864	Burrows, Ronald (NRC/FSME)	POP Discussion Quarterly Call Update with Powertech 2nd Qtr 2012.	06/12/2012	E-Mail, Note to File	Burrows, Ronald (NRC/FSME)	Contains Staff reviewer's personal notes on materials under review.	2

ATTACHMENT 3
POWERTECH HEARING FILE AND MANDATORY DISCLOSURES
SENSITIVE INFORMATION LOG
July 2, 2012

Certain documents otherwise subject to inclusion in the hearing file and mandatory disclosures for this proceeding have been determined by the NRC Staff to contain information subject to withholding from public disclosure as sensitive information. Pursuant to 10 C.F.R. § 2.336(b)(5), the Staff is providing this log to identify the following documents withheld because they contain sensitive information that, under 10 C.F.R. § 2.390(a)(3), is exempt from disclosure.

ID#	Accession Number	Author/ Affiliation	Title / Description	Document Date	Document Type	Comment	Page Count
S-00-46	ML120550493	NRC/FSME	Beaver Creek BAEA Nest Results, 2007-2011.	12/31/2011	Graphics incl Charts and Tables Spreadsheet File	Contains non-public information regarding nest grouse locations that was sent to the Staff by a South Dakota state agency.	1
S-00-47	ML120550497	NRC/FSME	Copy of Total Birds Per Lek by Year.	12/31/2011	Graphics incl Charts and Tables Spreadsheet File	Contains non-public information regarding nest locations that was sent to the Staff by a South Dakota state agency.	26
S-00-48	ML120590330	NRC/FSM	Transcript of February 14, 2012 Section 106 Consultation Meeting.	02/14/2012	Meeting Transcript	Use controlled by Section 304 of the National Historic Preservation Act and South Dakota Codified Laws, specifically, § 1-20-21.2.	183
S-00-49	ML120870197	Powertech (USA), Inc.	Dewey Burdock Draft Scope of Work and Figures.	03/07/2012	Maps with locations of archaeological sites.	Use controlled by Section 304 of the National Historic Preservation Act and South Dakota Codified Laws, specifically, § 1-20-21.2.	8
S-00-50	ML12118A520	Blubaugh, R. (E./Powertech (USA), Inc.)	Letter from Powertech (USA) Inc to NRC Regarding Supplemental Cultural Resources Report, Evaluation Testing of 20 Sites in the Powertech (USA) Inc. Dewey-Burdock Uranium Projects.	04/19/2012	Letter	Use controlled by Section 304 of the National Historic Preservation Act and South Dakota Codified Laws, specifically, § 1-20-21.2.	5 pages, and 5 attachments

ID#	Accession Number	Author/ Affiliation	Title / Description	Document Date	Document Type	Comment	Page Count
S-00-51	ML12156A100	Powertech (USA), Inc.	R849 - Archeological Impact Combined, Dewey-Burdock Project. Map of Proposed Facilities and Well Fields Land Application & Deep Disposal showing Locations of Archeological Sites.	05/31/2012	Map	Use controlled by Section 304 of the National Historic Preservation Act and South Dakota Codified Laws, specifically, § 1-20-21.2.	1
S-00-52	ML12171A342	Ryan M. L. (NRC/FSME)	April 24 2012 Transcript of Teleconference Regarding Crow Butte and Dewey Burdock Projects.	04/24/2012	Meeting Transcript	Use controlled by Section 304 of the National Historic Preservation Act and South Dakota Codified Laws, specifically, § 1-20-21.2.	85

July 2, 2012

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
)	
POWERTECH (USA) INC.,)	Docket No. 40-9075-MLA
)	
(Dewey-Burdock In Situ Uranium Recovery)	ASLBP No. 10-898-02-MLA-BD01
Facility))	

DECLARATION OF KEITH McCONNELL

I, Keith McConnell, do hereby state as follows:

1. I am employed as Deputy Director in the Nuclear Regulatory Commission's Office of Federal and State Materials and Environmental Management Programs, Division of Waste Management and Environmental Protection, Decommissioning and Uranium Recovery Licensing Directorate. My supervisory responsibilities include oversight of the NRC Staff's review and evaluation of Powertech (USA) Inc.'s application for a license to be used in connection with the proposed Dewey-Burdock uranium recovery facility.

2. As part of their responsibilities in preparing the hearing file and mandatory disclosures for this proceeding, NRC staff members under my supervision identified one document as privileged because it contains information concerning the Staff's deliberative process. The document is listed in Attachment 2 to the Staff's March Update to the Hearing File, which I understand will be filed on May 1, 2012.

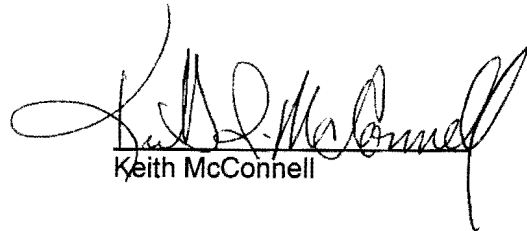
3. I have personally reviewed the document identified as privileged in Attachment 2 and have determined, in accordance with the guidance set forth in Management Directive 3.4, that the document contains predecisional information concerning the Staff's review of Powertech's license application. The document contains the Staff's analyses, recommendations, opinions, or evaluations, and they may not necessarily reflect the final

agency position with respect to the matters discussed therein. The document comprises part of the deliberative process necessary to the Staff's review of Powertech's license application.

4. Further, I have determined that disclosure of the document could result in harm to the agency, in that it would (a) prematurely disclose the preliminary views of individual Staff members or the Staff prior to reaching a final agency decision, potentially creating confusion as to the actual policy or views of the NRC Staff; (b) hinder the efficiency of the Staff, in that forced disclosure of its internal discussions on an unresolved issue would tend to chill all future deliberations and would interfere with the Staff's ability to engage in a free exchange of opinions and analyses prior to publishing its final review documents; and (c) imply or suggest incorrectly that the opinions of the Staff members involved in these communications are actually the final decisions of the agency, when no such final decision has yet been made.

5. Accordingly, I formally invoke the deliberative process privilege with respect to the document listed in Attachment 2 the Staff's Hearing File Update of July 2, 2012.

6. I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.



Keith McConnell

Executed in Rockville, Maryland
this 2nd day of July 2012

July 2, 2012

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
)	
POWERTECH (USA) INC.,)	Docket No. 40-9075-MLA
)	
(Dewey-Burdock In Situ Uranium Recovery Facility))	ASLBP No. 10-898-02-MLA-BD01

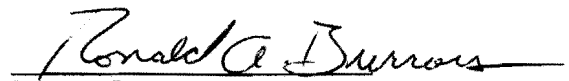
AFFIDAVIT OF RONALD BURROWS CONCERNING
MANDATORY DISCLOSURE
REQUIREMENT OF 10 C.F.R. § 2.336(c)

I, Ronald Burrows, do hereby state as follows:

1. I am employed as a Senior Health Physicist in the Nuclear Regulatory Commission's Office of Federal and State Materials and Environmental Management Programs, Division of Waste Management and Environmental Protection, Decommissioning and Uranium Recovery Licensing Directorate. Among my responsibilities, I serve as Project Manager for Powertech (USA) Inc.'s application for a license to be used in connection with the proposed Dewey-Burdock uranium recovery facility. In this capacity, I am managing the preparation of the NRC Staff's hearing file and mandatory disclosures in connection with Powertech's application.

2. I hereby certify that all materials the Staff must disclose in this proceeding under 10 C.F.R. § 2.336 (b) and (c) have been disclosed, and that the disclosures are accurate and complete as of the date of this certification.

3. I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.


Ronald Burrows

Executed in Rockville, MD
this 2nd day of July 2012

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
)	
POWERTECH (USA) INC)	Docket No. 40-9075-MLA
)	ASLBP No. 10-898-02- MLA-BD01
)	
(Dewey-Burdock In Situ Uranium Recovery)	Date: July 2, 2012
Facility))	

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing "UPDATE TO NRC STAFF'S HEARING FILE INDEX" in this proceeding have been served via the Electronic Information Exchange (EIE) this 2nd day of July 2012, which to the best of my knowledge resulted in transmittal of the copies to those on the EIE Service List for this proceeding.

***/Signed (electronically) by/
Patricia A. Jehle***

Patricia A. Jehle
Counsel for the NRC Staff