

March 1, 2013

Mr. Richard E. Blubaugh
Vice-President Environmental Health
and Safety Resources
Powertech (USA), Inc.
5575 DTC Parkway, Ste. 140
Greenwood Village, CO 80111

SUBJECT: THIRD DRAFT MATERIALS LICENSE SUA-1600, POWERTECH (USA) INC.,
DEWEY-BURDOCK IN SITU RECOVERY FACILITY, FALL RIVER AND
CUSTER COUNTIES, SOUTH DAKOTA (TAC NO. J00606)

Dear Mr. Blubaugh:

On July 31, 2012, the U.S. Nuclear Regulatory Commission (NRC) staff issued a draft license for the proposed Dewey-Burdock in situ recovery facility in Fall River and Custer counties, South Dakota (ADAMS Accession No. ML12207A470). Powertech (USA) Inc. (Powertech) provided comments on this draft license by letter dated August 10, 2012 (ADAMS Accession No. ML12227A584). Powertech also provided a supplemental sampling plan and responses to comments regarding the draft license by letter dated October 19, 2012 (ADAMS Accession No. ML12305A056).

Based on its continued review and Powertech's comments, the staff issued a second draft license on January 4, 2013 (ADAMS Accession No. ML12355A655). Powertech provided comments on this second draft license by letter dated January 22, 2013 (ADAMS Accession No. ML13024A377). The staff has reviewed Powertech's comments and is now issuing this third draft license for the Dewey-Burdock Project for your review and concurrence.

This third draft license incorporates minor changes recommended by Powertech and changes made by the staff due to its continued review of the Dewey-Burdock Project application and supplemental documents. As was the case with the first two draft licenses, this third draft license will facilitate continuing discussions necessary to finalize the Safety Evaluation Report (SER) and Supplemental Environmental Impact Statement (SEIS). Preparation of these documents is necessary to inform NRC decision makers in making their decision on your licensing request. However, this third draft license has received formal legal review, and is, therefore, considered more of a final document in contrast to the first two draft licenses. Issuing this draft license does not constitute a licensing decision by the NRC.

During the application review process, the staff observed that in the application, certain commitments appeared conditional by including the word "would" instead of the words "will" or "shall" as is typical for commitments. To address this issue, the staff, in its second draft license, included the word "would" in license condition 9.2 as denoting a commitment. In its comments on the second draft license, Powertech committed to revising all commitments to use the word "will", as not all uses of the word "would" constitute commitments. The staff agrees to remove the word "would" from license condition 9.2, on condition that Powertech reviews all instances where "would" is used and revises the application so it is consistent with the staff's conclusions in the final SER and SEIS. Powertech will also provide a table to the staff that documents the

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location of each modification, to facilitate the staff's review. These modifications must be completed before the staff issues the final license to Powertech.

Please review this draft license and provide comments within 30 days of receipt of this letter. If Powertech concurs with all the conditions herein, please provide such concurrence to the staff in writing by letter or email. Otherwise, comments can be provided via letter or email, and the staff can schedule a public meeting to discuss this draft license. Significant changes or deviations from the draft license may require additional staff review and may delay the final review schedule.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice for Domestic Licensing Proceedings and Issuance of Orders," a copy of this letter will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Website at <http://www.nrc.gov/reading-rm/adams.html>.

If you have any questions concerning the above, please contact me at (301) 415-7182 or via email at Ronald.Burrows@nrc.gov.

Sincerely,

/RA/

Ronald Burrows, Project Manager
Uranium Recovery Licensing Branch
Decommissioning and Uranium Recovery
Licensing Directorate
Division of Waste Management
and Environmental Protection
Office of Federal and State Materials
and Environmental Management Programs

Docket No. 40-9075

Enclosure:
Draft Source Material License

cc:
Dick Clement, Powertech
John Mays, Powertech
Bob Townsend, SD DENR
Mike Cepak, SD DENR
Marian Atkins, BLM
Mike McNeil, USFS
Lynn Kolund, USFS
Valois Shea, US EPA, Region 8

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