

May 1, 2015

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

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

Dear Administrative Judges:

Consistent with 10 C.F.R. § 2.336, 10 C.F.R. § 2.1203, and the Board's orders in this proceeding, the U.S. Nuclear Regulatory Commission (NRC) Staff reports that it has no documents to disclose in this month's hearing file update. The Staff has, however, identified one document that, under 10 C.F.R. § 2.390, is exempt from disclosure (Attachment 1).

The Staff is providing affidavits (1) certifying that all relevant materials required by 10 C.F.R. § 2.336(c) have been disclosed, and (2) formally invoking the deliberative process privilege for one document.

The Staff will continue to update its mandatory disclosures, hearing file, and privilege logs in accordance with 10 C.F.R. §§ 2.336(d) and 2.1203(c).¹

Sincerely,

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

Patricia A. Jehle
Counsel for NRC Staff

Enclosures: Attachment 1: Deliberative Process Privilege Log
Affidavit of Ronald Burrows
Declaration of Christopher McKenney

cc: Electronic Information Exchange Service List

¹ Based on the Board's April 30, 2015 Partial Initial Decision, the Staff's updates will be limited to documents that are relevant to Contentions 1A and 1B. See 10 C.F.R. § 2.336(d) ("The duty to update disclosures relevant to an admitted contention ends when the presiding officer issues a decision resolving the contention, or at such other time as may be specified by the presiding officer or the Commission.").

ATTACHMENT 1
POWERTECH HEARING FILE AND MANDATORY DISCLOSURES
DELIBERATIVE PROCESS LOG
Update — May 1, 2015

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 document withheld under the deliberative process privilege.

ID#	Accession Number	Author/ Affiliation	Title/Description	Document Date	Document Type	Addressee/ Affiliation	Comment	Page Count
DP-00-272	ADAMS Number In Processing	U.S. Department of the Interior Bureau of Land Management South Dakota Field Office	Plan of Operations Dewey- Burdock-ISR Uranium Mine (DRAFT Environmental Assessment – DOI-BLM-MT- 040-2015-0013 March 23, 2015)	03/25/2015	Draft Environmental Assessment	Haimanot Yilma, NRO/DE	Email and Draft Environmental Assessment.	104

May 1, 2015

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))	

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 30th day of April, 2015

May 1, 2015

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
)	

DECLARATION OF CHRISTEPHER MCKENNEY

I, Christopher McKenney, do hereby state as follows:

1. I am employed as Branch Chief in the U.S. Nuclear Regulatory Commission's Office of Nuclear Material Safety and Safeguards, Division of Decommissioning, Uranium Recovery and Waste Programs, Performance Assessment Branch. 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. On this date, I am acting for Andrew Persinko, who is Deputy Director in the Division of Decommissioning, Uranium Recovery and Waste Programs.

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 1 to the Staff's May 2015 Update to the Hearing File, which I understand will be filed on May 1, 2015.

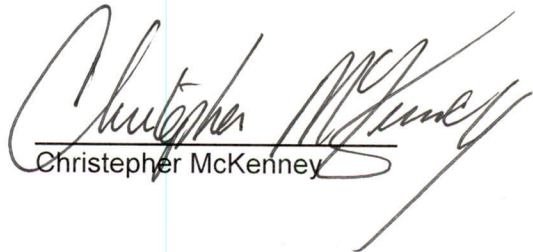
3. I have personally reviewed the document identified as privileged in Attachment 1 and have determined, in accordance with the guidance set forth in Management Directive 3.4, that the document contains predecisional information concerning the Staff's review of Powertech's license application. The document 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 1 the Staff's Hearing File Update of May 1, 2015.

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



Christopher McKenney

Executed in Rockville, Maryland
this 1st day of May 2015

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: May 1, 2015
Facility))	

CERTIFICATE OF SERVICE

Pursuant to 10 C.F.R. § 2.305 (revised), I hereby certify that copies of the "UPDATE TO NRC STAFF'S HEARING FILE INDEX" in this proceeding have been served via the Electronic Information Exchange (EIE), the NRC's E-Filing System, this 1st day of May, 2015.

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

Patricia A. Jehle
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Date of Signature: May 1, 2015