

## POWERTECH (USA) INC.

**RICHARD E. BLUBAUGH**  
Vice President – Environmental  
Health & Safety Resources

40-9075

February 25, 2009

Charles L. Miller, Director  
Office of Federal and State Materials and  
Environmental Management Programs  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

ATTN: Document Control Desk

Re: Powertech (USA), Inc.'s Submission of an Application for a Nuclear Regulatory  
Commission Uranium Recovery License for its Proposed Dewey-Burdock In Situ  
Leach Uranium Recovery Facility in the State of South Dakota  
TAC No. J00533

Dear Mr. Miller:

By this letter, Powertech (USA) Inc. (Powertech (USA)) hereby submits this application for a Nuclear Regulatory Commission (NRC) uranium recovery license for its proposed Dewey-Burdock in situ leach (ISL) uranium recovery project in Fall River and Custer Counties in the State of South Dakota. In support of this license application, Powertech (USA) is submitting the following documentation in compliance with NRC regulations and guidance for uranium recovery facilities:

- A completed Form 313 entitled "Application for Material License;"
- One (1) hard copy of 5 large binders containing the Technical Report (TR), plates and appendices;
- One (1) hard copy of 5 large binders containing the Environmental Report (ER), plates and appendices;
- One (1) hard copy of 11 small binders containing the Cultural Resources Report (CRR), portions of which should be protected from public disclosure.

5575 DTC Parkway, Suite 140  
Greenwood Village, CO 80111 USA

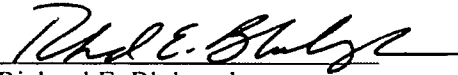
Telephone: 303-790-7528  
Facsimile: 303-790-3885

Website: [www.powertechuranium.com](http://www.powertechuranium.com)  
Email: [info@powertechuranium.com](mailto:info@powertechuranium.com)

JSME20

With respect to the aforementioned CRR, Powertech (USA) is also submitting one (1) hard copy of an affidavit executed by myself in compliance with 10 CFR § 2.390 regulations for information requiring protection from public disclosure. As discussed in the affidavit, several portions of the TR and ER require protection from public disclosure as confidential and privileged information and, by the attached affidavit, Powertech (USA) hereby requests that NRC grant such protection under 10 CFR § 2.390(a)(4). Per Section 2.390(a)(4), each page that contains information considered to be privileged and confidential has been marked in the upper right hand corner with the notation "10 CFR Section 2.390(a)(4): Privileged and Confidential." In addition, please refer to the enclosed letter from Michael Fosha, the Assistant State Archaeologist for South Dakota, for further information on the need for protecting the aforementioned portions of the TR and ER from public disclosure. Thus, Powertech (USA) requests that NRC provide notification if the request for protection from public disclosure is to be denied so that the State may be notified.

Respectfully yours,



Richard E. Blubaugh  
Vice-President of Environmental Health and Safety  
Resources  
Powertech (USA), Inc.

Enclosures

cc: R. F. Clement, Powertech (USA) Inc.  
W. Mays, Powertech (USA) Inc.  
M. Hollenbeck, Powertech (USA) Inc.  
P. Bergstrom, Knight Piesold

Estimated burden per response to comply with this mandatory collection request: 4.4 hours. Submittal of the application is necessary to determine that the applicant is qualified and that adequate procedures exist to protect the public health and safety. Send comments regarding burden estimate to the Records and FOIA/Privacy Services Branch (T-5 F53), U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, or by internet e-mail to [infocollects@nrc.gov](mailto:infocollects@nrc.gov), and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB-10202, (3150-0120), Office of Management and Budget, Washington, DC 20503. If a means used to impose an information collection does not display a currently valid OMB control number, the NRC may not conduct or sponsor, and a person is not required to respond to, the information collection.

## APPLICATION FOR MATERIALS LICENSE

**INSTRUCTIONS:** SEE THE APPROPRIATE LICENSE APPLICATION GUIDE FOR DETAILED INSTRUCTIONS FOR COMPLETING APPLICATION. SEND TWO COPIES OF THE ENTIRE COMPLETED APPLICATION TO THE NRC OFFICE SPECIFIED BELOW.

**APPLICATION FOR DISTRIBUTION OF EXEMPT PRODUCTS FILE APPLICATIONS WITH:**

DIVISION OF INDUSTRIAL AND MEDICAL NUCLEAR SAFETY  
OFFICE OF NUCLEAR MATERIALS SAFETY AND SAFEGUARDS  
U.S. NUCLEAR REGULATORY COMMISSION  
WASHINGTON, DC 20555-0001

**ALL OTHER PERSONS FILE APPLICATIONS AS FOLLOWS:**

**IF YOU ARE LOCATED IN:**

ALABAMA, CONNECTICUT, DELAWARE, DISTRICT OF COLUMBIA, FLORIDA, GEORGIA, KENTUCKY, MAINE, MARYLAND, MASSACHUSETTS, NEW HAMPSHIRE, NEW JERSEY, NEW YORK, NORTH CAROLINA, PENNSYLVANIA, PUERTO RICO, RHODE ISLAND, SOUTH CAROLINA, TENNESSEE, VERMONT, VIRGINIA, VIRGIN ISLANDS, OR WEST VIRGINIA, SEND APPLICATIONS TO:

LICENSING ASSISTANCE TEAM  
DIVISION OF NUCLEAR MATERIALS SAFETY  
U.S. NUCLEAR REGULATORY COMMISSION, REGION I  
475 ALLENDALE ROAD  
KING OF PRUSSIA, PA 19406-1415

**IF YOU ARE LOCATED IN:**

ILLINOIS, INDIANA, IOWA, MICHIGAN, MINNESOTA, MISSOURI, OHIO, OR WISCONSIN, SEND APPLICATIONS TO:

MATERIALS LICENSING BRANCH  
U.S. NUCLEAR REGULATORY COMMISSION, REGION III  
2443 WARRENVILLE ROAD, SUITE 210  
LISLE, IL 60532-4352

ALASKA, ARIZONA, ARKANSAS, CALIFORNIA, COLORADO, HAWAII, IDAHO, KANSAS, LOUISIANA, MISSISSIPPI, MONTANA, NEBRASKA, NEVADA, NEW MEXICO, NORTH DAKOTA, OKLAHOMA, OREGON, PACIFIC TRUST TERRITORIES, SOUTH DAKOTA, TEXAS, UTAH, WASHINGTON, OR WYOMING, SEND APPLICATIONS TO:

NUCLEAR MATERIALS LICENSING BRANCH  
U.S. NUCLEAR REGULATORY COMMISSION, REGION IV  
612 E. LAMAR BOULEVARD, SUITE 400  
ARLINGTON, TX 76011-4125

PERSONS LOCATED IN AGREEMENT STATES SEND APPLICATIONS TO THE U.S. NUCLEAR REGULATORY COMMISSION ONLY IF THEY WISH TO POSSESS AND USE LICENSED MATERIAL IN STATES SUBJECT TO U.S. NUCLEAR REGULATORY COMMISSION JURISDICTIONS.

**1. THIS IS AN APPLICATION FOR (Check appropriate item)**

- ☒ A. NEW LICENSE  
☐ B. AMENDMENT TO LICENSE NUMBER \_\_\_\_\_  
☐ C. RENEWAL OF LICENSE NUMBER \_\_\_\_\_

**2. NAME AND MAILING ADDRESS OF APPLICANT (Include ZIP code)**

**Powertech (USA) Inc.**  
**5575 DTC Parkway**  
**Suite 140**  
**Greenwood Village, CO 80111**

**3. ADDRESS WHERE LICENSED MATERIAL WILL BE USED OR POSSESSED**

**Fall River and Custer Counties, South Dakota**  
**Approximately 13 miles north-northwest of Edgemont, SD**  
**via the Dewey Road. See enclosed Technical Report for**  
**detailed location information.**

**4. NAME OF PERSON TO BE CONTACTED ABOUT THIS APPLICATION**

**Mr. Richard E. Blubaugh**

TELEPHONE NUMBER

**(303) 790-7528**

SUBMIT ITEMS 5 THROUGH 11 ON 8-1/2 X 11" PAPER. THE TYPE AND SCOPE OF INFORMATION TO BE PROVIDED IS DESCRIBED IN THE LICENSE APPLICATION GUIDE.

**5. RADIOACTIVE MATERIAL**

- a. Element and mass number; b. chemical and/or physical form; and c. maximum amount which will be possessed at any one time.

**6. PURPOSE(S) FOR WHICH LICENSED MATERIAL WILL BE USED.**

**7. INDIVIDUAL(S) RESPONSIBLE FOR RADIATION SAFETY PROGRAM AND THEIR TRAINING EXPERIENCE.**

**8. TRAINING FOR INDIVIDUALS WORKING IN OR FREQUENTING RESTRICTED AREAS.**

**9. FACILITIES AND EQUIPMENT.**

**10. RADIATION SAFETY PROGRAM.**

**11. WASTE MANAGEMENT.**

**12. LICENSE FEES (See 10 CFR 170 and Section 170.31)**

FEE CATEGORY **2A(2)** AMOUNT ENCLOSED \$

**13. CERTIFICATION. (Must be completed by applicant) THE APPLICANT UNDERSTANDS THAT ALL STATEMENTS AND REPRESENTATIONS MADE IN THIS APPLICATION ARE BINDING UPON THE APPLICANT.**

THE APPLICANT AND ANY OFFICIAL EXECUTING THIS CERTIFICATION ON BEHALF OF THE APPLICANT, NAMED IN ITEM 2, CERTIFY THAT THIS APPLICATION IS PREPARED IN CONFORMITY WITH TITLE 10, CODE OF FEDERAL REGULATIONS, PARTS 30, 32, 33, 34, 35, 36, 39, AND 40, AND THAT ALL INFORMATION CONTAINED HEREIN IS TRUE AND CORRECT TO THE BEST OF THEIR KNOWLEDGE AND BELIEF.

WARNING: 18 U.S.C. SECTION 1001 ACT OF JUNE 25, 1948 62 STAT. 749 MAKES IT A CRIMINAL OFFENSE TO MAKE A WILLFULLY FALSE STATEMENT OR REPRESENTATION TO ANY DEPARTMENT OR AGENCY OF THE UNITED STATES AS TO ANY MATTER WITHIN ITS JURISDICTION.

**CERTIFYING OFFICER - TYPED/PRINTED NAME AND TITLE**

**Richard E. Blubaugh, Vice President EH&S Resources**

**SIGNATURE**

*Richard E. Blubaugh*

**DATE**

**2/25/09**

### FOR NRC USE ONLY

TYPE OF FEE	FEE LOG	FEE CATEGORY	AMOUNT RECEIVED	CHECK NUMBER	COMMENTS
			\$		
APPROVED BY:				DATE	

**POWERTECH (USA) INC.**

**AFFIDAVIT OF RICHARD E. BLUBAUGH: VICE-PRESIDENT –  
ENVIRONMENTAL HEALTH & SAFETY RESOURCES**

1. My name is Richard E. Blubaugh and I am the Vice President of Environmental, Health and Safety Resources for Powertech (USA), Inc. (Powertech (USA)). I am authorized to execute this affidavit on behalf of Powertech (USA) and may bind Powertech (USA) to the statements attested to herein;
2. Powertech (USA) has submitted an application to the United States Nuclear Regulatory Commission (NRC) requesting a Uranium Recovery License for its proposed in situ leach (ISL) uranium recovery project located in Fall River and Custer Counties in the State of South Dakota;
3. With its license application, Powertech (USA) submitted a Technical Report (TR) and an Environmental Report (ER), both of which include information and records that qualify for withholding pursuant to 10 CFR Section 2.390(a)(4) as privileged and confidential information;
4. Portions of the ER and TR submitted with the Powertech (USA) license application contain cultural resources information and records that Powertech (USA) believes may be misused by unscrupulous artifact collectors to disturb archaeological sites and that must be protected from public disclosure to protect their integrity and location;
5. Pursuant to NRC regulations at 10 CFR § 2.390, Powertech (USA) has labeled pages of its TR and ER that pertain to cultural resource sites with the statement: "10 CFR Section 2.390(a)(4); Privileged and Confidential;"
6. The following portions of Powertech (USA)'s TR and ER contain information and records relating to existing and identified cultural sites, and Powertech (USA) hereby requests that such volumes and pages be withheld from public disclosure:

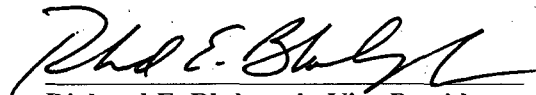
Portions of the TR Appendix 2.4-A and the ER Appendix 4.10-A to be withheld from public disclosure are as follows:

- i. Volume 1: Pages 5.11, 5.14, 5.180 and 5.186;
- ii. Volume 2: Pages 5.250, 6.5 – 6.8, 6.30, 6.35, 6.51 and 6.104;
- iii. Volume 3: Pages 6.211 and 6.358;
- iv. Volume 4: In its entirety;
- v. Volume 5: (excluding appendices E & F of Volume 5);

- vi. Addendum 1: Volume 1, Page 69;
- vii. Addendum 1: Volume 2; In its entirety;
- viii. Addendum 2: Volume 1, Pages 128 – 132;
- ix. Addendum 2: Volume 2; In its entirety;
- x. Evaluative Testing of Four Sites : Volume 2; In its entirety.

7. For the following reasons, Powertech (USA) asserts that the aforementioned portions of its TR and ER should be withheld from public disclosure as privileged and confidential information under 10 CFR § 2.390(a)(4):
- i. The data and information contained in the above-mentioned portions have been held in confidence by Powertech (USA). Powertech (USA) Inc. does not provide such information to public or private entities;
  - ii. The data and information contained in the above-mentioned portions of the TR and ER are customarily held in confidence by businesses and other organizations seeking to protect information related to certain cultural resources;
  - iii. The data and information contained in the above-mentioned portions of the TR and ER are being transmitted to the Commission in Powertech (USA)'s license application in confidence. Indeed, any such data and information shown to NRC Staff are only revealed in a non-public context;
  - iv. The data and information regarding cultural resources listed in Powertech (USA)'s license application are not available in any public sources;
  - v. Release of the data and information contained in the above-mentioned portions of the TR and ER may cause substantial harm to cultural resources on private and public property for the following reasons:
    - a. Certain individuals may use the information to unlawfully collect cultural artifacts for personal use; and
    - b. The South Dakota State Archaeologist, the state agency responsible for the study and protection of cultural sites and artifacts, has been issued a full privileged and confidential Report detailing the location(s) and artifact(s) discovered.

- vi. If it were to become publicly available, the cultural resource information would provide no tangible benefit to members of the public since artifacts cannot be collected legally. Therefore, withholding the data and information designated by Powertech (USA) for confidentiality protection will not harm members of the public. However, as stated above, releasing the location of cultural resource sites could result in the theft or destruction of potentially significant cultural artifacts; and
- vii. Powertech (USA) fully understands that withholding the designated data and information does not deprive any independent party from inspecting the confidential information under the terms of an appropriate protective order in the context of an NRC licensing hearing or other administrative proceeding.

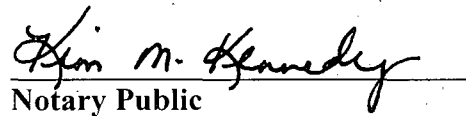
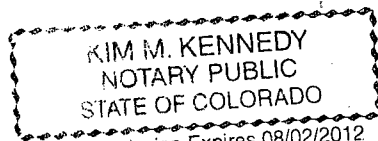


Richard E. Blubaugh, Vice President  
of Environmental Health and Safety  
Resources  
Powertech (USA) Inc.

State of Colorado                    )  
  )ss.  
County of Arapahoe                )

The foregoing Affidavit was subscribed, sworn and acknowledged before me this 25<sup>th</sup> day of February, 2009, by Richard E. Blubaugh, as Vice President of Powertech (USA) Inc., a South Dakota corporation.

Witness my hand and official seal.

  
Notary Public

My commission expires: \_\_\_\_\_

February 24, 2009

Richard E. Blubaugh  
Powertech (USA), Inc.  
6200 South Troy Circle, Suite 150  
Centennial, CO 80111

RE: Consideration of Survey and Evaluation Reports as Public Documents

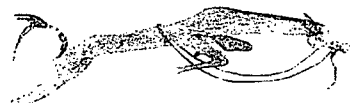
Dear Mr. Blubaugh:

I have had the opportunity to review the archaeological reports pertaining to the investigations conducted by Augustana Laboratory, listed in the attachment, for posting by the permitting agency as a public document. The Archaeological Research Center, acting as the lead review agency under South Dakota Codified Laws pertaining to mineral exploration and mining, does not allow site locational information to enter the public domain under 1-20-21.2 identified in entirety below.

1-20-21.2. Confidentiality of records pertaining to location of archaeological site-- Exceptions. Any records maintained pursuant to § 1-20-21 pertaining to the location of an archaeological site shall remain confidential to protect the integrity of the archaeological site. The state archaeologist may make the information from the records of an archeological site available to any agency of state government and any political subdivision of the state or to any tribe, which, in the opinion of the state archaeologist, may conduct an activity that affects any such site. The state archaeologist shall also make the information from the records of an archeological site available to the owner of the land that is an archeological site and may make the information available to any qualified researcher or research entity.

**Source:** SL 2007, ch 6, § 2.

Therefore, this office has identified a number of maps and reports and one paragraph that could lead to unauthorized adverse effects in the form of collecting, defacing, or hindering future studies of the properties within the project area. We request that these reports and figures or paragraphs which give site locational data, or could be acquired through description or site maps be kept from the public domain. These are outlined in the following tables below.



# SOUTH DAKOTA

## STATE HISTORICAL SOCIETY

Department of Tourism and State Development

### Archaeological Research Center

2425 E. St. Charles St. | PO Box 1257 | Rapid City, SD 57709-1257  
Phone: 605-394-1936 | Fax: 605-394-1941 | [www.sdsmt.edu/wwwsarc](http://www.sdsmt.edu/wwwsarc)

Furthermore, as the mining company, or in consultation with the landowner(s), should you have additional maps or data you feel needs to be removed from the public domain it is requested that you take this opportunity to do so.

Again, I want to thank you for your concern and implementation of measures to protect the cultural resources of South Dakota.

Sincerely,

Michael Fosha  
Assistant State Archaeologist  
South Dakota State Historical Society,  
Archaeological Research Center

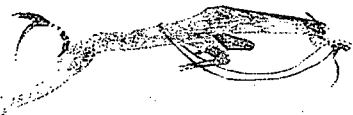


Department of  
Tourism & State  
Development

Office of Tourism [TravelSD.com](http://TravelSD.com)  
Governor's Office of Economic Development [SDreadytowork.com](http://SDreadytowork.com)  
Tribal Government Relations [SDtribalrelations.com](http://SDtribalrelations.com)  
Arts Council [arts.council.sd.gov](http://arts.council.sd.gov)  
State Historical Society [SDhistory.org](http://SDhistory.org)  
Housing Development Authority [SDHDA.org](http://SDHDA.org)

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[2010initiative.com](http://2010initiative.com)



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Attachment pg. 1 of 2

*A Level III Cultural Resources Evaluation of Powertech (USA) Incorporated's Proposed Dewey-Burdock Uranium Project Locality within the Southern Black Hills, Custer and Fall River Counties, South Dakota* by Jason M. Kruse, Timothy V. Gillen, John R. Bozell, Linda Palmer, and Austin A. Buhta (Volumes 1-5)

**Volume 4 and Volume 5 (excluding Appendix E & F of Volume 5) may not be entered into the public domain.**

Site	Figure/Paragraph	Page #
39CU271 (Vol. 1)	Figure 5.4	5.11
39CU271 (Vol. 1)	Figure 5.6	5.14
39CU3585 (Vol. 1)	Figure 5.161	5.180
39CU3586 (Vol. 1)	Figure 5.166	5.186
39CU3604 (Vol. 2)	Figure 5.227	5.250
39FA96 (Vol. 2)	Paragraph 6.21	6.5
39FA 96 (Vol. 2)	Figure 6.2	6.6
39FA96 (Vol. 2)	Figure 6.3	6.7
39FA96 (Vol. 2)	Figure 6.4	6.8
39FA96 (Vol. 2)	Figure 6.24	6.30
39FA96 (Vol. 2)	Figure 6.29	6.35
39FA251 (Vol. 2)	Figure 6.47	6.51
39FA1863 (Vol. 2)	Figure 1.103	6.104
39FA1895 (Vol. 3)	Figure 6.212	6.211
39FA1941 (Vol. 3)	Figure 6.345	6.358

*A Level III Cultural Resources Evaluation of Powertech (USA) Incorporated's Proposed Dewey-Burdock Uranium Project Locality within the Southern Black Hills, Custer and Fall River Counties, South Dakota Addendum 1* by Linda Palmer and Jason Kruse (Volumes 1-2)

**Volume 2 may not be entered into the public domain.**

Site	Figure	Page
39CU3592	Figure 58	69



Department of  
Tourism & State  
Development

Office of Tourism: [TravelSD.com](http://TravelSD.com)  
Governor's Office of Economic Development: [SDreadytowork.com](http://SDreadytowork.com)  
Tribal Government Relations: [SDtribalrelations.com](http://SDtribalrelations.com)  
Arts Council: [artscouncil.sd.gov](http://artscouncil.sd.gov)  
State Historical Society: [SDhistory.org](http://SDhistory.org)  
Housing Development Authority: [SDHDA.org](http://SDHDA.org)

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Attachment pg. 2 of 2

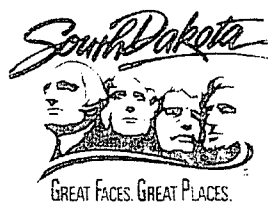
*A Level III Cultural Resources Evaluation of Powertech (USA) Incorporated's Proposed Dewey-Burdock Uranium Project Locality within the Southern Black Hills, Custer and Fall River Counties, South Dakota Addendum 2 by Linda Palmer and Jason Kruse (Volumes 1-2)*

**Volume 2 may not be entered into the public domain.**

Site	Figure	Page
39FA1964	72	128
39FA1964	73	129
39FA1964	74	130
39FA1964	75	131
39FA1964	76	132

*Evaluative Testing of Four Sites within Powertech (USA) Incorporated's Proposed Dewey-Burdock Uranium Project Locality within the Southern Black Hills, Custer and Fall River Counties, South Dakota by Linda Palmer (Volumes 1-2)*

**Vol. 2 may not be entered into the public domain.**



Department of  
Tourism & State  
Development

Office of Tourism [TravelSD.com](http://TravelSD.com)  
Governor's Office of Economic Development [SDreadytowork.com](http://SDreadytowork.com)  
Tribal Government Relations [SDtribalrelations.com](http://SDtribalrelations.com)  
Arts Council [artscouncil.sd.gov](http://artscouncil.sd.gov)  
State Historical Society [SDhistory.org](http://SDhistory.org)  
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