

February 1, 2011

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. The Staff is also attaching logs identifying 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.)

Along with the attached indices, the Staff is providing affidavits (1) certifying that all relevant materials have been disclosed to the extent required by 10 C.F.R. § 2.336(c), and (2) formally invoking the deliberative process privilege for certain documents.

The Staff will update its mandatory disclosures, hearing file, and privilege logs no later than March 1, 2011.

Sincerely,

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

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Patricia Jehle  
Counsel for NRC Staff

Enclosures: Attachment 1: Hearing File Index  
Attachment 2: Deliberative Process Privilege Log  
Attachment 3: Proprietary Information Log  
Affidavit of Ronald Burrows  
Declaration of Keith McConnell

cc: Electronic Information Exchange Service List

**ATTACHMENT 1**  
**POWERTECH HEARING FILE AND MANDATORY DISCLOSURES**  
Update — February 1, 2011 Index

<b>ID Number</b>	<b>Accession Number</b>	<b>Document Date</b>	<b>Title</b>
00-404	ML110030730	1/3/2011	Powertech (USA) Inc.'s Response to the NRC Staff's Requests for Additional Information Concerning the Dewey (complete package of RAI supplemental information)
00-405	ML110030731	12/23/2010	Covers for Drawings
00-406	ML110030732	12/17/2010	Drawing, Exhibit 2.2-1, Energy-Related Activities in the Vicinity of the Dewey-Burdock PAA.
00-407	ML110030733	12/20/2010	Drawing, Plate 2.5-1 - Revised, Sampling Locations.
00-408	ML110030734	12/20/2010	Map, Exhibit 2.7-1, Cross Section Index Map.
00-409	ML110030735	12/20/2010	Drawing, Exhibit 2.7-1a, Cross Section A-A'.
00-410	ML110030736	12/20/2010	Drawing, Exhibit 2.7-1b, Cross Section B-B'.
00-411	ML110030737	12/20/2010	Drawing, Exhibit 2.7-1c, Cross Section C-C'.
00-412	ML110030738	12/20/2010	Drawing, Exhibit 2.7-1d, Cross Section D-D'.
00-413	ML110030740	12/20/2010	Drawing, Exhibit 2.7-1e, Cross Section E-E'.
00-414	ML110030741	12/20/2010	Drawing, Exhibit 2.7-1f, Cross Section F-F'.
00-415	ML110030742	12/20/2010	Drawing, Exhibit 2.7-1g, Cross Section G-G'.
00-416	ML110030743	12/20/2010	Drawing, Exhibit 2.7-1h, Cross Section H-H'.
00-417	ML110030744	12/20/2010	Drawing, Exhibit 2.7-1j, Cross Section J-J'.
00-418	ML110030745	12/20/2010	Map, Exhibit 2.7-2, Top of Fuson, Structure Contour Map Dewey Well Field 1 Custer County, South Dakota.
00-419	ML110030746	12/20/2010	Drawing, Exhibit 2.7.3, Aerial Extent of 100-Year Flood and Proposed Well Fields.
00-420	ML110030747	12/20/2010	Map, Supplemental Exhibit 3.1-1 - Revised, Dewey-Burdock Project Area of Review Map.
00-421	ML110030748	12/17/2010	Drawing, Supplemental Exhibit 3.1-2, Proposed Facilities and Well Fields Land Application Well Option.
00-422	ML110030749	12/17/2010	Drawing, Supplemental Exhibit 3.1-3, Proposed Facilities and Well Fields Deep Disposal Well Option.
00-423	ML110030786	12/17/2010	Drawing, Supplemental Exhibit 3.1-4, Proposed Well Fields.
00-424	ML110050467	12/23/2010	Powertech (USA) Inc.'s Response to the NRC Staff's Requests for Additional Information Concerning the Dewey-Burdock Project, Custer and Fall River Counties, South Dakota.
00-425	ML110050468	12/23/2010	Dewey-Burdock Project Application for NRC Uranium Recovery License Fall River and Custer Counties, South Dakota TR RAI Response Volume I.
00-426	ML110050471	12/23/2010	Response to NRC RAI re Dewey-Burdock Uranium Project - Source Material License Application; Surface Water Quality Sites Statistics.

**ATTACHMENT 1**  
**POWERTECH HEARING FILE AND MANDATORY DISCLOSURES**  
**Update — February 1, 2011 Index**

<b>ID Number</b>	<b>Accession Number</b>	<b>Document Date</b>	<b>Title</b>
00-427	ML110050472	12/23/2010	Dewey-Burdock Project Application for NRC Uranium Recovery License Fall River and Custer Counties, South Dakota TR RAI Response Volume II.
00-428	ML110050473	12/23/2010	Response to NRC RAI re Dewey-Burdock Uranium Project - Source License Application; Management Control Program 5.2.
00-429 <sup>1</sup>	ML110130328	12/23/2010	Response to NRC RAI re Dewey-Burdock Uranium Project - Source Material License Application, Topical Report RSI-2008, Meteorological Characterization.

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<sup>1</sup> This is a public version of the document at ADAMS Accession No. ML110050470, for which the Staff is asserting a claim of privilege.

**ATTACHMENT 2**  
**POWERTECH HEARING FILE AND MANDATORY DISCLOSURES**  
**DELIBERATIVE PROCESS PRIVILEGE LOG**  
**February 1, 2011**

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.

<b>ID#</b>	<b>Accession Number</b>	<b>Author/Affiliation</b>	<b>Title/Description</b>	<b>Document Date</b>	<b>Document Type</b>	<b>Addressee/Affiliation</b>	<b>Comment</b>	<b>Page Count</b>
DP-00-256	ML110310930	Youngblood, Thomas (NRC/FSME)	2011/01/24 Powertech Dewey-Burdock LA - FW: Follow-up: Request: response from Powertech for background survey	01/24/2011	E-Mail with attachment	Burrows, Ronald; Kurian, Varughese (both NRC/FSME)	Internal discussion of Powertech RAI responses for the Dewey-Burdock Project.	9
DP-00-257	ML110310931	Mandeville, Douglas (NRC/FSME)	2011/01/21 Powertech Dewey-Burdock LA - RAI Response acceptance review	01/21/2011	E-Mail with attachment	Burrows, Ronald (NRC/FSME)	Email transmitting results of the Powertech RAI response acceptance review.	5
DP-00-258	ML110310932	Burrows, Ronald (NRC/FSME)	2011/01/26 Powertech Dewey-Burdock LA - Powertech Accept Rev of all Responses merged.xlsx	01/26/2011	E-Mail with attachment	VonTill, Bill; Cohen, Stephen; Lancaster, Thomas; Kurian, Varughese; Mandeville, Douglas (all NRC/FSME)	Email transmitting results of the Powertech RAI response acceptance review.	49
DP-00-259	ML110310935	Kurian, Varughese (NRC/FSME)	2011/01/26 Powertech Dewey-Burdock LA - RAI responses v1	01/26/2011	E-Mail with attachment	Burrows, Ronald (NRC/FSME)	Email transmitting NRC Acceptance Review of Powertech RAI responses for the Dewey-Burdock Project	11
DP-00-260	ML110310937	Lancaster, Thomas (NRC/FSME)	2011/01/31 Powertech Dewey-Burdock LA - RE: Powertech RAI responses: Meeting with Keith rescheduled.	01/31/2011	E-Mail with attachment	Mandeville, Douglas; Lancaster, Thomas; Kurian, Varughese (all NRC/FSME)	Email transmitting NRC Acceptance Review of Powertech RAI responses for the Dewey-Burdock Project	32

**ATTACHMENT 3  
 POWERTECH HEARING FILE AND MANDATORY DISCLOSURES  
 PROPRIETARY INFORMATION LOG  
 Update – February 2011**

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 document withheld because it contains commercial or financial information that, under 10 C.F.R. § 2.390(a)(4), is exempt from disclosure.

ID#	Accession Number	Author/ Affiliation	Title / Description	Document Date	Document Type	Comment	Page Count
PR-00-02 <sup>1</sup>	ML110050470	Oswald, J K (RESPEC Consulting & Services)	Response to NRC RAI re Dewey-Burdock Uranium Project - Source Material License Application, Topical Report RSI-2008, Meteorological Characterization.	12/23/2010	Topical Report	Burrows, Ron (NRC/FSME)	256

<sup>1</sup> The public version of this document is disclosed in the February Hearing File Index as ADAMS Accession No. ML110130328.

February 1, 2011

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)

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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 1<sup>st</sup> day of February, 2011

February 1, 2011

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 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 a number of documents as privileged because they contain information concerning the Staff's deliberative process. Those documents are listed in Attachment 2 to the Staff's November Update to the Hearing File, which I understand will be filed on February 1, 2011.

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

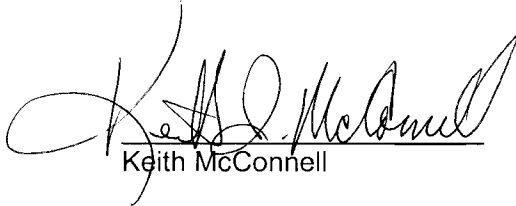


position with respect to the matters discussed therein. Each of the documents comprises part of the deliberative process necessary to the Staff's review of Powertech's license application.

4. Further, I have determined that disclosure of the documents 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 each of the documents listed in Attachment 2 to the Staff's Hearing File Update of February 1, 2011.

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 1st day of February 2011

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: February 1, 2011
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 1<sup>st</sup> day of February 2011, 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***

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Patricia A. Jehle  
Counsel for the NRC Staff