March 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 April 1, 2011.

Sincerely,

/Signed (electronically) by/
Patricia Jehle

_____
Patricia Jehle
Counsel for NRC Staff

Enclosures: Attachment 1: Hearing File Index
Attachment 2: Attorney-Client/Deliberative Process Privilege Log
Attachment 3: Deliberative Process Privilege Log
Affidavit of Ronald Burrows
Declaration of Keith McConnell

cc: Electronic Information Exchange Service List

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

ID Number	Accession Number	Document Date	Title
00-430	ML032751663	09/30/1980	NUREG-0706, Vol. I, Final Generic Environmental Impact Statement on Uranium Milling, Project M-25, Summary and Text.
00-431	ML032751667	09/30/1980	NUREG-0706, Vol II, Final Generic Environmental Impact Statement on Uranium Milling, Project M-25, Appendices A-F.
00-432	ML032751669	09/30/1980	NUREG-0706, Vol III, Final Generic Environmental Impact Statement on Uranium Milling, Project M-25, Appendices G-V.
00-433	ML091480188	05/31/2009	NUREG-1910, Vol. 2, "Generic Environmental Impact Statement for In-Situ Leach Uranium Milling Facilities: Chapters 5 through 12 and Appendices A through G," Final Report.
00-434	ML091480244	05/31/2009	NUREG-1910, Vol. 1,"Generic Environmental Impact Statement for In-Situ Leach Uranium Milling Facilities, Chapters 1 Through 4, Final Report".
00-435	ML101660721	06/08/2010	2010/06/08-Transcript of Oral Argument held Tuesday, June 8, 2010, in Custer, SD, Pages 1 - 273.
00-436	ML101670389	06/09/2010	2010/06/09-Transcript of Oral Argument held Wednesday, June 9, 2010, in Custer, SD, Pages 274-405.
00-437	ML103440513	02/10/2011	NRC Rejection of Powertech (USA), Inc., Request for Withholding Information from Public Disclosure for the Proposed Dewey-Burdock in Situ.
00-438	ML110340107	01/31/2011	Oglala Sioux Tribe - Response to Section 106 letter Re: Dewey-Burdock Project.
00-439	ML110591222	02/08/2011	2011/02/08 Powertech Dewey-Burdock LA - South Dakota Tribal Chairman and Tribal Historic Preservation Offices

ATTACHMENT 2
POWERTECH HEARING FILE AND MANDATORY DISCLOSURES
ATTORNEY-CLIENT/DELIBERATIVE PROCESS PRIVILEGE LOG
March 1, 2011

Certain documents otherwise subject to inclusion in the hearing file or mandatory disclosures for this proceeding contain communications between NRC Staff and legal counsel. Pursuant to 10 C.F.R. § 2.336(b)(5), the Staff is providing this log to identify the following documents withheld under the attorney-client privilege. Additionally, these documents have been determined by the NRC Staff to contain predecisional, deliberative information. As such, they are being withheld under the deliberative process privilege as well.

ID#	Accession Number	Author/ Affiliation	Title	Document Date	Document Type	Addressee/ Affiliation	Comment	Page Count
AC-00-86	ML110470193	Burrows, Ronald (NRC/FSME)	E-mail Re: 2/15/11 Call with Powertech Regarding RAI Responses.	02/15/2011	E-Mail	Cohen S teve; McConnell, Keith; VonTill Bill; Lancaster, Tom; Kurian, Varughese; Yilma, Haimanot (all NRC/FSME) ; Clark, Michael (NRC/OGC)	Email summarizing Staff call to Powertech regarding RAI responses.	1

ATTACHMENT 3
POWERTECH HEARING FILE AND MANDATORY DISCLOSURES
DELIBERATIVE PROCESS PRIVILEGE LOG
March 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.

ID#	Accession Number	Author/ Affiliation	Title/Description	Document Date	Document Type	Addressee/ Affiliation	Comment	Page Count
DP-00-261	ML110400542	Burrows, Ronald (NRC/FSME)	2011/02/02 Powertech Dewey-Burdock LA - Accept Review of Powertech RAI Responses	02/02/2011	E-Mail	VonTill, Bill; Cohen, Stephen; Lancaster, Thomas; Kurian, Varughese (all NRC/FSME)	Email transmitting results of the Powertech RAI response acceptance review.	73
DP-00-262	ML110400544	Burrows, Ronald (NRC/FSME)	2011/02/08 Powertech Dewey-Burdock LA - Powertech Accept Rev of all Responses merged 2.8.11.xlsx	02/08/2011	E-Mail	VonTill, Bill; Cohen, Stephen; Lancaster, Thomas; Kurian, Varughese; Mandeville, Douglas; McConnell, Keith (all NRC/FSME)	Email transmitting results of the Powertech RAI response acceptance review.	63
DP-00-263	ML110400547	Lancaster, Thomas (NRC/FSME)	2011/02/03 Powertech Dewey-Burdock LA - Informaiton for phone call to Powertech CEO	02/03/2011	E-Mail	McConnell, Keith; VonTill, Bill; Cohen, Stephen (all NRC/FSME)	Email transmitting results of the Powertech RAI response acceptance review.	4
DP-00-264	ML110400548	Burrows, Ronald (NRC/FSME)	2011/02/09 Powertech Dewey-Burdock LA - Powertech submittals not located	02/09/2011	E-Mail	VonTill, Bill; Cohen, Stephen; Lancaster, Thomas; Kurian, Varughese; Mandeville, Douglas (all NRC/FSME)	Email transmitting results of the Powertech RAI response acceptance review.	89

March 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
	)	

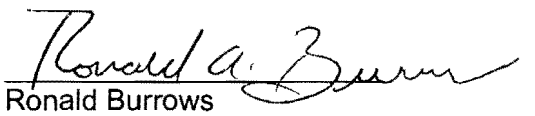
AFFIDAVIT OF RONALD BURROWS CONCERNING
MANDATORY DISCLOSURE
REQUIREMENT OF 10 C.F.R. § 2.336(c)

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 1st day of March, 2011

March 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 Attachments 2 and 3 to the Staff's March Update to the Hearing File, which I understand will be filed on March 1, 2011.

3. I have personally reviewed the documents identified as privileged in Attachments 2 and 3 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 Attachments 2 and 3 to the Staff's Hearing File Update of March 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 March 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 Facility)	)	Date: March 1, 2011
	)	

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 1st day of March 2011, which to the best of my knowledge resulted n 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