

September 4, 2012

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.

Along with the attached update to its hearing file index, the Staff is providing an affidavit certifying that all relevant materials have been disclosed to the extent required by 10 C.F.R. § 2.336(c). The Staff is also attaching an index listing documents that, under 10 C.F.R. § 2.390, are exempt from disclosure and for which the Staff is asserting a privilege or immunity. (Attachment 2.)

The Staff will update its mandatory disclosures, hearing file, and privilege log in accordance with 10 C.F.R. §§ 2.336(d) and 2.1202(c) no later than October 1, 2012.

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 Log  
Declaration of Bill Von Till  
Affidavit of Ronald Burrows

cc: Electronic Information Exchange Service List

**ATTACHMENT 1**  
**POWERTECH HEARING FILE AND MANDATORY DISCLOSURES**  
**September 4, 2012 Update (Publicly Available Documents)**

<b>ID Number</b>	<b>Accession Number</b>	<b>Document Date</b>	<b>Title</b>
00-842	ML12089A360	03/09/2012	Powertech Letter to South Dakota Re: Dewey-Burdock Project Groundwater Discharge Plan.
00-843	ML12207A473	07/31/2012	Powertech Draft License Cover Letter.
00-844	ML12207A480	07/31/2012	Draft License SUA-1600 for Powertech (USA), Inc.
00-845	ML12209A089	01/31/2009	Draft Environmental Impact Statement for the Dewey Burdock Conveyor Project.
00-846	ML12209A099	01/01/1985	South Dakota Resource Management Plan, Final Environmental Impact Statement.
00-847	ML12209A101	09/30/2000	Newcastle Resource Management Plan.
00-848	ML12209A103	01/31/2008	Proposed Resource Management Plan and Final Environmental Impact Statement for Public Lands Administered by the Bureau of Land Management Rawlins Field Office.
00-849	ML12209A110	01/01/1997	Black Hills National Forest Land and Resource Management Plan.
00-850	ML12209A113	05/31/2001	Black Hills National Forest, Phase 1 Amendment: 1997 Land and Resource Management Plan Environmental Assessment.
00-851	ML12209A121	10/01/2005	Black Hills National Forest, Phase II Amendment: 1997 Land and Resource Management Plan Final Environmental Impact Statement.
00-852	ML12209A127	05/11/2009	Updated Land and Resource Management Plan for the Nebraska National Forest.
00-853	ML12209A338	07/03/2012	Dewey-Burdock Project Groundwater Discharge Plan Revision Index.
00-854	ML12209A339	07/03/2012	Additional Response to May 25, 2012 Preliminary Technical Comments Dewey-Burdock Project Groundwater Discharge Plan Application.
00-855	ML12209A340	05/04/2011	PowerTech (USA) Inc., Sample Description. of Hole No. DBH-3-ALLUV-2.
00-856	ML12209A341	06/19/2012	Plate 3.6-10, Pass Creek Alluvium Cross Sections.
00-857	ML12209A342	07/03/2012	Plate 5.4-1, Conceptual Catchment Area Design Dewey Land Application Area.
00-858	ML12209A343	07/03/2012	Plate 5.4-2, Conceptual Catchment Area Design Burdock Land Application Area.
00-859	ML12209A344	07/31/2012	Table of Contents.
00-860	ML12209A345	07/03/2012	Additional Response to May 25, 2012 Preliminary Technical Comments Dewey-Burdock Project Groundwater Discharge Plan Application.
00-861	ML12213A154	06/18/2012	Response to May 25, 2012 Preliminary Technical Comments Dewey-Burdock Project Groundwater Discharge Plan Application.
00-862	ML12213A158	05/25/2012	May 25, 2012 Technical Comment - Dewey-Burdock Project Groundwater Discharge Plan Revision Index.
00-863	ML12213A160	06/18/2012	Appendix 3.7-A - Well Inventory Summary Tables.
00-864	ML12213A161	06/18/2012	Appendix 3.7-B - Well Inventory.
00-865	ML12213A162	06/18/2012	Table of Contents re: Alluvial water quality and Fall River water quality.
00-866	ML12213A163	06/18/2012	Monthly Runoff Water Balance Dewey Area.
00-867	ML12213A164	06/18/2012	Map, Plate 3.6-5 - Cross Section A-A'.
00-868	ML12213A165	06/18/2012	Map, Plate 3.6-6 - Cross Section B-B'.

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**September 4, 2012 Update (Publicly Available Documents)**

<b>ID Number</b>	<b>Accession Number</b>	<b>Document Date</b>	<b>Title</b>
00-869	ML12213A166	06/18/2012	Map, Plate 3.6-7 - Cross Section C - C'.
00-870	ML12213A167	06/18/2012	Map, Plate 3.6-8 - Cross Section D-D'.
00-871	ML12213A168	06/18/2012	Map, Plate 3.6-9 - Cross Section E - E'.
00-872	ML12213A169	06/18/2012	Table of Contents (Continued) through Chapter 11.
00-873	ML12213A694	07/20/2012	R. Blubaugh Ltr. re: Cultural Resource Review for Dewey Burdock.
00-874	ML12216A215	08/03/2012	Email Re: follow up on Dewey-Burdock Questions.
00-875	ML12216A240	07/31/2012	Email re: Air Quality Emissions Inventory and Related Commitments.
00-876	ML12216A246	07/31/2012	Email Attachment- Dewey-Burdock Project Emissions Inventory Revisions.
00-877	ML12221A240	08/08/2012	8/30/2012 Notice of Public Meeting with Powertech to Discuss Environmental Monitoring Program (LC 12 12).
00-878	ML12227A584	08/10/2012	Powertech (USA) Inc's Comments on NRC's Draft License SUA-1600 for Dewey-Burdock Project.
00-879	ML12227A585	08/06/2012	Letter from Powertech (USA) Inc. to S Dakota DENR Re: Dewey-Burdock Large Scale Mine Permit Application Signed Instruments of Consultation for Landowners within Permit Area.
00-880	ML12227A771	08/13/2012	E-mail from Powertech (USA) Transmitting Comments on the NRC Draft License SUA-1600 for Dewey-Burdock Project.
00-881	ML12237A191	09/25/2008	Review of Existing and Proposed Tailings Impoundment Technologies.
00-882	ML12237A194	04/05/1984	Manual 8400 - Visual Resource Management.
00-883	ML12237A196	01/17/1986	Manual H-8410-1, Visual Resource Inventory.
00-884	ML12237A212	08/24/2012	Northern Cheyenne Cultural Resources.
00-885	ML12237A214	06/30/2005	Task 1D Report for the Powder River Basin Coal Review, Current Environmental Conditions.
00-886	ML12237A217	12/12/2008	6840 - Special Status Species Management.
00-887	ML12237A219	08/24/2012	Serial Patent 455381 Black Hills.
00-888	ML12237A222	05/01/2008	South Dakota State and Demographic Profiles.
00-889	ML12240A218	08/27/2012	Hydrology of the Black Hills Area.
00-890	ML12240A227	07/15/2005	Assessment of Variations in Radiation Exposure in the United States.
00-891	ML12240A231	08/20/2012	Ozone (O3) Standards.
00-892	ML12240A235	08/27/2012	Final Rule: Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule.
00-893	ML12240A237	07/01/2011	Regulatory Impact Analysis: Final National Ambient Air Quality Standard for Ozone.
00-894	ML12240A240	08/20/2012	National Ambient Air Quality Standards.
00-895	ML12240A243	01/31/2007	South Dakota Stratigraphic Correlation Chart.
00-896	ML12240A245	05/01/2007	National Bald Eagle Management Guidelines.
00-897	ML12240A251	08/31/2010	Campbell County Coal Belt Transportation Study.
00-898	ML12240A261	10/31/2011	Wyoming Sales, Use and Lodging Tax Revenue Report.
00-899	ML12240A265	01/31/2001	Geochemistry of the Madison and Minnelusa Aquifers in the Black Hills Area, South Dakota.

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**September 4, 2012 Update (Publicly Available Documents)**

<b>ID Number</b>	<b>Accession Number</b>	<b>Document Date</b>	<b>Title</b>
00-900	ML12240A272	05/31/1996	Soil Survey of Custer and Pennington Counties, Prairie Parts, South Dakota.
00-901	ML12240A297	01/31/2010	Incidence Rates of Nonfatal Occupational Injury and Illnesses by Industry and Case Types, 2010.
00-902	ML12240A317	08/27/2012	T. Quesinberry Email re: Followup for Proposed Dewey-Burdock ISR Project.
00-903	ML12240A371	01/31/1998	Guidelines for Evaluation and Documenting Traditional Cultural Properties.
00-904	ML12240A374	08/15/2006	Northeast Wyoming Sage-Grouse Conservation Plan.
00-905	ML12240A378	03/31/2008	The 2008 South Dakota Integrated Report for Surface Water Quality Assessment.
00-906	ML12240A382	12/31/2011	South Dakota Air Monitoring Annual Network Plan 2011.
00-907	ML12240A386	12/31/2011	2011 South Dakota Traffic Flow Map.
00-908	ML12240A388	07/31/2011	South Dakota, Dept of Revenue, Sales and Use Tax Guide.
00-909	ML12241A025	08/28/2012	8/30/12 - Revised Meeting Notice with Powertech to Discuss Proposed Environmental Monitoring Program for the Dewey-Burdock Project.
00-910	ML12241A182	01/05/2012	South Dakota Sales and Use Tax Report, Returns Filed Calendar Year 2011.
00-911	ML12241A195	01/31/2005	South Dakota All Bird Conservation Plan.
00-912	ML12241A204	08/28/2012	A Bird's Guide to the George S. Mickelson Trail.
00-913	ML12241A215	01/31/2008	Greater Sage-Grouse Management Plan South Dakota 2008-2017.
00-914	ML12241A225	01/06/2010	Surface Transportation Board - Dakota, Minnesota and Eastern Railroad Corporation Construction into Power River Basin.
00-915	ML12241A232	04/06/2010	Review of License Amendment Request and Environmental Report for Cell 4B.
00-916	ML12241A243	06/17/2010	Radioactive Materials License, for Div of Radiation Control Radioactive Materials License.
00-917	ML12241A366	08/28/2012	Cattle and Calves - Inventory and Sales: 2007 and 2002.
00-918	ML12241A372	04/01/1974	National Forest Landscape Management, Volume 2.
00-919	ML12241A377	12/01/1995	Landscape Aesthetics - A Handbook for Scenery Management.
00-920	ML12241A387	04/30/1991	South Dakota State Plan for Archaeological Resources.
00-921	ML12241A389	08/28/2012	A Field Guide to South Dakota Turtles.
00-922	ML12241A393	03/31/1974	Information on Levels of Environmental Noise Requisite to Protect Public Health and Welfare with an Adequate Margin of Safety.
00-923	ML12241A395	09/30/1992	EPA-450/2-92-004, "Fugitive Dust Background Document and Technical Information Document for Best Available Control Measures."
00-924	ML12241A397	09/30/2004	Synthesis of Noise Effects on Wildlife Populations.
00-925	ML12241A398	09/22/2000	Candidate and Listing Priority Assignment Form for Swift Fox.
00-926	ML12241A402	08/28/2012	South Dakota Wildlife.
00-927	ML12241A406	08/31/2010	South Dakota Mountain Lion Management Plan, 2010-2015.
00-928	ML12241A410	12/31/2009	State Wildlife Action Plan 2010.
00-929	ML12241A411	08/28/2012	Water Quality Characteristics in the Black Hills Area, South Dakota.

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**POWERTECH HEARING FILE AND MANDATORY DISCLOSURES**  
**September 4, 2012 Update (Publicly Available Documents)**

<b>ID Number</b>	<b>Accession Number</b>	<b>Document Date</b>	<b>Title</b>
00-930	ML12242A136	08/27/2012	2012/08/27 Powertech Dewey-Burdock LA - Re: Dewey-Burdock Report
00-931	ML12242A190	08/24/2012	R. Blubaugh E-mail with Tentative Agenda for the August 30, 2012 Powertech Meeting.
00-932	ML12242A191	08/28/2012	U.S. Geological Survey on Reactive Transport Modeling for the Proposed Dewey Burdock Uranium In-Situ Recovery Mine, Edgemont, South Dakota.
00-933	ML12243A156	08/29/2012	Letter from Powertech re: Information Needed to Complete Section 106 for Dewey Burdock.
00-934	ML12243A161	08/29/2012	SRI Foundation Communications with Indian Tribes re: Proposed Dewey Burdock and Crow Butte Projects, November 4, 2011 - August 21, 2012.
00-935	ML12243A234	01/31/2012	Wind Energy Facts - Nebraska.
00-936	ML12243A243	01/31/2012	Wind Energy Facts - South Dakota.
00-937	ML12243A254	01/31/2012	Wind Energy Facts - Wyoming.
00-938	ML12243A257	07/31/2009	PNNL-18567, "Sage-Grouse and Wind Energy: Biology, Habits, and Potential Effects from Development."
00-939	ML12243A271	08/30/2012	Potential Impacts of Wind Energy Development and Analysis of Mitigation Measures.
00-940	ML12243A274	12/31/2005	Draft Environmental Impact Statement for the Atlantic Rim Natural Gas Field Development Project.
00-941	ML12243A327	08/30/2012	Mineral Occurrence and Development Potential Report Rawlins Resource Management Plan Planning Area.
00-942	ML12243A338	12/01/2009	Update of Task 3A Report for the Powder River Basin Coal Review Cumulative Air Quality Effects for 2020.
00-943	ML12243A344	12/31/2003	Ground-Water Resources in the Black Hills Area, South Dakota.
00-944	ML12243A349	01/31/1997	Considering Cumulative Effects Under the National Environmental Policy Act.
00-945	ML12243A352	05/31/2009	Summary of the Mining Industry in South Dakota.
00-946	ML12243A367	08/13/2012	Major Uranium Recovery Licensing Applications.
00-947	ML12243A369	08/30/2012	In Situ Leach Mining Rules Question and Answer Sheet.
00-948	ML12243A371	08/30/2012	South Dakota's Regional Haze State Implementation Plan.
00-949	ML12243A381	11/30/2001	Powder River Basin Expansion Project - Final Environmental Impact Statement, Chapter 3: Extension Alternative.
00-950	ML12243A386	03/29/2012	Wyoming Occupational Projections, 2011 to 2021.
00-951	ML12243A391	08/30/2012	Suggested Practices for Avian Protection on Power Lines.
00-952	ML12243A398	08/01/2003	Working Paper - Updated Employment Multipliers for the U.S. Economy.
00-953	ML12243A526	08/29/2012	2012/08/29 Powertech Dewey-Burdock LA - RE: Meeting to Discuss Powertech's Proposed Environmental Monitoring Program for the Dewey-Burdock Project
00-954	ML12243A527	08/28/2012	2012/08/28 Powertech Dewey-Burdock LA - RE: Powertech Meeting on August 30, 2012

**ATTACHMENT 2  
POWERTECH HEARING FILE AND MANDATORY DISCLOSURES  
DELIBERATIVE PROCESS PRIVILEGE LOG  
September 4, 2012**

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-00-268	ML12242A132	Varughese, Kurian (NRC/FSME)	2012/07/27 Powertech Dewey-Burdock LA - FW:	07/27/2012	E-Mail	Cohen, Stephen; VonTill, Bill; Burrows, Ronald; McConnell, Keith (NRC/FSME)	Email concerning draft Powertech license.	18
DP-00-269	ML12242A133	Varughese, Kurian (NRC/FSME)	2012/08/13 Powertech Dewey-Burdock LA - DSER Section 6.3-6.4 and 7.0	08/13/2012	E-Mail	Cohen, Stephen (NRC/FSME)	Email concerning draft SER.	15
DP-00-270	ML12242A134	Varughese, Kurian (NRC/FSME)	2012/08/23 Powertech Dewey-Burdock LA - Updated version of SER Sections 2.6 and 6.3-6.4	08/23/2012	E-Mail	Cohen, Stephen (NRC/FSME)	Email concerning draft SER.	21

September 4, 2012

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 BILL VON TILL

I, Bill Von Till, do hereby state as follows:

1. I am employed as Chief of the Uranium Recovery Licensing Branch 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. On this date I am acting for Keith McConnell, who is Deputy Director in the Division of Waste Management and Environmental Protection, with responsibility for the Decommissioning and Uranium Recovery Licensing Directorate.

2. As part of their responsibilities in preparing the hearing file and mandatory disclosures for this proceeding, NRC staff members under my supervision identified three documents as privileged because they contain information concerning the Staff's deliberative process. The documents are listed in Attachment 2 to the Staff's September Update to the Hearing File, which I understand will be filed on September 4, 2012.

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 the documents contain predecisional information concerning the Staff's review of Powertech's license application. The 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. The documents comprise 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 the document listed in Attachment 2 to the Staff's Hearing File Update of September 4, 2012.

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



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Bill Von Till

Executed in Rockville, Maryland  
this 4<sup>th</sup> day of September 2012

September 4, 2012

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 4<sup>th</sup> day of September 2012

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: September 4, 2012
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 4<sup>th</sup> day of September 2012, 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