

November 15, 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 and Parties:

The draft Supplemental Environmental Impact Statement (DSEIS) the NRC Staff has prepared for Powertech (USA) Inc.'s proposed Dewey-Burdock Project is now publicly available. The DSEIS can be found in the NRC's Agencywide Documents Access Management System (ADAMS) under accession numbers **ML12312A039** (Chapters 1–4) and **ML12312A040** (Chapter 5–Appendices). The DSEIS can also be accessed through the following links:¹

[Open ADAMS P8 Document \(NUREG-1910, Supp 4 Vol 1 DFC, "Environmental Impact Statement for the Dewey-Burdock Project in Custer and Fall River Counties, South Dakota: Supplement to the Generic Environmental Impact Statement for In-Situ Leach Uranium Milling Facilities."\)](#)

[Open ADAMS P8 Document \(NUREG-1910 Supp 4 Vol 2, DFC, "Environmental Impact Statement for the Dewey-Burdock Project in Custer and Fall River Counties, South Dakota: Supplement to the Generic Environmental Impact Statement for In-Situ Leach Uranium Milling Facilities."\)](#)

Although the DSEIS is now publicly available, the *Federal Register* notice of availability for the DSEIS will not appear until next week. The delay is due to a requirement that environmental documents be publicly available *before* they are submitted to the federal agencies responsible for issuing the *Federal Register* notice. In any event, the 45-day period for public comment on the DSEIS will not begin until the notice of the document's availability appears in the *Federal Register*.

The Staff also wishes to address one issue related to its compliance with the National Historic Preservation Act (NHPA). The Staff is currently using the DSEIS to satisfy certain public participation requirements in Section 106 of the NHPA, an approach permitted under 36 C.F.R.

¹ The Staff will also contact counsel for the other parties to determine if they would prefer receiving the DSEIS as an e-mail attachment. Due to the large size of the electronic version of the DSEIS, however, the Staff will send the attachment only at the request of counsel.

§ 800.8(c). At this time, however, the Staff continues to work with a number of American Indian tribes and other consulting parties in order to identify properties at the Dewey-Burdock site that may be of religious or cultural significance to the tribes. If the staff obtains additional information on such properties, it will prepare a document addressing the new information that it will make available for public comment. The Staff will notify the Board and other parties if such a document becomes available, and it will also inform the general public of the document's availability. Based on the current status of NHPA consultations, however, the Staff does not expect that such a document would be issued before the end of the year.

Sincerely,

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

Patricia Jehle
Counsel for NRC Staff

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: November 15, 2012
Facility))	

CERTIFICATE OF SERVICE

Pursuant to 10 C.F.R § 2.305 (revised), I certify that copies of the “NRC STAFF’S NOTICE OF AVAILABILITY OF DRAFT SUPPLEMENTAL ENVIRONMENTAL IMPACT STATEMENT” in this proceeding have been served via the Electronic Information Exchange (EIE), the NRC’s E-Filing System, in this proceeding today, November 15, 2012.

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

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Date of Signature: November 15, 2012