



POWERTECH (USA) INC.

JOHN M. MAYS
Chief Operating Officer

November 16, 2021

Ronald A. Burrows
U.S. Nuclear Regulatory Commission
Office of Nuclear Material Safety and Safeguards
Uranium Recovery and Materials Decommissioning Branch
Washington, D.C. 20555-0001

RE: Supplemental Information for Powertech USA Inc.'s October 8, 2021 Request for Approval of Indirect Transfer of Control of NRC Materials License No. SUA-1600 (Docket: 40-9075)

Dear Mr. Burrows:

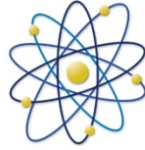
On October 8, 2021, Powertech USA Inc., (“Powertech”), requested approval from the U.S. Nuclear Regulatory Commission (“NRC”) for the proposed indirect transfer of control (“TOC”) of NRC source and byproduct materials license No. SUA-1600 (the “License”) (hereinafter referred to as “Request”). The Powertech Request stems from the planned transaction whereby enCore Energy Corporation (“enCore”) will acquire all of the issued and outstanding common shares of Powertech’s current parent company Azarga Uranium Corp. (“Azarga”) (hereinafter referred to as “Proposed Transaction”). This letter contains an additional request and further supplements information that Powertech submitted as part of the Request and provided in response to NRC’s request for supplemental information.

1. Request for Expedited Review and Status of Other Regulatory Approvals

As noted in the Request, the Proposed Transaction is expected to close by November 30, 2021, subject to the receipt of applicable regulatory approvals. It should be noted that on November 12, 2021, the Committee on Foreign Investment in the United States (“CFIUS”) determined that there are no unresolved national security concerns and therefore CFIUS action under Section 721 of the Defense Production Act of 1950 is concluded.

The November 30 deadline is important for several reasons, including:

- Under the terms of the arrangement agreement dated September 7, 2021 between enCore and Azarga (the “Arrangement Agreement”), the “Effective Date” of the Proposed Transaction must occur prior to November 30, 2021 (the “Outside Date”) and either party may terminate



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the Arrangement Agreement and abandon the Proposed Transaction if the Proposed Transaction is not completed by the Outside Date.

- Under the *Business Corporations Act* (British Columbia) and the terms of the Arrangement Agreement, Azarga must obtain approval of the Proposed Transaction from the Supreme Court of British Columbia (the “Court”). On October 13, 2021, Azarga obtained an interim order of the Court (the “Interim Order”) authorizing and directing Azarga to call, hold and conduct a meeting of the shareholders of Azarga on November 16, 2021 (the “Shareholder Meeting”), submit the Proposed Transaction to shareholders for approval at the Shareholder Meeting, and other procedural matters. Following the receipt of shareholder approval at the Shareholder Meeting, Azarga intends to make an application to the Court for a final order of the Court (the “Final Order”) approving the Proposed Transaction. Azarga expects to obtain the Final Order on November 19, 2021.
- enCore plans to imminently file a registration statement with the United States Securities and Exchange Commission (the “SEC”) to list its shares on the NASDAQ stock exchange in FY2021. This public listing is integral to enCore’s business plan. enCore’s ability to obtain appropriate approvals from the SEC in FY2021 depends on enCore and Azarga’s ability to close the Proposed Transaction by November 30, 2021.

We note the NRC’s regulations at 10 CFR 2.1301 and 10 CFR 2.1305 require that a notification of an application for a TOC be posted for a 30-day public comment period. In accordance with the NRC Regulatory Issue Summary (RIS) 2014-08, except in extenuating circumstances, consent for a TOC will not be granted until this 30-day posting period has elapsed and the NRC has found that the transfer is in accordance with the Atomic Energy Act of 1954, as amended (“AEA”). However, 10 CFR 2.1316 provides that, where a hearing is requested, during the pendency of such hearing, the NRC staff is expected to promptly issue approval or denial of license transfer requests.

The public comment period should have commenced on October 14, 2021, when the NRC posted the Request on its ADAMS database and should thus close on November 13, 2021. This schedule should allow the NRC to provide its consent to the Request in time to meet the schedule to complete the Proposed transaction. **Accordingly, Powertech respectfully requests that the NRC provides its consent to the Request by November 30, 2021, in time for the planned closing.** Powertech is committed to promptly providing responses to any NRC requests for additional information.

2. Financial Statements

In Powertech’s November 5, 2021 response to the NRC’s request for supplemental information, Powertech provided a weblink to enCore’s financial statements as well as enCore’s most recent financial statements for Q2 FY2021. For NRC’s recordkeeping purposes, the financial statements for Q1 and Q2 FY2021 as well as year-end financial statements for 2019 and 2020 are attached to this letter.



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As is evident from the financial statements, enCore has a healthy and robust balance sheet and a significant portfolio of uranium assets located in Texas, New Mexico, Wyoming, Utah and Arizona, USA. The acquisition of the Powertech Dewey-Burdock site will further enhance enCore's financial capabilities and help cement enCore's status as a leading ISR uranium producer.

3. Inimicality Review

In the area of materials licensing, under the AEA, the NRC must make a finding that the indirect change of control of the License would not be "inimical to the common defense and security and would not constitute an unreasonable risk to the health and safety of the public." See 42 U.S.C. §§ 2077(c) and 2155. The indirect change of control of Powertech is from Azarga, a Canadian company, to enCore, a Canadian company.

Similar to Azarga, enCore is neither owned, nor controlled by the Canadian government. Given the history of successful nuclear cooperation between the United States and Canada, the indirect transfer of Powertech from Azarga to enCore is consistent with the standards of the AEA and other United States national interests.

Further, the uranium recovery and milling process utilized at the facility subject to the License will result in yellowcake, which does not pose a high security risk, is of low strategic significance, and does not impact the availability of special nuclear material for military needs. The NRC has already made similar non-inimicality determinations with respect to other indirect license transfer requests for uranium mining and milling facilities.¹

Thank you very much for your attention to this request. We look forward to your expedited review and approval.

Sincerely,

John M. Mays
Chief Operating Officer

Enclosures

¹ See, for example, Order Approving the Change in Control of Materials License SUA – 1597
(<https://www.nrc.gov/docs/ML1516/ML15161A470.pdf>)