



**RICHARD E. BLUBAUGH**  
Vice President – Health, Safety  
& Environmental Resources

## **POWERTECH (USA) Inc.**

August 29, 2012

Kevin Hsueh, Branch Chief  
Environmental Review Branch-B  
Environmental Protection and Performance Assessment Directorate  
Division of Waste Management and Environmental Protection  
Office of Federal and State materials and Environmental Management Programs  
United States Nuclear Regulatory Commission  
Washington D.C. 20555-0001

**Re: August 12, 2011 letter from U.S. Nuclear Regulatory Commission (NRC) Staff to Powertech (USA) Inc. concerning information needed to complete Section 106 of the National Historic Preservation Act**

Dear Mr. Hsueh:

I am writing in regard to the above-referenced letter in which NRC Staff requested that, as part of its submissions in support of its license application (docket number 040-009075) for the proposed Dewey-Burdock In Situ Leach Uranium Recovery Project (Dewey-Burdock Project), Powertech (USA) Inc. (Powertech) provide NRC Staff with information regarding potential properties of religious and cultural significance (also referred to as “traditional cultural properties”) that might be affected by the proposed project.

Over the past year, Powertech has made every effort to comply with this request. First, Powertech hired third-party consultants (SRI Foundation or the Foundation) to identify and facilitate consultations with federally recognized Indian tribes (Tribes) that might ascribe religious and cultural significance to properties within the proposed project area. Once NRC Staff had informed the Tribes about its request to the applicants and explained the Foundation’s role, the Foundation began the first of many contacts with the Tribes on November 4, 2011 (see Attachment 1 for a record of tribal communications). The Foundation provided information about the proposed Dewey-Burdock Project and requested Tribal input as to appropriate methods for gathering the information needed by NRC Staff. The Tribes indicated that they needed to conduct an on-the-ground field investigation within the Project area, and that they wished to discuss how to proceed with this identification effort in a face-to-face meeting with NRC.

In partnership with Cameco Resources (which had received the same request for information from NRC), Powertech sponsored a two-day face-to-face Section 106 consultation meeting on February 14 and 15, 2012, among NRC Staff, Bureau of Land Management (BLM), Environmental Protection Agency (EPA), and representatives of the following federally recognized Indian tribes:

Cheyenne River Sioux Tribe  
Crow Creek Sioux Tribe  
Crow Tribe of Montana  
Eastern Shoshone Tribe  
Fort Peck

Northern Arapaho Tribe  
Northern Cheyenne Tribe  
Oglala Sioux Tribe  
Rosebud Sioux Tribe  
Santee Sioux Tribe of NE  
Sisseton-Wahpeton Oyate  
Standing Rock Sioux Tribe  
Yankton Sioux Tribe

The purpose of this meeting, as established by NRC Staff, was to enable the federal agencies to hear from the Tribes what would be required in order for the Tribes to identify potential properties of religious and cultural significance to them within the Dewey-Burdock and Crow Butte/North Trend Project/license areas. No information about specific identification procedures was forthcoming during this meeting, but the Tribes in attendance proposed to provide NRC Staff with a scope of work (SOW) for the Dewey-Burdock and Crow Butte/North Trend identification efforts. The Tribes also indicated during the meeting that they would not work directly with either Powertech (USA) Inc. or its consultants.

In March of this year, Powertech, at the request of NRC Staff, developed an initial draft SOW for identification of potential properties of religious and cultural significance within the Dewey-Burdock license area. The purpose of this document was to serve as a point of departure for negotiations, along with the anticipated proposed SOW from the Tribes. NRC Staff sent Powertech's draft scope to the Tribes on March 9, 2012, and requested that the Tribes provide their promised proposed SOWs by March 16.

The Tribe's proposed SOW for the Dewey-Burdock Project was not received by NRC Staff until July 13, 2012. This SOW provided rates for items such as salaries, travel, overhead, and per diem; however, it did not provide any information on level of effort (e.g., number of field days, number of travel days, and number of crew members) which would have enabled Powertech to estimate the potential costs. NRC Staff's requests to the Tribes for clarification on level of effort issues subsequent to receipt of the Tribal SOW have been unsuccessful. On July 30, 2012, once again at the request of NRC Staff, Powertech provided a revised SOW for identification of potential properties of religious and cultural significance in the Dewey-Burdock Project area.

Powertech has participated in three conference calls sponsored by NRC and attended by BLM, EPA, and many of the Tribes on the list provided above. The first call was on April 24, 2012, the second on August 9, 2012, and the third on August 21, 2012. During the April 24<sup>th</sup> call, the Tribes requested that two tribal representatives be assisted in carrying out reconnaissance visits to both the Dewey-Burdock and Crow Butte/North Trend license areas, in order to secure information that would enable the Tribes to complete detailed proposed SOWs for these projects. Powertech accommodated this request, and the Dewey-Burdock Project reconnaissance visit took place on Saturday, May 26<sup>th</sup>. The purpose of each of these conference calls, as established by NRC Staff, was to secure input from the Tribes that would enable NRC Staff to develop a final SOW for identification of potential properties of religious and cultural significance. None of these calls succeeded in meeting this objective. In the absence of a mutually acceptable SOW, Powertech cannot contract with the Tribes or their representatives to secure the information requested by NRC to complete the identification phase of the Section 106 process.

I regret to inform you that after a year of substantial effort, Powertech is unable to provide the information on potential properties of religious and cultural significance that may be affected by the Dewey-Burdock Project as requested in your letter of August 12, 2011. Further, Powertech has concluded that additional efforts on our part are unlikely to be productive.

One of our primary concerns, from the beginning of this effort, has been to ensure that places of significance to the Tribes within Powertech's proposed Project area that may be affected by Project activities be identified so that Powertech can, to the extent possible, protect them from disturbance. To that end, Powertech is willing to support NRC Staff efforts to complete the Section 106 identification process by providing up to \$100,000 in funding for tribal representatives to carry out fieldwork and reporting activities as agreed upon in consultations among NRC, BLM, and the tribes, provided that the fieldwork is completed this fall. Powertech also will be happy to coordinate with NRC and BLM on providing access for tribal representatives to the project area in order to carry out the agreed upon work.

Respectfully yours,



Richard Blubaugh  
Vice President – Health, Safety and Environmental Resources

Enclosures

- cc: R. F. Clement, Powertech  
John Mays, Powertech  
Mark Hollenbeck, Powertech  
Lynne Sebastian, SRI Foundation  
Martha Graham, SRI Foundation  
Haimanot Yilma, NRC  
Anthony Thompson, Esq.  
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