

**POWERTECH (USA), INC.**

**AFFIDAVIT of John Mays**

**Chief Operating Officer**

- 1. My name is John Mays and I am the Chief Operating Officer (COO) for Powertech (USA), Inc. (Powertech). I am authorized to execute this affidavit on behalf of Powertech (USA), Inc. and may bind Powertech (USA), Inc. to the statements contained herein;**
- 2. Powertech submitted an application to the United States Nuclear Regulatory Commission (NRC) requesting a Source and Byproduct Materials License for its Dewey-Burdock uranium *in situ* recovery project in Fall River and Custer Counties, South Dakota;**
- 3. NRC issued its Record of Decision and issued Source and Byproduct Materials License SUA-1600 to Powertech April 8, 2014;**
- 4. The NRC decision to license the Dewey-Burdock Project had been contested by two intervenor groups and a hearing before the Atomic Safety and Licensing Board (ASLB) was held on August 19-21, 2014 in Rapid City, South Dakota;**
- 5. On July 16, 2014, Powertech issued a news release titled, "Powertech Uranium (Azarga Uranium) Enters into Data Purchase Agreement for Dewey-Burdock Project." The news release was issued because Powertech is a publicly traded company and the acquisition was considered material. Thus all investors were informed at the same time by way of the news release;**
- 6. The news release indicated that Powertech had entered into a Transfer, Bill of Sale and Assignment Agreement (Agreement) dated May 9, 2014 with Energy Fuels Resources (USA) Inc. (Energy Fuels), and that Powertech had agreed to pay to Energy Fuels a total purchase price of US\$200,000 for the data. The Agreement was subsequently modified on July 31, 2014 to the effect that Powertech would acquire digitized data of the electric logs and make final payment by September 30, 2014, at which time the remaining data would be transferred to Powertech;**
- 6. The news release describes the data thusly, "*The data being acquired consists of historical drill hole logs and maps prepared by the Tennessee Valley Authority from the 1970's and 1980's when the Dewey Burdock uranium deposit was originally discovered as well as***

*digitized data generated from this work. This data is expected to assist Powertech's planning of wellfields for the Dewey Burdock uranium property by providing additional quality data to complement Powertech's existing database."*

7. The intervenors have stated that the data are relevant to accurately assess the potential for uncontrolled groundwater migration since they contain electric logs not previously evaluated by the NRC;

8. Powertech maintains that the data are not relevant to this proceeding because the electric logs, while capable of being utilized for mapping shale and sand continuity, are used to delineate the uranium resource and determine locations for monitor wells and ISR injection and production wells and they are not used to determine hydrogeologic isolation of the production zone in each well field; only the pump testing that will be conducted for each well field and presented in the well field hydrogeologic data package will demonstrate hydrogeologic confinement. This latter information must be developed per license condition and has not been developed at this time and is irrelevant to the hearing.

9. On August 20, 2014, the ASLB determined that the data are relevant and ordered Powertech to make the data that are currently in Powertech's possession available for viewing;

10. Powertech and its legal counsel believe the data are proprietary and confidential and should only be released for review under the constraints of an ASLB Protective Order or confidentiality agreement;

11. The acquired data are considered proprietary and confidential under the provisions of 10 CFR §2.390(a)(4) and (a)(9) for the following reasons:

i. The data and information obtained from Energy Fuels and the subject of this affidavit have been held in confidence by Energy Fuels and by Powertech;

ii. Powertech does not provide such information to public or private entities, nor am I aware of any uranium ISR company that has disclosed such a large portion of its electric logs to the public or any regulatory agency in a quantity typically appropriate for the purposes of estimating an economic resource, which is outside the scope of an NRC license application;

iii. Powertech has not provided the previously existing logs, not subject to the Agreement, to NRC or any other regulatory agency, except for the "type log" and additional electric logs provided in the license application (especially Technical Report Request for Additional Information responses) that were specifically requested by NRC staff to confirm the geologic cross sections and thickness and continuity of the underlying confining unit (Morrison Formation);

**iv. The data and information contained in the acquired data customarily are held in confidence by uranium and other natural resource extraction companies who seek to protect information related to production of the resource;**

**v. The acquired data are not available in any public sources;**

**vi. The electric logs are geophysical logs that contain technical and scientific data including information on ore grade and thickness; these logs are clearly “[g]eological and geophysical information and data” with the purpose of an in depth understanding of location, quantity, and depositional nature of the uranium mineralization and therefore subject to exemption from public disclosure under 10 CFR § 2.390(a)(9);**

**vii. Although the locations of all historical drill holes are provided in the license application (e.g., Appendix 2.6-A to the Technical Report), the specific geophysical logs showing the ore grade and thickness have not been made available except in limited circumstances as noted under Item iii above;**

**viii. Release of the data and information acquired from Energy Fuels may cause substantial economic harm to Powertech, primarily since the data has a value of US\$200,000, which would greatly diminish any potential resale value after becoming publically and freely available;**

**ix. Release of the data and information acquired by Energy Fuels would provide “competitors” clues to the precise location and quantity of resource such that they could endeavor to manipulate the existing land holding agreements within and external to the project that could be detrimental to Powertech’s business interests;**

**x. The data also would give detail on the quantity and the timing of production of these resources which may be used by competitors for strategic advantage in competitive negotiation of future uranium sales contracts;**

**xi. If the data were to become publicly available, it would provide no tangible benefit to members of the public since it relates to private property controlled by Powertech and a project overseen by several regulatory agencies; therefore, withholding the data will not harm members of the public as oversight from these agencies ensures the public’s protection by law; and**

**xii. Powertech fully understands that withholding the data and information, including from the regulatory agencies overseeing the project described in xi. above, does not deprive any regulatory agency or independent party from inspecting or viewing the confidential data and information under the terms of an appropriate Protective Order in the context of an ASLB hearing or other administrative proceeding.**

*John Mays*

John Mays, Chief Operating Officer

State of Colorado            )  
  )ss.  
County of Arapahoe        )

The foregoing Affidavit was subscribed, sworn and acknowledged before me this 21<sup>st</sup> day of August, 2014, by John Mays, as Chief Operating Officer of Powertech (USA), Inc., a South Dakota Corporation.

Witness my hand and official seal.

**BARBARA HOUSTON  
NOTARY PUBLIC  
STATE OF COLORADO  
NOTARY ID 20114071570  
MY COMMISSION EXPIRES 03/09/2016**

*Barbara Houston*

Notary Public

My commission expires: 3/9/2016