

**POWERTECH (USA) INC.**

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Division of Reclamation,  
Mining and Safety

April 14, 2009

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Division of Reclamation, Mining and Safety  
Department of Natural Resources  
1313 Sherman St., Room 215  
Denver, Colorado 80203

**NON CONFIDENTIAL**

Attention: Allen C. Sorenson, Reclamation Specialist

Re: Centennial Project, Notice of Intent Modification MD-02, File No. P-2008-043;  
Response to March 31, 2009 Letter

Dear Mr. Sorenson:

This letter and the enclosed letter from legal counsel both respond to the March 31, 2009 letter presented to Powertech (USA) Inc. during our meeting on the same date. The subject of the meeting was our proposed modification (MD-02) to the Notice of Intent to Conduct Prospecting (NOI) March 4, 2009. Your letter stated that the Division's initial review of MD-02 indicates that it is incomplete. Although we do not believe that the information was incomplete, nevertheless this letter provides responses to your inquiries and additional information and sets forth an alternative undertaking that will remove any doubt about the environmental aspects of our activities.

The eight items enumerated in the letter are addressed below in the same order as presented in your letter.

1. Section IV, item 5 of the modification form: Powertech will comply with DRMS' requirement to conduct seeding in November or April, with November being the preferred option.
2. The dilution calculation table included in Attachment E to MD-02 will not be necessary as Powertech (USA) is hereby withdrawing its proposed MD-02 for a temporary storage pit.
3. DRMS requested considerable technical information in order to make a determination that impacts to the hydrologic balance will be minimized and that groundwater standards will be met. Further, DRMS requested the information in order to evaluate the potential for impacts to the uppermost aquifer below the proposed water disposal pit. As stated above, Powertech is withdrawing MD-02 and will proceed to handle the pumped water with Baker tanks which will not require temporary water storage in the soils above the uppermost

aquifer. Powertech is taking this approach in order simplify the situation and to minimize soil impacts and to prevent and/or minimize potential impacts to the environment.

While Powertech maintains its position that the previously submitted MD-02 would be fully protective of the uppermost aquifer, the current approach will eliminate the needless research and drafting of technical responses to justify the prior proposal. Therefore, inasmuch as the data and information requested in Item 3 becomes irrelevant under the current plan, Powertech does not intend to develop and submit the listed information and data, with the exception of 3.a., as the requested reports have already been submitted as part of Powertech's request for bond reduction under NOI -2007-15.

4. Again, with the withdrawal of MD-02 and the switch to Baker tanks above ground, Powertech believes that development of the information in item 4 is no longer necessary. Therefore there is no need to develop it at this time.

5. While item 5 requests information upon which a final decision on the previously proposed water disposal pit depends, and which is unnecessary for that purpose, Powertech agrees to submit the well completion and development reports for the new pump test wells and water quality data from a minimum of one sample from each well. Also, as requested, Powertech will notify DRMS at least five working days prior to sampling of the wells so that sampling can be observed and split samples collected, if that is desired. Additionally, DRMS will be notified five days prior to commencement of the pumping test.

6. Item 6 requests information that will be presented in the proposed pumping test plan that will be submitted soon. Powertech presented a draft of this report during the March 31, 2009 meeting and it was agreed that this plan would be finalized to address the details of the pumping test.

7. DRMS stated that "Many of the activities being conducted or proposed to be conducted under prospecting notice P-2008-043 are baseline characterization under the Colorado Mined Land Reclamation Act at 34-32-112.5(5)(a)." Further, DRMS stated that it would "retain an independent third party reviewer to oversee baseline site characterization, monitor field operations, and review the information collected, developed, or submitted." Powertech acknowledges DRMS's position, but asserts that the activities proposed to be conducted under NOI P-2008-043 are prospecting in nature and must be conducted prior to development activities being undertaken. Since the purpose for the pump test is to measure the technical parameters of the aquifers and aquitards to determine the suitability of the aquifers for in situ leach mining, this activity clearly relates only to prospecting. See the enclosed letter from counsel for additional comments on this particular issue.

8. DRMS provided copies of letters from the Western Mining Action Project and Weld County and requested Powertech provide its position on each issue raised in each letter. Powertech's response to the issue raised in the Weld County letter follows the response to the letter from the Western Mining Action Project. Powertech's position regarding the three issues raised by Jeffrey C. Parsons on behalf of CARD, Environment Colorado and INFORM is discussed below. The enclosed letter from counsel also addresses Mr. Parsons' issues in more detail.

Response to DRMS Regarding the March 20, 2009 Weld County Letter

The following comments are provided in response to Weld County's letter of March 20, 2009 to the Division of Reclamation, Mining and Safety.

1. Installation of baseline groundwater monitoring wells will be performed in compliance with the environmental and aquifer protection requirements of the U.S. Environmental Protection Agency (EPA) and the Colorado Division of Water Resources, Office of the State Engineer (CDWR-OSE).
2. Any and all exploration boreholes drilled by Powertech will be correctly abandoned following logging and sampling so as to provide protection to aquifers in the area. The disposal of cuttings and disturbed soils will comply with the environmental and aquifer protection requirements of the EPA and the CDWR-OSE.
3. The specific location of the water disposal pit was given in Attachment A as Northing: 531,812.85 and Easting: 2,168,436.70 (NAD-27 CO-N), and is off-channel from the tributary to Spring Creek. Nevertheless, we have changed the proposal to contain all of the water in steel tanks and to return the water back into the same aquifer.
4. Powertech provided to DRMS the information that was requested. At the time the Request for Modification was prepared, it was not deemed necessary to provide the information specified in the Weld County letter as our experience and technical expertise resulted in the conclusion that there would not be any impact to the Laramie aquifer. We are focused on the process that is required by DRMS at this point in time and do not believe that the DRMS process legally requires local authority approval for this activity. However, we are cognizant of the issues that have been raised by the County and will work to address those issues in a separate meeting with the County. Powertech is interested in meeting with the Weld County representatives to discuss permitting of this proposed activity particularly because we believe there is some misunderstanding or misinformation. We will, of course, strive to address any concerns the County may have and make sure that we meet periodically with the County so that accurate information is exchanged.
5. The letter stated that the County Departments believe that Powertech has not provided adequate information for DRMS approval. While Powertech provided the information required by DRMS, and believed it to be sufficient, we are sensitive to Weld County's concerns about certain aspects of the pump test as proposed in MD-02. In order to simplify matters, Powertech is withdrawing its proposal to dispose of the water in an unlined pit for the pumping test. Instead, Powertech, will transport Baker tanks to the site and pump the water into the tanks. The water will be pumped back into the aquifer from which it came, resulting in minimal environmental impact. This method will alleviate any concerns about contamination of the Laramie aquifer and potential users down gradient from the pumping test location. With this modification, Powertech believes the four bulleted information items in the letter are adequately addressed. As stated in the Weld County letter, "Construction of a lined evaporation pond or tanks would provide the necessary storage for the water pumped from the ore zone and provide protection to the underlying shallow aquifers."

Response to DRMS Regarding the March 20, 2009 Letter from the Western Mining Action Project

Issue #1: “[W]hether the activities proposed are properly considered ‘prospecting’ under the Colorado Mined Land Reclamation Act (MLRA), C.R.S. §§ 34-32-101, et seq.”

Powertech believes the activities proposed are properly considered prospecting under the MLRA. “Development” under the MLRA (C.R.S. § 434-32-102 (12)) refers to “work performed in relation to a deposit aimed at preparing the site for mining, defining the ore deposit by drilling or other means, conducting pilot plant operations, constructing roads or ancillary facilities, and other related activities.” The prospecting activities proposed by Powertech under MD-02 are clearly not for the purposes of “preparing the site for mining,” or defining the ore deposit by drilling or by implementing the pumping test. The deposit will not be further delineated (defined) until after acquiring the required permits that will allow for these activities. The prospecting activities proposed by Powertech are for a pump test to measure the technical properties of the aquifers and aquitards to determine their suitability for in situ leach mining. We will not mine the Centennial site unless the aquifer characteristics are suitable, but conducting prospecting activities to determine the suitability of the site for development clearly does not constitute development or mining.

Powertech rejects outright the characterization by Mr. Parsons of a hydrogeologic aquifer test as the “equivalent to a trial run of the groundwater pumping process to be used in the proposed in situ leach operation.” The aquifer test is further investigation of the mineral deposit for its hydrogeologic properties. The preparation of a development plan is dependent upon the deposit’s hydrogeologic properties; therefore aquifer (pumping) tests are by their very nature pre-development. In fact, the statement Mr. Parsons quoted from the Request for Modification has been misinterpreted. The groundwater samples obtained from the test wells are samples used for investigating the mineral deposit, and the determination of hydrogeologic properties of sedimentary rock units that host uranium mineralization as well as adjacent rock units is clearly an activity that reasonably can be considered “the act of searching for or investigating a mineral deposit.”

Powertech’s consultant, R Squared, Inc. (R<sup>2</sup>), previously performed two pumping tests related to the deposit. The current proposed pumping test is essentially the same type test as that utilized for the two pumping tests that previously were authorized and completed. There were no third party written comments to respond to and DRMS authorized the work under an NOI process. Likewise, Weld County did not object. To our knowledge, there was no contamination of the uppermost aquifer, nor has anyone registered a complaint regarding water contamination as a result of those tests.

Issue #2: The second issue relates to “how the proposed activities relate to the requirements in the MLRA that prospective in situ leach uranium mining applicants submit and confer with the DRMS on a detailed plan for establishing a thorough baseline characterization of site conditions, enacted via HB 08-1161 as C.R.S. 34-32-112.5(5).”

Powertech and its consultant, R<sup>2</sup>, prepared and presented to representatives of the DRMS, CDPHE, EPA and Weld County the Baseline Sampling and Monitoring Plan (SAP) for their review and comment. Meetings to present this information were held in late 2007 and early 2008. The DRMS authorized Powertech’s initial NOI on June 22, 2007, which included the

wells for the initial pumping tests. Powertech is simply following the procedure that is available to it in the State of Colorado to conduct baseline characterization, that is, via the notice of intent to conduct prospecting. In fact, Powertech was told by a DRMS representative that it had followed the proper protocol by presenting and reviewing the SAP with DRMS prior to commencing its baseline characterization activities. With regard to the activities specifically proposed under MD-02, Powertech met with DRMS on March 31, 2009 to review the details of the pumping test. Regrettably, DRMS chose to issue its request for additional information prior to this presentation. If the concept of "grandfathering" has any validity at all, the baseline characterization activities for the proposed Centennial Project should be so considered.


Issue #3: The third issue postulated by Mr. Parsons is "whether the Request for Modification contains sufficient information for the Division of Reclamation, Mining & Safety (DRMS) to assess the impacts of the proposed activities with respect to soil and ground water impacts."

Powertech provided the information the DRMS requested in MD-02. Powertech proceeded with the understanding the DRMS staff had requested sufficient information to adequately review and approve the modification. Based on the March 31, 2009 request for additional information, it appears that there was a misunderstanding about what was required. Powertech is assured by its own experts and outside consultants that there would be no impacts to groundwater in the uppermost aquifer. Nevertheless, in this particular situation, Powertech is willing to do some additional work and commit to a change in the proposed handling and disposal of the pumped native groundwater. Therefore, Powertech will propose in its finalized Pumping Test Plan an alternative that will not present any perceived or potential threats to the uppermost aquifer.

On a related matter, Powertech is not aware of the statute or regulation that provides for public comments on a Notice of Intent to Conduct Prospecting activities. While we are not formally objecting, at this time, we seek from the DRMS some explanation or clarification of the authority that exists for such comments to be submitted at this stage of the process.

Lastly, Powertech wishes to take this opportunity to express our appreciation to the staff of DRMS for the assistance and cooperation extended to Powertech as it seeks the information vital to preparation of the permit application required for development of its proposed Centennial Project.

Respectfully yours,



Richard E. Blubaugh  
Vice President – Environmental Health & Safety Resources

Enclosure

cc: T. Walsh,  
W. Mays,  
R. Clement  
J. Fognani, Esq.