

## **"Judge denies Stay" "Drilling to continue"**

PRESS RELEASE

June 20, 2007

**Rapid City, SD** -- South Dakota Circuit Court Judge John Delaney denied a motion for a stay to stop any further drilling by a Uranium mining company near Edgemont. Opposing parties considering state Supreme Court appeal.

Powertech, a Canadian mining company, began drilling uranium exploratory wells in the Dewey Burdock area northwest of Edgemont a few weeks despite the approval of their permit being appealed in court. Two environmental organizations, Defenders of the Black Hills and ACTION for the Environment are appealing the decision made by the South Dakota Board of Mining and Environment. Cindy Gillis, lead counsel for the two groups had previously sought a preliminary injunction and a restraining order. Judge Delaney denied those requests and said a "stay" was the proper procedure, and one was filed on April 30. A hearing was held on June 19, 2007, in the Pennington County Courthouse and the Judge denied the stay stating there was not enough environmental information to show harm to the plaintiffs.

Charmaine White Face, Coordinator for Defenders, said, "This appeal is about the violation of our Constitutional rights. Our concerns about the environment were not even considered by the Board during the first hearing in January," she said. "That's why we appealed their decision in the first place. We are not even to the environmental questions yet."

Attorney Gillis raised the point in court that Powertech will have all their exploratory wells finished before the hearing on the permit can occur. Judge Delaney stated that even though a number of procedural violations were committed by the Board and the State Department of Environment and Natural Resources, he now had the authority to make the decisions and this was his decision.

The Board's Hearing Chair, Lee McCahren, on Jan. 17, 2007, signed the Findings of Fact, Conclusions of Law and Order that were prepared by Max Main, the attorney for Powertech. This was prior to the Board hearing the oral objections on Jan. 18 at which no court reporter was present. The process also allowed for written objections to be submitted within 30 days after the Hearing. The two groups submitted their written objections, and their objections should have been addressed by the Board in a Final Decision. The Board never sent a Final Decision. In order to participate in an appeal of the decision, the groups filed their appeal in State Court based on the Order sent out by Powertech.

Without the Board following their own procedures, the objections raised by the two groups then become an admission of fact. "Failure to answer an allegation in a petition constitutes and admission of that fact." according to South Dakota Compiled Law, 74:09:01:03. The two groups raise the contamination of the water and watersheds in their objections, as well as the health risks to all living things.

The permit that is being appealed allows Powertech to drill 155 more exploratory wells at depths of 500-600 feet in the southwestern Black Hills. They already have 4,000 uncapped, and unmarked uranium exploratory wells drilled in the past. The mining company plans on doing In Situ Recovery (ISR) of uranium from the Lakota and Fall River aquifers. In Situ Recovery was formerly known as In Situ Leach (ISL) mining.

During the ISR process, a solution to dissolve the uranium is poured down the wells and the dissolved uranium brought back up to the surface. The uranium is separated from the rest of the radioactive waste solution. The radioactive waste solution is then put back into the aquifer after being held in waste ponds on the surface. The procedure contaminates aquifers and cannot be controlled underground. In case of sudden rainstorms, the radioactive waste ponds often overflow and contaminate the surface ground and nearby watersheds as well.

According to Powertech's application, each exploratory drill hole "will have a small excavated mud pit that will be approximately 12 feet by 5 feet" and 10 feet deep. Among the concerns of the environmental groups are the possibility of overflow from the mud pits with the sudden rain showers that occur in the Black Hills. One of the aquifers empties directly into the Cheyenne River and is used by many ranchers to water their livestock. Among the deeper aquifers of concern is the Madison which provides water for many western South Dakota communities.

The two groups are considering appealing the request for a stay to the state Supreme Court.

**Drilling to continue**

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They continue to state that Powertech does not have a valid permit to drill until after the appeal of the granting of the permit is finished.

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