

North Forty News

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Powertech takes on state mining regulations in lawsuit

By Dan MacArthur
North Forty News

Developers of an in situ uranium mine proposed near Wellington are challenging new rules regulating operations and setting standards for protecting groundwater.

Meanwhile, the head of the Powertech Uranium Corp. disagreed with those who say the company's recent financial statements suggest the company is in financial distress and could fold early next year without an infusion of funding.

In its lawsuit, Powertech seeks to overturn state rules that it contends are unreasonable and unconstitutional. It also asserts that legislators' involvement in the rule-making process violated constitutionally mandated separation of powers. Fort Collins state Reps. John Kefalas and Randy Fischer were among those participating.

The suit was filed Nov. 1 against the Colorado Mined Land Reclamation Board and Mike King, executive director of the Colorado Department of Natural Resources. The state must respond within 20 days after being served with the suit.

The lawsuit demonstrates Powertech's continuing effort to squelch public input and shirk its stated commitment to preserving groundwater quality, said Jeff Parsons, an attorney for the nonprofit Western Mining Action Project.

Parsons has represented opponents organized as Citizens Against Resource Destruction at no cost, and he has been active in the two-year rule-making process. He said the lawsuit demonstrates Powertech's consistent inconsistency since first proposing the Centennial project east of Wellington and some 10 miles north of Fort Collins.

"Here's this company making lots of promises about protecting water and it can't keep its story straight," said Parsons. "If they're serious about it, they're going to have to clean up the water when they're done. This is a huge risk. There is no room for error."

Parsons predicted the lawsuit filed in Denver District Court could be a long, slow slog with little chance for success given the great deference the state gives to regulatory agencies in drafting rules to reflect legislative intent.

He questioned whether Powertech's suit indicated it had put the Centennial project on hold, given the paradox of applying for a mining permit while challenging the rules under which it would be permitted.

But Powertech president Richard Clement said the company is proceeding with plans to apply for a mining permit sometime in 2011.

Clement acknowledged his earlier statement that Powertech could live with the new state rules. But, he said, the Canada-based company was compelled to challenge the process because "there were a lot of inconsistencies in the way it was handled."

The new rules principally apply to in situ leach mines such as the one proposed by Powertech. In situ mining involves pumping water underground to dissolve uranium. The solution then is pumped to the surface, the uranium extracted and the water returned underground.

The rules require in situ leach operations to restore groundwater to its original quality or to standards set by the state. Applicants must also provide detailed baseline hydrology information and environmental protection plans and prove that the proposed mining technology has been used at five other locations without damaging groundwater quality.

On the financial front, Clement flatly dismissed postings on a Powertech monitoring web site questioning the company's viability.

Based on information contained in Powertech's financial statements for the third quarter of this year, powertechexposed.com contends that the company could be insolvent in early 2011 unless it gets an injection of cash.

Clement said such statements don't accurately reflect current conditions.

"Powertech reports that it had \$3.1 million in cash at the end of September," states a new posting on the web site. "The company continues to burn cash at the rate of about \$800,000 per month. "If Powertech cannot raise any new money, it could be broke by January or February of next year."

The collection of public documents is compiled by Jim Woodward, whose property borders the proposed mine site.

As evidence, the web site points to a financial note in Powertech's most recent consolidated statement. As of Sept 30, "the company had not yet achieved profitable operations, had a deficit of \$29,843,625 and negative working capital of \$7,834,720," it states.

"The company will incur future losses which casts doubt as to the company's ability to continue as a going concern which is dependent upon its ability to raise the necessary funds and/or to obtain the necessary financing to meet its obligations and repay its liabilities arising from normal business operations when they come due," the note continues. "The company requires additional funding by the first quarter of 2011 in order to fund operations and meet its liabilities as they

come due."

Among those obligations detailed in the statement are \$26 million to repay loans from Synatom by the end of 2011.

Synatom, which secures nuclear fuel for Belgium's largest provider of electricity, now is the largest shareholder in Powertech. In September, however, Synatom announced that it was conducting a "strategic review" that could result in divesting its 19.6 percent of Powertech shares. Then in October, Powertech announced the resignation of two Synatom representatives on its board of directors.

Clement earlier said that Powertech is actively seeking new investors. Toward that end, the company has notified three Canadian securities commissions that it may seek a public stock offering.

The notice was a generic filing, Clement said, and he had no idea when a public offering would occur.

"Instead of mining ore, they're mining investors," said Parsons. "They've been very successful raising money but haven't produced anything.

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Send your comments and questions to info@northfortynews.com

Web site by S. Virginia De Herdt, Freelance Writer

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