

September 9, 2011

Mr. Terry Clouthier
Standing Rock Sioux Tribe
Tribal Historic Preservation Office
P.O. Box D
Fort Yates, ND 58538-0522

Dear Mr. Clouthier:

Thank you for your August 30, 2011 letter regarding the U.S. Nuclear Regulatory Commission's (NRC) request that Powertech (USA) Inc. prepare a Traditional Cultural Property (TCP) Survey Plan.

As you have stated, the NRC is responsible for carrying out the requirements of 36 CFR 800 (Section 106 process) to assess impacts to properties with religious and cultural significance. The NRC understands that identification and evaluation of such properties must be carried out in consultation with consulting parties to identify sites that are eligible for listing on the National Register of Historic Places. The NRC is also mindful that, during the June 8, 2011 meeting at Pine Ridge, tribal representatives stated that an adequate TCP survey would be needed to help identify historic properties. Along with the requirements of 36 CFR 800, this input from tribal representatives was the reason the NRC requested that Powertech prepare a TCP survey plan. As a follow-up to that request, the NRC forwarded the transcript of the June 8, 2011 meeting to Powertech to make them aware of the tribes' views regarding the necessity of a TCP survey and how such a survey should be conducted.

The NRC's request for a TCP survey plan from Powertech is to assist our identification of historic properties. As allowed by the regulations at 36 CFR 800.2(a)(3), an agency can use the services of applicants or consultants to prepare, coordinate, gather information, and prepare analyses. The lead Federal agency remains legally responsible for all required findings and determinations. The NRC is therefore responsible for ensuring that information obtained by Powertech meets applicable standards and guidelines.

The NRC plans to engage the Tribal Historic Preservation Officers (THPOs) and the South Dakota State Historic Preservation Officer during the identification and evaluation phases of the Section 106 process. Once the NRC receives Powertech's TCP survey plan, the NRC will circulate the plan to all consulting parties for review and comment.

In your letter, you mention that you have not received a copy of "the Class III survey for this project and for the Crow Butte facility North Trend expansion." Redacted copies of the archaeological reports for both projects were mailed to Ms. Waste Win Young, Standing Rock THPO, on May 13, 2011 in CD format. Locations of the sites on the proposed Dewey-Burdock and Crow Butte sites were withheld pursuant to Section 304 of the National Historic Preservation Act, South Dakota law (SDCL § 1-20-21.2), and Nebraska State Public Records Statutes 84-712.05(13), which restricts dissemination of archaeological site locations. The NRC will be forwarding the redacted portions of the cultural resource reports and site maps for both proposed projects to you.

T. Clouthier

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If you have any further questions, do not hesitate to contact Ms. Haimanot Yilma of my staff by telephone at 301-415-8029 or email at Haimanot.Yilma@nrc.gov, and/or Mr. Nathan Goodman by telephone at 301-415-2703 or email at Nathan.goodman@nrc.gov.

Sincerely,

/RA/

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

Docket No.: 040-9075

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