

# Official Transcript of Proceedings


## NUCLEAR REGULATORY COMMISSION

Title: Informal Information-Gathering  
Meeting Pertaining to Dewey-Burdock, Crow  
Butte North Trend, & Crow Butte License  
Renewal, In-Situ Uranium Recovery Projects

Docket Number: (n/a)

Location: Pine Ridge, South Dakota

Date: Wednesday, June 8, 2011

		<b>United States Nuclear Regulatory Commission Official Hearing Exhibit</b> <b>In the Matter of:</b> POWERTECH USA, INC. (Dewey-Burdock In Situ Uranium Recovery Facility)
ASLBP #: 10-898-02-MLA-BD01 Docket #: 04009075 Exhibit #: NRC-038-E-00-BD01 Admitted: 8/19/2014 Rejected: Other:	Identified: 8/19/2014 Withdrawn: Stricken:	

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1 UNITED STATES OF AMERICA

2 NUCLEAR REGULATORY COMMISSION

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4 INFORMAL INFORMATION-GATHERING

5 MEETING PERTAINING TO DEWEY-BURDOCK,

6 CROW BUTTE NORTH TREND, & CROW BUTTE

7 LICENSE RENEWAL, IN-SITU URANIUM

8 RECOVERY PROJECTS

9 + + + + +

10 MEETING

11 + + + + +

12 WEDNESDAY,

13 JUNE 8, 2011

14 + + + + +

15 The meeting was convened in the conference  
16 room of the Prairie Wind Hotel & Restaurant, Highway  
17 18 North, Pine Ridge, SD, at 10:00 a.m., Kevin Hsueh,  
18 Moderator, presiding.

19 PRESENT:

20 PAULA ANTOINE

21 MARIAN ATKINS

22 RODNEY BAILEY

23 DOCTOR BEADS

24 GERALD BIG CROW

25 JACKIE BIG CROW

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1 ROBERT BIG PALM  
2 SARA BUCKMAN  
3 MICHAEL CATCHES ENEMY  
4 TERRY CLOUTHIER  
5 KATHRYN CONVERSE  
6 GREG FESKO  
7 BRYCE IN THE WOODS  
8 KATHY JANIS  
9 HANNAN LAGARRY  
10 WILMER MESTETH  
11 PAIGE OLSON  
12 DON RAGONA  
13 ANDREW RED CLOUD  
14 OLIVER RED CLOUD  
15 LANCE ROM  
16 EDWARD STAM  
17 STEVE VANCE  
18 JAMES WESTON  
19 SCOTT WESTON  
20 DEBRA WHITE PLUM  
21 JOYCE WHITING  
22 JIM WHITTED  
23 DENNIS YELLOW THUNDER  
24 MARTIN YOUNG BUCK BER YOUNG DOG  
25

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STAFF PRESENT:

KEVIN HSUEH, Moderator, FSME

ANNE BROPHY, Contractor

MIKE CLARK, OGC

POLLY CLARK, CNWRA

NATHAN GOODMAN

KELLEE JAMERSON, FSME

PATTY JEHLE, OGC

BRETT KLUKAN, OGF

JIM PRIKRYL, CNWRA

MICHELLE RYAN, FSME

BILL VON TILL, FSME

HAIMANOT YILMA, FSME

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## P R O C E E D I N G S

(9:58 a.m.)

MODERATOR HSUEH: Good morning. My name is Kevin Hsueh. I'm the Chief of the Environmental Review Branch with NRC. I want to welcome you to participate in Section 106 process. We had three-day activities here, and we have scientists from the technical review on site and today will be Information-Gathering.

I'd like to welcome each and every one of you here. We would like to start with a prayer session, so I'm going to turn it over to Mr. Mesteth.

(Prayer in native language.)

MODERATOR HSUEH: Thank you, Mr. Mesteth. Our next item is for Ms. Whiting to give us Words of Encouragement.

MS. WHITING: Good morning. I'm just very thankful for our meeting here today. I just want to -  
- I'm very thankful to our relatives from the Oceti Sakohowin who are here to help support our efforts as Lakota Nation.

Today I just want to encourage all of us to have an open mind. We, as the Oglala Lakota people and from the Civil Council have a lot of major concerns regarding the Crow Butte, and all the other

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1 uranium mines, the permits, the permitting process.  
2 And this is a start of the consultation process. And  
3 I'm glad that you've called us to the table to be --  
4 start from the beginning so that we can continue to  
5 have a good working relationship. Those are my Words  
6 of Encouragement.

7 (Native language.)

8 MODERATOR HSUEH: Thank you, Ms. Whiting.

9 We have some microphones over there, so we will try  
10 to figure it out. But in the meantime, I will  
11 continue. I will try to speak louder so everyone can  
12 hear from me. So, if you don't hear from me, just let  
13 me know so I can try to increase my voice.

14 The next item is for Mr. Michael Catches  
15 Enemy. He's the Master of Ceremonies, say a few  
16 words.

17 MR. CATCHES ENEMY: (Native language.) I  
18 thank all of you for coming here, and I greet all of  
19 you with a good handshake, and a good heart. My name  
20 is Michael Catches Enemy. I'm the Natural Resource  
21 Director and Tribal Historic Preservation Office  
22 Director. And I welcome all of you this morning to be  
23 here. I welcome our Council representatives, Scott  
24 Weston, Kathy Janis, our Fifth Members Office  
25 representative, Jackie Big Crow, the other tribal

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1 representatives from Flandreau, Cheyenne River,  
2 Standing Rock, Sisseton-Wahpeton, and anybody else I  
3 may have forgotten.

4 I'm glad that most of my staff is here.  
5 We have also our archeologist, Lance Rom. My staff  
6 consists of, so everybody else knows, Sara Buckman,  
7 she's our Outreach Coordinator, our tribal attorney,  
8 Don Ragona for the Oglala Sioux Tribe, Lance Rom,  
9 Hannan LaGarry. He's with Oglala Lakota College of  
10 Math and Science. He's our tribal geologist-  
11 paleontologist. We have Kathryn Converse, who is our  
12 hydrologist. Dennis Yellow Thunder, who is our  
13 natural resource technician, and I'll say good morning  
14 to the rest of you.

15 Hopefully, we'll have other people here.  
16 Maybe they'll be voicing concerns. There's a lot to  
17 talk about in these next hours that we have for today,  
18 at least, to talk about this. And as Joyce said, this  
19 is the beginning, because we're talking about two  
20 different mining operations here. And I really hope  
21 that we can try to get the points across on having  
22 some meaningful dialogue as part of this consultation  
23 process to allow not only tribal members, but tribal  
24 representatives to speak their concerns. And,  
25 hopefully, these concerns can go to another level

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1 where there's cooperation or collaboration on some of  
2 these aspects that are important to tribes.

3 I understand that some of the Nuclear  
4 Regulatory Commission hearings that were held, I  
5 wasn't present at a lot of these, but two of the  
6 newest things that the tribes can be a part of, as far  
7 as I understand, is either following the NEPA, the  
8 National Environmental Policy Act guidelines to become  
9 a cooperating agency, or through the National Historic  
10 Preservation Act under this Section 106 process. So,  
11 the Section 106 process that we're engaging in today,  
12 we're focusing on cultural resources, historic  
13 preservation items.

14 But, of course, there's still the health  
15 concerns that come up, the environmental concerns. And  
16 I don't think that we should be restricted from  
17 speaking on those parts, as well.

18 And I'm just really glad the Nuclear  
19 Regulatory Commission took it upon themselves to go  
20 ahead and initiate this process, because we wrote some  
21 letters back in 2010 and earlier this year to set up  
22 this meeting. It took some coordination, and putting  
23 names to faces now, so I'm glad to meet Nathan and  
24 Haimanot.

25 We had sent some emails, and then after we

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1 had tried to talk about a draft agenda, the  
2 invitations were sent out to all the tribes. And, as  
3 you can see, there's a long list of tribes that were  
4 invited by the Nuclear Regulatory Commission to be  
5 here, and I'm just extremely thankful that we do have  
6 the tribes that are here present with us.

7           There's a lot more to be said, but I think  
8 what Kevin and I have discussed is to try to have  
9 more of the input and less presentations where we can  
10 get people's concerns, use this time efficiently to  
11 obtain those concerns and issues that people want to  
12 bring forth. So, if we want, we can go around and  
13 start out with the introductions from everybody, and  
14 then at that time I think we can go ahead and discuss  
15 our opening remarks. So, however you want to start,  
16 if you want to go around this way, make our way  
17 around.

18           MODERATOR HSUEH: Thank you. I will  
19 suggest that we start from the Council from Oglala  
20 Sioux, start from there, if it's okay with you.

21           MR. CATCHES ENEMY: That's fine.

22           MODERATOR HSUEH: All right. Thank you.

23           MS. JANIS: Good morning, everyone. My  
24 name is Kathy Janis. I am from the Wounded Knee  
25 District. I am a Council Representative for the

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1 Oglala Sioux Tribe, and I was really excited to be  
2 invited by the staff to attend this meeting so I can,  
3 like Mike, put faces to the names that we hear.

4 I had been on the Council prior to this  
5 term, and we did work on some of this, but have to say  
6 I wasn't really involved. So, again, I thank  
7 everybody for coming, and welcome. Thank you.

8 MR. WESTON: Good morning, everyone. My  
9 name is Scott Weston. I am one of the Council  
10 Representatives for the Oglala Sioux Tribe in the  
11 Porcupine District.

12 I come here today with an open mind, but  
13 with questions. And like Mr. Catches Enemy, we have  
14 issues that we need clarified, we need representation,  
15 we need dialogue. We need to be able to understand  
16 what's going on so that we can convey this to our  
17 people. And in doing so, I think we can move forward.

18 But there are a lot of issues that we talk about that  
19 never gets -- we talk about, but we never mention our  
20 treaty.

21 We have treaties with the United States  
22 Government that need to be talked about, that need to  
23 be discussed. So, that's where I come from today. And  
24 I also want to say good morning to my relatives from  
25 the other tribes from our Great Plains. Good morning

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1 to you all, and I just want to say thank you and  
2 welcome to everybody.

3 MS. BIG CROW: Good morning. My name is  
4 Jackie Big Crow. (Native language.) Good morning. And  
5 I am assistant to the Oglala Sioux Tribe, and we're a  
6 liaison between the Council and the President's  
7 Office, President, Vice-President, Secretary-  
8 Treasurer. Thank you.

9 MS. JAMERSON: Good morning. I'm Kellee  
10 Jamerson with the NRC.

11 MR. KLUKAN: Good morning. My name is  
12 Brett Klukan. I'm an attorney with the United States  
13 Nuclear Regulatory Commission.

14 MR. VON TILL: Good morning and welcome.  
15 My name is Bill Von Till. I'm the Chief of the Uranium  
16 Recovery Branch that oversees the operations of the  
17 existing facilities that we have, the operation of  
18 facilities, and all the licensing that occurs with the  
19 new licenses that we have. So, I'm glad that  
20 everybody showed up. We want to hear your concerns  
21 today, that's the main objective. So, I'm also a  
22 geologist, by the way.

23 MR. FESKO: Good morning. I'm Greg Fesko  
24 with BLM, I'm a geologist and Project Manager.

25 MS. ATKINS: I'm Marian Atkins, Bureau of

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1 Land Management here in South Dakota, and I'm the  
2 Field Manager, and we have a few acres involved in the  
3 Dewey-Burdock Project. And hear what all the concerns  
4 are. So, thanks for coming, and I'm going to find out  
5 what's going on.

6 MR. CLARK: Good morning. I'm Mike Clark.

7 I'm an attorney with the NRC's Office of General  
8 Counsel. I'm advising the Staff in the review of the  
9 Dewey-Burdock application.

10 MS. JEHLLE: Hello, I'm Patty Jehle. I'm  
11 also an attorney in the Office of the General Counsel  
12 at NRC, and I'm working on the Dewey-Burdock  
13 licensing. And I would like to thank all of the  
14 tribes for welcoming me and all of the NRC to this  
15 meeting. Thank you.

16 MODERATOR HSUEH: Thank you, Patty.

17 MR. BIG PALM: I'm Robert Big Palm. I'm  
18 on the Advisory Council.

19 MR. BAILEY: My name is Rodney Bailey.

20 MODERATOR HSUEH: Okay. All right.

21 MS. BEADS: I'm Doctor Beads.

22 MODERATOR HSUEH: All right. Because I  
23 think -- can I maybe have a five-minute break, because  
24 I probably need to discuss with our -- All right.  
25 So, let's move on to the next introduction.

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1 MR. WHITTED: My name is Jim Whitted. I'm  
2 from the Sisseton-Wahpeton Oyate Tribal Historic  
3 Preservation Office, and I'm happy to be here  
4 representing our great Sioux nation.

5 MR. IN THE WOODS: (Native language.) I'm  
6 Bryce In The Woods. I'm a Tribal Council  
7 Representative for the Cheyenne River Sioux Tribe, and  
8 welcome the NRC to our great nation. Thank you.

9 MODERATOR HSUEH: Thank you.

10 MR. VANCE: (Native language.) I'm Steve  
11 Vance. I'm Tribal Historic Preservation Officer for  
12 Cheyenne River Sioux Tribe.

13 MODERATOR HSUEH: Thank you.

14 MR. WESTON: James Weston, Cheyenne River  
15 Sioux Tribe.

16 MODERATOR HSUEH: Thank you.

17 MR. RED CLOUD: Hello, my name is Chief  
18 Red Cloud. I'm here, and I take care of the treaty  
19 rights. And I want to object to this hearing. So, I  
20 want to know what's going on now today.

21 MODERATOR HSUEH: All right. Then I will  
22 go to this row. Introduce yourself.

23 MS. OLSON: Paige Olson. I'm the Review  
24 Compliance Coordinator for the South Dakota State  
25 Historical Society, and thanks for having me here.

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1 MODERATOR HSUEH: Thank you.

2 MR. CLOUTHIER: Terry Clouthier, Sioux  
3 Tribe, Tribal Archeologist.

4 MODERATOR HSUEH: Thank you.

5 MR. YELLOW THUNDER: I'm Dennis Yellow  
6 Thunder, a Natural Resources Technician for the Oglala  
7 Sioux Tribe. And I'm just here today, I want to  
8 welcome the NRC today, and all the other tribes that  
9 are here. (Native language.)

10 MODERATOR HSUEH: Thank you.

11 MS. CONVERSE: Good morning, everyone.  
12 I'm Kat Converse, and I'm a hydrologist with natural  
13 resources, the Oglala Sioux Tribe.

14 MODERATOR HSUEH: Thank you.

15 MR. LAGARRY: Good morning. I'm Hannan  
16 LaGarry. I'm a Professor of Geology and the Chair of  
17 the Department of Math, Science and Technology at  
18 Oglala Lakota College. Prior to coming to OLC a few  
19 years ago, I was with the Nebraska Geological Survey  
20 that mapped the archeological, paleontological, and  
21 geological resources in western Nebraska.

22 MODERATOR HSUEH: Thank you.

23 MR. ROM: I'm Lance Rom. I'm a consulting  
24 archeologist with the Oglala Sioux Tribal Historic  
25 Preservation Office.

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1 MS. WHITING: Joyce Whiting, project  
2 officer for the Oglala Sioux Tribal Historic  
3 Preservation Office.

4 MR. MESTETH: (Native language.) I'm  
5 Wilmer Mesteth in the Tribal Historic Preservation  
6 Office. And I'm also a spiritual leader, and I'm an  
7 instructor at the Oglala Lakota College. And I'm a  
8 leader in my area, and I'm also from two fields on  
9 this reservation. (Native language.) Those are my  
10 fields from my mother and my father. Good to meet you  
11 all, and I hope we have some really positive and  
12 interesting discussions on yesterday, our trip over  
13 there to Crow Butte, and tomorrow we're going to be  
14 going over to Dewey-Burdock.

15 And yesterday we heard the State of  
16 Nebraska historical information, but that's the  
17 Nebraska Historical Society. We haven't heard from  
18 our point of view, that land over there. That's my  
19 uncle Larry's great-grandfather, Chief Red Cloud. And  
20 my great-grandfather's uncle, Chief Red Cloud. And we  
21 have a history that's passed down from generation to  
22 generation. And I was walking around that land  
23 looking over there yesterday, you haven't heard that  
24 part in these reports or anything. You haven't heard  
25 on behalf of our tribe.

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1           We have a great history there, from there  
2 all the way -- talking about our aboriginal territory,  
3 extends way down to the -- they call it (Native  
4 language.) That's Smoky Hill River down to the south.

5       The White Mountain, Colorado, Wind River Valley, Big  
6 Horn Mountain, Tongue River all the way up to Canada.

7       That's our aboriginal territory, and back eastward,  
8 Iowa, Illinois, Wisconsin, and up to the north above  
9 the Great Lakes. That's aboriginal territory, the  
10 Dakota, Lakota, Nakota people. And today we want to  
11 talk about our land, our historical lands and what  
12 took place on our lands. And why we don't want these  
13 nuclear companies coming in, especially these ones out  
14 of the country coming here onto our historical lands.

15       We have our graves of our ancestors here, our  
16 historical sites where things took place, and we have  
17 resources.

18           They were talking -- we were listening  
19 over there, I was observant about that, and they were  
20 talking about the Crawford people. Well, that company  
21 is entertaining the Crawford people. They never came  
22 over here on this side and talked to our people. And  
23 they never asked us our views. And that's what was  
24 missing there yesterday. They never consulted with  
25 our tribe, and that's what I want to talk about today.

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1           So, it's our water under here that's being  
2 affected by the mining. If you look at the health of  
3 our people, you need to research into the health  
4 situation here on Pine Ridge Reservation, and symptoms  
5 of diabetes, and pancreatic cancers that are springing  
6 up. We never had them before. Why is it?

7           The only thing that could be the main  
8 factor is the water, contaminated. Where? Where is  
9 that contamination coming from? It didn't come from  
10 our people and what we're doing with our land. So,  
11 that's what I want to talk about, because we have to  
12 speak in behalf of our land and our people here, and  
13 our livelihood.

14           Like my uncle was talking, we have a  
15 treaty, and there's treaty stipulations in there. We  
16 have treaty rights, our people, from this government,  
17 the United States of America, and our people. And  
18 those take precedence above anything else, nation to  
19 nation. So, speaking in behalf of our nation, and it  
20 would be good if we had a government official here to  
21 oversee this meeting, because it's nation to nation.  
22 So, I just want to mention that.

23           And I know my relatives come from up  
24 north. They have to be heard, too, because as a whole  
25 collectively, as a people, we're one people. We're

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1 not divided. So, today we're going to speak with one  
2 voice so that you can hear. So, I'm going to say  
3 about that much, and talk later.

4 MR. RAGONA: Good morning. My name is Don  
5 Ragona, I'm the Oglala Sioux Tribe Tribal Attorney.  
6 And, again, I want to join with everyone here thanking  
7 you for coming down. Thank you for recognizing this  
8 as a true government-to-government consultation, and  
9 that we are a nation. And that you're meeting us on  
10 common ground. I appreciate that.

11 But as Wilmer was saying, we really need  
12 to be very careful, and we need to be very concerned  
13 about the kind of activities that you're proposing  
14 happen, because we see what happens around the world.

15 We see what happens with various accidents with  
16 uranium. We see what happens with -- even when  
17 there's not accidents. And we cannot afford, whether  
18 it's Pine Ridge, or Rosebud, or Flandreau, or any  
19 other part of our nation, we cannot afford that to  
20 happen, and so we're going to ask some questions.  
21 We're going to demand to see certain documents.

22 We also have to be cognizant of our treaty  
23 rights and making sure that whatever happens isn't in  
24 violation of those treaties, because those treaties  
25 are living and breathing documents. They're contracts

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1 between one nation to another, and they've alive, and  
2 they're still valid. So, we need to be careful with  
3 that. And that's why we need to take time to review  
4 documents, to review proposed activities before we can  
5 come to an informed decision, and before we can make  
6 recommendations.

7 So, I think we just need to make sure that  
8 you all know where we're coming from. We are here to  
9 listen, but we're also going to be asking questions.  
10 And then we need to all talk amongst ourselves, as  
11 well, both individually as tribes, and possibly  
12 collectively to see what is going to be the best for  
13 the people of South Dakota, because only in that way  
14 can we come to some sort of an agreement that we can  
15 all live with.

16 So, with that, again, thank you,  
17 appreciate you all coming down. And, again, for  
18 treating this as a true government-to-government  
19 meeting.

20 MS. BUCKMAN: My name is Sara Buckman,  
21 Outreach Coordinator for Natural Resources Regulatory  
22 Agency for the Oglala Sioux Tribe.

23 MS. BROPHY: My name is Anne Brophy. I'm  
24 with Sanford Cohen & Associates. We're a contractor  
25 for the NRC helping to prepare the environmental

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1 assessment of the Crow Butte II applications. I'm  
2 particularly here to collect additional information  
3 about historic resources.

4 MS. YILMA: Good morning. My name is  
5 Haimanot Yilma. I am the Project Manager for the  
6 proposed Dewey-Burdock project. I work at NRC. I'd  
7 like to thank you for joining us today. As she  
8 mentioned, we're here to collect information in these  
9 early stages of our process.

10 MS. CLARK: My name is Polly Clark. I'm  
11 working on review of the proposed Dewey-Burdock  
12 project.

13 MR. PRIKRYL: Hello, my name is Jim  
14 Prikryl, and I work with Southwest Research Institute  
15 in San Antonio, Texas. And we're a contractor for the  
16 NRC. And we're helping with development of the  
17 Environmental Impact Statement for Dewey-Burdock.

18 MR. GOODMAN: Good morning. I'm Nathan  
19 Goodman. I'm a biologist for the NRC, and I'm also  
20 the Project Manager for the License Renewal and  
21 proposed north expansion on the two Crow Butte  
22 facilities that we saw yesterday on our site tour.

23 And I know it's been said before, but I  
24 would just like to reiterate that I'm thankful to be  
25 here on the reservation, and I'm honored to be here,

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1 and happy to take any information and field any  
2 questions that anybody may have. And I thank you all  
3 very, very much for coming.

4 MS. RYAN: Good morning. My name is  
5 Michelle Ryan. I'm an Inter-governmental Liaison  
6 Project Manager at the Nuclear Regulatory Commission.

7 So, I don't work on specific projects, either on the  
8 uranium recovery site or on the nuclear reactor side,  
9 but we serve as Inter-governmental Liaisons who help  
10 the more technical project managers with their  
11 projects.

12 So, if you ever have general questions and  
13 you don't have a contact for a specific site, you can  
14 always come to our branch, the Inter-governmental  
15 Liaison Branch. I have cards, we'll have contact  
16 information for everyone at the end. But welcome.  
17 We're here to listen, and we hope that we can share  
18 information on both sides.

19 MODERATOR HSUEH: Thank you. Did I miss  
20 anyone? Everybody has had opportunity to introduce  
21 yourself?

22 All right. The next item that I'd like to  
23 share with you, our original plan is this is a Section  
24 106, NRC Section 106 process, and our original plan is  
25 to invite people, and SHPO, and also related personnel

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1 who were invited to come to this meeting. And this is  
2 the government officials. And I just want to make  
3 sure that all the tribes are comfortable, are okay  
4 with this kind of setting, so I know that there are  
5 several tribes here. First, Oglala Sioux, are you  
6 okay? Okay. Standing Rock Sioux is okay? Okay with  
7 you? All right. Okay. We also have Flandreau-  
8 Santee. Is okay with this format? Okay. Good. I'd  
9 also like to ask Sisseton-Wahpeton.

10 MR. WHITTED: Yes, it's okay with us.

11 MODERATOR HSUEH: Okay. So, it's okay with  
12 you. Okay, good. Thank you. Standing Rock Sioux?

13 MR. CLOUTHIER: Yes, it's fine.

14 MODERATOR HSUEH: It's fine with you? All  
15 right. Okay. So, all the tribes are okay with this  
16 kind of format. All right. So, we will proceed like  
17 that. Any comments or any concerns with that?

18 MR. KLUKAN: This is Brett Klukan. I'm  
19 going to point out one thing. There are members of  
20 the press here. We would ask that, it's general NRC  
21 policy that questions that come from the press go to  
22 our Office of Public Affairs, so you can speak with me  
23 or one of the other attorneys who can point to a  
24 representative from our Office of Public Affairs, if  
25 you have any questions after this meeting. So, just

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1 to let you know that the Office of Public Affairs.  
2 Thanks.

3 MODERATOR HSUEH: Thank you. Any comment  
4 or concern about this format? All right. It's good,  
5 so we are going to proceed.

6 The next item, I would like to ask  
7 Michelle Ryan from NRC, because we hand out a folder  
8 of information, and I'd like to ask her to kind of go  
9 through what's in that folder with you, so you are  
10 aware of what's in that folder.

11 MS. RYAN: Thank you, Kevin. Also, just  
12 if you can't hear us at one point or another, just  
13 remind us with a hand to sort of speak up. We're  
14 doing our best with a large facility, and we want to  
15 make sure that everyone who is making comments and  
16 sharing information is heard.

17 But in your folder you will find an  
18 agenda, a three-day agenda. Obviously, yesterday we  
19 toured the Crow Butte site, but we've got additional  
20 information in here about participants, and about the  
21 NRC presentation. The slides for NRC presentations  
22 are also on the lefthand side of the folder. If you  
23 don't have a folder, please raise your hand and I can  
24 get one to you.

25 Also, you'll find three CDs on the right-

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1 hand side. And I just want to go over what is  
2 included in these. You'll find the General  
3 Environmental Impact Statement for in-situ leach  
4 uranium milling facilities. There's a list, so you  
5 don't need to write this down too quickly. I know it's  
6 a lot to take in. But this is a high-level generic  
7 Impact Statement for uranium recovery in the area, and  
8 includes South Dakota, Wyoming, Nebraska, and New  
9 Mexico. And this was finalized in 2009, I believe  
10 June of 2009.

11 The second thing you'll find is the  
12 Environmental Review Guidance for licensing actions.  
13 This is guidance to develop for uranium recovery  
14 environmental reviews. And then, finally, you'll find  
15 a CD labeled "Section 106 Process."

16 As you're all probably aware, the Advisory  
17 Council on Historic Preservation provides a lot of  
18 good information, both for federal agencies and for  
19 tribal communities and tribal governments about the  
20 106 consultation process. And what we've done is put  
21 some of the significant documents on this CD so that  
22 you don't just have to go to the link provided, but  
23 you've already got it here.

24 So, this has the regulations 36 CFR, Code  
25 of Federal Regulations, Part 800. And then this also

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1 has guidance and a handbook from the ACHP, the  
2 Advisory Council on Historic Preservation. So, we  
3 find these to be really useful documents, and we  
4 thought this is something that you might want to check  
5 out already, if you have not.

6 Finally, you'll find an agenda for  
7 tomorrow's visit. What is our time tomorrow, Kevin?

8 MODERATOR HSUEH: Leave here around 9:30.

9 MS. RYAN: Okay, so 9:00 prayer tomorrow  
10 much like yesterday, and then, hopefully, we can all  
11 get on the bus by 9:30 to head out to the site.

12 I'm going to hand it back over to Kevin at  
13 this point. Kevin is going to go through the agenda,  
14 just give some reminders about today's program.  
15 Hopefully, we've all got our cell phones on silent or  
16 vibrate. We do want to make sure that nothing  
17 interferes with the comments, and we're all able to  
18 hear. So, thank you again. Welcome. And with that,  
19 I'll hand it back over to Kevin.

20 MODERATOR HSUEH: Thank you, Michelle.

21 The next item, I want to go through a few  
22 ground rules for today's meeting. Michelle mentioned  
23 about the cell phones, your cell phones, that's first.

24 And second, try to talk to time everybody has a  
25 chance to be heard. And, also, please remember to

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1 identify yourselves before you speak, because this  
2 meeting is being recorded. And you can see our court  
3 reporter is there to record this meeting.

4 If for some reason you do not want to be  
5 recorded, let us know. I understand there's some  
6 information you do not want to be recorded, just let  
7 us know and then we will stop the recording process.  
8 So just be aware of that, that we are recording. So,  
9 please identify yourself before you speak.

10 Feel comfortable asking questions, or  
11 asking any explanation, so we are here to listen to  
12 you, and also try to help in any way we can to answer  
13 your questions.

14 The next item I would like to do is to go  
15 through the agenda with you. We thought we'd finish  
16 the introductions, and during the introductions I  
17 think that some member already offered opening  
18 remarks.

19 The next is the NRC presentations. What I  
20 would like to ask is to ask Mike to kind of  
21 facilitate this part of the presentation, so Michael  
22 is going to help me with this part of the  
23 presentation. There are four NRC presentations. And  
24 we tried to -- a lot of the presentations is in the  
25 handout. We do not plan to go through each slide in

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1 detail, because we want to save as much time as  
2 possible to listen to your comments or your concerns.

3 So, we may skip some of the slides, or some of the  
4 slides we just go through in very short period of  
5 time. But if you have questions, feel free to just  
6 let us know, and we will stop and answer your  
7 questions, because we do not plan to spend a lot of  
8 time on our presentations.

9 So, let's go next part. And after the  
10 presentation, hopefully, then we will start our -- the  
11 information gathering session. It's more formal  
12 information gathering session. We will basically just  
13 listen to your comments, concerns, and any information  
14 that you would like to provide to us so that will be  
15 most of the time that hopefully we would like to spend  
16 for the rest of the day.

17 So, with that, I would like to turn it  
18 over to Michael to facilitate NRC presentation. Any  
19 questions so far? Any comments? All right. I will  
20 turn it over to Michael.

21 MR. CATCHES ENEMY: Well, hello, again.  
22 Michael Catches Enemy. We kind of -- Kevin and I just  
23 briefly talked about this, and the reason that we were  
24 asked to kind of take the lead is just because it's  
25 hosted here on the Pine Ridge Reservation, being in

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1 close proximity to both of these uranium mines.

2 After talking to us, a few of the other  
3 Tribal Historic Preservation Officers, it seems like  
4 we're all in concurrence on a lot of things, there's a  
5 lot of similarities and whatnot, so I'm not presenting  
6 here as part of the NRC. I wanted to make that clear.  
7 We're just hosting, as Oglala Sioux Tribe we're here  
8 hosting, but Kevin asked me if I could kind of take  
9 the lead on introducing folks and get through these  
10 presentations.

11 So, this first one, as part of the Section  
12 106 we'll have Kevin, who is the Chief of the  
13 Environmental Review Branch, Division of Waste  
14 Management and Environmental Protection. He'll go  
15 through his slides and his presentation. But like  
16 Kevin said, if you have questions or concerns during  
17 the presentation feel free to address those and bring  
18 those forward. Kevin.

19 MODERATOR HSUEH: Thank you, Michael.  
20 Again, my name is Kevin Hsueh. I'm with NRC. I will  
21 talk about -- I'll just give you a summary about NRC,  
22 who we are, what we do, and also give you a summary  
23 about our current active Section 106 activities. And  
24 after my talk, Bill von Till who is the Chief of  
25 Uranium Recovery Licensing Branch, he's going to give

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1 you information about uranium recovery regulations and  
2 operations.

3 After that, Nate Goodman, he's the Project  
4 Manager for the chemical Crow Butte projects, and so  
5 he's going to talk about the project. And Haimanot  
6 Yilma is the Project Manager for the site, so she's  
7 going to talk about they are doing with the project.  
8 Both Project Managers are from the Environmental  
9 Review Branch, so they are the Environmental Project  
10 Managers.

11 The U.S. Nuclear Regulatory Commission was  
12 created in 1974 by Congress. We are an independent  
13 regulatory agency. NRC is headed by five  
14 commissioners, and all nominated by the President of  
15 the United States and confirmed by the Senate.

16 We have about 4,000 employees, and our  
17 headquarters is located in Rockville, Maryland.  
18 Compare with EPA, DOE, we are relatively small agency.

19 Our mission is to protect the public health and  
20 safety, promote a common defense, and security, and  
21 protect the environment.

22 We regulate nuclear reactors, nuclear  
23 materials, including uranium recovery, nuclear waste,  
24 nuclear security. What we don't do, we don't regulate  
25 nuclear weapons, military reactors, or space vehicle

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1 reactors. We don't clean up contaminated sites.  
2 Other federal agencies like EPA, DOE, and others  
3 manage that responsibility. We don't clean up the  
4 contaminated sites.

5 We are neutral on nuclear power, so we  
6 don't argue about nuclear power. We do not build or  
7 operate uranium recovery facilities, or other nuclear  
8 facilities, nor do we manage like BLM, we do not. We  
9 are the regulatory agency, we review license  
10 applications and then we issue a license, so we don't  
11 manage the land.

12 We have a lot of intergovernmental  
13 relations with other governments and governmental  
14 organizations including DOE, EPA, Tribal Governments,  
15 IAEA, state governments.

16 Our review of uranium recovery  
17 applications is comprised of two review, one is the  
18 safety review, and then the other one is environmental  
19 review. And those reviews are conducted in parallel.

20 Safety review is to evaluate the proposed facility  
21 design, operational procedures, and Radiation  
22 Protection Program to insure that the proposed action  
23 can be accomplished in accordance with our  
24 regulations. And Bill von Till is going to provide  
25 more information about the safety review.

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1           In terms of environmental review, it's  
2 conducted in accordance with our regulations, 10 CFR  
3 Part 51 which implements the National Environmental  
4 Policy Act, or NEPA. NEPA requires federal agencies  
5 to consider environmental impacts before making a  
6 decision. The purpose of the NEPA is to inform the  
7 decision makers and the public of the proposed action,  
8 reasonable alternatives, and their environmental  
9 impacts.

10           In addition to NEPA, we also -- the  
11 National Historic Preservation Act also requires  
12 federal agencies to take into account the effects of  
13 our licensing actions on historic properties. There  
14 are four steps. Step one is to initiate a Section 106  
15 process. This has to do with setting consultation  
16 measures, identify appropriate SHPO/THPO to consult  
17 during the process. The licensing action could  
18 affect the historic properties, we need to consult  
19 with consulting parties, and to proceed to identify  
20 historic properties.

21           If historical properties are present, then  
22 we need to consult with consulting parties to proceed  
23 to assess possible adverse effects. If there is an  
24 adverse effect, we need to consult with consulting  
25 parties to find ways to avoid, minimize, or mitigate

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adverse effects.

During the consultation, as a result of this consultation what usually result, will end up with an MOA, a Memorandum of Agreement with applicants, SHPO, THPO, and NRC, and maybe BLM if the facility is located -- if the proposed facility is located in the BLM land, then there may be BLM. And the MOA outlines three major factors to avoid, minimize, or mitigate the adverse effects.

We have five active ongoing Section 106 projects. One is the Uranerz Nichols Ranch Project in Wyoming. The second one, two projects for build and license renewal, and Crow Butte North Trend that we visited yesterday, that's chemical in Nebraska. And then we also have Powertech the site that we are going to visit tomorrow in South Dakota. And that's what is the Strata Energy-Ross in Wyoming, so these are the five active Section 106 projects that we currently have.

We also follow the 36 CFR that encourage early coordination among Section 106 -- between Section 106 and the NEPA regarding the effects of historic properties. Our NEPA documents will have several sections to address impact on historic and cultural resources. So, our NEPA documents will be

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1 used to fulfill both NHPA and NEPA.

2 This review about the NHPA and the NEPA.  
3 So, NHPA has four steps, and the NEPA we will have a  
4 draft and a final document. And our goal is that we  
5 are going to have MOA to resolve the adverse effects,  
6 our goal is to have the MOA in place before we issue  
7 the final documents.

8 Here are particular information. The  
9 first one is our website web page at NRC.gov. And the  
10 second link will give you all the uranium recovery-  
11 related information. Those are very helpful websites  
12 if you want to get additional information.

13 Thank you. Any questions, or comments?

14 MR. WESTON: Define adverse effects for me  
15 within 10 CFR Part 50.

16 MODERATOR HSUEH: Adverse effects, for  
17 example we have one project and is very close to the  
18 Pumpkin Butte in Wyoming. And the adverse effect  
19 there is the adverse effect because the site -- the  
20 facility there, the future of the Pumpkin Butte has  
21 some visual impact as a result of the project. So,  
22 that would be one example that we use. And we have  
23 memorandums -- we are planning on working our a  
24 Memorandum of Agreement because of the effort we tried  
25 to -- in the Memorandum of Agreement we try to address

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1 or mitigate or minimize a visual impact. It has many  
2 different kind of situations. I just wanted to give  
3 you one example that could be a visual impact, because  
4 the facility that may have some.

5 MR. WESTON: So, in your mitigation  
6 process, when you start that process, is there the  
7 thought process that say something does happen, say  
8 something does get away, are we included in that  
9 process?

10 MODERATOR HSUEH: Yes. If there's adverse  
11 effect and that's -- as I mentioned is that Memorandum  
12 of Agreement. The Memorandum of Agreement will be  
13 signed for example, on the tribal lands. There will  
14 be five signatories, will include tribes, so -- and  
15 then also NRC would sign that MOA, so it's an  
16 agreement there.

17 MR. WESTON: Okay.

18 MODERATOR HSUEH: Okay.

19 MR. KLUKAN: Let me make one clarifying  
20 point. You mentioned 10 CFR Part 51, which is one of  
21 the volumes in the NRC's regulations. That is how we  
22 implement the National Environmental Policy, in which  
23 we look at significant or minor impacts.

24 The terminology "adverse effect" comes  
25 into play under 30 CFR, Code of Federal Regulations,

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1 under the National Historic Preservation Act. So, we  
2 don't use that particular language of NEPA. And just  
3 to clarify, Part 51 is regarding NEPA, not necessarily  
4 National Historic Preservation Act applies under  
5 Section 106, just to clarify.

6 MODERATOR HSUEH: Thank you, Brett.

7 MR. CATCHES ENEMY: Other comments or  
8 questions? Okay. We'll keep this rolling. Thank  
9 you, Kevin.

10 MODERATOR HSUEH: Thank you, Mike.

11 MR. CATCHES ENEMY: Next up on the agenda  
12 is William Von Till. He's the Chief of the Uranium  
13 Recovery Licensing Branch, Division of Waste  
14 Management, Environmental Section.

15 MR. VON TILL: Thank you. I'm going to go  
16 through these slides kind of quick so we can get to  
17 hear your comments. I want to make one clarification.

18 The NRC is not for uranium, and it's not  
19 against uranium. We're neutral. Our job is to make  
20 sure that these operations are safe, and protective of  
21 public health and the environment. That's the NRC's  
22 job. So, I just wanted to make that clear.

23 I'm going to go through just a little bit  
24 of the regulations that we have that we implement our  
25 authority over these sites. What these facilities are

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1 all about. Luckily, we had a site visit yesterday  
2 with most of you to see the Crow Butte facility, an  
3 operating facility we have in Crawford, Nebraska.

4 The process itself, our emphasis on safety  
5 at these facilities, and also our emphasis -- in-situ  
6 recovery is mainly about groundwater. It's different  
7 from conventional uranium mining and milling, and the  
8 emphasis that we have on safety is groundwater and  
9 protection of the resources. And, also, environmental  
10 monitoring.

11 Regulations in a nutshell for the NRC is  
12 under the Atomic Energy Act. Congress also enacted  
13 what's called the Uranium Mill Tailings Radiation  
14 Control Act of 1978 because of the massive tailing  
15 sites at conventional uranium mining and milling  
16 facilities. We also followed Part 51 in the National  
17 Environmental Policy Act.

18 What's regulated? What does the NRC  
19 regulate, and what do we not regulate? We regulate  
20 the milling of uranium. We don't regulate the mining.

21 A lot of people call these in-situ recovery  
22 facilities mines. We don't really call them mines, we  
23 call them uranium recovery facilities.

24 We don't regulate conventional mining. We  
25 don't regulate the exploration of sites in mining

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1 sites. What we do regulate is conventional heap leach  
2 and in-situ recovery uranium recovery operations like  
3 the one you saw in Crawford, Nebraska.

4 I'm just going to go through this kind of  
5 quickly here. This part I believe is in your  
6 handouts. Where are these facilities located? What  
7 kind of experience do we have on operating facilities?

8 The Crow Butte facility we saw yesterday has been in  
9 operation for about 20 years, and we've been  
10 regulating that facility. We also have a number of  
11 other facilities that we regulate that are operating  
12 right now. We have two in Wyoming, one of them is  
13 Smith Ranch, I mean, Cameco's other facility. It's  
14 called the Smith Ranch Facility, kind of near Douglas,  
15 Wyoming at the Powder River basin of Wyoming. That's a  
16 large facility. That's the largest facility of its  
17 kind in the United States, and they produce about two  
18 million pounds of uranium per year.

19 Also, we just allowed the restart of a  
20 facility that used to be called the Cogema Iragary and  
21 Christensen Ranch Facility. It's now owned by Uranium  
22 One, and it's located in the Powder River basin, as  
23 well. And they just started their operations back up  
24 in about January.

25 There is the Crow Butte facility, which is

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1 an operating facility. The Dewey-Burdock project is  
2 just south of the Black Hills National Forest. And we  
3 have a number of other operations here. These are  
4 operating. These are a standby proposed facility, so  
5 it's a good map just to illustrate where some of these  
6 facilities are located.

7 What's the process all about, the in-situ  
8 recovery process? That's what I want to kind of key  
9 on, because that's the type of facilities that we're  
10 dealing with, what you're concerned with, with the  
11 Crawford, Nebraska facility, and the Dewey-Burdock  
12 Project.

13 MR. CATCHES ENEMY: Was Dewey-Burdock on  
14 that map?

15 MR. VON TILL: It's not on that map.

16 MR. CATCHES ENEMY: And is not the case in  
17 process?

18 MR. VON TILL: What's that?

19 MR. CATCHES ENEMY: It's not on --

20 MR. VON TILL: It's just -- we got this  
21 map, and it wasn't updated.

22 MR. CATCHES ENEMY: Oh.

23 MR. VON TILL: So, we're going to update  
24 this map. This map actually comes from another  
25 source, but it's located right here. And we'll update

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1 that, so that's located. Thanks, Mike.

2 PARTICIPANT: Is Dewey-Burdock in Wyoming?

3 MR. VON TILL: No, Dewey-Burdock is just  
4 in South Dakota. It's up against the border as you'll  
5 see tomorrow, but it does not go into Wyoming.

6 What do these facilities look like? Most  
7 of you who were on the tour yesterday, you got to see  
8 what these facilities look like. Some of you did  
9 not. This is a typical example of the mill processing  
10 building, and this is the administrative offices. And  
11 that's what it looks like, basically. This is the  
12 Smith Ranch Facility in Wyoming, very similar to the  
13 facility you saw yesterday.

14 Here's the in-situ recovery process in a  
15 nutshell. What they're doing is they're trying to  
16 extract the uranium out of the sand, which is -- it's  
17 in the sandstones in these bold front deposits, which  
18 I'll get into in a second. They inject water  
19 fortified with carbon dioxide and oxygen to free up  
20 the uranium from the sand particles. They have  
21 injection wells, and recovery wells. Once the  
22 recovery fluid comes out of the ground, they run it  
23 through resins, and then run it through the process on  
24 to make yellowcake, which is the end product here.

25 The one thing I want to emphasize with

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1 this picture is the extensive monitoring that we  
2 require as part of these operations to make sure that  
3 the recovery fluids in the aquifer are contained and  
4 do not damage the resources in the surrounding area.  
5 We have monitoring wells in the same aquifer where the  
6 recovery is going on, and we have monitoring wells  
7 above, sometimes below these confining layers to make  
8 sure that it's a safe operation.

9 Every -- not all of the ore bodies out  
10 there are amenable to this process. In order to  
11 conduct this kind of process, you have to have water  
12 within the aquifer. You have to have permeability, or  
13 water needs to move through the sandstone so that they  
14 can conduct the operations. And you need to have  
15 sufficient confining layers to trap in the recovery  
16 area so that you do not contaminate the waters above.

17 Here's another picture of this operation.

18 Again, this is the uranium right here in the  
19 sandstones. These are the confining units, and here  
20 is the monitoring wells to protect the water resources  
21 around the facility.

22 This is what the uranium looks like in  
23 the sandstone that they're trying to extract out of  
24 the ground. This is what it looks like in nature.  
25 This is a person's rock hammer, the uranium is right

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1 here. It's in a roll front deposit like a C.

2 This is a typical well field of what you  
3 saw yesterday, which consists of well patterns. We  
4 have injector wells here, and pumping wells here all  
5 through this well field, and there's also monitoring  
6 wells. The key thing I want to point out here is the  
7 extensive monitoring for these operations to make sure  
8 that the water resources are protected. We have a  
9 monitoring well ring surveilling the well field, and  
10 we also have monitoring wells above and below like in  
11 the picture here. Monitoring wells above, and  
12 monitoring wells horizontally.

13 The way these operations start off as far  
14 as the construction is, first, they drill wells in the  
15 ground. As you heard yesterday, the Crow Butte  
16 Facility has about 5,500 wells that they've installed  
17 over a 20-year process. So, the first operation is  
18 well drilling. And here's an example of that up in  
19 Smith Ranch, Wyoming. They're installing all the wells  
20 associated with the well field, the injector wells,  
21 the pumping wells, and the monitoring wells.

22 Here is a picture up in Smith Ranch,  
23 Wyoming of development of well fields. Up here is  
24 where they drilled some wells. They just put these  
25 wells in here. These wells are attached to these

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1 header houses through pipes in the ground, and from  
2 the header houses they run trunk lines back to the  
3 facility to run the water over the resins.

4 So, this is a typical well. And, as you  
5 can see, they're re-seeding the area at this point in  
6 time. They do have to do some construction in Wyoming  
7 because it's cold. They need to put the lines under  
8 the ground. There is operations in Texas, in  
9 Kazakhstan and other countries with wells where the  
10 piping might be above ground. In this climate up  
11 here, it's always going to be below the ground.

12 This is a picture of some trunk lines, and  
13 also the lines going to the header houses. These  
14 trunk lines go back to the facility or satellite  
15 facility. So, this is during the construction of the  
16 well field itself.

17 Here, again, it's after that picture. The  
18 wells are in place, the header house is in place, and  
19 all the piping is under the ground.

20 MR. ROM: I have a question about  
21 construction.

22 MR. VON TILL: Sure.

23 MR. ROM: Can you go back?

24 MR. VON TILL: Yes.

25 MR. ROM: Now, you see where the metal

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1 door is on buildings and the vegetation. That whole  
2 area was disturbed during your --

3 MR. VON TILL: Yes, it was.

4 MR. ROM: Okay.

5 MR. VON TILL: This whole area is  
6 disturbed, and it's disturbed in this way right here.

7 Do a lot of disturbance in the well field itself, but  
8 afterwards this is what it looks like. And then  
9 further on, this is what it looks like later after the  
10 grass has taken root, the pronghorn antelope come back  
11 in, and it gets more back into normal operations. But  
12 there is disturbance of the land in the development of  
13 well fields. I wanted to show you some of these  
14 pictures to show you what it looks like.

15 Here, again, is a typical well field. In  
16 Wyoming, the antelope are out there all the time, big  
17 population of antelope. So, after everything is in  
18 place, there's not much -- there's no exposure or  
19 anything above the ground to things like antelope or  
20 people in this area.

21 Again, here are the wells, and here is the  
22 header houses. Another picture of the well field.  
23 This is a picture of the Crow Butte facility that you  
24 saw yesterday. And here are the wells, and the header  
25 houses.

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1           This is kind of a process as it comes into  
2           the central processing facility itself. Again, from  
3           the formation, the water comes out and goes through  
4           the ion exchange resins column. The resins pick up  
5           the uranium, then they take the resins to the central  
6           processing facility. They add some chemicals, and it  
7           goes through a chemical process. Eventually, the  
8           product that they're making is yellowcake uranium.  
9           From there, the yellowcake is shipped on to the fuel  
10          cycle, to the conversion facility, and to admission,  
11          and then to fuel fabrication. So, this is basically  
12          the process in a nutshell. Oh, sure.

13                 MR. RAGONA:     When that yellowcake is  
14          produced, how is it stored so it doesn't get into the  
15          atmosphere and the environment? How do you do that?

16                 MR. VON TILL:   That's a good question.  
17          I'll show you a picture later on. When they're  
18          dealing with the yellowcake itself, the yellowcake  
19          dryer, that's all a contained process with a vacuum  
20          dryer. And people, the workers that go into that room  
21          have to have respirators on. That's one of the  
22          riskiest process for the workers themselves. And  
23          there's procedures in place so that they're not  
24          exposed, and so that the uranium doesn't come out of  
25          that confined space.

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1           So, during that you have to have  
2 respirators on. They put the uranium in drums, they  
3 seal the drums up before they come out of that area.  
4 And eventually they're put on trucks and shipped out.

5       But they're contained in drums.

6           MR. RAGONA: So, it's never live boost to  
7 vibrate or anything.

8           MR. VON TILL: No, it is not. And that's  
9 one of the key parts of the process that we make sure  
10 it's contained in the yellowcake itself. And in the  
11 yellowcake dryer the workers have to have respirators.  
12 That doesn't get outside that.

13           Here's kind of a look at the process, too,  
14 from a more simplified process. Here's the production  
15 fluid, the uranium fortified water is run over resin  
16 beads just like you would have water filtration. They  
17 add salt and soda ash through the process here, as it  
18 goes through the process, you see it become yellow.  
19 This is the filter press yellowcake material, and this  
20 is the dried yellowcake here.

21           MR. VANCE: Excuse me?

22           MR. VON TILL: Yes?

23           MR. VANCE: This is Steve Vance from Pine  
24 Ridge. You're saying that none of it ever leaks into  
25 the air.

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1 MR. VON TILL: You mean the yellowcake?

2 MR. VANCE: No, the contaminant, when they  
3 go through the hydration process. During the whole  
4 process, no contaminant goes into the area.

5 MR. VON TILL: There's some radon that  
6 comes out of the whole facility, but the yellowcake  
7 itself, the particulate with the yellowcake does not  
8 come out. It's contained within a vacuum in the room  
9 so that the yellowcake does not come out and come off  
10 the property.

11 MR. VANCE: I guess what I'm going to, I  
12 kind of asked the question earlier.

13 MR. VON TILL: There is -- not that  
14 yellowcake. There are -- I'll show you here later.  
15 We have environmental monitoring stations set up to  
16 test for that. And they have very, very low levels of  
17 things like radon, but not the yellowcake itself.

18 MR. VANCE: Well, how often is that  
19 checked on?

20 MR. VON TILL: Continuously. I've got  
21 some slides, later on I'll show you that.

22 MR. VANCE: Okay. And NRC is the one who  
23 does that?

24 MR. VON TILL: No, we're the ones who make  
25 the licensee do that. And we review the data they

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1 collect. And we inspect it, we inspect these  
2 facilities -- the Smith Ranch facility twice a year.

3 MR. VANCE: So, they monitor it  
4 themselves.

5 MR. VON TILL: They monitor it, but we  
6 inspect the information, and we look at the  
7 information.

8 MR. VANCE: Nebraska SHPO, those --  
9 monitor this?

10 MR. VON TILL: I'm sorry?

11 MR. VANCE: The SHPO from Nebraska doesn't  
12 monitor --

13 MR. VON TILL: No, once it gets to this  
14 stage, this is purely safety. This isn't part of the  
15 NEPA process. This is just oversight of the safety of  
16 the operation.

17 MR. VANCE: Yes, we're talking about like  
18 earlier you saw on the monitor wells on the outside.

19 MR. VON TILL: That's the groundwater  
20 monitoring. We also --

21 MR. VANCE: But what I'm asking about, if  
22 the water contaminants coming from this facility for  
23 water and for air, they self-monitor.

24 MR. VON TILL: Well, they collect the  
25 information, but we inspect it, and we review it as an

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1 oversight.

2 MR. VANCE: So, you're just basically  
3 going on what they report to you.

4 MR. VON TILL: Yes.

5 MR. LaGARRY: I just want, before we move  
6 on past the actual process, I wanted to bring up the  
7 recurring issue of confinement.

8 In all those years working for the  
9 Nebraska Geological Survey and mapping the geology of  
10 western Nebraska, we recognized that the Black Hills  
11 uplift in South Dakota as it uplifted brittlely  
12 fractured the earth's crust in this region, and it's  
13 shot through with faults and joints. And in this  
14 context, joints are cracks in the earth's crust where  
15 there hasn't been movement. So, you don't necessarily  
16 have to have earthquakes to have joints.

17 And as a result of this mapping work that  
18 we did in Nebraska, the natural resource districts in  
19 Nebraska that regulate and monitor groundwater  
20 recognized connections between the underground waters,  
21 including the uranium ore that's mined in Nebraska is  
22 a local aquifer. It has its own water in it, and  
23 people on the Pine Ridge Reservation and the towns of  
24 Porcupine, Wounded Knee, Manderson, Kyle, Oglala, they  
25 tap into this water-bearing rock unit with uranium in

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1 it for all kinds of purposes.

2 In Nebraska, efforts are made to minimize  
3 that, but yet it still goes on in the stock tanks and  
4 whatnot. But the natural resource districts recognize  
5 that all the aquifers in Nebraska, including the  
6 uriferous one, and the surface water aquifers, the  
7 shallow alluvium that gets recharged by rainwater that  
8 some people get their water out of, that these things  
9 are all connected.

10 In the Scottsbluff area, irrigation canals  
11 along the Platte River accidentally connected to the  
12 uranium ore deposit down there, and contaminated a lot  
13 of towns' drinking water. And with regards to whether  
14 or not the water is getting past the monitoring wells  
15 at these uranium mines, it's never been demonstrated  
16 that water is escaping the confinement through this --  
17 what's called secondary porosity, water movement  
18 through these cracks.

19 However, you might have noticed from their  
20 drawing that the monitoring wells are evenly spaced.  
21 What I would like to see, and what would satisfy me on  
22 this issue of confining layers are efforts that -- on  
23 behalf of NRC, or in regulating the uranium mines to  
24 have them pay special attention to the secondary  
25 porosity. And rather than pump test in a standard

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1 pattern like they do in these aquitards, to pay  
2 special emphasis to pump tests specifically on faults  
3 and joints that intersect the permit area. This is  
4 the only way that you're going to be able to get at  
5 whether or not confinement is breached through some of  
6 these cracks.

7 The standard pump test is to put evenly  
8 spaced injection wells around a center extraction  
9 well, and then pump water out of the center to make  
10 sure that there's suction, and then, I mean, if the  
11 amount of suction you get during your pump test  
12 matches your expectations about the porosity of the  
13 sediment, then you're fine. But I've always  
14 maintained that if you don't have a pump test where  
15 you have one or both of either your injection or your  
16 extraction well specifically on one of these  
17 millimeter thick but very widespread, it's like a  
18 sheet of paper in thickness, but it goes for tens of  
19 miles, and thousands of feet.

20 You know, if you don't actually get one of  
21 your wells on one of these fractures, you'll never  
22 understand if there's transmission of fluids along it.

23 And to the best of my knowledge, that's never been  
24 done.

25 So, while the mines self-monitor and pump

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1 test, and report that they have containment, in my  
2 review of -- I've been to Crow Butte, I've toured it  
3 many times. I've visited with the geologists there  
4 many times. In my view, the issue of containment is  
5 probably the weakest link environmentally in this  
6 entire process.

7           Once it's out of the ground and into the  
8 uranium mine's plant, from what I've seen, it's pretty  
9 well maintained. They do contain it. They take great  
10 pains to contain the yellowcake, the fluids.  
11 Occasionally, pipes do break, but these things are  
12 never that bad.

13           The issue that I think -- with regard to  
14 the milling process is the issue of containment. And  
15 this is an issue for Dewey-Burdock, it's an issue for  
16 Crow Butte. It's an issue for the North Platte River  
17 Valley, and the Southern Panhandle of Nebraska.  
18 That's how far this fracture pattern extends. So,  
19 it's a widespread issue. And before we moved on from  
20 containment, I just wanted to do that. And I'm Hanna  
21 LaGarry from OLC.

22           MR. VON TILL: Thank you for your  
23 comments. We do have a number of applications that  
24 we're reviewing right now. One of them is the Ur-  
25 Energy Lost Creek Project in the Great Divide basin of

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1 Wyoming. And that particular site does have a fault  
2 through some of the proposed well fields, and we  
3 required them to do some additional pump testing, and  
4 to have detection and monitoring wells on both sides  
5 of that fault, and also to model that situation to  
6 fully understand that particular fault. So, we do  
7 agree with you that secondary porosity, what he's  
8 talking about are things like faults, and frayed  
9 channels and all kinds of things where the water can  
10 move in certain directions, not just like a sandbox.

11 In the true environment, everything is not  
12 like a sandbox, and there is lots of secondary  
13 porosity and so forth. And we do look at that in the  
14 application. That's very good comments.

15 And then again here is the monitoring  
16 system that we have, what you're talking about, as far  
17 containment. When we have faults and things like  
18 that, like we do with the Lost Creek Project that  
19 we're working on right now, we do require additional  
20 pump testing with that kind of a situation. But  
21 that's a good comment.

22 Let's see here. So, that was the process.  
23 This is a picture of a satellite building. Sometimes  
24 the operations that they have are too far away from  
25 the central processing plant, and what they do is they

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1 run the water to what's called a satellite building,  
2 which is just a building with a bunch of resin tanks.  
3 These tanks here contain those resins that I pointed  
4 out right here, these resins in these large tanks.  
5 Once these resin tanks are fully saturated, these  
6 trucks unload the resins and take it back to the  
7 central processing facility. Here is another picture.  
8 Here's a truck right here that takes the resins back  
9 to the central facility.

10 This is further in the process here with  
11 the yellowcake thickener, where you can see the yellow  
12 product there. Here is the yellow -- the filter  
13 press.

14 MR. CLOUTHIER: What do you guys monitor  
15 on these trucks in terms of the satellite in the  
16 central process area. I know there's been incidences  
17 over fracking. I know that's not an issue that you  
18 guys actually address. There's been issues with  
19 fracking fluid leaking from those trucks as they're  
20 traveling, taking them to their injection wells,  
21 leaving their injection wells. What process do you  
22 guys have to monitor that?

23 MR. VON TILL: Well, what these trucks are  
24 carrying is the resins, these mingled resins with  
25 water. They abide by the Department of Transportation

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1 regulations with the trucks as they move from the  
2 county limits and so forth. So, it's really under the  
3 Department of Transportation, but we inspect the  
4 trucks to make sure that they are sound, and so forth.

5 We really haven't had that kind of issue with this  
6 particular type of operation with the trucks.

7 We've had issues more with the lines that  
8 I showed you breaking, and things like that. And  
9 we're more concerned with that. But that's a good  
10 question. Most of the time, like at the Wyoming  
11 facility, they're running about five miles or so on  
12 the dirt roads. One of the operations is going to be  
13 110 miles away, but we do check out the trucks. And  
14 there's procedures that they have to check the trucks,  
15 they scan the trucks, they do all kinds of things to  
16 make sure the trucks are safe. Yes?

17 MR. RAGONA: I'm curious, what's the life  
18 span of one of these facilities like Smith Ranch?

19 MR. VON TILL: Well, the well fields  
20 itself is probably 10 years or so. What they do is  
21 they move from well field to well field, so some of  
22 the well fields that they did 20 years ago are played  
23 out in 10 years or so, but they're now recovering in  
24 the other areas.

25 MR. RAGONA: So, these buildings, and

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1 about how long do they stay up and operate with all  
2 the equipment inside?

3 MR. VON TILL: Approximately 20 years or  
4 so.

5 MR. RAGONA: Now, moving ahead 20 years,  
6 what do you do with the building, the equipment,  
7 houses, and what's the process? I know we're probably  
8 down the road from that, but what's the process of  
9 removing that and making sure that there's no  
10 contaminants left behind?

11 MR. VON TILL: That's a good question. At  
12 the end of the operations, they're required to fully  
13 decommission and declaim all the operations. Things  
14 like some of these tanks and so forth that might be  
15 contaminated, they're what we call solid waste  
16 material, 11(e)(2) byproduct material under the law.  
17 It's a definition under the law, that the byproduct  
18 material from the recovery of uranium, if it's solid,  
19 they have to take it and dispose of it in a facility  
20 that's licensed to take this kind of material.

21 For example, these two operations, they  
22 take that type of material to the White Mason building  
23 down in Utah, and put it into a contained tailings  
24 there, that kind of material. So, at the end of this,  
25 and what this is going to look like is just,

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1 basically, the land -- we're going to completely take  
2 out the piping, abandon the wells, take out all those  
3 buildings, and take them to facilities that take that  
4 kind of material, and put it back the way it was.

5 MR. RAGONA: Are tests done on the ground,  
6 anything to make sure that there's no contaminants  
7 left in the dirt, as well?

8 MR. VON TILL: Yes, absolutely. And when  
9 they have spills and things like that that do happen,  
10 they're required to clean that up and to do testing to  
11 make sure of the cleanup. That's a good question.

12 Again, here's the yellowcake filter press.  
13 And you were asking earlier about the room where they  
14 deal with the yellowcake. And this individual here  
15 has a respirator on. This room is under a vacuum so  
16 that the material does not get out. This is the  
17 yellowcake here, and it's contained in these 55-gallon  
18 drums.

19 MR. CATCHES ENEMY: So, when you say  
20 vacuumed, where does it go? Where is the vacuum?

21 MR. VON TILL: It goes back into the  
22 actual lubricant. It's a closed circuit.

23 MR. CATCHES ENEMY: Eventually, that has  
24 to go somewhere. That building will be decommissioned  
25 at some time. Where does that --

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1 MR. VON TILL: Well, the building then --  
2 if the building is contaminated, they break it down  
3 and they take it to a place like White Mason. But  
4 it's a vacuum -- it's a closed operation.

5 You're asking about environmental  
6 monitoring, as well. We have groundwater monitoring,  
7 which is a key component of these facilities, but also  
8 as far as the radiation is concerned, we have  
9 environmental monitoring stations that are required at  
10 each facility. They take a lot of weather data in the  
11 beginning to figure out what the downwind directions  
12 are, and then they put these environmental monitoring  
13 stations downwind of a facility, and they collect a  
14 lot of things like air particulates, radon, and direct  
15 radiation to make sure that the facility is not  
16 leaking radiation.

17 And what they look like, here's an  
18 environmental monitoring station right here. This is  
19 a MET Station, or a meteorological data gathering  
20 station. This is an environmental monitoring station,  
21 another look at environmental monitoring station which  
22 is set downwind of these facilities to collect air  
23 particulates, radon, and direct radiation. And they  
24 collect this data, and we inspect it, and review it.  
25 Yes, Mike?

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1 MR. CATCHES ENEMY: In our site visit at  
2 Crow Butte yesterday, I didn't see any of these. Are  
3 these there at Crow Butte?

4 MR. VON TILL: They're there. If I would  
5 have asked them to do it a little differently, I would  
6 have had them show you some of those environmental  
7 monitoring stations, but they're there. They have a  
8 number of them.

9 MR. CATCHES ENEMY: So, Crow Butte does  
10 this, or the Nuclear Regulatory Commission does this  
11 part?

12 MR. VON TILL: The licensee implements it  
13 under our oversight. So, they collect the data, we  
14 review their labs, we review their procedures, and  
15 then we review the data to make sure they're doing it  
16 right.

17 MS. OLSON: So, one other question, and it  
18 goes back to Steve's question earlier. Paige Olson.  
19 So, what kind of contaminants are you looking for  
20 aerial, so radon, what else?

21 MR. VON TILL: Air particulates. I'm not  
22 a health physicist, so I have to get back to you on  
23 that. But, basically, direct radiation, like gamma  
24 radiation. They have a license that -- like people's  
25 TLD badges that you saw all these people wearing

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1 yesterday. That collects direct gamma-type radiation,  
2 they collect radon, and like air particulates, gross  
3 alpha, things like that, different radionuclides that  
4 you might expect to get.

5 MS. OLSON: So, I guess my question is  
6 then, is what kind of air contaminants are you looking  
7 for?

8 MR. VON TILL: Radon.

9 MS. OLSON: Just radon, that's it?

10 MR. VON TILL: Radon and air particulates,  
11 such as things like gross alpha, which is a measure of  
12 radiation.

13 MS. OLSON: Okay. So, you're looking for  
14 radon and radiation levels.

15 MR. VON TILL: Yes.

16 MS. OLSON: In the air. Anything else?

17 MR. VON TILL: As far as the air monitor?

18 MS. OLSON: Yes.

19 MR. VON TILL: No. Yes?

20 MR. WHITTED: Can you go back to where  
21 that guy is sealing that yellowcake?

22 MR. VON TILL: Sure.

23 MR. WHITTED: What's the radioactivity  
24 level at this point, that yellowcake got exposed. And  
25 this suit don't look like it's very --

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1                   MR. VON TILL:       Yes, that's a good  
2 question. For something like yellowcake, the biggest  
3 -- for radiation, you have all kinds of different ways  
4 of the radiation getting out. One is direct radiation  
5 you can't see, beta and gamma-type rays. At these  
6 facilities, though, the main culprit is what we call  
7 alpha radiation. And that, the main thing is  
8 ingesting it. It's not so much the direct radiation  
9 that you can't see. It's more getting this  
10 yellowcake, ingesting it, getting it in your eyes, in  
11 your nose. That's the biggest threat in this  
12 yellowcake. And it's called alpha radiation  
13 contamination. And that's what he is specifically  
14 protecting himself from. He has gloves on him, he has  
15 a Tyvek suit, and he has a respirator to protect him  
16 from this particular type of radiation.

17                   Now, in a nuclear power plant, that's a  
18 different story. You have a lot more gamma and beta-  
19 type radiation. And this wouldn't quite cut it at  
20 that type of facility. But this facility here, the  
21 main thing is breathing and getting it in your eyes,  
22 and things like that. So it's more -- he's protected  
23 from that particular type of radiation hazard.

24                   MS. RYAN: Bill, just to follow-up -- I  
25 know it was discussed yesterday.

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1 MR. VON TILL: Okay. Also, when this guy  
2 goes into a room like this, he not only has a TLD  
3 badge that records direct radiation, but he also --  
4 sometimes they also use these things that pump in air  
5 and give direct radiation measurements as to what he's  
6 being exposed to, and then they evaluate that.

7 In the old days, back before the NRC  
8 regulated these facilities, they didn't use  
9 respirators, so that's been a change since 1978 to  
10 make this a more safe operation. They didn't do this  
11 kind of thing back in the '50s, and back in the Cold  
12 War era. It's an improvement.

13 MR. WHITTED: Did they go through a lot of  
14 these young men?

15 MR. VON TILL: No, as you saw with the  
16 graphs yesterday, the amount of radiation that these  
17 folks get is far lower than a typical radiation that  
18 you and I get just living on the earth. So, it's very  
19 low levels that these guys get.

20 Now, the people over at Fukushima, Japan  
21 going into that reactor and dealing with that, that's  
22 a different story. They're actually getting exposed  
23 to higher levels of radiation, and they might have to  
24 go in for five minutes, and come out. But these  
25 facilities here, these guys based on the bioassay

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1 results, and all of the monitoring that's done, very,  
2 very low levels at these facilities. Yes?

3 MR. IN THE WOODS: I have questions here.

4 Bryce In The Woods, Cheyenne River Sioux Tribe. The  
5 main concern would be the excursion of this product,  
6 you know, the end result goes into fuel rods that go  
7 into the nuclear plants, that NRC right now, they're  
8 spacing some infrastructure, not only NRC but this  
9 whole -- our whole country here is based on  
10 infrastructure detail and degradation. And you have  
11 pipelines that are emitting titans, all these  
12 byproducts that are very cancer-causing emitting from  
13 leaking pipelines underneath these plants. I think  
14 there's 65 nuclear plants, and this radiation that's  
15 getting out into the streams, that's the end  
16 byproduct, period. And radon, you can't control it.  
17 It's going to emanate, wherever it's at it's going to  
18 go into the air, the air quality. Nobody can tell  
19 what that's going to do, and what it has been doing  
20 for the last 50 years.

21 Twenty years ago standing here in South  
22 Dakota, 46<sup>th</sup> populated state in the 50 states, Wyoming  
23 is number 50. And Wyoming is probably the biggest  
24 exploited state in the Union because of the low  
25 population probably, but the main concern again is

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1 this excursion of this product from -- where the main  
2 concern would be this bleed production.

3 When you as NRC only inspect twice a year  
4 and you see things happening now due to the  
5 infrastructure to date, that it's not -- you can't  
6 insure the safety and health of not only the two-  
7 leggers, but all life forms here on the planet. And  
8 this is a very deadly energy. Cleanest energy but the  
9 deadliest energy. And it's not getting any better.

10 It has to be probably a whole reevaluation  
11 that NRC has to do in order to deal with the safe --  
12 one of the end byproducts, spent fuel rods. What is  
13 NRC going to do with spent fuel rods? When that  
14 question can be answered, maybe the public could  
15 breathe safe. That's one question that needs to be  
16 answered.

17 And now, I hate to say it, you mentioned  
18 Japan, you mentioned the gamma, beta rays, you know,  
19 there was three meltdowns over there, and those spent  
20 rods are exposed, so you get the Union of Scientists,  
21 you get as many people as you can to answer some of  
22 these tough questions that are coming up on this  
23 planet because of nuclear power.

24 I think some countries are looking at --  
25 in time, the time line they're going to stop using

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1 nuclear power. I think Germany is one, but then  
2 there's some food, E. coli over in Germany happening.

3 You know, it seems like when you're doing and with --  
4 this has been going on, and we look at Cave Hills  
5 treaty territory, 1851 treaty territory is what we're  
6 talking about, a lot of our elders put that in our  
7 head. And we've been ignored for decades. Back in  
8 the '50s, because of where this is located, they're  
9 starting a termination policy on the tribes. And,  
10 also, a lot of liquor into the reservations. And, at  
11 the same time, they started digging for uranium. So,  
12 you get politically attacked, and then you get  
13 attacked because you vocalize what our Chiefs sitting  
14 here, and our jobs with the Black Hills Treaty  
15 Council, and the ones before them. Their concerns  
16 with the land, and the air, and the water, and the  
17 next seven generations, that's never taken into  
18 concern. And we're still dealing with that in Cave  
19 Hills up there.

20 Karen McGee, I believe one was a Senator.

21 We got Senators and House of Representatives that are  
22 -- you look at, they're becoming millionaires. And  
23 you look at the community, the district I represent up  
24 on Cheyenne River, one of the poorest counties in  
25 America. It's about economy, too. But we don't see

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1 that, that royalty like Wyoming, the State of Wyoming  
2 gets royalty, so does the United States Treasury. I  
3 believe it's \$1 billion that the state gets in  
4 Wyoming, \$1 billion in royalties, treaty territories.

5 So, it is about economy, it is about equal and fair  
6 justice.

7 But the concern is NRC only inspects  
8 twice, and lets the companies -- you know, honesty is  
9 the best policy, but if they're getting fined, they're  
10 not so honest. And if we had a bleed in production  
11 that went up or down, that's insuring that the company  
12 is going to go bankrupt because they have to go in  
13 there and do reverse osmosis to that whole aquifer.  
14 And that's expensive. So, that's another thing, is  
15 how are you going to deal with contaminated water?  
16 Who is responsible for that cleanup? And you heard  
17 some words here about aquifers and contamination.  
18 Again, that's -- water is life. So, the groundwater,  
19 what we can't see, the water quality, the air quality,  
20 you know, NRC is not insuring that.

21 NRC has to play a bigger role in dealing  
22 with not only the license, issuing that permit, but  
23 you need to be responsible to the -- before and after  
24 of this whole nuclear process that you guys are facing  
25 now in this country. So, those are my concerns, is

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1 who's going to clean up the contaminated water? You  
2 have technology now, NASA. We have that technology  
3 here, but when you have oil and gas companies that  
4 corner the market in patents, and then you have  
5 something that might be of value to our people's  
6 health and safety, but it can't be brought to the  
7 market because the oil companies, or whoever has got  
8 that patent and won't allow that to happen. That's  
9 another concern that needs to be out to the public.  
10 The public needs to know that.

11 There's a lot of things here that energy  
12 companies are cornered so you can't hold them  
13 accountable. So, NRC cannot say that who's going to  
14 clean those contaminated waters up, who's going to  
15 clean up Cave Hills, Slim Buttes, who's going to clean  
16 those areas up that are going into the water, that are  
17 going into the Missouri? Who's going to clean that  
18 up? And the biggest concern is the aquifers. That's  
19 that whole cycle of life here on this planet, and it's  
20 being contaminated.

21 And 20 years ago, you could look to the  
22 east or the west, now you could see the smog, the  
23 pollution out here. We've got mercury in our dams,  
24 our fish. We've got 2.7, maybe more alpha emitters in  
25 our water that we drink, that kids drink.

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1 I know some of that's natural, but some of  
2 that's a direct result from 50 years of mining that's  
3 affecting not only you, or me, it's affecting this  
4 whole country. Now with Japan, wherever that  
5 radiation drops, it's going to affect that area  
6 because it comes down with rain. Big concern, who's  
7 going to clean the contaminated waters? Thank you.

8 MR. VON TILL: Thank you for your  
9 comments. I did want to stress that all the  
10 information that they collect at these environmental  
11 monitoring stations, and the groundwater monitoring  
12 and so forth, that's put into semi-annual effluent  
13 monitoring reports that comes to us, and it's publicly  
14 available information.

15 Also, our inspection reports that we have  
16 are also public information, as well. And for the  
17 facility like Crow Butte, you can always see for  
18 yourself some of the information that's collected at  
19 this facility, as well. We try to make it an open  
20 process. Very good comments.

21 I just want to get through this so I can  
22 give more time for exactly those kinds of comments.

23 MR. RED CLOUD: Oh, one more.

24 MR. VON TILL: Oh, I'm sorry. Go ahead.

25 MR. RED CLOUD: Yes, I have one comment.

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1 How do you define environmental effects?

2 MR. VON TILL: That's a good question.  
3 Your question is going back to Kevin's presentation on  
4 Slide 7. And I think your question was how do you  
5 define environmental effects? Kevin, if you can  
6 answer that question. Slide -- page 7. Okay. What  
7 slide is that? 19, thanks. Okay. The question was,  
8 how do we define environmental impacts, I think.  
9 Right?

10 MR. RED CLOUD: Right.

11 MODERATOR HSUEH: We basically just -- we  
12 have a different cultural -- for example, the cultural  
13 resources, just talk about cultural resources, is one  
14 of the things that we used the National Historic  
15 Preservation Act. We consult with the consulting  
16 parties to get additional information from them. This  
17 is part of the information that we have with the  
18 consulting parties to gather information so that we  
19 can kind of use that information as the input, and to  
20 figure out, or to finalize our -- do our analysis,  
21 input to our report. And then we will analyze those  
22 input, and then do our environmental impact analysis.

23 So, I think the key is to interact with  
24 all the parties that are involved, and this is the --  
25 one of the mechanisms that we use to get your input,

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1 and to get your concerns and comments. And we put  
2 those into our consideration, and we focus on those  
3 area, and then to address those area.

4 MR. VON TILL: Okay. Let me just get  
5 through a couple of more slides here. Again, where  
6 are these facilities located? The operating  
7 facilities we have right now, the Crow Butte  
8 facilities, the Smith Ranch facility, the uranium  
9 mine, Willow Creek project. I think there are some  
10 sites in Texas.

11 MR. ROM: Question, Willow Creek, is that  
12 over by the Pumpkin Buttes?

13 MR. VON TILL: Yes, it is.

14 MR. ROM: Okay. Can we get a map of where  
15 these facilities are?

16 MR. VON TILL: One of those slides I  
17 showed you was a map. It showed -- it was formerly the  
18 Cogema Iragary and Christensen Ranch site.

19 MR. ROM: Yes, there are lots and lots of  
20 different spots on that map. It's kind of hard to  
21 tell what was what. But, okay, yes, you don't have to  
22 go back. That's fine.

23 MR. VON TILL: The question was where are  
24 these facilities? This is the Smith Ranch facility.  
25 It's near Douglas, Wyoming. And this is now called

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1 Uranium One at Willow Creek project which is operated  
2 -- it's further up the Powder River basin. It is near  
3 the Pumpkin Buttes, so that's where that -- that's it  
4 right there. It was formerly called the Cogema  
5 Iragary and Christensen Ranch site.

6 Okay. So, this -- we're going to pass  
7 this out. This changes all the time, but this just  
8 gives you a snapshot of the applications that we're  
9 estimating to get in the future. There's a lot of  
10 exploration projects out there with the uranium  
11 companies. We update this on our website monthly, and  
12 this is a snapshot that shows some of the potential  
13 projects looking in the future. Some of them are in  
14 places like New Mexico, Nevada, and so forth, but you  
15 can always access this on our website to see the  
16 changes, and if there's any projects that you're  
17 interested in, in Wyoming, or wherever.

18 I wanted to also mention one other thing  
19 here. There's different points in the process for  
20 public involvement, for the tribes to get involved.  
21 We do have in Tribe Outreach a strategy for uranium  
22 recovery, which can be found in this link right here  
23 that the Staff uses to go through the process.  
24 Basically, if we have something where tribes are  
25 interested in a project, we contact folks; like in New

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1 Mexico, we have some potential projects. If we have a  
2 meeting with the potential applicant, we'll notify the  
3 tribes, the Yakima, the Levina, the Navajo, of this  
4 meeting. That's kind of how that works.

5 We have consultation meetings like this.  
6 When we do the draft environmental impact statement,  
7 there's an opportunity, of course, to comment on that,  
8 and just contacting us with any concerns that you  
9 have. This is a good format right here. Yes?

10 MR. ROM: Are you calling it a  
11 supplemental EIS because it's supplemental to your  
12 overall --

13 MR. VON TILL: It's supplemental to a  
14 generic environmental impact statement that is done by  
15 the NRC --

16 MR. ROM: Right. Okay.

17 MR. VON TILL: -- for in-situ recovery  
18 survey.

19 MR. ROM: So, each of these facilities  
20 you're looking at right now will have a separate  
21 supplemental EIS.

22 MR. VON TILL: Yes, it will.

23 MR. ROM: Okay.

24 MR. GOODMAN: Currently, the two  
25 facilities that we're doing for Crow Butte are

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1 environmental assessments, they're not supplemental  
2 environmental impact statements.

3 MR. VON TILL: The brand new facilities,  
4 kind of brand new facilities by themselves, we do a  
5 supplemental environmental impact statement. For  
6 things like license renewal, and an expansion of the  
7 Crow Butte facility, an environmental assessment is  
8 prepared.

9 MR. ROM: Well, suppose there are  
10 significant adverse effects?

11 MR. GOODMAN: If there's a significant  
12 environmental impact, obviously, we would switch from  
13 the environmental assessment to the environmental  
14 impact statement.

15 MR. ROM: Okay. For the re-licensing of  
16 Crow Butte, that's got significant adverse effects on  
17 Crow Butte, which is a traditional cultural property  
18 for the tribes.

19 MR. GOODMAN: Currently, we're looking at  
20 an environmental assessment for the Crow Butte  
21 license renewal. If we find significant effects, we  
22 will switch to an environmental impact statement.

23 MR. KLUKAN: Let me just explain the  
24 process. The way NEPA works, and the way NRC applies  
25 it, the exception is a particular procedure which is

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1 an automatic environmental impact statement. You do  
2 an EA. An EIS to determine whether there are  
3 potential significant impacts such that would require  
4 the production of an EIS, an environmental impact  
5 statement.

6 In Crow Butte, we're only at the EA stage.

7 We're more in the production for the EA. We haven't  
8 made any conclusions yet as to whether there will be  
9 any significant impacts, so that's what Nathan meant  
10 by that. What -- the difference he was trying to  
11 point out is that for those new facilities, like  
12 Dewey-Burdock, Crow Butte was docketed prior to the  
13 completion of the GEIS.

14 What the Staff is determining to do is,  
15 we're just going to, instead of producing EAs, they're  
16 going through the traditional process here. We're  
17 just going to bump it up to SEISS, so we're going to  
18 move at that stage.

19 What the GEIS is, is essentially a bundle  
20 of information that can be incorporated into SEISS, to  
21 make them EISS. The GEIS cannot stand on its own for  
22 any facility. That always needs to be supplemented by  
23 site-specific information.

24 But in Crow Butte, because it was docketed  
25 prior to this, we're going through the traditional

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1 NEPA process, which we're doing an EA, figuring out if  
2 there are any significant impacts that require an  
3 EIS, and then move forward with that. If there are no  
4 significant impacts, and we not make any determination  
5 either way, we would docket and finally note  
6 significant impacts. So, that's where we're at now.

7 MR. RAGONA: If I may, Mike's is going to  
8 introduce Chief Oliver, but I -- since we talked about  
9 Crow Butte, I'd just like to ask one question. I know  
10 there's some concern, the licensing is up for renewal,  
11 and the officers received this document on May 31<sup>st</sup>,  
12 and they want -- and it's a 14-day comment period.  
13 And I talked to some of our hydrologists and some  
14 other folks here who would like to review it, and our  
15 office will most likely write the comments on it.

16 The problem is, the 14-day period really  
17 is not enough. Concern was expressed that information  
18 and documentation that they need to review and comment  
19 on so they can talk to us about it, kind of explain it  
20 down so we can put our comments to paper, we need an  
21 extension on that 14 days. Fourteen days just isn't  
22 enough, it should be more like a 30 to 60-day time  
23 period, because I was told that we don't even know  
24 where some of these documents are that would have to  
25 be referenced. So, with that, I think that's the

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1 request that we need, is two-fold. One, an extension  
2 on the comment time period. And, two, so our  
3 hydrologists, our geologists, our people who are going  
4 to come together and get this information to us have  
5 the time to look at this information, but they also  
6 need to know where to get it, and whether or not it  
7 can be supplied to them, or at least tell them where  
8 they can get it so it doesn't become a scavenger hunt  
9 and take up more time.

10 MR. VON TILL: Okay. Thank you. Nathan  
11 is the Project Manager, so we'll record that as an  
12 action item.

13 MR. RAGONA: Okay, great.

14 MR. CATCHES ENEMY: Let's do the report to  
15 Mr. Red Cloud.

16 MR. VON TILL: Sounds good.

17 MR. RED CLOUD: Good morning. I guess, I  
18 told you before who I am. I'm Chief Red Cloud, Oglala  
19 Sioux Tribe. I'm head of the eighth reservation on  
20 treaty rights, Black Hills Sioux, Sioux Nation  
21 Council. And I take care of the treaty rights. And a  
22 treaty is still standing, and that's where I am. And  
23 I'm sitting over there listening to what they're  
24 showing here. I went through that before.

25 You know, we have a treaty. It still

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1 stands with the United States. But our treaty is  
2 under United Nations, not under United States. So,  
3 anything like this we have to have that Article 12.  
4 And anybody in the United States violate my treaty, or  
5 overlook my treaty, I have to use Article 1. That  
6 still stands.

7 And nobody else can give clemency to  
8 nobody on treaty rights, because right now this  
9 reservation, eighth reservation is under 51 Treaty,  
10 and all our mineral rights are under there. And it  
11 still stands.

12 And regardless who, Senator, Congress,  
13 whomever, they have to come and see me, because I have  
14 rights, Article 1 under United Nations. And that's  
15 the law, that's me, and United States Constitution  
16 law, they can't go over me.

17 So, today you're talking about what you're  
18 going to do here, I don't go along. I've told these  
19 people, I told them, "Stay away." Under 51, that's my  
20 right. They come from New York, they come, I told  
21 them, "Go away." They chase them out of the  
22 reservation, "Don't come back." Because under treaty  
23 rights, I don't agree with them, because United States  
24 can violate the laws of my treaty. Where is treaty  
25 valid with 51. And down the line, they violate. So,

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1 like you say, who give the Commission, no but I have  
2 to take you. If you do, I have to take you to United  
3 Nations or Supreme Court on Article 1.

4 You don't believe me, read that. And  
5 that's me, because my great-great-grandfather made  
6 that treaty, and here you are, look to United States,  
7 how many of your people honor that treaty? And look  
8 where I am. Still, take what I have.

9 I talked to a lot of people, and today I'm  
10 here, and I want no part of this. Now, sure we could  
11 go to the highest court, we could go, I could go with  
12 you. You have to show your right, and I have to show  
13 mine, my treaty, my rights. I was born here, I was  
14 created here. You come from out of the country, try  
15 to tell me what to do.

16 So I have to take them to court, or we  
17 have to sit down. I still have my rights under United  
18 Nations, other United Nations, and I know my rights on  
19 natural law is under -- so, United States have to be  
20 careful.

21 Like I said before, for the treaty that's  
22 valid is 51. To that, all Lakota people, eighth  
23 reservation. And the land, that's treaty land. So,  
24 today I'm sitting over there. I've talked about the  
25 people, generation, and generation, generation, and

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1 there's some more coming.

2 So, what you're going to do here today, I  
3 can't swallow that. I have eighth reservation,  
4 Article 12, I could use that, and you're still pushing  
5 me. I have to use Article 1. You don't believe me,  
6 the way I look, but I know my rights. So, that's why  
7 I have to tell you I know my people really don't  
8 understand what's going on. Just a few people here  
9 know, so now I have to go back and tell the people  
10 what's going on. But you can't give permission to  
11 nobody, go through me. I believe the Tribal Council,  
12 this is a treaty council, and we're the one, big  
13 treaty. That's why you're here.

14 Thank you very much. I have to tell you  
15 that, so be careful what you are going to do. That's  
16 me, Chief Red Cloud, Oliver. I'm 92-years old. I'm  
17 still fighting for my rights. Thank you very much.

18 MODERATOR HSUEH: Thank you. Thank you  
19 very much. We appreciate your comments.

20 MR. CATCHES ENEMY: Any other comments  
21 before we break for lunch?

22 MS. WHITE PLUM: Good morning. I want to  
23 greet our elders, Chief Red Cloud, our elected  
24 officials, tribal employees, and our visitors here  
25 from the Nuclear Regulatory Commission, Cameco

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1 Corporation, Powertech Corporation.

2 For those of you who don't know me, my  
3 name is Debra White Plum. This is our home here with  
4 the Oglala band of the Lakota Nation. Our way is to  
5 be good to our visitors. Some of you have seen I'm  
6 the lead plaintiff against Cameco Corporation in  
7 Nebraska, Crow Butte, ISL uranium mines. I'm a  
8 plaintiff against North Trend Uranium Mine. I'll be a  
9 plaintiff against Three Crow. We'll do everything we  
10 can to get standing to fight this.

11 We'll fight Powertech, so I don't come  
12 here friendly. I don't come here hostile. I just  
13 come to speak the truth, the way I understand it. All  
14 of you all is doing your jobs working for mining  
15 corporations, working for the United States  
16 Government. I'm here doing my job as a Lakota woman,  
17 mother, grandmother, great-grandmother. This is my  
18 job.

19 I want the record to show this is not a  
20 consultation. You're not consulting with our band.  
21 You're here with program staff. Following your  
22 procedures and your process, the United States  
23 Government is trying to put a round peg in a square  
24 hole.

25 We have two different ways of looking at

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1 everything. You say cultural properties, historical  
2 properties. We know about that, how you fit a little  
3 place, this right here, there's a grave here. This  
4 right here, there's a teepee ring. This right here,  
5 and then you're going to say well, we won't mine  
6 there, we'll mine all around that, but we won't mine  
7 right there. We won't disturb that right there, but  
8 we'll disturb everything else. That's what your  
9 process is. We know about that.

10 The different ways that we look at things,  
11 all of that is our cultural property, all of this is  
12 our historical property. First off in a spiritual  
13 manner, our relationship to Mother Earth, Grandmother  
14 Earth, including the water under the ground, the water  
15 above the ground, the water coming from the sky. We  
16 have a spiritual relationship, and a spiritual  
17 obligation because of that relationship.

18 You heard Chief Red Cloud; that's treaty  
19 land over there, that's treaty land over there, this  
20 is treaty land. So, we have two different ways of  
21 looking at this. You believe it's your territory, we  
22 believe it's ours. It is ours through treaty law,  
23 just because your government violates it doesn't make  
24 it right.

25 So, you think you have the right to mine

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1       there if we gather here and satisfy your little  
2       requirements. That's what you're going to do, you're  
3       going to take it back and say we consulted with the  
4       Oglalas, but this ain't a consultation.

5                You want us to prove these little places  
6       here and there, and then you'll say well, we won't  
7       disturb it, and you'll mine all around it. Well, I'm  
8       here to say all of that shouldn't be disturbed, all of  
9       that land, all of the groundwater, all of the surface  
10      water, the air shouldn't be disturbed. That's how we  
11      see things differently.

12              The miners, the government who are  
13      supposed to regulate the miners, you don't see the way  
14      we see. It's all one. There's no separation between  
15      the environment and human beings. There's no  
16      separation from this little piece of land, and the  
17      whole rest of the so-called mining permit areas. To  
18      us, it's all one.

19              That used to be a Humblecha site, Crow  
20      Butte. Crazy Horse sat up there and he prayed with  
21      his Chenupa every day until he was killed there at  
22      Fort Robinson. We can't Humblecha there no more.  
23      That's one of our sacred ancient rituals, because  
24      there's a uranium mine there now. So, it already is  
25      impacting our human right to be who we are.

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1 Medicine grows there. Me and some elders  
2 went over there, but there's a fence, and it says,  
3 "Radioactive." That's where our medicine grows, on  
4 the other side of that fence. So, we have to sneak in  
5 there and pick medicine for our stomachs, and our  
6 hearts.

7 The government by allowing these miners to  
8 come in is already denying us our human right to be  
9 who we are, and our future generations the right to  
10 clean water. You can't separate cultural properties,  
11 historical properties from the coming generations, and  
12 from us here today.

13 I know the government doesn't see the way  
14 we see. This isn't the first time we sat with  
15 government officials and miners, and it probably won't  
16 be the last. That land over there where Crow Butte  
17 is, where they want to put North Trend, where they  
18 want to put Three Crow, where they want to put  
19 Marslin. Our surface water connects, our groundwater  
20 connects. That isn't enough for the government and  
21 the corporations to shut down. So, isolating these  
22 little pieces of land where there's a grave, or a  
23 teepee ring, that doesn't fit in our world. The way  
24 you see things doesn't fit in our world, but yet you  
25 try to make us fit into your world. So, there's a

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1 problem there.

2 That's why we're challenging Cameco  
3 foreign-owned corporation with a little American  
4 subsidiary, LLC set up in America. Same with  
5 Powertech, Canadian, Belgian, French, all the way back  
6 to the Suez, huge corporation, French Suez.

7 So, I have to tell you this today. We  
8 don't want you to mine there. We don't want the  
9 government to approve a mine there. Just because you  
10 say okay, there's a teepee ring, there's a grave,  
11 there's a card, we acknowledge that, we acknowledge  
12 your ancient history, and we won't disturb that one  
13 place, but we're going to disturb everything else.  
14 That's not okay with us.

15 I'm trying to help you to understand our  
16 paradigm. I understand yours, but I want you to  
17 understand ours. It's important to us, and it's  
18 important to the future generations, as well, who we  
19 represent.

20 In 20, 30 years all of you all is going to  
21 be gone, the uranium will be gone, and you'll all be  
22 gone. We're going to still be here, those of us who  
23 are surviving the cancer, the diabetes, the renal  
24 failure caused by your mines, by your rules, and laws,  
25 and regulations. So, our perspective is different.

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1           That whole land is our cultural property,  
2           our historical property, all that water, the air, not  
3           just what little pieces your archeologists found.  
4           This isn't an information-gathering session either.  
5           All that's represented here is Indian Reorganization  
6           Act Government. You were fortunate our Chief came to  
7           speak to you, but we have many spiritual leaders who  
8           should be here. The tribes should have made them be  
9           here, tell them we'll give you gas money and a meal,  
10          come, defend our land. But the tribe isn't going to  
11          do that. They could have called on their own experts,  
12          our spiritual leaders, our medicine men, our  
13          historians, our treaty people.

14               We have Lakota scientists. They're not  
15          here. This isn't a fair information-gathering,  
16          because the government is only corresponding with  
17          Indian Reorganization Act Government. I have nothing  
18          against the IRA people in here, friends, relatives,  
19          but it's the system, it's the process. So, this isn't  
20          even a fair information-gathering session.

21               I want the record to show that I said  
22          that. This is just the Oglala band. We have Sicangu,  
23          Hunkpapas, a lot of other tribal nations could all  
24          have their people here, their experts to give  
25          testimony on this, but the way your process and your

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1 system is set up is to your advantage, not ours. So,  
2 this isn't a fair information-gathering session as  
3 part of your overall consultation process, which means  
4 you sit down with our government. Your government  
5 sits down with our government. That hasn't happened,  
6 and it's not going to happen. Consultation process  
7 cannot happen because it's not going to be fair.

8 There's something in international law  
9 called free and prior informed consent. You're not  
10 giving that by only communicating with the tribal  
11 government, because that's just one part of our  
12 society. We exist side-by-side, traditional way with  
13 tribal government way. Sometimes we're on the same  
14 side, sometimes we bump heads, but at the end of the  
15 day we're all friends and relatives again. So, this  
16 whole process isn't fair, does not give us our free  
17 and prior informed consent. And that's an  
18 international standard of recognition for people  
19 impacted by government decisions, government actions,  
20 which includes mining.

21 The government nor the mining corporations  
22 had the free and prior informed consent of the Oglala  
23 band, the Lakota Nation. You do not have that. I  
24 don't know how you'll get it using the processes that  
25 you employ. But I want the record to show that I'm

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1 here defending my right to free prior informed consent  
2 under international law.

3 So, we live in two different paradigms, we  
4 have two different perspectives. All you all is on  
5 the payroll, you're getting paid to come here, sit  
6 here and listen to us, type up your reports, file them  
7 when you go home. So, this information-gathering  
8 session is inadequate, and it's to your advantage, and  
9 that's wrong.

10 Up in the Black Hills where Powertech and  
11 Cynataw, and Suez Corporations want to mine uranium,  
12 that's a real special place to us up there. Any  
13 mining up there is wrong, just as it is in Nebraska.  
14 That's where our ancestors wanted to settle. That was  
15 our choice after the Black Hills. We couldn't do  
16 Powder River, couldn't do Black Hills, so we wanted  
17 there, but they were moving us, forced march under  
18 arms, they were moving our ancestors, the Oglalas,  
19 Sicangus. They were marching us, going to settle us  
20 way over there but a blizzard hit. Sicangus got ahead  
21 of us. A blizzard hit, we're in this area, so we  
22 stayed here. That's how we come to be here. But we  
23 were being marched under gunfire from there, so now  
24 we're here.

25 The Black Hills area is already

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1 contaminated by past uranium miners, past government  
2 officials who sat in your places years ago, left their  
3 waste behind. ISL mining stores, toxic soup deep  
4 underground like you are at Crawford, like you want to  
5 do some more, like you want to do some up there. But  
6 that all, too, is our cultural/historical property,  
7 all of it. And it's not just ours, it's our  
8 generations to come, it's the birds, the four-legged,  
9 those that crawl and swim. So we have to oppose that  
10 mining in the Black Hills, as well, for all of that  
11 benefit.

12 So, this is not an adequate information-  
13 gathering session for either Cameco or Powertech's  
14 proposed mining permit areas. We used to gather eagle  
15 feathers over there, fish. We can't do that no more.

16 Our rights have been erased by that uranium mine.  
17 That's how it's going to be in the Black Hills, it's  
18 going to be worse in Nebraska than it is now. Our  
19 rights are going to get killed more, more rights are  
20 going to get killed. The more advantageous it is to  
21 the miners and the government, the less advantageous  
22 it is to us. So, right away we have a confrontation  
23 because of the way we see things, and because of the  
24 way we're impacted.

25 So, I want the record to show that this

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1 challenge, you're challenging us. You come here to  
2 our land and challenge us, and you're on the payroll  
3 to do it, so you're doing your jobs. But there are  
4 people who oppose the desecration of that land, the  
5 desecration of that land and water. Money isn't  
6 important to us when it comes to making those kind of  
7 decisions. We don't want no money for mining.

8           Setting up your mines and mining is a  
9 desecration of our cultural property, of our  
10 historical property. We wanted our lawyers to be  
11 here. NRC has their lawyers here. That's not allowed  
12 in your process. That's also unfair and  
13 disadvantageous to anyone who doesn't support mining.  
14 I want the record to show that. And I guess I'll see  
15 Cameco June 22<sup>nd</sup> at your hearing in Crawford.

16           MR. CATCHES ENEMY: Thanks. Is there  
17 anybody else?

18           MODERATOR HSUEH: Thank you for the  
19 comments.

20           MR. YOUNG BUCK: I'll introduce myself.  
21 I'm Martin Young Buck from Basin, South Dakota. I'll  
22 talk honky so everybody understands what I'm saying.

23           I come from Phoenix, Arizona. I live 27  
24 miles east, called Apache Junction. I just came  
25 through the forest fire, saw that smoke come up to

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1 here. That's why we're still here. And as you notice  
2 lately, winds are picking up. What happens when the  
3 radiation comes our way? We're in -- Crawford's  
4 southwest of us here. And right now, all the mining,  
5 open pit mines in New Mexico, and Arizona, a lot of  
6 high rate of leukemia and cancer now of the wind  
7 blowing.

8 I brought a map, I'm going to pass it up  
9 that we created, but it shows about 30 mines that are  
10 on Indian reservations. It's kind of funny, you know,  
11 they put us on the most desolate land, and we're  
12 sitting on riches, and they're after it.

13 In 1998, the Mojave Indian Reservation was  
14 invaded by the State of California to put a nuclear  
15 dump site on the reservation right on top of a water  
16 aquifer. As a member of the American Indian Movement  
17 we stopped it, because we had -- the whole community  
18 didn't know what was going on. But this situation  
19 here, we've got to be very careful. And it was  
20 mentioned in Japan, what happened in Japan, Chernobyl,  
21 once it gets contaminated, it's gone.

22 I'm not going to take the most of your  
23 time, but you know I'm against it. That's all there  
24 is to it. Thank you.

25 MODERATOR HSUEH: Thank you.

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1 MR. CATCHES ENEMY: I guess we'll break  
2 for lunch now for an hour.

3 MODERATOR HSUEH: Michael, before we  
4 break, just a point of clarification. The  
5 participants of this meeting, we have government  
6 officials from NRC, we have tribal officials, we have  
7 tribal members. We have not invited the Cameco  
8 employees or Powertech employees to this meeting, so I  
9 just want to make that clarification. Only government  
10 officials, tribal members, and the tribal officials,  
11 and tribal leaders. Thank you.

12 (Whereupon, the proceedings went off the  
13 record at 12:27 p.m., and resumed at 1:59 p.m.)  
14  
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## A-F-T-E-R-N-O-O-N S-E-S-S-I-O-N

MODERATOR HSUEH: Thank you. This is Kevin Hsueh again. As you know, tomorrow we are going to have a site visit to Powertech, Dewey-Burdock site, and for the same purpose. And we would just like to have a good estimate of how many people are going to -- for the site visit tomorrow.

Tomorrow we will follow the same format as Saturday night, and so we are going to have a prayer session, and then after that we think that we probably will leave here around 9:30.

And I already know how many people from NRC and -- staff and NRC contractors, so -- I already know the number. What I would like to have is the tribal leaders, tribal members, and tribal officials, how many of you plan to participate in tomorrow's site visit.

So if you can raise your hand also the other agencies, like BLM, so please raise your hands, and then Haimanot is going to help me count.

MS. YILMA: I have nine so far.

MODERATOR HSUEH: You have nine so far? All right. Thank you. All right. Okay. All right.

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1 Thank you.

2 MR. CLARK: Kevin?

3 MODERATOR HSUEH: Yes.

4 MR. CLARK: Where are we going to meet  
5 tomorrow? Is it going to be here or in the other --  
6 the board meeting room?

7 MODERATOR HSUEH: Oh, that's a good  
8 question. I would propose tomorrow that we meet in  
9 front of the hotel, because that's where the bus stops  
10 -- or stays. So let's meet there.

11 And then, also tomorrow, Thursday, which  
12 is also at the conference over there instead of here.

13 So we will meet there tomorrow at 9 o'clock over  
14 there at the hotel.

15 Michael? All right.

16 MR. CATCHES ENEMY: Okay. Next on our  
17 agenda is the proposed Crow Butte license renewal and  
18 North Trend expansion area ISR projects with Nathan  
19 Goodman.

20 MR. GOODMAN: We are going to spend a  
21 little bit of time now focusing our efforts in on the  
22 two Crow Butte projects that we have currently in  
23 review, and those are the proposed license renewal of  
24 the current operating facilities.

25 And some of you went on the site visit,

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1 and so you got to see the sites, and you have -- now  
2 you will be able to -- you know, this will be a review  
3 for you. But for others, who didn't, so we will have  
4 and show that.

5 Actually, can you go back one? Sorry.

6 I think all of you have met me now. My  
7 name is Nathan, and I'm the project manager for the  
8 environmental review of the two Crow Butte facilities  
9 in-house. My goal is to briefly go over the proposed  
10 project, including an overview of the archaeological  
11 surveys completed by the applicant, and invite you to  
12 share your concerns and/or provide additional  
13 information for the NRC to consider in its review.

14 If you would like to discuss or provide  
15 information pertaining to the cultural site and/or  
16 sensitive information, NRC will ensure confidentiality  
17 of this information according to NRC procedures and  
18 processes.

19 This is a map of the two facilities we  
20 have. It's pretty small, but the one to the southeast  
21 is the current facility. The current license area is  
22 one mile southeast of Crawford, Nebraska, and the  
23 license area is 3,300 acres. And the proposed North  
24 Trend expansion area is two miles north of Crawford,  
25 and it's about 2,100 acres.

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1  
2           The     NRC     is     currently     reviewing  
3     archaeological surveys submitted by the applicant as  
4     part of the application for both the current facility  
5     and the proposed North Trend expansion area.     The  
6     purpose of these surveys is to determine if there are  
7     potential adverse impacts to the properties listed on  
8     or eligible for listing on the National Registry of  
9     Historic Places.

10           What the applicant provided is a starting  
11     point for our review. We make an independent analysis  
12     based on a lot of things, based on the survey  
13     submitted by the applicant, based on information we  
14     get here today, based on information that we gather,  
15     and we come up with an independent analysis, and we  
16     provide that in our report.

17           And so right now where we are is we are  
18     going to review some of the information provided by  
19     the applicant. Those are not our conclusions; that is  
20     just our starting point. That is where we are right  
21     now. And so we will make an independent analysis  
22     based on a lot of information, and part of that  
23     analysis is based on information that we get through  
24     the Section 106 process, which is why we are all here.

25           For the Crow Butte operating facility, the

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1 application for license renewal, architectural survey  
2 submitted by the applicant, identified 72  
3 archaeological and architectural sites. Of these 72,  
4 zero were identified eligible for listing. And for  
5 the proposed North Trend, the archaeological survey  
6 submitted by the applicant identified six. And of  
7 those six, zero were identified as eligible for  
8 listing.

9 Yesterday at the site visit we did hear  
10 the man say that there was one significant site  
11 identified as a Homestead site when we went by it. We  
12 will research that, in combination with surveys that  
13 we got, in combination with our own independent  
14 review, and comments we receive both from our experts  
15 as well as from all of you and, again, come up with an  
16 independent analysis.

17 So just because this slide says zero  
18 doesn't mean that's our conclusion and that's our  
19 starting point.

20 I just wanted to go over a little bit of  
21 our Section 106 consultation process to date. In  
22 August of 2010, the NRC consulted with SHPO. In  
23 September of 2010, invitation letters were sent to 20  
24 tribes for the proposed North Trend expansion area  
25 site. In November of 2010, invitation letters were

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1 sent to the 20 tribes for the proposed license renewal  
2 sites, and we are here today in June for the  
3 information-gathering.

4 And just in conclusion, all information  
5 gathered today will help the NRC staff conduct an  
6 independent analysis to determine whether traditional  
7 cultural properties or additional archaeological sites  
8 eligible for listing under the NRH requirement.

9 And that's all I have. I would be happy  
10 to take any questions that you all may have.

11 MR. ROM: You said that for this new  
12 facility that there are 72 sites identified?

13 MR. GOODMAN: In the survey that we  
14 received from the applicant, that's correct.

15 MR. ROM: That's not what -- that's not  
16 what is in what was sent out to the tribes, not in the  
17 materials -- what was sent out.

18 MR. GOODMAN: Do you have a different  
19 number?

20 MR. ROM: A lot less, like 12 or less.

21 MR. GOODMAN: I can -- I can go over with  
22 you afterwards --

23 MR. ROM: What was sent out to the tribes  
24 was done in 1980, a survey done in early 1980. Okay.  
25 So there's not 72 sites.

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1 MR. GOODMAN: I can go over with you the  
2 survey in a little bit of detail as to how they got  
3 some of the sites that you see that were given  
4 specific reviews from the 72. I'd be happy to do  
5 that.

6 MR. ROM: Okay. I don't know, Wilmer, do  
7 you want to talk about these things now, or do you  
8 want to give them a letter later with some details, or  
9 what would you think is appropriate? About the  
10 reports for this project.

11 Wilmer would like to I think write a  
12 letter or something more official, formal, later --

13 MR. GOODMAN: Okay.

14 MR. ROM: -- about these two projects.

15 MR. GOODMAN: The statement was that the  
16 Oglala Sioux Tribe would like to submit a more formal  
17 letter later on in their discussion and concerns with  
18 the survey submitted by the applicant. Did I get that  
19 correct?

20 MR. ROM: Yes, that -- can you look at  
21 this report that I haven't seen? It's the same report  
22 that you are talking about or -- it's just -- and  
23 there is even pages that are missing from that one, so  
24 -- there's two reports there. One is for the  
25 expansion, and one is for the -

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1 MR. GOODMAN: He has handed me a Crow  
2 Butte Resources North Trend Expansion Area Class 3  
3 Cultural Resource Inventory. And I think he has also  
4 stapled to it the license renewal cultural report that  
5 we sent the tribes in the mail. Is that correct? And  
6 he would like me to look at it and say where I got the  
7 number 72 from.

8 MR. ROM: So that is a correct report that  
9 you are referring to.

10 MR. GOODMAN: Again, I haven't had the  
11 time to actually look through and make sure, but it  
12 seems very similar, and, yes, I would believe it is  
13 the same report, yes. It does look the same.

14 The question was, was that report  
15 redacted, and, yes, the version of the cultural  
16 surveys that you received were redacted versions,  
17 according to regulations provided to us by the SHPO.

18 MR. ROM: But tribes have a right to that  
19 information under the Section 106 review process. So  
20 this is the THPO's office. They need to have their  
21 complete reports.

22 MR. GOODMAN: Right. And I'm not -- I'm  
23 not very familiar with how the -- how the process  
24 works, but at some point I believe that we will -- we  
25 -- to receive the non-redacted version, for a tribe to

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1 receive the non-redacted version, we would have to go  
2 through the State Historic Preservation Office to  
3 ensure their permission and to understand -- let them  
4 know that we are sending it out. I believe that that  
5 is the case.

6 MR. ROM: Well, I don't think that's the  
7 way it works under the regulations, because the tribe  
8 can't comment until they have the complete documents.

9 MR. KLUKAN: This is Brett Klukan. To  
10 complete their statement, the point is, what we sent  
11 to you was essentially a starting point. That doesn't  
12 mean that it's entirely accurate to all of this  
13 information from the tribes. It's just that that's  
14 what we had available up on our website and through  
15 our public documents system.

16 We are more than willing to work with the  
17 tribes to get you that information through secure  
18 channels, so that you can review it. The intent is  
19 not to withhold it from you; the intent is that what  
20 we sent you was just our public release.

21 But, again, that is not to say that you  
22 specifically, in your tribal rights consultation under  
23 Section 106, having the need for this information,  
24 that you wouldn't have access to it. It's just that  
25 this particular version of the document had bad

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1 information, and we are willing to work with tribes to  
2 make sure that you have that information, so that you  
3 can fully comment on the Section 106 process.

4 MS. JEHL: And I think that Paige might  
5 be able to add something.

6 MS. OLSON: Oh. You know, we -- I would  
7 encourage that NRH provide complete copies of all of  
8 the surveys to the tribes, because that's the only way  
9 they are going to know that they are looking at and  
10 comment on. And the information is protected under  
11 Section 304 of the National Historic Preservation Act,  
12 and then it is also protected under our state law. So  
13 I would encourage your agency to provide it to any of  
14 the tribes that need it.

15 MR. KLUKAN: So what I would suggest is  
16 that at this point, for any tribe leader that has  
17 information to contact -- speak with me before the  
18 close of this meeting, and then we can set up how we  
19 can get that information.

20 MR. GOODMAN: And I understand that Oglala  
21 is one tribe that would like to set up and get this  
22 complete.

23 MS. JEHL: They have.

24 MR. GOODMAN: Our decision is based on a  
25 number of factors, and, you know, they consist of the

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1 applicant's survey, they consist of tribal  
2 consultation, they consist of our own independent  
3 analysis with our own expert archaeologists, and  
4 consultation of other state and federal agencies, the  
5 SHPO office. A whole number of things go into our  
6 determination of that.

7 The NRC determination, though, is we will  
8 include -- we will incorporate the analysis and  
9 information we get from it.

10 MR. KLUKAN: I apologize for interrupting,  
11 but -- this is Brett Klukan again. Under the Section  
12 106 regulations, I mean, we are required to consult  
13 with tribes regarding the identification of historic  
14 properties. And so what this information is is simply  
15 what the applicant prepared, its own thinking  
16 regarding what it thinks is eligible based on the  
17 National Registry. That's not to say that's our  
18 thinking as Nathan pointed out.

19 Once we gather the information that we  
20 think is necessary, just the information-gathering is  
21 huge, we will go back to the tribes and say, "Here is  
22 what we have collected, and here is what we think.  
23 What do you think?" And then, we will move on from  
24 there. So that's how we see the process proceeding,  
25 in accordance with the regulations on Chapter 36 CFR.

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1 MS. OLSON: How do you anticipate the  
2 identification of traditional cultural properties for  
3 the Dewey-Burdock project specifically?

4 MR. GOODMAN: I think we are going to  
5 answer the Dewey-Burdock questions when we get into  
6 the Dewey-Burdock --

7 MS. OLSON: Okay.

8 MR. GOODMAN: -- if that's okay with you.

9 MS. OLSON: Yes.

10 MR. GOODMAN: Okay, great.

11 MR. ROM: That question applies to the  
12 Crow Butte ones, too.

13 MR. GOODMAN: How are we going to  
14 determine the location of traditional cultural  
15 properties?

16 MR. ROM: Or gathering areas or spiritual  
17 sites or --

18 MR. GOODMAN: The very same way that sort  
19 of Brett and I have been talking about. We are going  
20 to continue to gather information from a whole lot of  
21 different sources, and the information we get from the  
22 tribes is a part of that. And so information provided  
23 by the tribes as to the location and necessity of  
24 needing to do a survey, that is all included and will  
25 all be included in our analysis.

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1 And as Brett said, we are not -- we are  
2 not stopping tribal consultation here. This is just  
3 -- this is just the first step in the whole 106  
4 process.

5 MR. CATCHES ENEMY: This is Michael  
6 Catches Enemy. Will NRC be able to fund something  
7 like that if the tribe wanted to do a traditional  
8 cultural property survey?

9 MR. GOODMAN: There is no standard policy  
10 by the NRC on funding right now. However, in the past  
11 reviews NRC has not -- for the Crow Butte project has  
12 not provided funding.

13 MR. KLUKAN: I'll phrase it this way, to  
14 add on to what has been said. Under the regulations,  
15 we are required to determine what is reasonable under  
16 the circumstances, given the import of potential sites  
17 involved, the cultural properties involved. And I  
18 think the NRC's case at this point is while we can't  
19 say specifically how much we can fund, we can approve  
20 a project.

21 And we'll do whatever is necessary to in  
22 good faith fulfill our Section 106 obligation and  
23 figure out how things get paid down the road. But we  
24 are going to do whatever it is that is necessary to do  
25 that.

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1 MR. CATCHES ENEMY: Yes. And under that  
2 Section 106 to, you know, properly and respectfully --  
3 in a respectful manner to tribes, it seemed like this  
4 would be one of the biggest, you know, things to allow  
5 the tribes to feel like they have a stake in what the  
6 history and the area is about. Besides the  
7 archaeologists, they might not have gotten any  
8 information from the tribal side of it. He's doing  
9 his job to be an archaeologist. That's -- that goes  
10 only so far, but the tribes can provide so much more  
11 information on the history and the personal ties to  
12 that.

13 MR. GOODMAN: We certainly acknowledge the  
14 tribal expertise. And as Brett said, you know, we  
15 can't -- we can't -- those haven't happened yet, but  
16 we will fulfill the 106. And if that doesn't include  
17 the surveys, then we will.

18 MR. VANCE: Steve Vance from the Cheyenne  
19 River. When the archaeological surveys that were  
20 done, when was that last one?

21 MR. GOODMAN: For which project are you  
22 referring to?

23 MR. VANCE: The Crow Butte.

24 MR. GOODMAN: Which -- expansion or the  
25 current facility?

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1 MR. VANCE: The one we were at yesterday.

2 MR. GOODMAN: We were at both yesterday,  
3 sorry.

4 MR. VANCE: Well, the Crow Butte.

5 MR. GOODMAN: Okay. I will just answer  
6 for both. The North Trend expansion survey I believe  
7 was done in the mid-2000s, like the 2004 to 2006 --

8 MR. VANCE: 2007?

9 MR. GOODMAN: -- timeframe, but not  
10 entirely 2007. And the license renewal was done much  
11 before that in the '80s.

12 MR. VANCE: Okay. And, of course, we all  
13 know about -- every day something becomes exposed to  
14 erosion and whatever else. I think that's a concern  
15 for the tribes about, you know, as far as being  
16 involved in that survey. And we come across this all  
17 the time. We come across archaeologists going in and  
18 identifying sites or historical property, and then  
19 tribal monitors or surveys going in next and  
20 identifying -- and I don't believe that was all for  
21 that time period.

22 I think what should happen is another  
23 survey being done with the help of the tribes on the  
24 ground, so they are there actually. And now is a hard  
25 time to do that, because the visibility right now is

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1 very limited because of the grass being three feet  
2 tall in some places.

3 And that's why we tried to get out to a  
4 lot of these site visits earlier in the year when  
5 visibility was more successful for what we are going  
6 to, you know, comment on. Right now the grass is  
7 tall. It's hard to see or anything, really.

8 But I think that's what should be offered  
9 before this is that another survey be done, updated,  
10 allowing the tribe to identify and evaluate, because  
11 right now, as was stated yesterday, tribes really are  
12 more interested home sites -

13 MR. GOODMAN: Right.

14 MR. VANCE: -- although they were  
15 basically in the 1800s or --

16 MR. GOODMAN: Right.

17 MR. VANCE: -- what we're looking at is  
18 really beyond that.

19 MR. GOODMAN: Right.

20 MR. VANCE: Hundreds and thousands of  
21 years ago.

22 MR. GOODMAN: And speaking with you on the  
23 bus, I got that same --

24 MR. VANCE: Okay. So that's kind of what  
25 I'd like to see brought forward again -- another

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1 survey be done, updated, with the input of the tribe.

2 Then, we can determine what's historical or not, and  
3 as he said again that becomes a burden on the  
4 financial side with the limited, you know, sources of  
5 funding.

6 And most of these sites that we've been  
7 going back into that haven't been offered at the  
8 beginning, neither the applicant or the agency would  
9 come to, you know, and that makes our determination to  
10 go here or there easier, because this we can afford.  
11 That's why a lot of us are here.

12 MR. GOODMAN: Right.

13 MR. VANCE: Because there's reimbursement  
14 in it.

15 MR. GOODMAN: Right.

16 MR. VANCE: And that is -- it comes down  
17 to a big issue. There should be something made  
18 available to try to come to. They're just making  
19 outrageous amounts of money, and yet we are here  
20 looking at, you know, historical protections of sites  
21 and properties. That all comes back into the final  
22 figure too.

23 MR. GOODMAN: Thank you very much. I think  
24 there was a hand up. Bryce?

25 MR. IN THE WOODS: It was sort of this

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1 consultation is -- through the statutes requiring  
2 consultation government-wide, American Indian  
3 Religious Freedom Act, the Archaeological Resource  
4 Protection Act, and National Historic Preservation  
5 Act, and also the Native American Graves Protection  
6 and Repatriation Act.

7 And regulations require consultation  
8 government-wide. The National Environmental Policy  
9 Act and maybe some executive orders as far as its  
10 constitutional policy. NRC doesn't really have any  
11 policy for government to government consultation. And  
12 there is a situation in treaty territory that involves  
13 Nichols Ranch. BLM has mineral rights for gas, but  
14 it's hard rock, so NRC has the permit on the uranium.

15 But the company, when we were on the  
16 ground, we wanted to do a TCP survey, and we were told  
17 no. But then, after further discussion, and after a  
18 couple of weeks went by, we're trying to work right  
19 now with the Bureau of Land Management recently, we  
20 developed a consultation policy, so that if we hear  
21 some concerns here verbally, but there's nothing black  
22 or white yet as a formal policy we can come to some  
23 kind of an agreement on or understanding.

24 And given Nichols Ranch has a private  
25 owner is giving the okay for us to go in there and

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1 enter a unit. They have -- a private owner has both  
2 units, and the energy company said they already did  
3 their radiological survey, and with a 700-and-some-  
4 page environmental impact statement.

5 But we still need to do that TCP survey.  
6 That's what you heard. But using that as an example,  
7 we are hoping they will go in there and do that TCP  
8 survey and get those rights.

9 And no matter how it comes to be, our  
10 attorney is not sitting with us. And I'm hoping some  
11 day that we will get to that plant, and we really can  
12 discuss government-to-government policy with the NRC,  
13 because there's kind of a catch-22 here using that  
14 example of BLM having minerals, but NRC having that  
15 permit.

16 So it sounds like there might have to be  
17 an interagency type of agreement between the NRC and  
18 BLM, and there is a draft MOA with that that we  
19 reviewed, but, still, we didn't call it consultation,  
20 because the other parties were -- government officials  
21 weren't involved in that negotiation.

22 But we are still -- NRC is moving forward  
23 with that, and we'd like to some day see all of that  
24 -- that government to government -- and you heard  
25 nation to nation.

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1           Now, with President Obama, I think he  
2           upgraded some Executive Order on our regulations and  
3           review for all the federal agencies in which the way  
4           you permit the companies to extract, it's all up to  
5           NRC to develop maybe some more meaningful and in the  
6           permitting process itself, you know, whereas before,  
7           like when I mentioned that the door was closed on  
8           tribal nations, our concern is they are almost there,  
9           we were never at the table.

10           Now, we are at the table, and we still  
11           don't have that policy. You know, we are still  
12           looking at working on MOAs. There has to be some  
13           policy that has to do with creeks. And the NRC has a  
14           lot of weight, I would say, in the permitting process  
15           that you guys need to look at, and how you issue your  
16           permit.

17           And I'm hoping that once there's  
18           government -- tribal government officials that we can  
19           express our concerns and recommendations in that  
20           process, because we have senators and representatives  
21           that represent their states, maybe negatively or  
22           positively, but still pressing their issues on NRC.  
23           And maybe not -- maybe not for the benefit of all of  
24           the constituents in their states either, you know.

25           So there's a lot of variables that make up

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1 what is happening today, but because -- because it  
2 comes into chief territory, you know, and we want to  
3 be just as influential as any senator or  
4 representative from the U.S. Congress. You know, some  
5 of them actually wish that some federal agencies would  
6 disappear, you know? I mean, that's the mind set of  
7 some elected officials.

8 But as long as you get to the consultation  
9 part, there is other regulations that constitute  
10 government-wide consultation. I just wanted to point  
11 that out.

12 MR. GOODMAN: Yes. One just sort of  
13 follow up because you brought up Nichols Branch, I'm  
14 not the Nichols Ranch project manager, so I'm not  
15 going to speak in detail. But I do know they are much  
16 further along in the process than I am with Crow  
17 Butte. And so I encourage you, because we are early  
18 on in the Crow Butte 106 consultation process to  
19 continue to communicate with me and continue to bring  
20 up your concerns, and we will make sure and satisfy  
21 our 106 consultation for the Crow Butte facilities.

22 MR. VANCE: Steve Vance from Cheyenne  
23 River. You know, actually, you are probably at about  
24 the same stage as we are with Nichols Ranch, because  
25 when it comes to the consultation part of tribal

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1 input, they had a webinar teleconference last week,  
2 and Cheyenne River was the only tribe on that  
3 conference call.

4 Other tribes, you know, they were on  
5 travel, they couldn't make the meeting, so I voiced  
6 that issue, that it wasn't government to government,  
7 because we were only represented by one tribe at the  
8 table, which is unfair, you know. You know, looking  
9 around here, we've got pretty good representation  
10 today, but there are times when the meetings set up --  
11 and they went ahead with their MOA.

12 They went ahead and started doing a draft  
13 MOA. You know, and I stayed in there with them and  
14 made comments on the MOA, but we still never finished  
15 step one and we're going into step three. So where  
16 you're at is like at the same place. From the tribes  
17 anyway, there was a lot of people not at the table.

18 And that was a letter that Curly wrote,  
19 Curly Youpee from Fort Peck wrote that, but, you know,  
20 horse feeding way of doing something was rushing the  
21 tribe into making these decisions. And that's why I  
22 say, you know, you are supposed to take full interest  
23 in the tribe in consultation. You know, the interest  
24 of the tribe is what has to be personally.

25 And as we talked with Gary, he heard from,

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1 you know, people and stuff like that, when you talk  
2 about the Lakota, you know, or the Sioux, whether it  
3 be Cheyenne River Sioux Tribe or Oglala Sioux Tribe,  
4 you know, Standing Rock Sioux Tribe, all that comes  
5 down to, again, as was stated earlier, document of  
6 nation-to-nation or government-to-government treaties  
7 in the Great Sioux Nation.

8 So when I come to the table here, I am  
9 representing the Cheyenne River Sioux Tribe, but I  
10 cannot ignore the other six bands of that nation. And  
11 so when we sat here -- or we sit here at the table and  
12 we talk about this, that's government to government,  
13 that level, that there is more representation from  
14 tribal groups.

15 But with our webinar with the Nichols  
16 Ranch, Cheyenne River was the only one there, and I  
17 told them, I said, "We're opposing this, because  
18 everybody is not at the table." So we put that on  
19 record, that we felt that this was a thing that needed  
20 to be -- step back and say, "Okay. When all parties  
21 are involved, then we'll move forward." But they went  
22 ahead and moved forward without all parties.

23 So here we've got all parties here, and,  
24 you know, so you are basically, you know, at the same  
25 level as that consultation process is with Nichols

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1 Ranch, too.

2 MR. GOODMAN: I was more referring to sort  
3 of the whole environmental review process, but thank  
4 you very much for that clarification on that.

5 Am I missing -- yes, please.

6 MR. WHITTED: Yes. When tribes are asked  
7 to comment on projects, and to let you know what sites  
8 that are important to them, it's very hard for them to  
9 do that many times, because we haven't had access to  
10 these areas for over 150 years. There's areas that  
11 we've heard about, but we don't actually know what's  
12 there until we get out there and actually have a  
13 presence.

14 And one way to do this is through the TCP  
15 surveys where the tribes are involved, not just one  
16 tribe usually, but several tribes involved, send  
17 people out there that are capable of identifying  
18 culturally sensitive sites to tribal people.

19 It works well that way. We just recently  
20 got on -- we were on a project up in North Dakota.  
21 There was six tribes involved in that one. It was a  
22 wind farm. They did an arc survey on that project,  
23 not quite 900 acres. They reported four stone  
24 features on that site.

25 And we were very familiar with that area

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1 and knew very well that there was a lot more there.  
2 We requested a TCP survey, went out there, and the  
3 tribal people in that crew identified over 2,000 stone  
4 features, and they only reported four.

5 So that tells you the difference, the view  
6 of the archaeologist and the view of the tribal --  
7 from the tribal perspective. That's why it is  
8 important that we have people in the field that can  
9 make these calls, because we know what is there and  
10 what is related to tribal importance.

11 So that just goes to speak for -- and I  
12 think it is really important that the tribes be  
13 allowed to do TCP surveys on this project down here,  
14 as well as the Dewey-Burdock project, where we know  
15 there is a lot sites. Good argument there. And once  
16 we have that information and identify sites to be  
17 avoided, they can possibly be avoided. Not a place  
18 that we want to put one of these operations, because  
19 there are so many sites there.

20 MR. GOODMAN: Thank you very much for your  
21 comment.

22 Am I missing anybody?

23 MR. CLOUTHIER: You mentioned good faith  
24 Section 106 process, and I'm curious that if the  
25 tribes do request a TCP study, and the NRC doesn't

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1 fund it, or the client through applicant doesn't fund  
2 it, is that going to be considered good faith? If the  
3 tribes are requesting one thing and you guys decide  
4 not to go through with it or won't fund that study,  
5 will that be considered good faith negotiations?

6 MR. KLUKAN: Well, the point here is is  
7 what these, I think, regulations are used for. What  
8 are the potential sites involved? And then, the NRC  
9 is going to look at this in the context of what new  
10 information -- the technical information we receive  
11 today to make the determination of what is necessary  
12 to move forward with the identification of these sort  
13 of properties.

14 And, granted, I am simply an attorney, so  
15 I don't have the technical expertise to actually  
16 answer that question. I can't tell you what the staff  
17 is going to determine is necessary.

18 But what I can say is that we won't  
19 approve the project until the undertaking -- this is  
20 what we are legally bound by -- until we have  
21 completed Section 106. And we will do whatever is  
22 necessary under Section 106 or under the regulations  
23 in order to satisfy our obligation under 106.

24 Not to sound like a broken record again,  
25 but I can't speak to the specifics, because I'm not an

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1 archaeologist, I'm not familiar with this. I'm just  
2 an attorney. And so I don't have the expertise to  
3 answer those type of questions for you right now. And  
4 I don't know if we've gathered all the information we  
5 need yet in order to figure out what is necessary  
6 either. That's up to the staff.

7 But with regards to funding, I mean, what  
8 I would say at this point is that we will do  
9 regardless -- we will do what is necessary in order to  
10 comply with Section 106, and then that -- that's what  
11 the bottom line is at this point. And then, we won't  
12 issue a license until we have done it. But I can't  
13 tell you what is necessary at this point, or what kind  
14 of work we need to do, because that's -- again, I'm  
15 just an attorney.

16 Moreover, I don't think we have the  
17 information necessary right now in order to make that.

18 We have to go back, think about it, figure out what  
19 else we need to make that decision and what else we  
20 need to do, and then make it.

21 MR. GOODMAN: And to sort of follow up, we  
22 do not have all that information collected yet to make  
23 that determination as to what is a site. Yes?

24 MS. BIG CROW: Since we're gathering  
25 information, I guess I might as well put mine out

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1 there. As a tribe and through this area, we were --  
2 it's kind of a big race track, I guess you would call  
3 it, around Black Hills. And what we did was at  
4 certain points of the year, we have to be at certain  
5 points in order to gather our medicines, we have to be  
6 at certain points in order to get our lodge pulls,  
7 because like in May, that is when the pulls are the  
8 lightest, so we have to be there at that time.

9 There were times where we had to also go  
10 to pick up our paints and stuff at certain times of  
11 the year. Help me out, Wilmer. And so that's going  
12 to be my information to this, because -- and we have  
13 be in the Black Hills for our ceremonies, and then  
14 come back around the fall and the hunting ground part  
15 of it and stand, and do our hides and the tepees.  
16 And so that's why it's so important for the tribes.

17 MR. GOODMAN: Anything else?

18 Okay. Again, I want to just stress that  
19 at the beginning of the presentation it had my name  
20 and contact information, phone number, e-mail. And  
21 please don't hesitate to use it. Don't hesitate to  
22 call. Don't hesitate to send me an e-mail. I'm  
23 really glad to be here, and I'm really glad that you  
24 all are here.

25 And I understand that this is a starting

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1 point. This is one of our earlier steps, and I want  
2 communication with the tribes to continue. And I like  
3 the fact that we are all here, and I'm really  
4 encouraged by that. But let's not stop here. Make  
5 sure that I continue to communicate with you guys and  
6 that you guys continue to communicate with me, and  
7 let's continue to keep this consultation process  
8 going.

9 MR. YELLOW THUNDER: This is Dennis Yellow  
10 Thunder from Natural Resources Registry Agency. And I  
11 guess my question is regarding to the site we visited  
12 yesterday. We spoke yesterday -- or they spoke  
13 yesterday about the output of the amount of uranium  
14 they say that they are mining there.

15 Now, is that sufficient for your needs in  
16 generating the power that you say you guys generate?  
17 Is that a sufficient mine? I mean, is that amount of  
18 uranium that is being recovered that, is that a  
19 sufficient amount? And what justified an expansion?  
20 Isn't enough uranium being produced there to meet the  
21 needs? And why would you want to expand an area if  
22 there is enough uranium being mined there? Or is  
23 there not enough? Is it being depleted? Is it being  
24 used up? Or is it just -- what is your intention? I  
25 mean, why is it -- would you want to expand a mine's

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1 unit to build more?

2 MR. GOODMAN: That's a great question.  
3 I'm going to answer, and then an attorney is probably  
4 going to follow up. But we are a regulatory agency,  
5 and so we don't -- we don't say we need X amount of  
6 uranium. We just regulate the applications that we  
7 get in our review. We stay completely neutral on the  
8 matter. We are neither for nor against it.

9 MR. YELLOW THUNDER: Because -- well, that  
10 was just basically what I was sitting here wondering  
11 about, you know, and is it the quality of the uranium  
12 that is being recovered there, that it's not  
13 sufficient? Or is it the amount, that it's not  
14 enough? Or what -- you know, you as the -- yours is a  
15 regulatory commission, right? So you basically have  
16 the last word on whether or not we can expand to the  
17 North Trend or not. I mean, so --

18 MR. FESKO: Can I --

19 MR. GOODMAN: Sure.

20 MR. FESKO: I'm Greg Fesko with the BLM.  
21 I guess in the United States we have nuclear reactors.  
22 They use about 45 million pounds a year, and we  
23 produce about four and a half million pounds within  
24 the United States. And so the balance is imported  
25 from Canada and from the USSR.

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1 MR. KLUKAN: Russia.

2 MR. FESKO: Russia.

3 MR. KLUKAN: We don't call it that.

4 (Laughter.)

5 MR. VON TILL: Let's just be clear. The  
6 NRC is an independent regulatory agency. Department  
7 of Energy looks at energy needs and things like that.  
8 Our job -- we don't get into whether there is a need  
9 for more energy or anything like that. What our job  
10 is is to review the application of this mill site and  
11 make sure it's safe, protective of the worker,  
12 protective of the public and the environment, and  
13 that's it. That's our job.

14 We don't get into any aspect of whether  
15 there is a need for the expansion or anything like  
16 that, so I just want to be clear about that. We are  
17 only looking at the safety of the facility. So we  
18 don't do an evaluation of whether they need an  
19 expansion here, an expansion there, whether the needs  
20 of the earth or the people of the world need that  
21 expansion for energy. We don't do that at all. We  
22 just look at the safety of the facility, and that's  
23 the only part that we have with that. Just so --

24 MR. YELLOW THUNDER: Who makes that  
25 determination of whether you need to expand or not?

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1 MR. VON TILL: Nobody.

2 MR. YELLOW THUNDER: Crow Butte  
3 themselves?

4 MR. VON TILL: The industry does, because  
5 some of the uranium is used here in the country, and  
6 some of it is not. Some of it is used in Canada.  
7 There is no prohibition against a foreign company, you  
8 know, operating. As long as they have an export  
9 license, they can export it out. So we don't evaluate  
10 that aspect. What we do is evaluate the safety and  
11 health and environmental aspects of this.

12 So I just want to be clear as to the  
13 limitations of what we do and what we don't do.

14 MR. VANCE: I've got a question from  
15 yesterday. Okay. I thought we had kind of mentioned  
16 yesterday that -- after, you know, we had come back  
17 from the site, but I guess for the record I would like  
18 to hear that comment from NRC as to the project with  
19 Crow Butte.

20 Basically, all we did is we drove around  
21 pretty much, you know, as a site visit. I was  
22 prepared to get out and walk the ground, but, you  
23 know, it's pretty dusty and everything, couldn't  
24 really, you know, question that, too. But then there  
25 are talks about the environmental part of all of the

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1 area, you know, with the dust and everything blowing  
2 around in that area. It's kind of -- you know, those  
3 of you who are out there probably didn't notice it,  
4 but it was really behind us. And there was times  
5 where we had to go way back just to see the bus in  
6 front of us.

7 So, again, there's, you know, the question  
8 - I had asked a question on that driving around the  
9 perimeter of that -- that there was still digging  
10 activity there. And if the permit -- this is a  
11 renewal, which would mean the permit expired.

12 Just for the record, I would like to make  
13 that comment as to why they allowed to continue  
14 digging today when the permit was expired.

15 MR. KLUKAN: I'll take a shot at it if you  
16 want me to. The answer to that is, under the NRC's  
17 regulations, if an applicant submits -- or a licensee  
18 submits a renewal prior to the -- and this is for  
19 certain licenses. For the -- prior to the expiration  
20 of their license, they will be allowed to continue  
21 operation under the previous version of their license,  
22 which for Crow Butte has now expired, while the NRC  
23 reviews their renewal application.

24 Assuming that the NRC were to deny that  
25 renewal application, their license would have to --

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1 they would have to stop operations and enter that  
2 information in. But for that pendency, they are  
3 allowed to continue operations under the terms and  
4 conditions of their prior license. It doesn't mean  
5 that they can do whatever they want. It means that  
6 the license is essentially extended for the pendency  
7 of the NRC's review of their renewal application.

8 But one thing I would point out -- and  
9 this is different from power reactors -- is that under  
10 Part 40 renewal applications are treated exactly as  
11 new applications, meaning that we review them exactly  
12 as we would an entirely new application under Part 40.

13 So there is nothing -- whereas in reactors we are  
14 locked out of as part of the -- we don't go back and  
15 look at -- we go back and look at everything again, as  
16 if it were an entirely new application.

17 Just to point that out for the record,  
18 because that is one of the new things about Part 40  
19 for source material licenses, which is the type of  
20 license that we issue for this type of facility, for  
21 both renewal and North Trend expansion area.

22 MR. VANCE: So like yesterday -- the  
23 activity we saw yesterday was laying pipeline. And so  
24 under those conditions, while they have an application  
25 in, they could continue at what level? Can they go

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1 beyond -- I mean, my concern was the digging, because  
2 on Cheyenne River we require all ground-disturbing  
3 activity to be monitored by a traditional or a tribal  
4 monitor.

5 So when the ground is being turned, they  
6 can identify what is coming up out of it, and then the  
7 operator who is running that backhoe or, you know,  
8 ditch-witch or whatever, you know, equipment he is  
9 using, he is an operator. He don't know if he is  
10 turning over pottery or bones or -- you know, if it  
11 would be a buffalo bone or a cow bone. He don't know.  
12 He is just digging. That's his job.

13 But on Cheyenne River we require all  
14 contractors to have on-the-job -- hired by the  
15 contractor, hired tribal monitors to observe all  
16 ground-disturbing activities. That's what, you know,  
17 brought my attention to -- well, if you guys have an  
18 expired permit, anyway, you asked me that question.  
19 But, again, how much activity can they actually be  
20 doing out there, besides -- like pipeline was  
21 yesterday, maybe today they are drilling.

22 MR. KLUKAN: The answer to that would be  
23 is under the license they are allowed to build so many  
24 well fields. You see those -- the wells out there,  
25 and when they start up the application they don't

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1 build all of them at once. It's not where we actually  
2 need a complete reactor in place before you can  
3 operate it, and then go and inspect it.

4 They can build them in series or staggered  
5 series, meaning we are going to build well field one,  
6 and then move on to two, and then move on to three,  
7 and then we will go back and decommission one, and  
8 then build four, five, six.

9 So what you see construction there is  
10 construction that was authorized under the license as  
11 it currently exists. Were they to build, or want to  
12 build, new well fields that go beyond what was  
13 analyzed in their license as it exists right now, they  
14 would need to come in with an amendment.

15 And that is why we have North Trend or why  
16 we have a proceeding ongoing for the North Trend  
17 amendment or why they need an amendment, because that  
18 is construction that wasn't contemplated within the  
19 scope of the original license application, or as with  
20 -- not in your license application, within the license  
21 as last approved in their last renewal cycle.

22 MR. GOODMAN: I believe this gentleman has  
23 had his hand up for quite some time, so I want to --  
24 The question is, is it going to do us -- and by "us"  
25 you're saying is it going to do the tribe any good in

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1 the future?

2 MR. RED CLOUD: Yes.

3 MR. GOODMAN: The answer to that question  
4 is, I don't know, but that's not a purpose of the NRC.  
5 Our purpose is to regulate.

6 MR. GOODMAN: What's that?

7 MR. RED CLOUD: Where are you going to  
8 gather them?

9 MR. KLUKAN: Do you mean this particular  
10 meeting or the actual project?

11 MR. GOODMAN: What are the tribes going to  
12 get out of the Crow Butte site?

13 MR. RED CLOUD: What do we get out of it?

14 MR. GOODMAN: Again, I don't -- I cannot  
15 give you a detailed answer to that question, but that  
16 is also not part of our review or process.

17 PARTICIPANT: We are literally the  
18 children of great dreams, Red Cloud, Sitting Bull. We  
19 are the living artifacts, so in our time, you all  
20 sitting here couldn't comprehend. The Black Hills  
21 still belong to our people. So to us you have no  
22 purpose, no right, to be here. And my grandfather  
23 claimed 10,000 acres, and me, as a grandmother, I  
24 would fight to stop that. It's not going to happen.  
25 But we are living artifacts.

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1 MR. GOODMAN: Okay. Thank you very much.

2 PARTICIPANT: That's all I have to say.

3 MR. GOODMAN: Thank you. Yes.

4 MS. ANTOINE: I'm Paula Antoine from the  
5 Oglala Sioux Tribe. My question is, you know, it says  
6 tribal consultation but in your presentation, you are  
7 just asking us how to determine if there are any  
8 culturally significant rights that can be put on the  
9 National Registry? So what about anything else that  
10 has happened? What about anything that culturally or  
11 spiritual or any other significance to any -- to our  
12 tribes that is not eligible to be on the national  
13 registry? Will that be ignored? And what are our  
14 comments going to do? If you are just a regulatory  
15 agency, how are our comments going to affect what is  
16 happening?

17 MR. GOODMAN: Your comments here today  
18 provide us information for our Section 106  
19 consultation process. And the NRC approves or denies  
20 the application that the applicant has submitted, and  
21 part of our process, our review, is to satisfy and  
22 fulfill the Section 106 process. And part of that  
23 process is getting input from tribes in a facility  
24 like that.

25 MS. ANTOINE: What are you going to do

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1 with it?

2 MR. GOODMAN: We are going to use it to  
3 help generate an independent analysis and conclusion.

4 And if our analysis and conclusion is that we need  
5 more information from the tribes, then we are going to  
6 continue to interact, and we are going to continue to  
7 involve you in every step of the process.

8 MS. WHITE PLUM: Excuse me. You didn't  
9 answer the question. She asked you -- there are  
10 places there that did not fit the criteria to be  
11 placed on the National Historic -- National Registry  
12 of Historic Places. What happens then? You didn't  
13 answer her question.

14 MR. GOODMAN: We do our own independent  
15 analysis of all of those sites, all of them, not just  
16 the ones that -- the applicant has submitted that  
17 cultural survey and that information. That is our  
18 starting point. That's not our own independent  
19 analysis, and that's not our own independent review.  
20 And so we will look at the potential impacts to all of  
21 those sites that you are talking about. Yes, we will  
22 do that.

23 MS. WHITE PLUM: So you will make that  
24 decision, then. The NRC will make that decision.

25 MR. GOODMAN: Not me personally, because I

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1 am not an expert.

2 MS. WHITE PLUM: By "you" I mean the NRC  
3 will make the decision.

4 MR. GOODMAN: That is correct.

5 MS. OLSON: So just -- Paige Olson. Just  
6 to clarify, this is -- I guess I have a question,  
7 probably for one of the attorneys. In terms of how  
8 this process works when you are using 800.8 of the  
9 regulations, just because it -- the National Historic  
10 Preservation Act is very specific in what a historical  
11 property is.

12 NEPA allows for a broader use of cultural  
13 resources in terms of things that are intangible. How  
14 does that work on this type of process? When you are  
15 using 800.8, are you -- are you able to also sort of  
16 use this more kind of intangible.

17 MR. KLUKAN: Generally speaking, yes.

18 MS. OLSON: Okay.

19 MR. KLUKAN: So that was going to be one  
20 of the things I point out. NEPA and the National  
21 Environmental Policy Act, their outcomes are different  
22 from what -- the outcomes that -- at NHPA or the  
23 National Historic Preservation Act are.

24 But we do also -- and the other point of  
25 this is is not all of the information you give us

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1 today is going to be used for NHPA purposes, but also  
2 for our national environmental -- NEPA compliance as  
3 well, for cultural impacts, what we generally call  
4 cultural impacts, which as you point are a broader  
5 range of things than what is covered under that.

6 So that's also, I think as we mentioned in  
7 our letter inviting you here today. And when we  
8 initially sent out to tribes -- consultation letters  
9 -- that we were also asking for information under  
10 NEPA, just broad cultural significance information.  
11 And so that is one of the things we will look at as  
12 part of our NEPA analysis is just broader cultural  
13 impacts, which don't fall into the more rigid  
14 definition of historic properties within the National  
15 Historic Preservation Act. So that's to supplement  
16 what Nathan said.

17 MR. GOODMAN: Thank you.

18 MR. KLUKAN: That's a good point.

19 MR. GOODMAN: When we -- when the NRC  
20 approves an application, we are saying we are  
21 approving it because we feel that it can operate  
22 safely, yes.

23 PARTICIPANT: So the premise is that  
24 nature can be controlled under certain conditions.  
25 And aren't you guys creating opposition to anything

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1 that is?

2 MR. GOODMAN: I understand.

3 PARTICIPANT: And aren't you -- that is  
4 really at the crux of the problem and what people are  
5 trying to say is that you have assumptions that nature  
6 can be controlled. We see it all the time. We see it  
7 -- like at one time there used to be bear country.  
8 And now it's malignant. The ranchers have safety for  
9 their cattle. We have wildlife management, we have  
10 bans, we have all of these things which are the result  
11 of attitudes that nature needs to be controlled. This  
12 is totally a white-dominant society.

13 On the part of those who follow earth, we  
14 believe that it is not only wrong but is hazardous to  
15 all living things that nature needs to be controlled  
16 or should be controlled. And we believe that it  
17 wouldn't take a whole lot to upset the balance, and so  
18 we see that in a lot of the nature here, that the  
19 balance of earth is being disrupted continuously by  
20 those who dominate.

21 And I think that's a major issue with  
22 this. Therefore, it's hard for me to be neutral and  
23 say, "Well, we don't represent the government. We  
24 don't represent the corporations. And we don't -- you  
25 know, we don't take their side, and we don't take your

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1 side." But, in the end, you have to take a side.

2 MR. GOODMAN: Just to clarify one point.  
3 We do represent the government. We are an independent  
4 federal regulatory agency.

5 PARTICIPANT: Yes.

6 MR. GOODMAN: We do represent the  
7 government.

8 PARTICIPANT: Well, yes, in that sense.  
9 But I also heard you say, you know, that you're  
10 independent.

11 MR. GOODMAN: That is correct.

12 PARTICIPANT: Okay. So as an independent  
13 you don't -- so it's presumed that you are not  
14 actually representing them, but you are  
15 representing --

16 MR. GOODMAN: We do not represent the  
17 applicants. We do not represent the utilities. That  
18 is also correct, yes.

19 MR. KLUKAN: Independent refers to our  
20 position in the executive department, and what that  
21 means for our -- how our Commission operates, and what  
22 laws it is required to comply with in terms of  
23 Executive Orders and what not. That's what we mean by  
24 "independent." We still represent the Federal  
25 Government with regard to matters relating -- within

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1 the scope of our jurisdiction. That's really all we  
2 mean by that.

3 PARTICIPANT: And one of the other things  
4 that I heard you say is, was that your biggest concern  
5 was the water, but it also actually includes the air.

6 MR. GOODMAN: Thank you. Thank you for  
7 your comment. I think we'll just go -- the question  
8 is, do we look at the tribal mineral rights?

9 MR. VON TILL: We don't look at the  
10 leasing arrangements or the mineral rights or anything  
11 like that. The BLM, if it's on BLM land, would look  
12 at that kind of aspect. But, again, that is not a  
13 safety aspect of the review. That's separately done  
14 between the industry and the people who own the land,  
15 whether they have their operations, and who owns the  
16 mining rights, the mineral rights, and so forth,  
17 beneath that land. So we don't get involved in that.

18 Now, with the exception of BLM land or  
19 Forest Service land, the U.S. Government does get  
20 involved in some capacity there, if it was BLM land or  
21 Forest Service land. But like the Crawford site that  
22 we're talking about, there is no government land.  
23 It's private land, and there's private mineral rights.

24 There is no Indian mineral rights there on Crawford,  
25 so there is not an issue there.

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1 But in the past, like the Navajo Nation,  
2 there was some issue with some of that there in the  
3 early '50s, and so forth. But we don't have that with  
4 Crawford right now.

5 MR. ROM: Can I just clarify the question?

6 He is referring to the treaty, that they never gave  
7 up the mineral rights. Basically, telling you that  
8 these are not private mineral rights, they are not  
9 government mineral rights, they are the tribe's  
10 minerals. Is that correct?

11 MR. GOODMAN: Thank you.

12 MR. ROM: So, you know, NRC may believe  
13 there is not an issue there, but I guess that's for  
14 the attorneys and courts to figure out.

15 MR. KLUKAN: Well, our position is that we  
16 don't really have the -- our jurisdiction is very  
17 limited in terms of safety analysis, because they --  
18 we would not be the people -- we don't have the  
19 authority to make that decision, nor should we be the  
20 people to make that decision for you.

21 That's a matter for the courts and for the  
22 tribes themselves to determine through, you know,  
23 mechanisms provided under our legal system. But we  
24 are not -- we don't have the jurisdiction to tell you  
25 what is your -- within your treaty and not within your

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1 treaty. That far exceeds the bounds of our limited  
2 safety jurisdiction.

3 MR. GOODMAN: Sorry. We will finish up,  
4 and then we are going to go in the back, and then  
5 Bryce, and then the gentleman with the hat, and then  
6 you. I promise I will get to all four of you.

7 MS. WHITE PLUM: Well, I just want to say  
8 that that's why this whole process is unfair, because  
9 the attorneys are doing all the answering, and our  
10 tribal attorneys are not here. There are several  
11 bands here. Our attorneys aren't here.

12 As the plaintiffs, our attorneys aren't  
13 here, so I think we should just not even deal with  
14 what -- we don't want to litigate things in here. I  
15 think whoever is running this meeting needs to move it  
16 on to another comment or something, rather than having  
17 the attorneys do all the talking. I'd just like to  
18 say that much.

19 MR. GOODMAN: Thank you. As people have  
20 their hands up, I would like to answer questions,  
21 though. Finish your statement, I'm sorry.

22 MR. ROM: Well, this goes back to some  
23 things before. Under NEPA, you are going to deal with  
24 purpose and need for the projects, right?

25 MR. GOODMAN: That's correct.

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1 MR. ROM: Okay. So you are not limited to  
2 safety issues, because before someone was asking  
3 about, do you evaluate the need for the project? And  
4 you do that to some extent under NEPA.

5 MR. GOODMAN: In our environmental review,  
6 we do, yes.

7 MR. ROM: And then, a lot of the other  
8 things that are being brought up here will be somewhat  
9 looked at under the environmental justice portion of  
10 NEPA as well.

11 MR. GOODMAN: Again, you are correct, sir.

12 MR. ROM: Yes.

13 MR. GOODMAN: Yes, that's a great --

14 MR. ROM: So people should understand --

15 MR. GOODMAN: Thank you.

16 MR. ROM: -- that.

17 MR. GOODMAN: Did you understand Lance's  
18 point? Under the National Environmental Policy Act,  
19 the environmental review we do does incorporate  
20 sections like environmental justice and impacts to  
21 environmental justice. And all of that will be  
22 incorporated in our review.

23 MR. ROM: You'd better explain what  
24 environmental justice is, and then they will really  
25 make a --

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1 MS. WHITE PLUM: I think it would help,  
2 too, if you'd clarify this information-gathering  
3 session for the NRC with the national historic places  
4 versus what is going to be covered and when will the  
5 NEPA process begin, or is this part of it. See,  
6 that's what is not clear here.

7 MR. GOODMAN: Okay. I will try to --

8 MS. WHITE PLUM: That's why we're getting  
9 all of these questions from all of these --

10 MR. GOODMAN: I will try to answer your  
11 question. We are here for both. We are here for both  
12 Section 106 consultation, but we are also here to  
13 gather information for our NEPA review. And so we are  
14 -- we are doing both here today.

15 You also asked when -- did you ask when  
16 the NEPA review will be complete? We don't have -- I  
17 can't give you a confirmation answer on that  
18 specifically. However, we are currently in the  
19 process of writing our environmental document. So  
20 that is our ongoing process.

21 Yes, please.

22 PARTICIPANT: I had a question on  
23 information provided. The information that was  
24 provided to us about these projects, is that coming  
25 directly from the application? How was it selected to

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1 be presented? Is this the entire information from the  
2 application? Or is this just selected portions that  
3 you wanted us to see.

4 MR. GOODMAN: That is an excellent  
5 question. The information that you have in the  
6 slides, specific to the ones that I gave, was  
7 information we received from the application.

8 Now, as part of the application, they are  
9 required -- the NRC requires them to submit a cultural  
10 survey, and so a lot of the information that you  
11 received was from that cultural survey. So, yes, as  
12 for your question of, is that what I want you to  
13 see --

14 PARTICIPANT: Yes, is it --

15 MR. GOODMAN: -- the application --

16 PARTICIPANT: Did you show us the entire  
17 application, or are you just showing us portions or  
18 highlights of the application?

19 MR. GOODMAN: I wanted to give an  
20 overview, a sort of Cliff Notes version. So I did  
21 provide just certain information, that's correct.  
22 However, I am not hiding anything from you. The  
23 entire application is publicly available.

24 PARTICIPANT: And when you say they  
25 provided a cultural survey to you, did they also

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1 provide the process that they used to complete this  
2 cultural survey?

3 MR. GOODMAN: They provided us -- they  
4 provided us information on the survey as to who  
5 completed it. Yes, they did that as part of the  
6 application.

7 PARTICIPANT: So the process is also in  
8 the application?

9 MR. GOODMAN: I believe I'm answering your  
10 question yes, but I'm not particularly sure. But yes,  
11 they provided information for us regarding the survey.

12 PARTICIPANT: And were tribes part of  
13 that?

14 MR. GOODMAN: They do have -- yes, they do  
15 have a slight section on -- they do have information  
16 provided on how they came up with the information they  
17 came up with, yes.

18 Bryce, sorry, it has been a while.

19 MR. IN THE WOODS: This question is  
20 directed at the NRC, whoever can answer it, because  
21 you say emergency situations. For example, we are  
22 talking with Keystone XL, and they asked a couple of  
23 weeks ago in April did we have any spills, leaks, et  
24 cetera, any kind of situation.

25 My -- the other spill that happened in

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1 Kalamazoo, 30 miles of water -- you know, crude oil,  
2 and closed that off. I mentioned that, and how are  
3 they going to -- you know, that is an emergency  
4 situation. And they had a spill of Keystone 1, a  
5 faulty -- piece of equipment that was faulty. So that  
6 created a spill.

7 Is there a contingency that NRC has, you  
8 know, that when we have these companies which are  
9 paying for the EIS, paying for monitoring, they are  
10 doing all of this, because of the climate change that  
11 we're basing it on, and there's concern about our  
12 water, because you're putting a pipeline under water,  
13 you're not guaranteed.

14 If it spills under the Missouri, it spills  
15 under the Big River, the Fan River, it is going to  
16 impact -- you know, it is going to impact everybody.

17 And then, there was a recent earthquake  
18 down by St. Louis. I mentioned earthquake to Keystone  
19 personnel. They said, "We've got no spills." But now  
20 they can't say that. These are real severe.

21 So when we come to adverse effects and the  
22 failure to resolve those effects due to emergency  
23 situations that are out of control of the company,  
24 NRC, everybody. And we fear it is going to happen.  
25 And when it does happen, the area of potential effects

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1 is going to be great.

2 So what is NRC -- what areas have you guys  
3 ever handled? And what have you done to resolve --  
4 you know, failure to resolve adverse effects? I was up  
5 by -- I can't remember the location now, but you guys  
6 have a power plant that is -- the pipelines underneath  
7 are leaking -- leaking some radioactive material. And  
8 then, the company says they are putting it back in,  
9 doing reverse osmosis or whatever, and they are  
10 putting it back into the water.

11 Does that really -- is NRC really looking  
12 after that? Are they getting a look at the water  
13 quality? Are they going to throw it on EPA?

14 To give you a little update on EPA, they  
15 were hamstrung. The previous administration went to  
16 three directors, and that told us something. Now, the  
17 EPA is -- again, they are under attack again. And how  
18 is NRC going to look at these emergency situations  
19 that our people have foretold that these things are  
20 coming?

21 And now we are here, how are you going to  
22 deal with that in the committee process that is going  
23 to bankrupt the energy companies if failure happens?  
24 I was told by energy company personnel that that's  
25 what is going to happen. It's expensive for them to

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1 -- you know, they're leery about it moving up or down  
2 instead of like going out there and monitoring it.

3 And who is going to pay for that? When  
4 that contamination happens, who is going to pay for  
5 that? Because an emergency situation, we can't tell  
6 when it going to happen and where it's going to  
7 happen. Is NRC factoring that in on these adverse  
8 effects, that that may happen?

9 MR. GOODMAN: You asked a lot of excellent  
10 questions in there, and sort of as an overview, and I  
11 hope this does an adequate job of answering your  
12 question. When we complete the NEPA review, we  
13 determine whether or not there are adverse impacts to  
14 the site. And if we do make a determination that  
15 there would be adverse impacts, then we would put --  
16 include that in the environmental documents. Yes, we  
17 would talk about that.

18 MR. IN THE WOODS: With that  
19 recommendation to -- the recommendation to do what,  
20 because you have that documentation, and then, when  
21 you do that review, or you do that review with your  
22 documentation, is that recommendation going to be in  
23 there? Or something unforeseen that -- you know, like  
24 we were told from Keystone, "We don't have a spill,"  
25 but yet there are spills going on in this country

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1 because of Canada companies, again.

2 MR. GOODMAN: Right.

3 MR. VON TILL: But he's talking about --  
4 during our review process we do look at accident  
5 analysis, and so forth. And to answer your question,  
6 really, if there's spills that go on, then the company  
7 is required to clean up these spills. The company is  
8 required by our license to clean up the groundwater.

9 We also have in our regulations a  
10 requirement for financial surety, so that all of these  
11 facilities -- the operating facilities like Crow  
12 Butte, they have a financial surety. I'm not sure  
13 what it is right now -- \$35 million, \$40 million,  
14 whatever it is.

15 The purpose of that is if that company  
16 goes bankrupt, that a third party can clean up that  
17 site. So that's part of the regulations as a part of  
18 the UMTRCA that I mentioned earlier, as to  
19 requirements to make sure that these sites are cleaned  
20 up. And these companies can't just run off and go  
21 bankrupt. We have a financial surety. So I just  
22 wanted to point that out.

23 MR. IN THE WOODS: They left some in the  
24 northwest corner. That's what happened. They didn't  
25 clean it up.

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1 MR. VON TILL: Yes, I -

2 MR. IN THE WOODS: What I'm saying is that  
3 I know this is going to break your companies. They  
4 told me that. You know, they can't -- if they permit  
5 the aquifer, they are going come in and do reverse  
6 osmosis. Very expensive is what they're telling me.

7 And then, to put that back onto, I mean,  
8 that -- who is going to absorb that cost if something  
9 happens that we can't foresee? Let's say an  
10 earthquake hit over here. You know, there was an  
11 earthquake in South Dakota a while back, so that's the  
12 scenario I guess, would be an earthquake would really  
13 be devastating for a state like Wyoming.

14 If there was a major earthquake in  
15 Wyoming, with all that coal burning and stuff under  
16 the ground, it seems like the way they have the CGMs,  
17 and then they have let say's Buffalo Butte. The  
18 degradation and the integrity, that was not there no  
19 more because of all of the building.

20 NRC can't assure that degradation to the  
21 aquifers is there. That's a whole area of drainage  
22 and marshes, a whole ecosystem there. And underneath  
23 that you can't really -- you can't really say that  
24 uranium mining, that there is no type of degradation  
25 there, the integrity is gone there, because of all of

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1 the mining -- I mean, all of the drilling that is  
2 there. It can't be done.

3 I think we're going to look at some real  
4 serious issues here if this continues and NRC doesn't  
5 factor that in in an emergency situation. You know,  
6 it --

7 MR. RED CLOUD: Over here. Well, I'm  
8 going back and they haven't done nothing for us. But  
9 you talk to my people. So I -- what you say here,  
10 you'd better leave, because that's it. We don't want  
11 to hear it anymore. So leave. You've never done  
12 nothing for Lakota people.

13 So thank you to come out and try -- talk  
14 to us. Thank you.

15 MR. GOODMAN: Yes.

16 MR. CATCHES ENEMY: This is Mike Catches  
17 Enemy. Before we continue, I wanted to, first of all,  
18 thank everybody for their comments. I think  
19 everybody's comments is exactly what you guys  
20 hopefully came for, you know, to hear all of the  
21 comments and issues.

22 I think some of the main comments that are  
23 coming up that are really important is how we are  
24 talking about three different mines right now, but we  
25 are also talking about NEPA, and we are also talking

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1 about NHPA. So it's a lot to try to keep clear and  
2 keep focused on.

3 And I think one of the good points that  
4 was brought up is about the attorneys. You know, a  
5 lot of the comments that are coming from the tribes  
6 and the other representatives, we don't have our  
7 counsel here to, you know, rely on to clarify for us.

8 Nothing against your guys' counsel, but since we  
9 don't have our legal folks here, I think there really  
10 is a disadvantage for us. It feels that way.

11 If we say something, it's clarified by you  
12 guys, and then we just kind of keep going back and  
13 forth. That's not -- I don't think that was the  
14 intent of this meeting, to get back and have our  
15 attorney . If we're going to do that, then let's have  
16 litigation. I don't think this meeting was  
17 established for that purpose.

18 I wanted to yield the floor. He's been  
19 waiting, and he waited patiently, and he has kind of  
20 been passed over. Dennis, do you have any comments?  
21 You had your hand up.

22 MR. YELLOW THUNDER: Thank you, Mike.  
23 This is Dennis again. Basically, I just was going  
24 back to what I had said before about -- about the --  
25 really, the purpose and intent for your expansion into

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1 these other mines.

2 And with the number of mines that you  
3 already have in Wyoming, the 5,400 mines or recovery  
4 units that is already in operation, and the number of  
5 wells that you will be proposing through this proposed  
6 Dewey-Burdock plus the north expansion, North Trend  
7 expansion, it just seems like you -- it's like an  
8 overkill, in my perspective.

9 And being a regulatory agency, you are the  
10 national regulatory agent -- commission, it seems that  
11 you should be regulating that a little more  
12 intensively, I would say, and be very careful and, you  
13 know, consider very -- for the benefit of the people  
14 involved the expansions that you should -- you know,  
15 that you might be considering to do, and really  
16 regulating, actually, doing your job as the regulatory  
17 commission to regulate, and maybe not to, you know, I  
18 guess make the expansions that are needed, and  
19 especially into the Dewey-Burdock area in the Black  
20 Hills, which is also very sacred to our people.

21 And I guess another thing I wanted to ask  
22 was, what is the life span of the Crow Butte recovery  
23 unit? I mean, is it going to produce at a sufficient  
24 rate to meet those energy needs for another five  
25 years, another 10 years, 15 years? Or is it like in a

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1 situation in which an expansion is, bang, ready, got  
2 to expand now? You know, Crow Butte is running out,  
3 let's expand.

4 So, you know, with those kind of things in  
5 -- taking those kinds of things into consideration, is  
6 an expansion really actually necessary to move into  
7 the North Trend area, into Dewey-Burdock? Are those  
8 essential? I mean, is it crucial that those  
9 expansions be made?

10 You know, taking into consideration  
11 everything that has been mentioned by these other  
12 tribes, by concerns of people of the THPO, the SHPO,  
13 all of these other entities that are present today.

14 Is an expansion actually really needed?  
15 Is it really something that is going to, you know --  
16 will the energy needs that we have, are they so great  
17 that we need to have this type of expansion at this  
18 rate and into these areas that are very crucial to our  
19 historical perspective and to the artifacts that are  
20 there?

21 And not only that, but we have also  
22 wildlife out there, we have animals, we have birds, we  
23 have things that are living in those areas, not only  
24 people, and livestock. So in regards to everything  
25 that has been said here today, you know, that has been

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1 my point was, what is the life span of the Crow Butte  
2 recovery unit? And what is the urgency for expansion  
3 -- for the expansion that has been proposed?

4 MR. GOODMAN: To answer your question, NRC  
5 does not make that determination. We don't  
6 determination -- we don't make the determination as to  
7 whether or not the expansion is necessary. We just  
8 regulate and approve or deny the application.

9 MR. YELLOW THUNDER: Well, I think in your  
10 capacity, then maybe it would be beneficial to really  
11 take into consideration everything that has been here  
12 to do that.

13 MR. GOODMAN: Thank you so much for your  
14 concern.

15 MR. YELLOW THUNDER: You know?

16 MR. GOODMAN: Thank you. That's a good  
17 comment.

18 MR. YELLOW THUNDER: Thank you.

19 MR. GOODMAN: I think the gentleman with  
20 the hat, you've had your hand up for probably an hour  
21 now. Good? Okay.

22 MR. VANCE: Steve Vance from Cheyenne  
23 River. Regarding an emergency. What is your priority  
24 to fulfill this as a scenario? An earthquake happens,  
25 there's a disaster at the Crow Butte facility. What

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1 is the applicant or NRC liable for, for recovery of  
2 that?

3 MR. GOODMAN: So your question is --

4 MR. VANCE: Within the project site alone  
5 or beyond it?

6 MR. GOODMAN: Your question is, if there  
7 were to be an accident at --

8 MR. VANCE: At the Crow Butte facility or  
9 something --

10 MR. GOODMAN: -- the Crow Butte facility,  
11 what is NRC's obligation at that point? Is that --

12 MR. VANCE: Is that beyond the site, too,  
13 or --

14 MR. GOODMAN: I believe that our -- we  
15 include more than just the site, that we have a radius  
16 of impact for accidents and --

17 MR. VON TILL: Yes. If there is any kind  
18 of an accident, you know, offsite, we would deal with  
19 offsite as well. It's not contained to the licensed  
20 area.

21 MR. VANCE: Who is responsible, the NRC or  
22 the applicant?

23 MR. VON TILL: The company is responsible  
24 for dealing with that. We oversee the company  
25 response on taking care of any kind of emergency like

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1 that. I think if it would get really bad enough, I  
2 think way offsite FEMA - FEMA would also be involved,  
3 the Federal -- FEMA, Federal Emergency Management  
4 might also be involved, also the state would be  
5 involved.

6 Recognize, too, that the Crow Butte  
7 facility is regulated by the NRC. But it is also  
8 regulated by the State of Nebraska under several  
9 permits that they have. So we would work with the  
10 state on making sure that the Cameco would deal with  
11 any kind of emergency that would occur. So I hope  
12 that answers the question.

13 MR. VANCE: Well, great. Because I was  
14 just reading one in Wyoming where they were -- the  
15 bond covered only -- the site only in an issue like  
16 that. That's why I questioned that for NRC, you know,  
17 in Nebraska here, who would be responsible, and at  
18 what level, you know. And this one with Wyoming, they  
19 were talking about Wyoming Department of Environmental  
20 Quality made a statement that they were liable within  
21 the project boundaries only.

22 So that is going on to what Bryce  
23 mentioned about unpredictable things that can happen,  
24 and they will happen. You know, they -- the applicant  
25 said yesterday when we questioned, that they would

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1 pressure test. They would go down and test. But the  
2 effects ain't going to be right away. Nature don't  
3 respond, you know, instantly to what, you know, is  
4 being applied to it. It could be a year or two or 10  
5 or 50 years down the line that the fault will react to  
6 the pressure that's been done to it. We don't know  
7 that. Nobody knows that.

8 So it is an issue of a question that is  
9 unknown. That's why we're talking about water and  
10 air, you know, the unknown factors. And the state is  
11 monitoring this, but they are doing a semi-annual, you  
12 know, review. If there was a leak at the time of you  
13 guys, you know, doing a test or monitoring, maybe you  
14 would understand that there is a leak. But there  
15 could be leaks that go unreported, like you said.  
16 You kind of assume they would tell everything up  
17 front, open.

18 Going back to another comment I wanted to  
19 make is that somebody had mentioned that, you know,  
20 the need for uranium is -- falls under the Department  
21 of Energy and stuff, but -- and going back to this  
22 applicant, we, you know, from Canada.

23 So there again, you know, I think that  
24 should be, you know, addressed also, that it is not  
25 from this -- you know, a company from here. Wherever

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1 they sell this, if the United States buys it's, it's  
2 buying it back from another country, but yet it's  
3 being mined out of this country.

4 You know, I know that question came up,  
5 and I know a lot of these things are what -- I believe  
6 the same issue. I wasn't there when all this stuff  
7 was discussed back in 2006, 2008, whenever, but it  
8 seems like it's all the same concerns, same questions,  
9 same comments, as what was addressed back then, and  
10 the license was issued. And here we're talking about  
11 renewal, and the same kind of questions and concerns  
12 and issues are still at the table.

13 So I kind of feel like, you know, it is  
14 going to vote for the renewal, because it was issued  
15 to begin with, with all of these things brought to the  
16 table. I'm just hoping that, you know, they are  
17 falling -- you know, it wouldn't fall on deaf ears  
18 this time that these concerns -- because they are the  
19 same concerns they were back then -- air, water, you  
20 know, light, boundaries, you know, historical sites,  
21 traditional sites.

22 All these things were brought up before  
23 when they applied for the application to begin with --  
24 the permit. And I just kind of sense that. I'm just  
25 hoping that it don't go that way, but the same

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1 questions, the same concerns -- we haven't changed.  
2 The native people haven't changed in their care of  
3 what life is. Our ancestors felt that way; we still  
4 feel that way.

5 But I've heard that from many people here,  
6 you know, as to what has happened. There is a saying  
7 that (Native language). Take a look behind you, your  
8 grandchildren are coming. What are we leaving them?  
9 Where are the responsible ones? So I just wanted to  
10 mention that.

11 MR. GOODMAN: Did you come up with your  
12 question?

13 MR. BIG CROW: Yes, sir. I would just  
14 like to make a few comments about the BIA, Department  
15 of Interior, did a survey of this land, the Badlands.  
16 So the natural gas that was here on my reservation,  
17 the oil, the uranium that they are talking about, is  
18 all going to be built into energy later on as the  
19 years go by.

20 So I am assuming that because this thing  
21 happening, and it sat on the table, it has been talked  
22 about in national life, the political table, in other  
23 countries, and so forth, that you guys are coming out  
24 here and doing these surveys, and we ask you, United  
25 States, to make sure that all of these checkpoints are

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1 done, because of the drilling down to the main water  
2 line and to the aquifer water created some problems  
3 here, big problems.

4 Article 6 of the United States  
5 Constitution, which the United States has got to live  
6 by and honor. In Article 6 it says, "Treaties are the  
7 supreme law of the land," and there's two treaties  
8 that it is talking about -- no other treaties in the  
9 country, in the world -- 1851 and 1853.

10 Well, some of our older people say, and  
11 some of the politicians that I know, that I met, have  
12 said this, since Congress adopted treaties and passed  
13 it on to 1843, Department of War, to take care of the  
14 treaty matters. In this process of treaties, the  
15 Supreme Court upheld the treaty aspects to make this  
16 agreement. That never happened.

17 So the treaties are out there, and you  
18 guys are coming in from the United States' standpoint  
19 and making all of these assessments. You know, I  
20 know, other people around this room here know, that  
21 the language of this treaty has changed.

22 In the last 20 years, 25 years, the United  
23 States Government has said, "This is our land,"  
24 meaning "their" land. How did they come to that  
25 perception, without the Indians approval already. And

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1 it takes two groups of people to make a treaty.

2 And one side is doing all of this, we're  
3 screwed -- excuse my language -- so these assessments  
4 that you are going back to make water lines, and  
5 drilling, you've got a book set up here to have  
6 everybody sign to do your - The assignment, the  
7 assessment, that is the evaluation that backs up your  
8 document. The adverse practices is being handled and  
9 done. I mean, is that the way you got to look at this  
10 thing, because the Badlands over here, you start  
11 picking up the Badlands, you've got uranium over here,  
12 all the way down.

13 It said Nebraska over here has cut off our  
14 main water line, and they haven't approached the tribe  
15 or they never made our tribe aware of it. So all of  
16 these paper barriers existed. There are a lot of  
17 these barriers.

18 And so if we are going to be true and do  
19 our talking here to be on the same table. I have to  
20 say something here. Washington, D.C. was built by a  
21 black man. Forty years later, we elect a black person  
22 in there. Now he is bringing back to the table to  
23 make these amendments. And those amendments are not  
24 being defined or combined or brought out to benefit  
25 the Indian people.

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1           Lakota Nation -- that's what we are called  
2           -- the Lakota and Nakota and Dakota were the only  
3           group of people in the United States that whipped the  
4           United States butt and took their flag. And then,  
5           somehow in the midst of all this they took their --  
6           they stole their pipe back. They just auctioned that  
7           thing off for \$7.3 million.

8           That's history. Nobody says it. So while  
9           you're doing your assessments here and using the Great  
10          Sioux Nations' area, being in Rosebud, Cheyenne River,  
11          Standing Rock, Oglalas, we are all in this together.  
12          If assessments here are going to be done for the  
13          United States, and only the United States, without our  
14          consent, that's how I view this.

15          This is how I look at that. Is that what  
16          we're doing right now, to make these assessments of  
17          the drilling and water to build this energy up for the  
18          United States Government? Because that's what going  
19          out to in these wars in Iraq, Afghanistan, and Libya,  
20          that we won't need to import no more oil into the  
21          United States, we can use our own energy.

22          So tell me if we're missing the boat here  
23          and need some to create another image. But, yes, we  
24          are going to make all of this energy out, and then put  
25          it on the table to benefit the United States

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1 Government. Is that what is going to happen?

2 MR. GOODMAN: Why we are here today is to  
3 gather information, so that we can complete an  
4 environmental review process, which includes writing a  
5 document within the National Environmental Policy Act,  
6 as well as satisfying the Section 106 requirements. I  
7 can't necessarily -- I know that's not necessarily the  
8 answer that you wanted to hear, but, yes, we are here  
9 to write environmental documents. That is why we're  
10 here. Is it -- so, yes, that's why we're here.

11 MR. BIG CROW: So you're here to benefit  
12 the United States and leave the tribes out, right?

13 MR. GOODMAN: No, that's -- sorry, that's  
14 not what I said. That's not correct. We're here, and  
15 we are involved in the tribes today, and we continue  
16 to -- we will continue to involve the tribes for this  
17 entire process. We are not writing this document for  
18 the sole purpose of the U.S. Government. In fact, it  
19 says in the National Environmental Policy Act that it  
20 is written for the public, and it is an environmental  
21 review process. So no, we are not going to exclude  
22 the tribes from here forward. We are going to  
23 continue to include the tribes in this entire process.

24 MR. RED CLOUD: All right. In other  
25 words, right now, you've violated 1851, and Article 6,

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1 that treaty is violated right now. That is our right.  
2 That is very important. But right now you are  
3 violating 1851.

4 MR. GOODMAN: Thank you for your comment.

5 MR. RED CLOUD: But it's free.

6 MR. GOODMAN: Are there any other  
7 questions?

8 MS. CONVERSE: Yes.

9 MR. GOODMAN: Yes?

10 MS. CONVERSE: Kat Converse. I just  
11 wanted to add on to the last two comments in reference  
12 to being a clean energy. I was just curious,  
13 yesterday during the tour, I believe Wade pointed out  
14 that at -- Crow Butte is kind of an intersection of  
15 three different power sources. And I was just curious  
16 if the carbon footprint was going to be included in  
17 the EA, as far as the usage of fossil fuels in order  
18 to run their facilities.

19 MR. GOODMAN: That's an excellent  
20 question. Did everyone hear the question? The  
21 question was: does the overall carbon footprint get  
22 included in the NRC's environmental review? The  
23 answer to that question is yes, through something  
24 called cumulative impacts.

25 In any environmental document under NEPA,

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1 we do a cumulative impact assessment. The cumulative  
2 impact assessment, to use a technical term, includes  
3 the action on the table, plus all other past, present,  
4 and reasonably foreseeable actions from any other  
5 federal agency, and also any non-federal agency. So  
6 it does include everything in the resource impact  
7 area. So, yes, we do take a look at all of that in a  
8 cumulative impact assessment.

9 Any other questions?

10 MR. MESTETH: I would like to make some  
11 statements here.

12 MR. GOODMAN: Certainly.

13 MR. MESTETH: Okay. My name is Wilmer  
14 Mesteth, and I am the Oglala Sioux Tribe tribal  
15 historic preservation officer. And I am also a  
16 spiritual leader on this reservation all my life, and  
17 I am also another traditional leader for my community.  
18 And so I represent a lot of people on our Pine Ridge  
19 Reservation.

20 Our tribe is the largest tribe of the  
21 Sioux Nation. We have 68,000 people. We are the  
22 largest tribe. We are the largest land base. And  
23 that's why today I am really happy that a lot of our  
24 elders, our people, families come here today to speak.  
25 And you need to hear us, you know. NRC needs to hear

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1 this. It might be hard to hear, but you have to hear  
2 it, because I'm going to tell you about the history,  
3 what my uncle is saying here, what these treaty people  
4 are saying here.

5 Our treaty rights, they are the law of the  
6 land. It is commissions like this that come here in  
7 history, they are the ones that wrote the treaty. We  
8 didn't write the treaty. The words that they wrote on  
9 those documents come from the (native language). Not  
10 one Lakota wrote that word on that treaty.

11 And they got interpreters to speak to our  
12 elders, our chiefs, and the government made promises  
13 to these chiefs. In the 1851 treaty, there are seven  
14 tribes that are included in the 1851 treaty. At that  
15 time, there was a chief -- his name was Matho Wayuhi.

16 He was designated from Washington to be the chief of  
17 all of the Lakota. So he represented our people at  
18 the 1851 treaty, and it was held in Fort Laramie  
19 treaty grounds area in Wyoming.

20 And they were talking about this land  
21 here, and the government wanted a road to our lands.  
22 Our lands extended down to the Smoky Hill River in  
23 Kansas. And we called it (native language). And that  
24 road is coming through Nebraska, right through the  
25 heart of our country.

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1           At that time, there was millions of head  
2 of buffalo, in 1851 -- an estimate of 78 million head  
3 of buffalo that roamed this country, and that was our  
4 way of life, our food, our life resources. All of the  
5 animals that existed here, we hunted those animals.  
6 And we drank these waters, and they were pure.

7           And the next treaty is 1868 treaty. And  
8 it is our grandfathers, the chiefs, that are the  
9 signatories. If you look at that document, it is not  
10 only one chief. We have chiefs -- grandpas that are  
11 chiefs. If you just look at that document, their  
12 names are on that treaty. There is Northern Cheyennes  
13 on it, there is Northern Arapahos, there is Siksikawa  
14 people name on that treaty -- 1868 treaty.

15           And the history of that treaty took place  
16 on Fort Laramie again. Chief Red Cloud won this war  
17 here on the Powder River. They talked with the United  
18 States, and put us up to this road, the Bozeman Trail,  
19 and so the government came and took them to Portland,  
20 evacuated them. They left them, abandoned them.

21           And it was the understanding of our chiefs  
22 and the warriors that fought that battle that they won  
23 the war. They didn't want them coming through the  
24 Powder River. And then, they wanted chiefs to come to  
25 Fort Laramie and sign the treat in 1867. So Chief

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1 Little Wound, Chief Red Cloud, all the chiefs, Chief  
2 Young Man Afraid of His Horses, Pawnee Killer, Bad  
3 Wound, their names are on there -- all men there,  
4 their names are on that treaty.

5 And here the government turned around what  
6 they wrote down, like they are trying to do here --  
7 write down our words, misconstrued those words. And  
8 today, you know, even our lawyers have treated the way  
9 it's written -- it was our understanding through the  
10 interpreters that came from the United States  
11 Government, misconstrued the words of the chiefs,  
12 turned those words around, changed the wording in  
13 those treaty agreements to benefit themselves, not our  
14 people.

15 Later on, we discovered that they tricked  
16 the people, and then they started taking these lands.

17 My uncle, one of our traditional chiefs, talking  
18 about this 1851 treaty, those are lands of Lakota  
19 people. So those treaties, you know, were changed  
20 after the commissions went to Washington, D.C.

21 We are trying to tell you how this  
22 affecting this mining here today. Then, how it was  
23 affecting our resources then, the same story we are  
24 trying to tell you again today. And when those lands  
25 were taken from our people, Homestead Act opened up

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1 and gave those lands to those immigrants.

2 Yesterday we went to view that country  
3 there -- Crow Butte. And company people were telling  
4 how they had a good relationship going with the  
5 landowners, the ranchers, and the county commissioner.

6 And they were even giving donations to their schools,  
7 and all of this, you know.

8 And here we sit, the two landowners.  
9 Those are not fully litigated yet. They are still in  
10 litigation. Our people are still in the court. We  
11 don't want to accept no money, call it just  
12 compensation. Just compensation, they want to pay us  
13 pennies for all that land and resources that this  
14 country is living off of -- Lakota land, Lakota  
15 minerals, Lakota water, Lakota resources. There are  
16 forests still today that the State of Nebraska is  
17 benefitting from our land, the State of Wyoming, State  
18 of Colorado, and State of Kansas, Montana, Lakota  
19 country.

20 So those people -- homesteaders and the  
21 government, probably about 160 acres for the ranchers  
22 that live there today. Some of them have lived there  
23 100 years, but that land -- the minerals underneath  
24 it, like my cousin was mentioning over here, those  
25 minerals belong to our people. Those lands are still

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1 in question, in litigation yet.

2 We've got a court case that is the oldest,  
3 longest court case in the history of the United States  
4 of America that is still in litigation here. Those  
5 answers have been answered by Washington, D.C., and  
6 that is what our elders are saying, that's what our  
7 chiefs are saying, that's what our people are telling  
8 me. You have to understand what happened in history,  
9 and so we are trying to tell you this history.

10 And on this -- it has always been negative  
11 towards our people. So right across our border here,  
12 the reservation border, is the White River, it runs up  
13 there. That's the historical property we are talking  
14 about.

15 Yesterday, I heard the company -- they are  
16 talking about property that the state historical  
17 society or the historical -- SHPO in Nebraska gave  
18 them that information. They didn't come ask us,  
19 because we have our ancestors buried there. Those  
20 mountains (native language) our ancestors are buried  
21 there.

22 (Native language) that string of hills  
23 there, those are burial grounds and places of worship.

24 Our people went up in the hills there and prayed.  
25 And the camping sites, I was talking about where the

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1 Little Wound people were camped, where Red Cloud was  
2 camped, where Crazy Horse, when he surrendered, was  
3 camped, Little Killer.

4 And we have a lot of information about  
5 that whole entire area. It's rich in cultural  
6 history, our culture.

7 And there's tribes that also have history  
8 there -- the Pawnee, the Arapaho, the Northern  
9 Cheyenne, Kiowa, Comanche, Crow, those people have  
10 history here in this area. And they have burial  
11 grounds here, too, also.

12 When we went over there, they were only  
13 speaking of a few sites right there. Under there, the  
14 water, the aquifer and the watersheds got closed to  
15 our reservation here, this White River. What is  
16 taking place with that mine is going to affect us. It  
17 is affecting our historical property there in that  
18 area. You see it -- we drove right through it, all of  
19 those little canisters. You could see it on the  
20 ground there, that mining, in situ mining.

21 It started on the land there, because an  
22 immigrant received a parcel of land, and he thinks he  
23 owns the resources underneath it. But no, those  
24 belong to our tribe -- our tribe. So you didn't come  
25 and ask us, and that's what our people are saying.

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1 And it's affecting our people, our generation.

2 I was mentioning it this morning and  
3 yesterday that gestational -- I mean, diabetes is  
4 happening, pancreatic cancer showing up all of a  
5 sudden here, diabetes increasing, up to 82 percent on  
6 our reservation, all of a sudden.

7 Our water resources were pure when I was a  
8 young boy. Today we can't drink this water that flows  
9 through the White River. The old springs were used  
10 to gather the sacred water and drink it. It's  
11 contaminated. What caused that? I want this  
12 Commission to look into it, those health issues that  
13 -- what we are having to face here on our reservation,  
14 look into that, what is causing those.

15 Before you make a decision for a county  
16 commissioner and an immigrant, you know, across the  
17 border here, you've got to take a look at all of that  
18 information there that we have. We want to tell you  
19 those things. That's why we don't trust commissions  
20 like this when they come onto our reservation.

21 And that's why we say these words. It's  
22 hard to hear, but you have to hear it and weigh the  
23 decision you're going to be making, because don't  
24 benefit from those. We don't have mining operations.  
25 We don't get money off of that. We don't want that.

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1 We banned mining on this reservation. There is no  
2 mining activity here, because we are looking to the  
3 future, the survival of our generations to come. We  
4 are going to live here forever.

5 So I wanted to mention that I am the  
6 tribal historic preservation officer. I take that  
7 serious. And my friends from up north in the other  
8 tribes, they take their job serious. We are  
9 representing our people the best we can, and they are  
10 our people.

11 We want to bring them here, so you can  
12 hear them. Maybe you're tired and you don't want to  
13 hear it, but you have to hear it, and I want you to  
14 hear it, each and every one of you. You have families  
15 that you are threatened, how would you react? We feel  
16 threatened by that mining.

17 So that's all I wanted to say.

18 MODERATOR HSUEH: Thank you very much.  
19 Thank you. I really appreciate all of you sharing  
20 your information with us.

21 As we mentioned at the very beginning, the  
22 purpose of this meeting is to try to gather as much  
23 information as we can, listen to your concerns and  
24 your comments. So we really appreciate all the time  
25 that you have spent with us, so we do appreciate that.

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1                   MR. GOODMAN:       Are there any other  
2 questions or -- yes.

3                   MR. YOUNG DOG:   My name is Ber Young Dog,  
4 and I'm from South Dakota.   From 1970 to 1972, in  
5 Golden, Colorado, I worked for our tribe.   And I was  
6 in their research program.   And you know when all this  
7 was happening, listening to what I went through, and  
8 then hear you talk here.   I don't think I want that  
9 here myself.

10                  My brother just moved back.   He was away,  
11 too, but he retired.   He is homebound, and I feel the  
12 same way.   And he was saying what -- since this is my  
13 fourth day here, but I haven't been out of the state.

14                  And I lived in Denver, Colorado.   Actually, I retired  
15 from Boulder, Colorado, Salvation Army, a retired  
16 acting manager.   So I can really say I have a real  
17 good background that I've decided I'm not the way I  
18 used to be.

19                  You know, and when I came back in here,  
20 all the things I learned, the tools that I learned  
21 from it, is going to help me, because I hear you talk  
22 -- and I look at my brother here.   We have horses, he  
23 has a ranch, you know, and what it really took to come  
24 back to his place.   And it's out in the country.   He  
25 likes to see deer, he likes to see foxes, and prairie

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1 dogs. That's home. And this you are trying to here,  
2 if that -- if it does happen, you are going to rip all  
3 of the city -- the country life.

4 That's all I've got to say, thank you.

5 MR. GOODMAN: Thank you very much.

6 Shall we move on to the Dewey-Burdock?

7 (No response.)

8 Thank you all.

9 MS. YILMA: Good afternoon, everyone. I  
10 am Haimanot Yilma. I am the project manager for the  
11 proposed Dewey-Burdock project. Like Nathan here  
12 today, my goal is to briefly go over the proposed  
13 project and include an overview of the archaeological  
14 survey.

15 And I would like you to share your  
16 comments and concerns like you have been doing  
17 throughout the presentation. I also would like to  
18 make sure that anything you share here in confidence  
19 will be kept in confidence.

20 The proposed Dewey-Burdock project is  
21 looking at the Great Plains on the edges of the Black  
22 Hills. And it's about 13 miles from Edgemont, South  
23 Dakota, and about two hours from where we are here  
24 today.

25 The proposed facility is about 10,500

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1 acres wide, and it is composed of two mining units --  
2 the Burdock unit and the Dewey unit. And as you can  
3 see from this drawing, the proposed project borders --  
4 I'm sorry, the Black Hills National Forest borders the  
5 proposed project to the north, northeast, and the  
6 east.

7 And I also would like to highlight the  
8 proposed project boundary or the areas of potential  
9 effect is bordered in black. That's the eight areas.

10 The company did a study outside of the  
11 areas potentially affected, and that's what see in  
12 purple around the proposed boundary.

13 MR. CLOUTHIER: I'm sorry. Could you  
14 repeat what the purple was?

15 MS. YILMA: It's the outside expanded --  
16 if you want to look at it that way, it's the area of  
17 the review for the project.

18 MR. CLOUTHIER: And what's the distance?  
19 Is it one mile?

20 MS. YILMA: I'm not sure, but I could  
21 definitely get that information for you.

22 MR. CLOUTHIER: But it's about 25 miles,  
23 right?

24 MS. YILMA: And as I mentioned, the  
25 proposed boundary is about 10,500 acres, of which

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1 10,300 is privately owned land, and about 240 is BLM  
2 land. BLM and the Nuclear Regulatory Commission are  
3 actually working on the supplemental environmental  
4 impact statement together, and we do have some  
5 representatives here from BLM today.

6 If you have any questions regarding BLM's  
7 rules and regulations, I'm sure they will be happy to  
8 entertain your questions.

9 They propose to use the ISR process of  
10 extraction uranium from the Dewey-Burdock project,  
11 and, if approved, the license would be issued for 10  
12 years.

13 To identify potential impact to cultural  
14 and historical properties, the archaeological survey  
15 was conducted by the applicant over the entire  
16 potential areas affected, and also the expanded area,  
17 as mentioned. The survey was conducted by  
18 archaeologists from Augustana College. Currently, the  
19 NRC is reviewing that survey.

20 The field investigation -- I'm sorry, the  
21 survey included field investigation, a review of  
22 available records, literatures, and collections. The  
23 field investigation was a subsurface testing, and  
24 extensive excavation of some sites.

25 And I just want to point out, again, what

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1 I am going over today is what is contained in the  
2 applicant's survey. We are -- we will be doing our  
3 own independent analysis of the applicant's survey  
4 before we make any final decisions.

5 From the applicant's survey, over 200  
6 archaeological sites were documented, of which four  
7 were found eligible for nomination, and 10 are listed  
8 on a national registry. And 10 historical properties  
9 and structures were documented, two of which are  
10 listed on the national registry, and three are  
11 eligible for nomination.

12 And before we make any determination, of  
13 course, consultation, information-gathering and  
14 further consultation will have to be done before we  
15 decide any final recommendations on our cultural  
16 resources of the NEPA document.

17 As I mentioned, the Black Hills National  
18 Forest borders the proposed site to the north,  
19 northeast, and the east. NRC staff recognizes the  
20 safety significance of the Black Hills. Therefore, we  
21 would like to invite you to share your concerns,  
22 provide additional information. Specifically, we  
23 would like to hear or learn more about traditional  
24 properties that you think may be impacted by the  
25 project.

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1           We understand that effective consultation  
2           is a process, not just one event. I just want to make  
3           a quick summary of what we have done to date. In  
4           October 2009, we issued a notice of intent to develop  
5           a supplemental environmental impact statement for the  
6           proposed project. And in December 2009, we conducted  
7           a site visit, which included a visit to the South  
8           Dakota SHPO's office, from where we collected a list  
9           of tribal representatives which potentially may be  
10          impacted by this proposed project.

11           In March 2010, we sent our first round of  
12          invitation letters to 17 different tribes that we  
13          collected from the SHPO. And we received one tribe  
14          that was interested in the proposed project. In  
15          September 2010, we followed up with a follow-up  
16          invitation letter to the 16 tribes, of which eight we  
17          have heard from to date, and are interested in the  
18          consultation part -- consultation process.

19           In February 2011, we learned three more  
20          tribes may be interested in the proposed project, so  
21          we went ahead and sent invitation letters to those  
22          three additional tribes. And now we are here today to  
23          hold our first information-gathering meeting.

24           As Nathan mentioned, all information  
25          gathered here today will be used to help us conduct

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1 our independent analysis of our environmental review,  
2 specifically the cultural resources section of our  
3 environmental review, and also help us identify any  
4 traditional cultural properties or additional  
5 archaeological sites that might not be already  
6 highlighted that needs to be included in our cultural  
7 section of the NEPA document.

8 So at this time, I would like to open it  
9 up for questions, if you have any.

10 MR. CATCHES ENEMY: Mike Catches Enemy,  
11 Oglala Sioux Tribe. I wanted to know -- if you could  
12 go back to the map -- those two creeks that converge  
13 to -- whatever it was.

14 MS. YILMA: What's that?

15 MR. CATCHES ENEMY: What are the names of  
16 those two creeks that are coming right through there?

17 MS. YILMA: There is Pass Creek and Beaver  
18 Creek.

19 Are there any other questions that you  
20 have?

21 MS. OLSON: Paige Olson. Does the company  
22 know where they want to place their facility?

23 MS. YILMA: Do you mean like a central  
24 processing unit, and such?

25 MS. OLSON: Right.

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1 MS. YILMA: Yes. I think this is the  
2 central processing unit, and there's another one right  
3 here. This map doesn't show all of the other  
4 potential maps, but, yes, there are -- in the  
5 information we do have a map that shows all of the  
6 various different land applications and central  
7 processing units.

8 MS. OLSON: Is it possible to get a copy  
9 of that?

10 MS. YILMA: Oh, definitely. It's actually  
11 part of application processing added to the public  
12 data also.

13 MR. CATCHES ENEMY: Can you describe the  
14 other colors, and the yellow stripes and white  
15 stripes, those --

16 MS. YILMA: The yellow stripe is BLM.

17 MR. CATCHES ENEMY: The what?

18 MS. YILMA: BLM.

19 MR. CATCHES ENEMY: BLM.

20 MS. YILMA: So the original acres is BLM  
21 land. And I know it's kind of small. The red is what  
22 I mentioned, the central processing unit. Purple --  
23 you can't really actually see it. Let me get my  
24 bigger map.

25 The blue is the South Dakota school and

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1 public lands. This is Dewey Road. I don't think you  
2 can see it very well. This is the railroad right  
3 here. And then, we have the claims, and the federal  
4 claims also in there. I think that's about it. And  
5 these are the proposed mining claims.

6 MR. ROM: What is the purple line there?

7 MS. YILMA: The purple line is the  
8 extended -- the review -- if you want to look at it,  
9 the review area, the extended review area. Although  
10 the permit boundary is in black, the applicant  
11 actually did the study outside the permit boundary.

12 MR. ROM: And can you provide any  
13 information on how the area potential effect was  
14 determined to be the exact same as the project  
15 boundary?

16 MS. YILMA: Yes. The areas of potential  
17 effect is synonymous with the project boundary.  
18 However, if you look in the archaeological survey, you  
19 talk about the expanded areas of potential effect, and  
20 that's what is shown in the purple. So they did those  
21 studies essentially within the limit boundary and  
22 outside.

23 MR. ROM: Can you tell me why the permit  
24 boundary has been determined to be the area of  
25 potential effect?

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1 MS. YILMA: Well, you know, you are  
2 talking -- when you have a determination of areas of  
3 potential effect, you look at the potential  
4 disturbances that may occur. And the project  
5 boundary, even though, again, it's like 10,500 acres,  
6 they are not actually disturbing 10,500 acres.

7 MR. ROM: So the area of potential effect,  
8 is the area you can cause to have -- have adverse  
9 effects from the project.

10 MS. YILMA: That's correct.

11 MR. ROM: It's not the area of  
12 disturbance. That's not --

13 MS. YILMA: No.

14 MR. ROM: -- the same thing. Well, I  
15 guess I have one suggestion, that maybe you need to  
16 rethink the area of potential effect for this project.

17 MS. YILMA: We can definitely look into  
18 it.

19 MR. WHITTED: Do you have a map that shows  
20 the sites that were identified by the archaeologists?  
21 I see a map that shows the sites that were identified  
22 by Augustana when there were out in the field.

23 MS. YILMA: Yes.

24 MR. WHITTED: Do you have that map on the  
25 projector? Can se see that?

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1 MS. YILMA: No, I don't have it accessible  
2 for you to look at. We do have that map. It is  
3 provided for us, for our review, and it was marked as  
4 sensitive and proprietary, just because there is, you  
5 know -- Paige, you can help me with this one -- there  
6 is a law that says that we cannot identify specific  
7 locations of archaeological find. And because of  
8 that, it was marked as private and sensitive.

9 MR. WHITTED: How are we expected to  
10 comment on the project if we don't know what has been  
11 identified there?

12 MS. YILMA: As Nathan mentioned earlier,  
13 if you are interested in finding -- in getting a copy  
14 of that information, we are more than welcome to, you  
15 know, get that information over to you.

16 MR. WHITTED: Okay. I'm requesting that,  
17 as well as the archaeological survey that was  
18 performed.

19 MS. YILMA: The archaeological survey we  
20 have actually given to --

21 MR. WHITTED: Okay.

22 MS. YILMA: -- you. I think you have a  
23 copy of it. But we can get you the map.

24 MR. JEHLE: Patty Jehle with NRC. We will  
25 be able to make the archaeological survey reports

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1 available to the tribes who would like to have  
2 unredacted versions. We withheld it because it does  
3 contain sensitive information, but we understand  
4 completely that the tribes would need to have that  
5 information to provide a full assessment from their  
6 point of view.

7 The Oglala Sioux were provided with an  
8 unredacted version, but the others may certainly  
9 request it, and we can provide it.

10 MR. VANCE: Again, going back to the other  
11 project with the survey -- this is Steve Vance from  
12 Cheyenne River again -- that, again, we are going to  
13 recommend that tribes are allowed to go in and do  
14 their survey, because the TCPs that are identified,  
15 again, going back to the other project, probably not  
16 identified or evaluated by tribes. Like I said, it  
17 was a college that provided that archaeological study  
18 and survey.

19 And, again, that's what -- when we look to  
20 these -- when they say "revisit a site," that's kind  
21 of what we assume we are going to do is to go in and  
22 try to identify things. But it is always somebody  
23 else identifying stuff we should be identifying. So I  
24 don't know if that was done with this one or not.

25 MS. YILMA: So are you -- I'm sorry, are

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1 you asking if there is going to be a TCP survey  
2 conducted here at Dewey-Burdock?

3 MR. VANCE: That's the only way we can  
4 evaluate our comment is if we know what we're  
5 commenting about, because I think going back to what  
6 Jim said -- we can see those sites, we know who  
7 determined them, who identified they, how were they  
8 nominated, and if there are others that need to be  
9 identified. We don't know that.

10 MS. YILMA: Right. So one of the reasons  
11 why we wanted to have the site visit is to facilitate  
12 the identification of traditional cultural properties,  
13 and that is just the beginning. You know, tomorrow's  
14 site visit would be a beginning stage. And if need  
15 be, we need to have more site visits or consultation,  
16 we can discuss that.

17 MR. VANCE: Well, like yesterday we drove  
18 around the perimeter of the Crow Butte facility. We  
19 drove around the perimeter. And we didn't really get,  
20 you know, an opportunity -- and the same with North  
21 Trend. You know, there was mention of a projectile  
22 point found in there, and then, you know, we just kind  
23 of looked at the field, and then said, you know, that  
24 doesn't give us an opportunity to comment until we go  
25 out there and look at it.

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1 And, again, you know, the vegetation out  
2 there right now limits what you can see on the  
3 surface. So I think, you know, we need to see the  
4 whole picture before we can comment on it accurately.

5 Again this is going back to the same one  
6 again, but I think it is going to be that way on  
7 everything. We are going to hear an archaeologist's,  
8 you know, view of a traditional cultural property, and  
9 yet we feel we have people who have that expertise to  
10 identify it.

11 MS. YILMA: I understand. That's one of  
12 the reasons why we are having this meeting, to make  
13 sure we understand things that are, you know,  
14 sensitive to you, and so we can consider. And as for  
15 tomorrow's site visit, if there are any areas that you  
16 might want to take a look, come out of the bus or van,  
17 take a look. Let us know. We can see if we can talk  
18 about that, and after the van stops, we can get off  
19 the do the inspections.

20 MR. IN THE WOODS: This is Bryce in the  
21 Woods from the Cheyenne River Sioux Tribe. I guess  
22 what we're asking for is that our SHPO offices and  
23 maybe some of the selected officials put boots on the  
24 ground and go to these sites and confirm what the  
25 Augustana college students, or whoever did this

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1 survey, confirm some of that. That's sensitive to us.

2 That's where it's coming from. It's coming from the  
3 tribes, the sensitivity, the sites.

4 We are asking for not only on these two  
5 sites, but also Nichols Ranch, which we have clearance  
6 from the tribal landowner to go do this. So the  
7 minute the company told us no, we are letting the NRC  
8 know, along with BLM, and some other sites, that that  
9 is what we want to do.

10 When we say we want to do a TCP survey, it  
11 doesn't mean driving by the site and getting off and  
12 looking at one site or two. What we're talking about  
13 is going -- confirming what you guys are reviewing  
14 right now from Augustana College. That's what we're  
15 talking -- that's what needs to happen.

16 MS. YILMA: And if -- you are saying from  
17 the traditional cultural properties perspective, not  
18 necessarily archaeological sites, or are you saying  
19 both?

20 MR. IN THE WOODS: I mentioned those  
21 federal laws that apply to government-wide  
22 consultation. That's what I'm talking about -- all  
23 those laws that apply that were just mentioned  
24 earlier. That's what I'm talking about.

25 And you say government to government

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1 consultation, that's what has to happen.

2 MR. CATCHES ENEMY: Mike Catches Enemy  
3 again. I've got a question relayed through me, but  
4 the -- to step back in the process a little further,  
5 even before the cultural survey or archaeological  
6 surveys were done, how does maybe the company or who  
7 is issuing the permit to, you know, grant the right of  
8 way or the access for Augustana to be there? That's  
9 the question I think.

10 MS. YILMA: Would that be BLM's -

11 MS. ATKINS: Basically, what -- the  
12 company is the one that brought that forward. The BLM  
13 minister of public lands, they get a field work  
14 authorization form from us to -- a permit to go out  
15 there and look on. But the rest of the tribal plan is  
16 the private landowners interpretation, let them come  
17 in. And the private landowner is in agreeance with  
18 Powertech, so they had no problem with it.

19 And what happened in the boundary, I don't  
20 know.

21 MR. CLOUTHIER: Can you go back to your  
22 slide where it shows how many archaeological sites  
23 were found? We've got 200 archaeological sites, four  
24 of them eligible for nomination. Were all of these  
25 sites evaluated for nomination, or are some of them

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1 still unevaluated?

2 MS. YILMA: Some of them are still  
3 unevaluated.

4 MR. CLOUTHIER: And how are you guys going  
5 to address the unevaluated sites? Are they going to  
6 be considered as potentially eligible, or are they  
7 considered to be -

8 MS. YILMA: Actually, we had a discussion  
9 with the state archaeologist yesterday. And in South  
10 Dakota, unevaluated sites are treated as potentially  
11 eligible. And one of the things we are doing is we  
12 are looking at these unevaluated sites and determining  
13 whether they need to be further evaluated.

14 MR. CLOUTHIER: I would --

15 MS. YILMA: We don't have enough  
16 information to determine if they are eligible.

17 MR. CLOUTHIER: You are going to run into  
18 problems, then, because some of those unevaluated  
19 sites are actually traditional cultural properties,  
20 according to the tribes.

21 For instance, stone circle sites had  
22 cairns, which the tribes all have their own beliefs on  
23 what those actually are, and their own knowledge of  
24 what those are. And the archaeologists don't  
25 understand that for the most part.

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1 And I can tell you that we do not like  
2 testing on those sites, and we are going to be trying  
3 to test those sites. It's going to be interesting.

4 MS. YILMA: And we are hoping, from our  
5 consultation with the various tribes, we would hear  
6 more about traditional cultural properties, and any  
7 type of restrictions that remain during the process,  
8 our review process. We still haven't completed our  
9 reviews. It's still in the very early stages at this  
10 point.

11 MR. CLOUTHIER: The other issue with those  
12 archaeological sites as well, the ones that are  
13 identified by Augustana College -- for instance, I  
14 know they have identified cairns, and they have  
15 identified stone circle sites.

16 There is no guarantees that what they have  
17 identified is the complete picture of what is actually  
18 at that site, which is why the TCP study needs to be  
19 done, because quite often, for instance, when Jim was  
20 mentioning earlier the wind farm, I could see -- and  
21 I'm not qualified to identify TCPs in any way, shape,  
22 or form, I'm just going off of what has been shown to  
23 me.

24 I could see stuff within their pictures  
25 that they were missing directly related to what they

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1 identified as a site. And I'm talking, you know, not  
2 even the distance from me to the woman sitting across  
3 away from where they were standing and identifying the  
4 stone circle. And it was definitely related to that  
5 site, but it ended up being outside the boundary of  
6 that site, and you are going to run into those issues,  
7 too.

8 If they have determined that these sites  
9 are not eligible, and it is a traditional cultural  
10 property, those sites all need to be reevaluated  
11 during the TCP study, assuming that there is one,  
12 which we are pushing for.

13 MS. YILMA: Yes. Yes?

14 MR. RED CLOUD: I want to say something  
15 about treaty and tribal lands. Nobody can take away  
16 from the rights, the consent away from the Lakota  
17 people. Who gave you consent? So what you're doing  
18 here, you're just wasting your time. Nobody else can  
19 give you consent.

20 MR. WHITTED: Jim Whitted. I would like  
21 to ask Paige and the SHPO's office to comment on the  
22 importance of traditional cultural property surveys.

23 MS. OLSON: Well, I think, you know, I  
24 would recommend one. The number of sites listed in  
25 this area given the proximity to the Black Hills. You

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1 know, I would recommend one, so I think it's -- you  
2 know, there is a big difference between an  
3 archaeologist -- what an archaeologist sees and what,  
4 you know, an elder sees. I mean, there is a vast  
5 difference, and I think that can illustrate that, but  
6 I would recommend one.

7 MR. WHITTED: Thank you.

8 MS. YILMA: Any other questions?

9 MR. VANCE: Can we go back to your map  
10 with the acreage? The number of acres there that -- I  
11 think 240 by BLM and 10,000 --

12 MS. YILMA: Approximately 10,500.

13 MR. VANCE: Okay. The question is is on  
14 that -- what of the 240 does BLM have -- is it  
15 minerals or -

16 MS. ATKINS: That's surface, and that  
17 surface is also the minerals.

18 MR. VANCE: Okay.

19 MS. ATKINS: There's other federal  
20 minerals in there, but we don't have any say in what's  
21 going on with them. But there's -- the 240 acres is  
22 BLM-administered surface.

23 MR. VANCE: And how about the 10,000  
24 acres, what is that? Who is that -- is that all  
25 private? Are there minerals in there that --

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1 MS. YILMA: It's all private minerals.

2 MS. ATKINS: It's part of the surface.  
3 It's other federal minerals, but there is no decision  
4 to be made on those other -- on federal minerals.

5 MR. WHITTED: That other BLM?

6 MS. ATKINS: No, except for the ones under  
7 the BLM surface.

8 MR. WHITTED: BLM has none under that  
9 10,500 acres?

10 MS. ATKINS: That it is going to make any  
11 decisions on.

12 MR. WHITTED: Yes, we know where that's  
13 at.

14 MS. ATKINS: So there are -- under the  
15 1872 mining law, which involves some other things we  
16 are going to talk about, but that has -- says that if  
17 the private landowner is in agreeance with the mining  
18 claim, then there is no decision from the Federal  
19 Government on use of those federal minerals that are  
20 under the 1872 mining law.

21 So, therefore, there is no -- I don't have  
22 with me right now what the mineral ownership is. I  
23 will have a map tomorrow on that, so you can look at  
24 what -- where the federal minerals are. But there are  
25 other federal minerals there, but we have nothing to

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1 -- no decisions to be made on those minerals.

2 MS. YILMA: Any other questions?

3 (No response.)

4 Thank you for coming today, and I'll turn  
5 it back over to Kevin.

6 MODERATOR HSUEH: Okay. Thank you.

7 MR. VANCE: Steve Vance again from  
8 Cheyenne River. I've got a suggestion to NRC here  
9 that being as we requested to go back in and identify  
10 and evaluate sites, particularly TCPs, traditional  
11 cultural properties, but also other historic  
12 architectural, whatever the -- you know, shows up on  
13 the property, but maybe NRC can see that that is a  
14 concern of tribes, that your next project, prior to  
15 letting college students in or other archaeologists  
16 in, bring us into the loop then.

17 So if there is another permit that is  
18 going to go in, you are going to send an archaeologist  
19 out there, notify the tribe, so that we can get some  
20 personnel together to go out there and do that survey  
21 then. So we are not driving by later and looking out  
22 the window and then heading on. Like Bryce said,  
23 boots on the ground.

24 You know, if we're there at that time,  
25 then we don't have to bring this comment back up

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1 again, because every project is going to be that way.

2 And here we are talking about three different  
3 locations, you know, thinking that maybe all of these  
4 three projects should be addressed separately, but  
5 here we are at the table talking about three different  
6 locations. And, you know, again --

7 MS. YILMA: So you basically want the  
8 applicants conducting the survey to have tribal  
9 involvement.

10 MR. VANCE: To have tribes involved then.  
11 And we're coming in at the end.

12 MS. YILMA: I just want to clarify, early  
13 on when we started consulting with tribes, the surveys  
14 are done even before the application is submitted to  
15 the applicant -- I mean, to NRC.

16 That is a good -- good feedback, and we  
17 can probably communicate that back to the applicant as  
18 they are preparing their applications for -- future  
19 applications that they are conducting the survey,  
20 potentially find out who tribal representatives may be  
21 interested and, you know, including them in the  
22 survey.

23 MR. VANCE: Then, we can discuss the  
24 application. So maybe, you know, at the next project,  
25 when you are going to send an archaeologist out, you

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1 have the tribes in.

2 MS. YILMA: Okay.

3 MR. KLUKAN: If I might make one  
4 suggestion -- not as an attorney, just as an  
5 interested stakeholder in this decision process.  
6 There has been a lot of talk about TCP surveys.

7 What I would suggest for the tribes that  
8 are interested in pursuing that, if you want to see  
9 the NRC take action for any of these sites, is to  
10 submit written information or whatever you think is --  
11 any justification, what that would look like as well,  
12 would be really useful to us in making our decision,  
13 and helping us figure out what we need to do, because  
14 we don't have the greatest amount of experience with  
15 this type of thing, so anything -- proposals, how it  
16 would work, why it's needed, what areas, stuff like  
17 that, any information I think would be very useful to  
18 the NRC in figuring this out.

19 MS. YILMA: I just want to go around to  
20 see if people have additional comments?

21 MODERATOR HSUEH: And, Mike, you wanted to  
22 say a words to end our session -

23 MR. CATCHES ENEMY: I think the tribes had  
24 wanted to get together and have a caucus, and we had  
25 planned on doing that a little earlier. But we are

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1 still real appreciative of all the comments, and  
2 appreciate you being here to listen in on those  
3 comments.

4 And I think the main comments, you know,  
5 if we feel threatened, you know, we live here, we  
6 raise our children here, our grandchildren, that's our  
7 main stakeholders that we are speaking for. There is  
8 a lot of other people that aren't here to speak, and  
9 we have to be those voices, to a certain degree, for  
10 them.

11 So we may -- we may have even missed some  
12 things to tell you that we need to probably put in  
13 writing. But for the most part, it's good that you  
14 guys can be here and be receptive to hear this. And  
15 this is the -- I guess is the first part of many more  
16 to come.

17 So thanks for coming, and I am -- we will  
18 probably just take a break, and then, as you guys are  
19 cleaning up, we could just use this room here.

20 MODERATOR HSUEH: Okay. Thank you,  
21 Michael. And thank you --

22 MR. CLARK: Kevin, can I make three quick  
23 comments on issues that Michael raised earlier?  
24 First, we would encourage you -- we have three  
25 attorneys here, Patty Jehle, myself, and Brett Klukan.

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1 We would strongly encourage you, if you have legal  
2 questions, to talk to your own attorneys. You have  
3 good attorneys representing all the tribes, as well as  
4 the various government agencies.

5 Second, your attorneys, they are your  
6 legal representatives. They are always welcome at  
7 meetings like this. We tried to convey that that was  
8 the case. When we sent out the draft agenda, we  
9 listed the names of Patty and Brett Klukan. At the  
10 time, we didn't know if I was going to show up here.  
11 But your attorneys, please let them know that they are  
12 always welcome at this type meeting.

13 Third, if your attorneys have questions,  
14 they are certainly free to contact us -- Patty Jehle,  
15 Mike Clark, or Brett Klukan. So please let them know  
16 that.

17 And that's all. Thank you.

18 MODERATOR HSUEH: Okay. Thank you, Mike.

19 I just wanted to say we really appreciate  
20 that, and we will carefully consider all your concerns  
21 and comments, especially we have a court reporter here  
22 to record all the conversation that we have, so we do  
23 have a record of it. We can review it over time and  
24 carefully consider all your comments, so thank you.

25 MR. CATCHES ENEMY: One last question,

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1 Kevin. Will the tribe be able to order a copy of the  
2 transcript?

3 MODERATOR HSUEH: Yes. When it's  
4 available, we will be able to provide it to you.

5 MR. CATCHES ENEMY: Okay. Thank you.

6 MODERATOR HSUEH: Thank you. So at this  
7 moment, I would like to ask the NRC staff and the  
8 contractor to leave, and then I think that tribal  
9 representatives, they would like to have a  
10 conversation.

11 (Whereupon, at 4:45 p.m., the proceedings in the  
12 foregoing matter were adjourned.)  
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