


Draft Scope of Work¹

United States Nuclear Regulatory Commission Official Hearing Exhibit			
In the Matter of:		POWERTECH USA, INC. (Dewey-Burdock In Situ Uranium Recovery Facility)	
	ASLBP #:	10-898-02-MLA-BD01	Identified: 8/19/2014 Withdrawn: Stricken:
	Docket #:	04009075	
	Exhibit #:	NRC-023-00-BD01	
	Admitted:	8/19/2014	
	Rejected:		
Other:			

Identification of Properties of Religious and Cultural Significance
Powertech (USA), Inc., Dewey-Burdock Project

Background

The purpose of the activities described in this scope of work is to assist the U.S. Nuclear Regulatory Commission (NRC) and the USDI Bureau of Land Management (BLM) in meeting their obligations under Section 106 of the National Historic Preservation Act and the implementing regulation 36 CFR part 800. Federal agencies are required to take into account the effects of activities that they license or authorize on historic properties, including properties of religious and cultural significance to federally recognized Indian tribes. The regulation describes a process through which the federal agency identifies historic properties and evaluates their potential for eligibility to the National Register of Historic Places (NRHP), then determines whether the proposed federal undertaking will have an effect on the historical integrity of any eligible historic properties. If the effects of the undertaking would diminish the historical integrity of eligible historic properties, the agency must identify measures that it will take to resolve those effects through avoidance, minimization, or mitigation. NRC, as the lead federal agency for Section 106 compliance, has requested that Powertech (USA), Inc. (Powertech (USA)) provide the agency with information about properties of religious and cultural significance to Indian tribes that may be affected by the company's Dewey-Burdock in situ uranium recovery project. Map 1, attached, shows the general location of the project area.

Guidelines for Development of the Scope of Work

- The standard for compliance with Section 106 is that the agency must make a "reasonable and good faith effort" to identify potentially affected historic properties (36 CFR 800.4(b)(1)).
- The Section 106 regulation provides for phased approaches to identification of historic properties (36 CFR 800.4(b)(2)).
- The license boundary for the Dewey-Burdock Project includes substantial areas that will not be subject to ground disturbance as part of the licensed undertaking. Because any historic properties that may exist within those areas will not be affected by the undertaking, those areas will not be included in the identification efforts described in this scope of work. Any future uranium recovery development in these areas would require a license amendment from NRC. This would constitute a new federal undertaking and would require compliance with Section 106, including additional efforts to identify properties of religious and cultural

¹ This scope of work was developed by Powertech (USA), Inc., at the request of the Nuclear Regulatory Commission staff. At a February 14-15, 2012, consultation meeting regarding the Dewey-Burdock and Crow Butte projects, the interested tribes expressed their preference not to work directly with the applicants or with consultants for the applicants. Therefore, this document was necessarily developed without tribal involvement or input.

significance in previously undisturbed areas, if such properties could potentially be affected by the new undertaking.

- The federally recognized Indian tribes that have participated in consultations with the NRC and BLM (interested tribes) about this project have indicated that the appropriate method for identifying places of religious and cultural significance to them is through an examination of the ground surface by knowledgeable representatives from the interested tribes.
- The interested tribes have indicated, in consultations with the NRC and BLM, that the 30-meter interval survey transects generally used by archaeologists in the northern Plains region are too widely spaced to reliably encounter the kinds of cultural features that the tribes propose to identify.

Statement of Work for the Dewey-Burdock License Area

The Dewey-Burdock Project is a proposed new in situ uranium recovery facility. The proposed federal undertaking is an NRC license for this facility and a BLM approval for a plan of operations. Map 2 (attached) shows the license area with the proposed processing facilities, well fields, existing land disturbance, and identified archaeological sites. The overall area within the license boundary for the Dewey-Burdock Project is approximately 10,580 acres. The extent of actual ground disturbance within this area as a result of the proposed federally licensed undertaking will depend upon the approach that is taken for the disposition of produced water. Powertech (USA)'s preferred approach would be a deep disposal well option, which would require an Underground Injection Control (UIC) permit from the U.S. Environmental Protection Agency (EPA). The other option is a land application approach to water disposal, which would be permitted by the state of South Dakota. With the deep disposal well option, approximately 243 acres within the license boundary will constitute the total measurable area of operational facilities subject to actual ground disturbance over the course of project development and operation. With the land application option, the number of acres of total measurable disturbance would be 1,398 acres.

The color-coded areas shown on Map 3 (attached) graphically represent contiguous, well-buffered areas surrounding the actual proposed ground disturbance areas for the Dewey-Burdock Project. The lavender-colored areas comprise approximately 1,121 acres surrounding the land application ground disturbance areas. The salmon-colored areas encompass 2,619 acres surrounding the processing plants, well fields, impoundments, roads, and other surface-disturbing facilities. The blue coding on Map 3 indicates areas that will not be impacted by the currently proposed licensed activities.

As a first phase in the identification of properties of religious and cultural significance, Powertech (USA) proposes to contract with the tribal representatives designated by the interested tribes to examine a 20% sample (524 acres) of the areas of potential impact shown in salmon on Map 3 and a 10% sample (112 acres) of the area that would only be disturbed if the land distribution option is selected (the lavender areas on Map 3). The choice as to which parcels of land to examine within these two land-use categories will be at the discretion of the interested

tribes. The results of this first phase of identification will provide NRC and BLM with information that can be used to characterize the affected environment for the purposes of the National Environmental Policy Act (NEPA). This information will also serve as the basis for NRC and BLM decisions about the need for and parameters of any future phase or phases of identification.

Level of Effort

- Field identification time: 42 person-days²
- Services of additional traditional-culture experts: 4 person-days³

Compensation

Field work

- \$25/hour for 8-hour work days for field identification
- \$30/hour for traditional-culture experts for field work
- \$18/hour for travel time, all personnel, actual hours from home base to Edgemont, SD, at the beginning of the project and return at the end of the project
- \$75 per diem for all personnel for fieldwork days and one travel day; \$56 for the second travel day
- 51¢ per mile reimbursement for use of personal or tribal vehicles, actual mileage
- \$100 fieldwork supplies and expendables

Report preparation

- \$25/hour not to exceed 20 hours for Work Product 1
- \$25/hour not to exceed 50 hours for Work Product 2
- \$25/hour not to exceed 5 hours for Work Product 3
- \$200 report-preparation supplies and expendables

Work Products

1. Within 10 working days after completion of field work, the point(s) of contact for the interested tribes will provide a brief (5 pages or less) non-confidential written summary of the fieldwork completed and the results of the fieldwork to NRC and Powertech (USA). Because this information will be disclosed to the public through NRC's NEPA compliance process, it is essential that the document contain only information that does not need to be protected from disclosure.

² Assumptions: The archaeological survey of the project area using 30-meter intervals between surveyors generally covered approximately 22 acres per person-day, depending on the terrain, ground cover, and number of archaeological sites encountered (site recordation to meet state and federal standards can be quite time consuming). The level of effort stipulated in this scope of work anticipates a coverage rate of 15 acres per person-day.

³ Assumptions: If those doing field identification need to consult with elders or other traditional advisors about particular features that they have encountered, this provides for those services on a contingency basis; 2 experts @ 2 days each.

2. Within 40 working days after completion of field work, the point(s) of contact for the interested tribes will provide to NRC sufficient information about any identified properties of religious and cultural significance to permit the agency to consult with the South Dakota State Historic Preservation Officer (SHPO) about NRHP eligibility of these properties. This information will include the following:
 - a. An identifying label for the property (for example, DB-1, DB-2, etc.)
 - b. Location and boundaries, either as digital data or plotted on 7.5 minute USGS quad maps
 - c. A brief description of the physical appearance of the property
 - d. An assessment of the integrity of the property
 - e. A brief statement concerning the historical significance of the property

The significance assessment should focus on the potential for the property to meet one or more of the criteria of eligibility to the NRHP, as established in 36 CFR 60.4 and elaborated in National Register Bulletin 15 *How to Apply the National Register Criteria for Evaluation* and National Register Bulletin 38 *Guidelines for Evaluating and Documenting Traditional Cultural Properties*. The integrity assessment should follow the guidance in National Register Bulletin 38. The interested tribes need not disclose specific information about the religious significance or meaning of any properties identified under this scope of work. The Section 106 process requires only information about the historical significance of these properties.

This work product should also include any recommendations that the interested tribes wish to provide concerning the potential NRHP eligibility under criteria other than criterion D for the previously identified archaeological sites in the salmon and lavender-colored areas on Map 3.

The information provided in this work product will be subject to protection from disclosure under the provisions of Section 304 of the National Historic Preservation Act.

3. Once NRC and SHPO have completed determinations of NRHP eligibility for any identified properties of religious and cultural significance to the interested tribes, the point(s) of contact for the interested tribes will provide Powertech (USA) with the information described in 2.a-c above for any eligible properties. Powertech (USA) will sign a confidentiality agreement limiting use of this information to appropriate company personnel involved in project design or operation.

Schedule (note: these dates will be determined as part of the final scope of work)

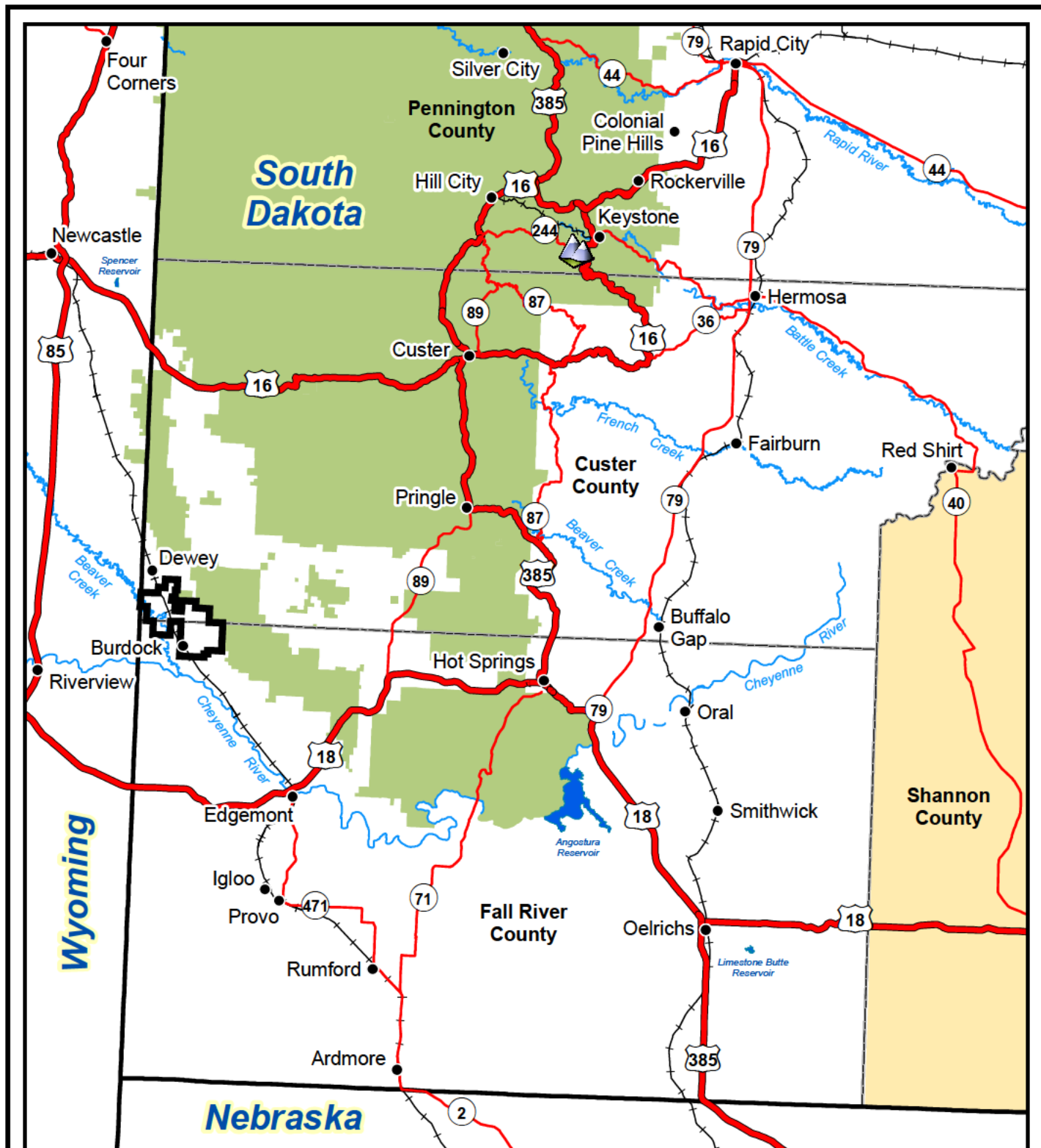
- Fieldwork to be completed by DATE
- Summary information to be completed by DATE
- Eligibility information for NRC to be completed by DATE

Access and Safety

Powertech (USA) will provide access to the properties, and a representative of Powertech (USA) will facilitate the fieldwork efforts. The Powertech (USA) representative will utilize a GPS survey unit to identify map locations selected by the tribal representatives for ground examination and will guide the tribal cultural personnel to those locations in the field. The Powertech (USA) representative will also serve as liaison with the local landowners. The tribal representatives will be considered to be independent contractors for the duration of the study and will be responsible for their own safety equipment and procedures.

Insurance

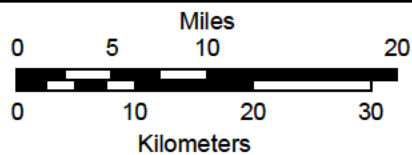
All tribal representatives who will be present during field work will be required to provide proof of liability insurance in the amount of \$500,000 or more, or sign an indemnification statement that will hold harmless both the landowner and Powertech (USA) from any accidents that may occur in the field.



Legend

- Towns
- ▬ Project Boundary
- ▬ Rivers and Streams
- ▬ Pine Ridge Reservation
- ▬ Black Hills National Forest
- ▬ Mt. Rushmore National Memorial

- ▬ Transportation
- ▬ US Highway
- ▬ State Highway
- ▬ Railroad



Map 1

Project Location Map

Dewey-Burdock Project

DRAWN BY Mays, Hetrick
DATE 01-Mar-2012
F LENAME DBProjLocMap.mxd



