

June 24, 2015

William J. Froehlich, Chair
Administrative Judge
Atomic Safety and Licensing Board Panel
Mail Stop T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Mark O. Barnett
Administrative Judge
Atomic Safety and Licensing Board Panel
Mail Stop T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

G. Paul Bollwerk, III
Administrative Judge
Atomic Safety and Licensing Board Panel
Mail Stop T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

In the Matter of
POWERTECH (USA) INC.,
Docket No. 40-9075-MLA; ASLBP No. 10-898-02-MLA-BD01

Dear Administrative Judges:

On June 23, 2015, the NRC Staff sent the attached letter inviting the Oglala Sioux Tribe to further consult with the Staff on a government-to-government basis regarding the Dewey-Burdock Project. The Staff is omitting the attachments to the letter, which can be found in the hearing record as Exhibits NRC-018-A and NRC-018-B.

Sincerely,

***/Signed (electronically) by/
Patricia A. Jehle***

Patricia A. Jehle
Counsel for NRC Staff

June 23, 2015

Mr. John Yellowbird Steele, President
Oglala Sioux Tribe
P.O. Box 2070
Pine Ridge, SD 57770-2070

SUBJECT: CONTINUED CONSULTATION UNDER SECTION 106 OF THE NATIONAL
HISTORIC PRESERVATION ACT REGARDING THE DEWEY-BURDOCK
IN SITU URANIUM RECOVERY PROJECT (DOCKET NO.: 40-9075)

Dear President Steele:

Notwithstanding the U.S. Nuclear Regulatory Commission (NRC) staff's petition to the Commission to review the Board's ruling submitted on May 26, 2015, the NRC staff recognizes the purpose and importance of the consultation process in its evaluation of environmental effects of the Dewey-Burdock In Situ Uranium Recovery (ISR) Project on cultural and historic resources. In light of the April 30, 2015 Board's decision, the NRC staff would like to take this opportunity to reiterate that the consultation process between the NRC and the Oglala Sioux Tribe as it relates to the Dewey-Burdock ISR Project is an ongoing effort. The NRC staff will continue to consult with the Oglala Sioux Tribe and other interested Tribes on the implementation of the Dewey-Burdock ISR Programmatic Agreement (PA) (Enclosed). The PA for the Dewey-Burdock ISR project was signed and executed in April 2014.

Because Powertech (USA), Inc. has not yet determined the location and extent of ground-disturbing activities for the Dewey-Burdock Project, the PA established the process for completing the identification of historic properties, the evaluation of these properties, the assessment of adverse effects, and the development of measures to avoid, minimize, or mitigate adverse effects to identified properties. This process will be completed in consultation with interested Tribes, the Advisory Council on Historic Preservation, the U.S. Bureau of Land Management, the South Dakota State Historic Preservation Officer, and Powertech (USA), Inc.

As specified in Stipulations 1d, 3b, 5a, 6g, and 9d of the PA, the Oglala Sioux Tribe and other interested Tribes, will have the option to participate in consultation for the future identification and evaluation of historic properties. For example, under Stipulation 3b, if changes in the design or operation of the project result in ground disturbance that could affect unevaluated properties, Powertech will provide an opportunity for consulting Tribes to help develop a draft investigation methodology for archaeological sites with tribal features and sites identified by the Tribes. Tribes will also have the opportunity to provide input for the resolution of adverse effects to historic properties.

The NRC appreciates the opportunity to further consult with the Oglala Sioux Tribe on matters related to the Dewey-Burdock ISR Project and the PA implementation. Therefore, the NRC staff renews its request for your views regarding any Sioux cultural, historical or religious sites that may be impacted by the Dewey-Burdock Project. Your response will ensure that relevant information is properly captured in the PA and considered during the development of mitigation measures.

In addition, the NRC staff extends another invitation for the Oglala Sioux Tribe to meet with the NRC staff on a government-to-government basis. If the Oglala Sioux Tribe chooses to meet with the NRC staff, the staff attendees will include one of the following individuals who will serve as an NRC official when meeting with Tribal leaders in a government-to-government consultation context:

Ms. Marissa G. Bailey, Director
Division of Fuel Cycle Safety, Safeguards,
and Environmental Review
Office of Nuclear Material Safety
and Safeguards

Mr. Craig G. Erlanger, Deputy Director
Division of Fuel Cycle Safety, Safeguards,
and Environmental Review
Office of Nuclear Material Safety
and Safeguards

Ms. Lydia W. Chang, Chief
Environmental Review Branch
Division of Fuel Cycle Safety, Safeguards,
and Environmental Review
Office of Nuclear Material Safety
and Safeguards

The NRC staff requests that you respond, within 30 days of receipt of this letter, stating whether or not you wish to meet with the staff. The NRC staff would also ask that you identify the person(s) viewed by your Tribe as the appropriate representatives for a government-to-government consultation with the NRC. In addition, the NRC staff would appreciate your views on possible meeting dates and locations.

In accordance with 10 CFR 2.390 of the NRC's "Agency Rules of Practice and Procedure," a copy of this letter will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records component of NRC's Agencywide Documents Access and Management System (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>.

J. Yellowbird Steele

3

If you have any questions or comments, please contact Ms. Kellee Jamerson of my staff. Ms. Jamerson can be reached at 301-415-7408 or via email at Kellee.Jamerson@nrc.gov.

Sincerely,

/RA/

Marissa G. Bailey, Director
Division of Fuel Cycle Safety, Safeguards,
and Environmental Review
Office of Nuclear Material Safety
and Safeguards

Docket No.: 40-9075

Enclosures:

1. PA Regarding the Dewey-Burdock
In Situ Recovery Project Located in
Custer and Fall River Counties,
South Dakota
2. PA Appendix for the Dewey-Burdock
In Situ Recovery Project

cc: Michael CatchesEnemy, THPO

J. Yellowbird Steele

3

If you have any questions or comments, please contact Ms. Kellee Jamerson of my staff. Ms. Jamerson can be reached at 301-415-7408 or via email at Kellee.Jamerson@nrc.gov.

Sincerely,

/RA/

Marissa G. Bailey, Director
Division of Fuel Cycle Safety, Safeguards,
and Environmental Review
Office of Nuclear Material Safety
and Safeguards

Docket No.: 40-9075

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Custer and Fall River Counties,
South Dakota
2. PA Appendix for the Dewey-Burdock
In Situ Recovery Project

cc: Michael CatchesEnemy, THPO

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OFFICE	FCSE	FCSE	OGC	FCSE	DUWP	FCSE
NAME	KJamerson	AWalker-Smith	MClark	LChang	LCamper	MBailey
DATE	06/16/2015	06/16/2015	06/16/2015	06/19/2015	06/22/2015	06/23/2015

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
)	
POWERTECH (USA) INC)	Docket No. 40-9075-MLA
)	ASLBP No. 10-898-02- MLA-BD01
)	
(Dewey-Burdock In Situ Uranium Recovery)	Date: June 24, 2015
Facility))	

CERTIFICATE OF SERVICE

Pursuant to 10 C.F.R. § 2.305 (revised), I hereby certify that copies of the foregoing "NRC STAFF'S NOTICE OF LETTER INVITING FURTHER CONSULTATION" in this proceeding have been served via the Electronic Information Exchange (EIE), the NRC's E-Filing System, this 24th day of June, 2015. Counsel for the Staff served those representatives exempted from filing through the EIE with copies of its status report by electronic mail, also on June 24th 2015.

***/Signed (electronically) by/
Patricia A. Jehle***

Patricia A. Jehle
Counsel for the NRC Staff
U.S. Nuclear Regulatory Commission
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(301) 415-2011
Patricia.Jehle@nrc.gov
Date of Signature: June 24, 2015