



UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION  
ATOMIC SAFETY AND LICENSING BOARD

In the Matter of

POWERTECH USA, INC.

(Dewey-Burdock  
In Situ Uranium Recovery Facility)

Docket No. 40-9075-MLA

ASLBP No. 10-898-02-MLA-BD01

Hearing Exhibit

Exhibit Number:

Exhibit Title:



**UNITED STATES  
NUCLEAR REGULATORY COMMISSION**  
WASHINGTON, D.C. 20555-0001

April 12, 2018

Bonnie St. John McGhee  
Tribal Historic Preservation Officer  
Crow Creek Sioux Tribe  
P.O. Box 50  
Ft. Thompson, SD 57339

**SUBJECT: U.S. NUCLEAR REGULATORY COMMISSION'S APPROACH TO IDENTIFY HISTORIC, CULTURAL, AND RELIGIOUS SITES AT THE DEWEY-BURDOCK IN SITU URANIUM RECOVERY PROJECT IN FALL RIVER AND CUSTER COUNTIES, SOUTH DAKOTA (DOCKET NUMBER: 40-9075)**

Dear Ms. McGhee:

I am writing to inform you that the U.S. Nuclear Regulatory Commission (NRC) staff is seeking to obtain further information on the cultural, historical, and religious sites of significance to the Lakota Sioux Tribes that may be impacted by the Powertech (USA) Inc. Dewey-Burdock in situ (ISR) uranium recovery project in Fall River & Custer Counties, South Dakota. This information would be used to supplement the analysis in the final supplemental environmental impact statement (FSEIS)<sup>1</sup> for the Dewey-Burdock ISR project. The adequacy of the analysis in the Dewey-Burdock ISR FSEIS is the subject of an adjudicatory proceeding before the Atomic Safety and Licensing Board Panel (ASLBP).<sup>2</sup>

After discussions with the parties to the adjudicatory proceeding, including the Oglala Sioux Tribe, the NRC staff has selected an approach to obtain further information on the cultural, historical, and religious sites of significance to the Lakota Sioux Tribes.<sup>3</sup> The selected approach, outlined in the March 16, 2018, letter to the Oglala Sioux Tribe (Enclosure 2), includes: (i) onboarding a contractor to facilitate implementation of the approach; (ii) involving the Lakota Sioux Tribes; (iii) holding meetings with Tribal Leaders of the Lakota Sioux Tribes, to the extent possible; (iv) conducting oral history interviews with Tribal Elders of the Lakota Sioux Tribes; (v) providing an opportunity for a field survey of the Dewey-Burdock ISR project site; and (vi) supplementing the analysis in the FSEIS to account for information obtained concerning sites of historic, cultural, and religious significance to the Lakota Sioux Tribes.

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<sup>1</sup> Environmental Impact Statement for the Dewey-Burdock Project in Custer and Fall River Counties, South Dakota: Supplement to the Generic Environmental Impact Statement for In-Situ Leach Uranium Milling Facilities — Final Report (NUREG-1910, Supplement 4).

<sup>2</sup> ASLBP's Memorandum and Order LPB-17-09 (Agencywide Documents Access and Management System [ADAMS] Accession Number ML17292B298).

<sup>3</sup> The NRC staff shared a proposed approach with the parties to the adjudicatory proceeding — the Oglala Sioux Tribe, Powertech (the licensee), and Consolidated Intervenor — on December 6, 2017 (ADAMS Accession Number ML17340B365). In finalizing this approach, the NRC staff considered (i) information provided by the Oglala Sioux Tribe on January 19 and February 15, 2018 (ADAMS Accession Numbers ML18019B267 and ML18046A171, respectively), (ii) information provided by Powertech provided on January 19 and February 15, 2018 (ADAMS Accession Numbers ML18019B268 and ML18046B443, respectively), and (iii) information provided by Consolidated Intervenor on January 19, 2018 (ADAMS Accession No. ML18024A812), in response to NRC's December 2017 proposal.

The NRC staff recognizes the Crow Creek Sioux Tribe's participation the field survey conducted between April 2 and May 23, 2013 of the Dewey-Burdock ISR project and appreciates the Tribe's contributions. Accordingly, the NRC staff is inviting the Tribe to participate in the following elements of the NRC staff's approach.<sup>4</sup>

#### Meetings with Tribal Leaders and Oral History Interviews with Tribal Elders

The NRC staff plans to reach out to the Lakota Sioux Tribes to coordinate meetings with Tribal Leaders. The purpose of the meetings with the Tribal Leaders is to provide an opportunity for the Tribes and the NRC staff to have an open dialogue regarding the NRC staff's activities to gather information about historic, cultural and religious resources of significance to them that could be impacted by the Dewey-Burdock ISR project. Meetings with Tribal Leaders would be based on their availability and the timeframe for implementing this approach.

With the assistance of its contractor, the NRC will also request oral history interviews with the Tribal Elders of the Lakota Sioux Tribes. The oral history interviews would be focused on gathering information about resources of significance to the Lakota Sioux Tribes that could be impacted by the Dewey-Burdock ISR project. Information gathered through these interviews would be documented in a report to be developed by the NRC contractor in coordination with the Tribes. The NRC understands the importance of protecting the information gathered through these interviews. Accordingly, information that the Tribes consider confidential would be documented separately so that this information would not be disclosed to the public.

Based on the timeline for conducting the activities described in this letter, the NRC staff would carry out oral history interviews in August 2018, unless the Tribes would like to conduct them earlier.

The NRC staff anticipates sharing the documentation of the oral history interviews with participating Lakota Sioux Tribes by the end of October 2018 for review and comment. The NRC staff anticipates sharing the final documentation with participating Lakota Sioux Tribes by the end of December 2018.

#### Supplementing the FSEIS

The NRC staff's supplemental analysis to the FSEIS for the Dewey-Burdock ISR project, Supplement 4 to NUREG-1910, will describe potential impacts to sites of historic, cultural, or religious significance to the Lakota Sioux Tribes using the information gathered through the field survey, oral history interviews, and any other information provided by the Tribes. The NRC staff anticipates publishing a draft of the supplemental analysis for a 45-day public comment period by mid-February 2019. The NRC staff anticipates that after reviewing and considering comments, it will publish the final analysis by May 2019.

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<sup>4</sup> Based on the information provided by the Oglala Sioux Tribe in its letter dated February 15, 2018 (ADAMS Accession Number ML18046A171), the NRC staff is inviting the following Lakota Sioux Tribes who did not participate in the field survey of the Dewey-Burdock ISR project conducted between April 2 and May 23, 2013, to participate in a new field survey: Oglala Sioux Tribe, Standing Rock Sioux Tribe, Cheyenne River Sioux Tribe, Rosebud Sioux Tribe of Indians, Yankton Sioux Tribe, and Flandreau Sioux Tribe.

Timeline

In an effort to be transparent and proactive, and to ensure that the NRC staff's approach can be carried out in a timely manner, the NRC has established the enclosed schedule and milestones (Enclosure 1). This timeline takes into consideration the schedule expectations discussed in the ASLPB's Order LBP-17-09, limited activities that can be accomplished during the winter months, and the Oglala Sioux Tribe's previous comments regarding schedules and interests. Delays in this schedule will impact the NRC staff's ability to carry out the approach as described in this letter.

To carry out these activities in a productive and timely manner, the NRC staff requested the Oglala Sioux Tribe's assistance in facilitating the implementation of this approach with the Lakota Sioux Tribes. The NRC staff greatly appreciates the Oglala Sioux Tribe's commitment to assisting with such coordination efforts and understands that the Tribe has begun its outreach to the Tribes.

The NRC is requesting your response regarding the Crow Creek Sioux Tribe's interest and willingness to participate in the elements of the NRC's approach and timeline, as described in this letter, no later than May 11, 2018. The NRC staff looks forward to the Crow Creek Sioux Tribe's participation.

In accordance with 10 CFR 2.390, 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 ADAMS. ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>.

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 e-mail at [Kellee.Jamerson@nrc.gov](mailto:Kellee.Jamerson@nrc.gov).

Sincerely,

**/RA/**

Cintha I. Román, Chief  
Environmental Review Branch  
Division of Fuel Cycle Safety, Safeguards,  
and Environmental Review  
Office of Nuclear Material Safety  
and Safeguards

Docket No. 40-9075  
License No. SUA-1600

Enclosure:

1. Timeline for NRC Staff's Final Approach  
for Obtaining Information on Lakota Sioux  
Cultural Resources Potentially Impacted  
by the Dewey-Burdock Project
2. March 16, 2018, Letter to the Oglala Sioux Tribe  
from NRC

cc w/encl.:

Mr. Kyle White, Oglala Sioux Tribe  
Mr. Jeff C. Parsons, Counsel  
for the Oglala Sioux Tribe  
Mr. Travis E. Stills, Counsel  
for the Oglala Sioux Tribe

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DATED: April 12, 2018

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**ADAMS Accession Number: ML18102A209**

**\*via e-mail**

OFC	FCSE/ERB	OGC	FCSE/ERB	FCSE/ERB
NAME	DDiaz-Toro*	EMonteith*	AWalker-Smith	CRomán
DATE	04/11/2018	04/11/2018	04/12/2018	04/12/2018

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