



Uranium foes regroup: strategy is to attack mine at August hearing on water and tribal issues



16 HOURS AGO • [JOE O'SULLIVAN JOURNAL STAFF](#)

In the wake of a recent setback for their cause, opponents of a proposed uranium mine near Edgemont are planning their strategy and gearing up for an August federal hearing, where they will attack the methods used by federal nuclear regulatory officials who have given initial approval to the mining plan.

A quick glance at the Nuclear Regulatory Commission's initial report on the proposed uranium mine near Edgemont seems to indicate that all signs are go for federal approval of Azarga Uranium Corp's proposed Dewey-Burdock uranium mine.

The NRC recently issued a draft operating license, and its staff recommended approving the project in an environmental impact statement for the proposal put forth by Powertech Uranium that is now being pursued by Azarga Uranium, a Hong Kong-based investment group that recently merged with Powertech.

Mining opponents, however, are rallying around the prospect of a hearing scheduled in August that they hope will give voice to some of their concerns — and the commission's process to approve it.

And increasingly, tribal officials are expressing grave concerns over the approval process and the prospect that mining could damage cultural sites

In August, attorneys representing opponents of the proposed mine will make their case before an NRC board, arguing that the study was incomplete and did not fully address water issues, ignores tribal cultural issues and does not look out for endangered species.

Known as the Atomic Safety and Licensing Board, it is made up of judges who will hear those contentions over the project's environmental impact statement and licensing process. The meeting will take place in either Rapid City, Hot Springs or Custer, according to David Frankel, an attorney representing Clean Water Alliance and other opponents.

On Aug. 18 — the first day of proceedings — members of the public will be able to make comments.

If the commission issues Azarga an operating license before August, opponents plan to sue within days to get a judge to put that license approval on hold.

"We're on a hair-trigger," Frankel said.

Tribes raising concerns

The project, which would be about 15 miles northwest of Edgemont, would employ scores of in-situ mines — underground sites where the company would inject oxygenated water into the ground to absorb uranium. The water would then be pumped back to the surface, where uranium would be extracted and processed.

Mining opponents have a host of objections to the mine, but two main ones that will be heard in August deal with old Indian burial grounds and whether water polluted during the mining could spread through the region's aquifers.

Frankel says Azarga is relying on cultural assessments performed by Augustana College that didn't excavate any areas to determine if Native American graves are on the proposed mine's approximately 10,500 acres. The area was known as a camping spot and hosts old burial sites for tribes such the Oglala Sioux and the Standing Rock Sioux, according to Frankel.

"They're about to bulldoze an area where they're not sure what's under there," Frankel said.

But Mark Hollenbeck, the former state legislator and Edgemont mayor who is the project manager for the proposed mine, dismisses the concerns over destruction of burial grounds. Hollenbeck said that seven Native American tribes spent time at the site last year checking on possible burial or cultural sites.

"They certainly found some properties they were interested in," Hollenbeck said. "And so our first goal is to avoid those."

In light of the fact that Azarga is working with the tribes on that end, concerns about disturbing burial grounds is "a little premature," Hollenbeck said. The company is also working with area tribes through what's known as a programmatic agreement, he added.

But Jeffrey Parsons, an attorney representing the Oglala Sioux Tribe, said Azarga still has a responsibility to make a full survey of tribal cultural assets at the site. And Oglala Sioux Tribal President Bryan Brewer told the NRC as much in a Feb. 5 letter.

"It is a poor excuse for NRC to provide the Tribes and public an after-the-fact opportunity to comment on any cultural reviews outside (the official environmental assessment) process," Brewer wrote.

That is one of the reasons the tribe is not comfortable signing the programmatic agreement, Brewer wrote.

A representative of the Standing Rock Sioux Tribe goes even further, accusing the NRC of pushing ahead with the project without adequately involving the tribe.

"Due to the complete lack of confidence, bad faith and ill will that the Nuclear Regulatory Commission has shown towards (Standing Rock) as well as other tribes we will have to

decline to participate in this consultation." wrote Wasta Win Young, historic preservation officer for the tribe.

Maureen Conley, a spokeswoman for the NRC, defends her agency's processes. In an email, Conley wrote that NRC "staff has been independently and thoroughly reviewing Azarga's application, following procedures set forth in NRC regulations."

Since 2010, NRC staffers have had numerous meetings, phone calls and webinars with area tribes, according to Conley.

"The NRC staff has consulted in good faith with (Standing Rock) and other tribes, and the staff has repeatedly invited (them) to take a more active role in consultations," Conley wrote.

Aquifer questions

Parsons, the tribal attorney, said the project site also contains thousands of improperly closed boreholes from uranium exploration in the 1970s. He says that means the aquifers may not have "confined" the heavy metals activated by the mining so they do not stay within in a specific area, despite Azarga's assertion that they have.

"That's a big deal here, because the great assumption is that this entire aquifer is confined on the top and confined on the bottom," Parsons said. "They haven't inventoried any of those holes. They say, 'well, we'll look after we get all the permits.' At that point, from our perspective, the ship has sailed."

Hollenbeck disputes that Azarga has not surveyed the aquifers.

"We have certainly looked at the old pump tests, as well as we did our own pump tests," he said. "Our hydrologists are completely confident that we can contain the fluids."

Further, opponents will argue that the environmental impact statement did adequately explore the impact the mine will have on water quantity in the aquifers or discuss any efforts Azarga will take to lessen any negative impacts regarding the aquifers.

'Death by delay'

Parsons and Frankel both acknowledge that if they lose the contention hearings, they will likely appeal. And Hollenbeck knows if the NRC issues Azarga an operating license before the hearing, mining opponents will sue to have it put on hold.

"That is certainly their game plan," Hollenbeck said. "It always has been. The science is not on their side and they know it."

Even with a federal operating license, Azarga will still need approval from the Environmental Protection Agency and two state permitting boards, which have held hearings but issued no rulings.

Opponents protested vigorously at the start of those board meetings, both of which were put on hold until the federal agencies rule on the projects. To Hollenbeck, the objections for the scheduled August hearing are more of the same.

"They actually go to classes and learn how to do this," he said, calling the methodology "death by delay."

Contentions against Powertech proposal

Opponents of Powertech's proposed Dewey-Burdock mine have many complaints about how the Nuclear Regulatory Commission (NRC) is handing the project. Below are some of the contentions a federal hearing will examine in August.

- The NRC has failed to adequately consult Native American tribes as required by federal law or follow legal requirements regarding protection of historical and cultural resources.
- The project's draft environmental impact statement doesn't adequately measure a current baseline for water quality in the aquifers at the project site or whether water will move between aquifers and damage water quality.
- The environmental impact statement doesn't analyze the impact the mine will have on water quantity in the aquifers or discuss any efforts Azarga will make to lessen any negative impacts regarding the aquifers.
- The environmental impact statement doesn't take into account all aspects of the Endangered Species Act or sufficiently analyze the impact the mine will have on the greater sage grouse, the whooping crane and the black-footed ferret.