

Oglala Sioux Tribe
Tribal Historic Preservation Office

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TRIBAL HISTORIC PRESERVATION ADVISORY COUNCIL:

Mr. Tom Bad Heart Bull - Oglala District
Mr. Francis "Chubbs" Thunder Hawk - Porcupine District
Mr. Garvard Good Plume, Jr. - Wakpamni District

STAFF:

Tribal Historic Preservation Officer – Mr. Wilmer Mesteth
Project Review Officer – Ms. Roberta Joyce Whiting
Natural Resources Director – Mr. Michael Catches Enemy

January 31, 2011

Kevin Hsueh, Branch Chief
Environmental Review Branch B
Environmental Protection and Performance
Assessment Directorate
Division of Waste Management and
Environmental Protection
Office of Federal and State Materials and
Environmental Management Programs
United States Nuclear Regulatory Commission
Mail Stop T-8F05
Washington, DC 20555

Re: Invitation for Formal Consultation under the National Historic Preservation Act; Request for Information under the National Environmental Policy Act; Proposed Powertech Inc. Dewey-Burdock In-Situ Leach Uranium Mine (NRC Docket No. 040-09075)

Dear Mr. Hsueh:

Thank you for your letters dated September 8, 2010, and September 10, 2010, inviting the Oglala Sioux Tribe to participate as a consulting party as the U.S. Nuclear Regulatory Commission (NRC) works to satisfy its statutory obligations under the National Historic Preservation Act (NHPA) and National Environmental Policy Act (NEPA) to review impacts to cultural and historic resources potentially impacted by the proposed Powertech, Inc. Dewey-Burdock In-Situ Leach Uranium Mine. As you are aware, the proposed mine is located within the traditional and treaty lands of the Great Sioux Nation, which includes the Oglala Sioux Tribe. The Tribe is committed to working with the NRC to identify and protect the cultural and historic resources threatened by the project.

Currently, the Oglala Sioux Tribal Preservation Historic Office is directed by Mr. Wilmer Mesteth. The Tribal Historic Preservation Office looks forward to any support the NRC Staff can provide in facilitating this review, including providing the Tribe an ongoing opportunity to review and comment on the agency's review as it is developed. Please note that the responsibilities and resources of other federal agencies to protect the cultural and historical resources of the Oglala Sioux Tribe which are located on and near the adjacent Black Hills National Forest are also implicated by the location of this project, including the U.S. Forest Service and the Bureau of Land Management.

From information obtained through the application submitted to the NRC by Powertech, Inc., the proposed Dewey-Burdock In-Situ Leach Uranium Mine project represents a substantial potential threat to the preservation of cultural and historic resources of the Oglala Sioux Tribe. These impacts include not only site-specific physical impacts, but also broader landscape-level impacts along with more intangible impacts to the integrity of the area from cultural, historical, spiritual, and religious perspectives.

Importantly, the impact from the proposed mine extends not just from the disturbance associated with the Dewey-Burdock site, which could be substantial in itself, but also the impacts associated with the foreseeable use of the Dewey-Burdock site as a regional uranium processing center for potential mining operations across the region. These broader effects are further compounded by the substantial impacts associated with the large open pit uranium mines at the project area that have been egregiously left entirely unreclaimed since the last uranium boom. It is critical for any credible cultural and historic resource impact analysis to consider the entirety of these past and reasonably foreseeable activities.

A review of the application materials submitted by Powertech to the NRC reveals an incomplete analysis. Nowhere does the application recognize the cumulative impacts associated with regional uranium development or past uranium development. Indeed, the applicant's materials represent that the cultural and historic impacts associated with the entire proposal, even when combined with reasonably foreseeable future and past actions, are "none." This conclusion is unsupportable, and appears to have resulted in part from the incomplete methodology employed in reaching it. It appears that the review prepared by Powertech failed to include any direct input from any tribal sources, whether written or oral.

It should be noted that a primary source of credible information in this case are oral histories and ethnographic information of those knowledgeable about the impacted area, whether through personal, family, or ancestral connections. Instead, the application cites only to a handful of studies, most prepared for other projects within some undefined geographic proximity to the proposed mine site. Incorporation of all credible and relevant written and oral sources is necessary, with appropriate measures taken to respect the integrity and confidentiality of such information. In this case, the application fails to assess even the detailed information contained in sworn oral testimony during hearings at the early stages of the State of South Dakota permitting process. These same gaps in information bring into question the reliability and completeness of the application, including the site visit analysis conducted by Powertech. Indeed, the site-visit analysis itself was conducted without any tribal participation and identifies a significant number of archaeological, historical, and traditional cultural resources within the project area that have not yet been evaluated at all.

Critically, information on the historic and cultural significance of the proposed project area is not limited to that held by members of the Oglala Sioux Tribe. Rather, this area is within an area within which other Sioux tribes, in addition to the Cheyenne, Arapahoe, Crow, and Arikara Tribes, among others, also possess intimate cultural knowledge. As such, any credible impact review must assess the historic and cultural impacts associated with these other cultures. For example, the Oglala Sioux Tribal Historic Preservation Office is working toward establishing such a study, with culturally appropriate protocols to protect the information acquired and to incorporate necessary protections where information about such persons is involved in the collection of oral histories and ethnographies.

We look forward to working with the NRC on these important issues. To the fullest extent possible, we ask that the agency share any information that it has collected, and work with the Tribe to identify additional sources of information to include in its analysis. This request includes making available to the Tribe physical copies of all of the cited references in Powertech's application materials, as well as any additional resources NRC Staff may have available. Further, the Tribe requests NRC's help in facilitating a timely site visit and review so as to provide the Tribe an opportunity to conduct a full review of the cultural and historic resources at stake. Lastly, the Oglala Sioux Tribe requests that the NRC sponsor and conduct a regional meeting of Tribal Historic Preservation Officers from all affected tribes in order to encourage effective communication to the NRC.

Thank you for the invitation to conduct a thorough consultation process on this important matter.

Sincerely,



Michael Catches Enemy
Natural Resources Director

Sincerely,



Wilmer Mesteth
Tribal Historic Preservation Officer

Cc: Honorable President John Yellowbird Steele, Oglala Sioux Tribe
Oglala Sioux Tribal Land & Natural Resources Committee
SSR Law
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