



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Ecological Services
420 South Garfield Avenue, Suite 400
Pierre, South Dakota 57501-5408

March 29, 2010

Mr. Kevin Hsueh
Nuclear Regulatory Commission
Mail Stop T8F05
Washington, DC 20555

Re: Powertech Dewey-Burdock Project,
Docket 040-09075, Custer and Fall River
County, South Dakota

Dear Mr. Hsueh:

This letter is to provide environmental comments on your March 15, 2010, letter regarding the above referenced project which proposes granting a radioactive source materials license to develop and operate the Dewey-Burdock *in-situ* recovery facility near Edgemont, South Dakota. The Powertech Dewey-Burdock Project is proposed within portions of Sections 1-5, 10-12, 14 and 15, Township 7 South, Range 1 East, Fall River County, South Dakota, and Sections 20, 21, and 27-35, Township 6 South, Range 1 East, Custer County, South Dakota.

These comments have been prepared in accordance with provisions of the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.) and the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), as amended. This constitutes the report of the Department of the Interior on the proposed project and is to be used in your determination of 404 (b)(1) guidelines (40 CFR 230) and in your public interest review (33 CFR 320.4) as they relate to the protection of fish and wildlife resources.

The National Wetlands Inventory indicates that numerous wetlands exist within the proposed permit boundary area. Two maps are enclosed showing wetlands found within the two initial mine units. The locations of other wetlands within the proposed permit boundary can be accessed at <http://www.fws.gov/wetlands/Data/Mapper.html>.

The U.S. Fish and Wildlife Service (Service), in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4347) and other environmental laws and rules, recommends complete avoidance of these areas, if possible. If this is not possible, attempts should be made to minimize adverse impacts. Finally, if adverse impacts are unavoidable, then measures should be undertaken to replace the impacted areas.

The Fish and Wildlife Coordination Act and Executive Order 11990 (Protection of Wetlands) encourages the protection and conservation of wetlands. In reviewing projects that may impact wetlands, the Service encourages: 1) avoidance of wetlands, if possible, 2) minimization of impacts to wetlands if they cannot be avoided, and 3) replacement of wetland values that may be impacted by a project.

In accordance with section 7(c) of the Endangered Species Act, as amended, 16 U.S.C. 1531 et seq., we have determined that the following federally listed species may occur (this list is considered valid for 90 days) within Custer County:

<u>Species</u>	<u>Status</u>	<u>Expected Occurrence</u>
Whooping crane (<u>Grus americana</u>)	Endangered	Migration.
Black-footed ferret (<u>Mustela nigripes</u>)	Endangered	None.

The whooping crane generally migrates through the eastern portion of Custer County, and the black-footed ferret is currently only found in the Wind Cave National Park. We have no information to indicate that these species are located within the project boundaries.

Whooping cranes migrate through South Dakota on their way to northern breeding grounds and southern wintering areas. They occupy numerous habitats such as cropland and pastures; wet meadows; shallow marshes; shallow portions of rivers, lakes, reservoirs, and stock ponds; and both freshwater and alkaline basins for feeding and loafing. Overnight roosting sites frequently require shallow water in which they stand and rest. Additionally, should mining activities occur during spring or fall migration, the potential for disturbances to whooping cranes exists. Disturbance (flushing the birds) stresses them at critical times of the year. We recommend that you remain vigilant for these birds. There is little that can be done to reduce disturbance besides ceasing activities at sites where the birds have been observed. The birds normally do not stay in any one area for long during migration. Any whooping crane sightings should be reported to this office.

Fall River County does not have any federally listed species, but the greater sage-grouse (Centrocercus urophasianus) is a candidate species that historically occurred in the area and has a potential to be present within the proposed area of review.

The Service determined that the species is warranted for listing pursuant to the Endangered Species Act; however, efforts in that regard will be precluded in deference to higher priority species. This finding means that the greater sage-grouse is now a candidate species for future reclassification as a threatened or endangered species under the Endangered Species Act. The 12-Month Findings for Petitions to List the Greater Sage-Grouse (Centrocercus urophasianus) as Threatened or Endangered was published in the Federal Register 75: 13909-13958 on March 23, 2010.

Candidate species have no legal protection under the Endangered Species Act at the present time; however, some agencies may consider their status in their management efforts.

If the Nuclear Regulatory Agency or their designated representative determines that the project "may adversely affect" listed species in South Dakota, it should request formal consultation from this office. If a "may affect - not likely to adversely affect" determination is made for this project, it should be submitted to this office for concurrence. If a "no effect" determination is made, further consultation may not be necessary. However, a copy of the determination should be sent to this office. For more information regarding Federal action agency responsibilities as related to section 7 of the Endangered Species Act, please refer to the Service's Endangered Species Act Consultation Handbook, available online at <http://endangered.fws.gov/consultations/index.html>.

If changes are made in the project plans or operating criteria, or if additional information becomes available, the Service should be informed so that the above determinations can be reconsidered.

The Service appreciates the opportunity to provide comments. If you have any questions regarding these comments, please contact Terry Quesinberry of this office at (605) 224-8693, Extension 237.

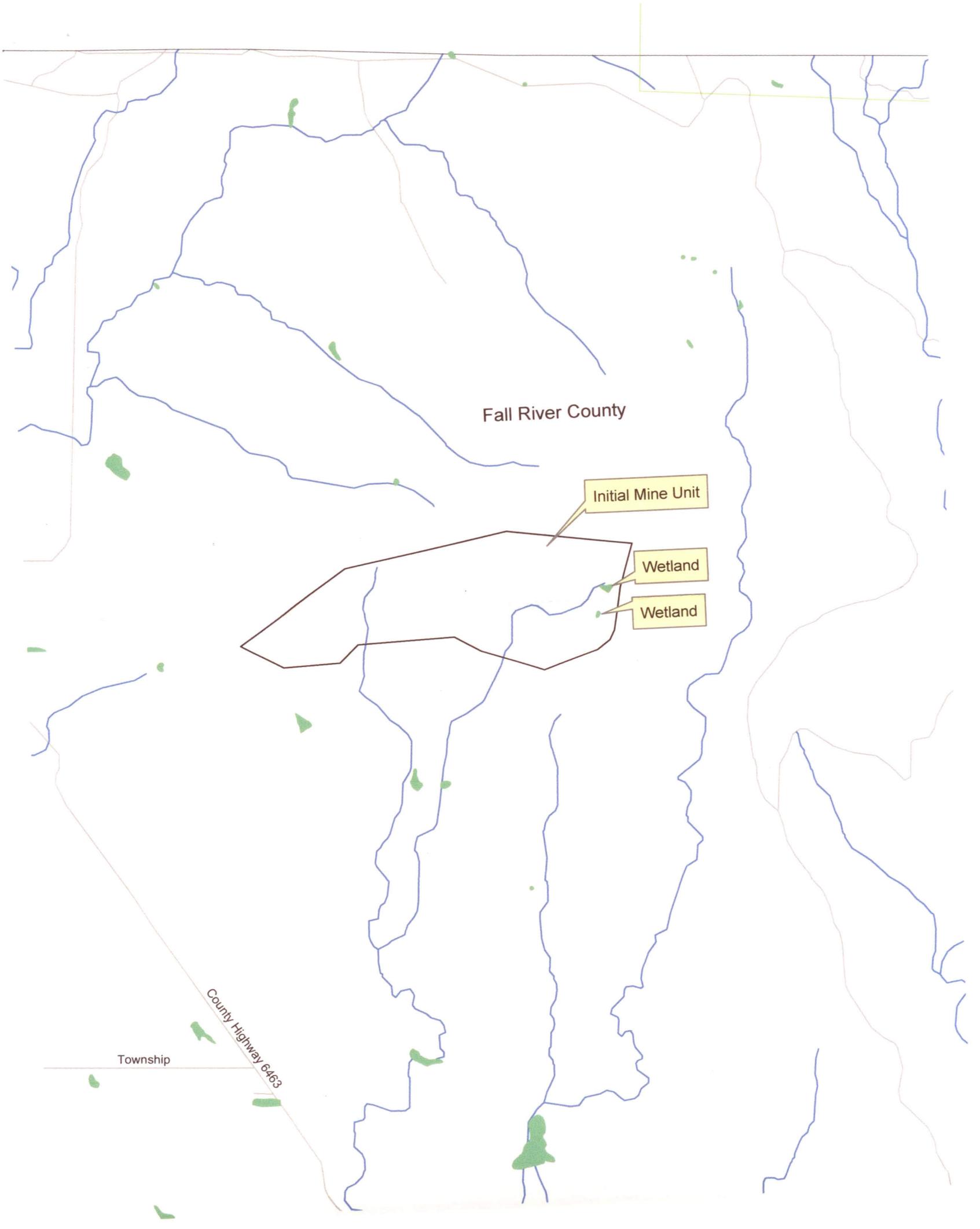
Sincerely,



Scott Larson
Acting Field Supervisor
South Dakota Field Office

Enclosures

cc: Corps of Engineers/Regulatory; Pierre, SD



Fall River County

Initial Mine Unit

Wetland

Wetland

County Highway 6463

Township

