

DeweyBurdPubEm Resource

From: Yilma, Haimanot
Sent: Thursday, December 12, 2013 4:21 PM
To: Yilma, Haimanot
Cc: Jamerson, Kellee; Hsueh, Kevin; Luhman, Hope (hluhman@louisberger.com)
Subject: Reminder: webinar to discuss the development of the PA for the Dewey Burdock project is scheduled for Friday December 13, 2013.
Attachments: AGENDA - DB Project PA 12-13-13.docx; Draft PA Dewey-Burdock Project 12-13-13.docx; DRAFT Appendix for the Dewey-Burdock Project PA 12-13-13.docx; NRC NRHP Determinations - Table 1.0 for Draft PA 12-13-13.docx

All,

This is a reminder that the NRC staff is hosting a teleconference/webinar on **Friday, December 13, 2013 from 1:00 to 3:00 pm (MDT)**.

Dial in Number:

888-913-9205

Participant Passcode:

17188

Link to webinar:

<https://www1.gotomeeting.com/register/472711681>

For your information, the NRC has invited the following parties to participate in the webinar and the development of the PA:

BLM
SD SHPO
ACHP
Powertech, Inc.
Consulting Tribes (23)

We hope to speak to you tomorrow.

Sincerely,

Haimanot Yilma
Project Manager
FSME/DWMEP/EPPAD/ERB
U.S Nuclear Regulatory Commission
Phone: 301-415-8029
email: haimanot.yilma@nrc.gov
Mail Stop : T8F05

Hearing Identifier: Powertech_Uranium_Dewey_Burdock_LA_Public
Email Number: 303

Mail Envelope Properties (2C5246E2C48F77418DF2EE22F3C7DE972E39878B78)

Subject: Reminder: webinar to discuss the development of the PA for the Dewey Burdock project is scheduled for Friday December 13, 2013.
Sent Date: 12/12/2013 4:21:23 PM
Received Date: 12/12/2013 4:21:29 PM
From: Yilma, Haimanot

Created By: Haimanot.Yilma@nrc.gov

Recipients:

"Jamerson, Kellee" <Kellee.Jamerson@nrc.gov>
Tracking Status: None
"Hsueh, Kevin" <Kevin.Hsueh@nrc.gov>
Tracking Status: None
"Luhman, Hope (hluhman@louisberger.com)" <hluhman@louisberger.com>
Tracking Status: None
"Yilma, Haimanot" <Haimanot.Yilma@nrc.gov>
Tracking Status: None

Post Office: HQCLSTR02.nrc.gov

Files	Size	Date & Time
MESSAGE	869	12/12/2013 4:21:29 PM
AGENDA - DB Project PA 12-13-13.docx	23116	
Draft PA Dewey-Burdock Project 12-13-13.docx	67672	
DRAFT Appendix for the Dewey-Burdock Project PA 12-13-13.docx		443801
NRC NRHP Determinations - Table 1.0 for Draft PA 12-13-13.docx		78747

Options

Priority: Standard
Return Notification: No
Reply Requested: No
Sensitivity: Normal
Expiration Date:
Recipients Received:

AGENDA

December 13, 2013

1:00 PM to 3:00 PM MDT (3:00 PM to 5:00 PM EDT)

Development of a Programmatic Agreement for the

Dewey-Burdock In-Situ Uranium Recovery Project

Fall River and Custer Counties, South Dakota

Link to Join Webinar: <https://www1.gotomeeting.com/register/942527593>

Number to Join Conference Call: 1-888-913-9205/ Access Code: 17188

- | | | |
|------|---|-----|
| I. | Welcome and Overview of the Agenda | NRC |
| II. | Introductions of Attendees | All |
| III. | Review of Revised Draft
Programmatic Agreement | All |
| IV. | Meeting Summary | NRC |

Draft PA
Dewey-Burdock Project

A draft PA with formal language has been prepared based on comments received from all consulting parties during the November 15, 2013 webinar.

**PROGRAMMATIC AGREEMENT
AMONG
U.S. NUCLEAR REGULATORY COMMISSION
U.S. BUREAU OF LAND MANAGEMENT
SOUTH DAKOTA STATE HISTORIC PRESERVATION OFFICE
POWERTECH USA, INC.
[TRIBES]
AND
ADVISORY COUNCIL ON HISTORIC PRESERVATION
REGARDING THE
DEWEY BURDOCK IN-SITU RECOVERY PROJECT
LOCATED IN CUSTER AND FALL RIVER COUNTIES
SOUTH DAKOTA**

Date **12-13-13**

WHEREAS CLAUSES:

WHEREAS, this Programmatic Agreement (PA) addresses the federal undertaking regarding the issuance of a license for the Dewey-Burdock In-Situ Recovery [ISR] Project pursuant to the authority of the U.S. Nuclear Regulatory Commission (NRC) under the Atomic Energy Act of 1954 (AEA), 42 U.S.C. §§ 2011 *et. seq.* for purposes of NRC compliance with Section 106 of the National Historic Preservation Act (NHPA), 16 U.S.C. §§ 470 *et. seq.*; and

WHEREAS, the NRC received an application from Powertech Inc. (Powertech or applicant) for a new radioactive source materials license to develop and operate the Dewey-Burdock Project located near Edgemont, South Dakota in Fall River and Custer Counties (Project) pursuant to NRC's license authority under the Atomic Energy Act of 1954 (AEA), 42 U.S.C. §§ 2011 *et. seq.*; and

WHEREAS, if licensed, the proposed undertaking will use an In-Situ Recovery (ISR) methodology to extract uranium and process it into yellowcake at the Dewey-Burdock site. The proposed undertaking boundary consists of approximately 10,580 acres (4,282 ha) located on both sides of Dewey Road (County Road 6463) and portions of Sections 1-5, 10-12, 14, and 15, in Township 7 South, Range 1 East and portions of Sections 20, 21, 27, 28, 29, and 30-35 in Township 6 South, Range 1 East, Black Hill Meridian, (see Appendix A, Figure 1.0); and

WHEREAS, under the terms of the General Mining Act of 1872 Powertech has filed Federal Lode mining claims and secured mineral rights on 240 ac [97 ha] of public lands open to mineral entry and administered by the U.S. Department of the Interior, Bureau of Land Management (BLM) , and has the right to develop the mining claims as long as it can be accomplished without causing unnecessary or undue degradation to public lands, and is in accordance with pertinent laws and regulations under 43 CFR Subpart 3809; and

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WHEREAS, BLM will utilize the environmental analysis presented in the Final SEIS document in its determination of whether or not to approve Powertech's POO; and

WHEREAS, the BLM-South Dakota Field Office will draft a Record of Decision approving an acceptable Plan of Operations (POO) that meets the requirements of 43 CFR Subpart 3809;

WHEREAS, the BLM, by letter dated April 7, 2011, has designated the NRC as the lead agency for compliance with requirements of the National Environmental Policy Act and Section 106 of the National Historic Preservation Act regarding the Dewey-Burdock Project (ML11116A091); and

WHEREAS, the Environmental Protection Agency (EPA) may use this agreement to satisfy its Section 106 requirement by agreeing in writing to the terms of this PA and notifying and consulting with SHPO and ACHP; and (EPA to provide agreement to this WHEREAS clause)

WHEREAS, the area of potential effects (APE) for the Undertaking is the area at the Dewey-Burdock Project site and its immediate environs, which may be directly or indirectly impacted by ground disturbance activities associated with the proposed undertaking, as described in Appendix A; and

WHEREAS, in accordance with 36 CFR § 800.6(a)(1)(i)(C), the NRC by letter dated April 24, 2013, invited the Advisory Council on Historic Preservation (**ACHP**) to participate in Section 106 consultation and in the preparation of this PA; and

WHEREAS, the **ACHP**, by letter dated October 28, 2013, accepted the invitation to participate in consultations; and

WHEREAS, the NRC invited the South Dakota State Historic Preservation Officer (SD SHPO) to participate in Section 106 consultation and preparation of this PA; and

WHEREAS, the NRC invited Powertech to participate in Section 106 consultation and preparation of this PA; and

WHEREAS, the NRC invited the Cheyenne and Arapaho Tribes of Oklahoma, the Cheyenne River Sioux Tribe, the Crow Nation, the Crow Creek Sioux Tribe, the Eastern Shoshone Tribe, the Flandreau Santee Sioux Tribe, the Fort Peck Assiniboine and Sioux Tribes, the Lower Brule Sioux Tribe, the Lower Sioux Indian Community, the Northern Arapaho Tribe, the Northern Cheyenne Tribe, the Oglala Sioux Tribe, the Omaha Tribe of Nebraska, the Pawnee Nation of Oklahoma, the Ponca Tribe of Nebraska, the Rosebud Sioux Tribe, the Santee Sioux Tribe of Nebraska, the Sisseton-Wahpeton Oyate, the Spirit Lake Sioux Tribe, the Standing Rock Sioux Tribe, the Three Affiliated Tribes (Mandan, Hidatsa & Arikara Nations), the Turtle Mountain Band of Chippewa Indians, and the Yankton Sioux Tribe (collectively referred to as tribes) to each be a consulting party by letters dated March 19, 2010 (ML100331999) and September 8, 2010 (ML102450647); and

WHEREAS, identification of historic properties has been completed for the project including Class III archeological Surveys and tribal surveys to identify properties of religious and cultural significance, as discussed in Appendix B; and

WHEREAS, the NRC received tribal survey reports with eligibility recommendations from the Northern Arapaho Tribe, the Northern Cheyenne Tribe, and the Cheyenne and Arapaho Tribes of Oklahoma, as well as field notes from the Crow Nation; and

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WHEREAS, the NRC staff reviewed and evaluated the results of the applicant's Class III archeological surveys, tribal survey, and the light-of-sight analysis in the development the staff's initial recommendations concerning eligibility to NRHP as presented in Appendix B ; and

WHEREAS, the NRC made initial determinations of eligibility for the National Register of Historic Places (NRHP) found within the APE and is seeking concurrence from the SD SHPO on these findings as discussed in Appendix B; and,

WHEREAS, additional investigations may be required to fully evaluate the eligibility of potential historic properties located within the Project's APE; and

WHEREAS, additional investigations may be required to identify historic properties that could be affected by future utility line construction related to development of the Project.

WHEREAS, the NRC determined a phased process for compliance with Section 106 of the NHPA is appropriate for this Undertaking, as specifically permitted under 36 CFR 800.4(b)(2), such that completion of the evaluation of historic properties, determinations of effect on historic properties, and consultation concerning measures to avoid, minimize, or mitigate any adverse effects will be carried out in phases, as set forth in this Programmatic Agreement (PA); and

WHEREAS, the NRC acknowledges that Tribes possess special expertise in assessing the eligibility of historic properties that may possess religious and cultural significance to tribes in accordance with 36 CFR 800.4(c)(1); and

WHEREAS, the applicable requirements of the NHPA, the American Indian Religious Freedom Act, 42 U.S.C. 1996 et. seq. (AIRFA), and the Native American Graves Protection and Repatriation Act, 25 U.S.C. 3001 et. seq. and 43 CFR 10 (NAGPRA), have been considered in the development of this Agreement, and this Agreement does not waive the responsibilities of the Signatories under these regulations; and,

WHEREAS, the NRC, as lead Federal agency, in conjunction with the BLM (as a cooperating agency), prepared a Supplemental Environmental Impact Statement (SEIS) in accordance with the requirements of the National Environmental Policy Act (NEPA) to evaluate the potential impacts of the Undertaking on a variety of human and natural resources; and

WHEREAS , the SEIS will include an analysis of potential impacts to historic and cultural resources taking into account requirements set forth in Section 106 of the National Historic Preservation Act (NHPA), 16 U.S.C. §§ 470 et. Seq; and

WHEREAS, the NRC invited the Cheyenne and Arapaho Tribes of Oklahoma, the Cheyenne River Sioux Tribe, the Crow Nation, the Crow Creek Sioux Tribe, the Eastern Shoshone Tribe, the Flandreau Santee Sioux Tribe, the Fort Peck Assiniboine and Sioux Tribes, the Lower Brule Sioux Tribe, the Lower Sioux Indian Community, the Northern Arapaho Tribe, the Northern Cheyenne Tribe, the Oglala Sioux Tribe, the Omaha Tribe of Nebraska, the Pawnee Nation of Oklahoma, the Ponca Tribe of Nebraska, the Rosebud Sioux Tribe, the Santee Sioux Tribe of Nebraska, the Sisseton-Wahpeton Oyate, the Spirit Lake Sioux Tribe, the Standing Rock Sioux Tribe, the Three Affiliated Tribes (Mandan, Hidatsa & Arikara Nations), the Turtle Mountain Band of Chippewa Indians, and the Yankton Sioux Tribe (collectively referred to as tribes) to participate in the development of this PA as a concurring parties; and

WHEREAS, the following Tribes participated in the preparation of this PA: [REDACTED] and are, therefore, considered Concurring Parties for the purposes of this PA; and

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WHEREAS, the BLM, as a cooperating agency, participated in consultation and was invited by the NRC pursuant to 36 CFR § 800.6(c)(2) to sign this Programmatic Agreement (PA) as an invited signatory; and

WHEREAS, the Environmental Protection Agency (EPA), participated in consultation and has asked to join the PA discussion; and (EPA to provide language for this WHEREAS Clause)

WHEREAS, the SD SHPO is authorized to enter into this PA in order to fulfill its role of advising and assisting federal agencies in carrying out their Section 106 of the NHPA responsibilities pursuant to 36 CFR §§ 800.2(c)(1)(i) and is a required signatories; and

WHEREAS, the PA will be entered as a condition on the NRC license, if granted; and

WHEREAS, the PA will be entered as a condition of Powertech Inc's Plan of Operations, if approved by the BLM; and

WHEREAS, pursuant to 36 CFR Section 800.13, the NRC, with concurrences of the SHPO and the ACHP, developed procedures in this PA that ensure the identification and evaluation of historic properties, assessment of effects, consideration of avoidance alternatives, and development of treatment and mitigation plans for unforeseen effects to previously identified historic properties and/or historic properties discovered during implementation of the undertaking are properly coordinated; and,

NOW, THEREFORE, the NRC and other signatories to this PA, agree that that the project will be implemented in accordance with the following stipulations in order to take into account the effects of the undertaking on historic properties.

STIPULATIONS:

- 1) The NRC shall ensure that a license will not be granted to Powertech until all required signatories have executed this PA. Upon receipt of a fully executed PA, the NRC will issue the license.
- 2) The BLM will insure that a Record of Decision on an acceptable Plan of Operations (POO) will not be signed until this PA has been executed by all required signatories).
- 3) The NRC shall include as a condition of any license issued to Powertech, the requirement that Powertech comply with all stipulations and provisions in this PA.
- 4) **Future Identification of Historic Properties:**
 - a) Powertech will notify the NRC when additional surveys or studies are required on lands outside the license boundary that may be affected by the installation of electrical transmission lines necessary to provide power to the project area, X months prior to commencing work. Powertech will provide the NRC with a draft APE, proposed investigation methods, and proposed reporting requirements for the survey(s).

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- b) The NRC will notify signatories and concurring parties when additional surveys or studies are needed and provide all participating parties an opportunity to comment on the definition of the APE, investigation methods, and reporting requirements.
- c) Powertech will sponsor any required surveys to make NRHP eligibility determinations and assess effects.
- d) The NRC will consult with interested tribes to identify and evaluate places of religious and cultural significance to tribes.
- e) Powertech will offer to provide funding to tribal representatives for the purpose of completing identification of properties of religious and cultural significance to them.
- f) The NRC will submit survey reports and other identification and evaluation studies to the BLM, SHPO, and Tribes and will request their review and comments to be completed within 45 days.
- g) The NRC may request revisions to reports or additional investigations, as appropriate, based on comments made by BLM, SHPO and Tribes. The NRC will provide revised documents to federal agencies, SHPO, and Tribes. A second review period with comments to be completed within 30 days may be requested, if necessary.
- h) If no historic properties are identified, then no further work will be required.
- i) The NRC will submit final reports with determinations of eligibility and effect to the SD SHPO for review and concurrence to be completed within 30 days.
- j) If the surveys identify NRHP-eligible site(s), then avoidance will be the preferred option. If avoidance is not possible and an adverse effect will result, Powertech will develop a mitigation plan in accordance with stipulation 7 and provide it to the NRC for review and consultation with other consulting parties. This mitigation plan will include a section evaluating design modifications for minimizing effects to historic properties.
- k) Objections regarding the NRC determinations of eligibility or effect will be addressed in accordance with the appropriate 36 CFR Part 800 regulations.

5) Unevaluated Properties:

- a) All unevaluated properties will be treated as if they have been found to be eligible for the National Register of Historic Places (NRHP) and will be protected in place by Powertech until an eligibility determination is fully evaluated, in accordance with 36 CFR Part 60.4 (the criteria for NRHP listing).
- b) In the event changes in the design or operation of the project, including the changing of the wellfield configurations, have the potential to affect unevaluated properties, Powertech will sponsor necessary supplemental research and/or field investigations to gather information necessary for the NRC, BLM, consulting tribes, and SD SHPO staff to evaluate the NRHP eligibility of the affected properties, prior to commencing any ground disturbance activities.
- c) The NRC will notify signatories and concurring parties when additional surveys or studies are needed and will provide all parties an opportunity to comment on the definition of the APE, investigation methods, and reporting requirements.

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- d) The NRC will submit survey reports and evaluations to BLM, SHPO, and Tribes and will request their review and comments to be completed within 45 days.
- e) The NRC may request revisions to the reports or additional investigations, as appropriate, based on comments received from BLM, SHPO, and Tribes. The NRC will provide revisions to BLM, SHPO, and Tribes and will request a second review with comments to be completed within 30 days, as necessary.
- f) The NRC will submit final reports with determinations of eligibility and effect to SD SHPO for review and concurrence to be completed within 30 days.
- g) If the surveys identify NRHP-eligible site(s), then avoidance will be the preferred option. If avoidance is not possible and an adverse effect will result, Powertech will develop a mitigation plan in accordance with stipulation 7 and provide the plan to the NRC for review and consultation with other consulting parties. This mitigation plan will include a section evaluating design modifications for minimizing effects to historic properties.
- h) Objections regarding NRC determinations of eligibility or effect will be addressed in accordance with the appropriate 36 CFR Part 800 regulations.

6) Assessing Effects:

- a) Based on the results of the Class III archeological surveys and Tribal surveys, a number of historic properties (including archeological sites, historic structures, and properties of religious and cultural significances) have been found within the areas of land disturbance and an effects determination has been made by the NRC and is presented in Appendix B.
- b) The NRC conducted ~~a~~ line-of-sight analysis to assess the potential for adverse visual effects on all known historic properties located within 3 miles of the tallest buildings on both the Dewey and Burdock facilities.
- c) The NRC ~~will~~ assess adverse effects the Dewey-Burdock project will have on these historic properties, in accordance with 36 CFR 800.5. If adverse effects are found, the NRC will consult with signatories and concurring parties to develop proposals to resolve these effects in accordance with 36 CFR 800.6 and Stipulation 7.

7) Resolution of Adverse Effects:

- a) Powertech will draft a written mitigation plans, which identify measures to avoid, minimize, or mitigate adverse effects to historic properties, in accordance with 36 CFR 800.6. Draft treatment plans will be submitted for NRC review and approval.
- b) The NRC will review and approve draft mitigation plans developed by the Powertech for each affected historic property in consultation with all signatories and concurring parties. A meeting or teleconference may be held to develop and review alternative measures to avoid, minimize, or mitigate adverse effects to individual properties or groups of related properties.
- c) The NRC will submit draft mitigation plans to all signatories and concurring parties for review and comment to be completed within 45 days.

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- d) The NRC may revise draft mitigation plans as appropriate based on comments received from the consulting parties. The NRC will forward revisions to draft treatment plans with a request for a second review by signatories and concurring parties to be completed within 30 days.
- e) The NRC shall direct Powertech to implement the mitigating plan once the SHPO concurs with the plan.
- f) If, after consultation, NRC and the SHPO cannot agree on appropriate terms for the mitigation plan, NRC will refer the matter to the ACHP pursuant to Stipulation 14 (Dispute Resolution).

8) Coordination with Other Federal Reviews:

In the event that the Powertech applies for additional approvals for the project and the undertaking remains unchanged, the approving agency may comply with Section 106 by agreeing in writing to the terms of this -PA and notifying and consulting with SHPO and ACHP. Any necessary modifications will be considered in accordance with the amendment process in Stipulation 16.

9) Confidentiality:

- a) All signatories and concurring parties shall restrict disclosure of information concerning the location of historic properties, including properties of religious and cultural significance to tribes, to the fullest extent permitted by law in conformance with Section 304 of the NHPA, South Dakota Codified Laws (SDCL), § 1-20-21.2, Section 9 of the ARPA, and Executive Order on Indian Sacred Sites 13007 (61 FR 26771; May 29, 1996). (Tribes to provide input for this stipulation, if needed).

10) Unanticipated Discoveries:

If previously unknown historic properties or cultural resources are discovered during the implementation of the Dewey-Burdock project, all ground disturbance activities shall halt within 200 ft of the area of discovery to avoid or minimize impact until the discovery is properly evaluated by qualified personnel. The following steps should be followed:

- a) All ground disturbance activity within 200 ft of the discovered artifact should cease until the site is properly evaluated.
- b) Powertech will notify the NRC, the BLM (if the site is on BLM land), and the SD SHPO of the discovery within 48 hours.
- c) Powertech will have the discovered material evaluated for NRHP eligibility by a professional who meets the Secretary of Interior's Standard for Archaeology and applicable SD state laws. Powertech will provide results of evaluation and initial eligibility recommendation for NRC's review and consideration promptly.
- d) If the NRC determines there are adverse impacts to the historic or cultural property(ies) identified, the NRC will follow steps in stipulation 7, Resolution of Adverse Effect assessment.
- e) Human remains identified during ground disturbance activities will be evaluated in accordance with Stipulation 11.

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- f) Work may continue in other areas of the site; however, ground disturbance activities will not resume in the area of discovery unless the NRC and/or BLM has issued a written notice to proceed.

11) Human Remains:

- a) The NRC, BLM, and Powertech recognize that human remains, funerary objects, sacred objects, and items of cultural patrimony encountered during ground disturbance activities should be treated with dignity and respect.
- b) Native American human remains, funerary objects, sacred objects, or items of cultural patrimony found on BLM land will be handled according to Section 3 of the Native American Graves Protection and Repatriation Act (NAGPRA) and its implementing regulations (43 CFR PART 10). BLM will be responsible for compliance with the provisions of NAGPRA on Federal land.
- c) Native American human remains, funerary objects, sacred objects, or items of cultural patrimony found on state or private land will be handled in accordance with applicable law as described in Appendix D- Treatment of Human Remains. Non-Native American human remains found on federal, state, or private land will also be treated in accordance with applicable state law.

12) Disposition of Archaeological Collections:

- a) BLM will curate any artifacts, materials or records resulting from archaeological identification and mitigation conducted on BLM land under its jurisdiction, in accordance with 36 CFR Part 79, "Curation of Federally-Owned and Administered Archaeological Collections." BLM will consult with Indian tribes as required in 36 CFR 79.
- b) Powertech shall ensure that all records and materials (collections) produced during the course of archaeological surveys and/or excavation on federal lands are curated at a facility, preferably in-state, that meets the standards of, and in accordance with the applicable provisions of 36 CFR Part 79, "Curation of Federally Owned and Administered Archaeological Collections," and applicable State law and guidelines.
- c) Where surveys are conducted on private land, any recovered collections remain the property of the land owner. Powertech will return the collections to landowners with the assistance of the SHPO. Powertech will encourage land owners to donate the collection(s) to an appropriate public or Tribal entity, in coordination with the NRC, SHPO, and/or participating Tribes. Where a property owner declines to accept responsibility for the collection(s) and agrees to transfer ownership of the collection(s) to a public or Tribal entity, Powertech will ensure curation of the collection(s) in accordance with this Stipulation.

13) Qualifications:

All historic property identification, evaluation, and mitigation carried out pursuant to this PA shall be performed by or under the direct supervision of qualified individuals in the appropriate historic preservation discipline meeting, at a minimum, the appropriate standards set forth in 36 CFR 61.

In recognition of the special expertise tribal experts have concerning properties of religious and cultural significance, the standards of 36 CFR 61 will not be applicable to consulting tribes.

14) Monitoring Plan:

NRC affirms that avoidance of adverse effects to historic properties remains the preferred course of action. To avoid, minimize, or mitigate adverse effects to historic properties, project activities may be changed, as long as any redesign is in compliance with the NRC license and its conditions and the BLM POO conditions.

- a) Powertech will ensure employees and/or contractors involved in all phases of the undertaking are aware of and comply with the requirements of the PA. Compliance with this PA is a condition on the NRC license and a condition of the BLM POO.
- b) Powertech will develop a Monitoring Program specific to this project that requires the engagement of a Monitor with specific responsibilities to coordinate the requirements of this agreement during project construction.
 - i) The Monitor will meet the professional qualifications outlined in Stipulation 13. Preference for the involvement of tribal enterprises in conducting a monitoring plan is encouraged where sites with religious and cultural significance to the tribes might be encountered.
 - ii) The Monitor will cooperate with Powertech, its contractors, the NRC, BLM, SHPO and the Tribes during the construction phases of the Project.
 - iii) Once a Monitoring Program is completed, Powertech should distribute the monitoring report to all consulting parties for a 30-day review and concurrence.
 - iv) The Monitoring Plan will be effective 10 days after the review period unless a revision to the plan is warranted.
- c) Powertech will provide periodic updates to all consulting parties on the status of the monitoring plan as specified in Appendix C.

15) Dispute Resolution:

Should any signatory to this PA object in writing within 30 days to any actions proposed or the manner in which terms of this PA are implemented, the NRC shall consult with such party to resolve an objection. When the NRC determines an objection cannot be resolved, the NRC will forward all documentation relevant to the dispute, including the NRC's proposed resolution, to the ACHP.

- a) Within thirty (30) days after receipt of all pertinent documentation, the ACHP shall exercise one of the following options: Advise the NRC the ACHP concurs in the NRC proposed final decision, whereupon the NRC shall respond accordingly;
- b) Provide the NRC with recommendations, which the NRC will consider in reaching a final decision on the objection; or
- c) Notify the NRC the objection will be referred to the ACHP membership for formal comment and refer the objection to the ACHP membership for comment within thirty (30) days. The NRC will consider comments in accordance with 36 CFR §800.7(c)(4).

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- d) Should the ACHP not exercise one of the above options within thirty (30) days after receipt of all pertinent documentation, the NRC may assume the ACHP concurs in its proposed response.

Prior to making a final decision on the dispute, the NRC will prepare a written response that addresses timely comments from signatories and concurring parties to the PA. The NRC will provide signatories, concurring parties, and the ACHP with a copy of its written response. The NRC may implement its final decision.

The NRC will consider recommendations and comments made by the ACHP that are related to the objection. NRC responsibilities under this Agreement, which are not the subject of the objection, shall remain unchanged.

16) Amendment:

A signatory to this agreement may request it be amended, whereupon the signatory parties will consult to reach a consensus on the proposed amendment. Concurring parties will be provided an opportunity to consult and comment on the proposed amendment. An amendment will be effective on the date the amended PA is signed by all of the signatories to this PA. The amendment shall be appended to the PA as an Appendix. If the signatories cannot agree to appropriate terms to amend the PA, any one of these parties unilaterally may terminate the agreement in accordance with Stipulation 17 below.

17) Termination:

- a) Any signatory to this PA may initiate termination by providing written notice to the signatories and concurring parties of their intent. After notification by the initiating signatory, the remaining signatories and concurring parties shall have thirty (30) days to seek agreement on an amendment or other actions and avoid termination. If such consultation fails, the termination will go into effect at the end of the thirty (30) days, unless all the signatories agree to a longer period.
- b) In the event of termination, the NRC will comply with any applicable requirements of 36 CFR §§ 800.4 through 800.7 for the undertaking covered by this PA.

18) Duration:

Implementation of the stipulations in this agreement must begin within five (5) years from the date of its execution. During that time, the NRC may consult with the signatories and concurring parties to amend the agreement in accordance with Stipulation 16. The agreement will be in place until the termination of the license.

19) Anti-Deficiency Act:

The stipulations of this Agreement are subject to the provisions of the Anti-Deficiency Act (31 U.S.C. §1341). If compliance with the Anti-Deficiency Act alters or impairs the ability of the NRC to implement this Agreement, the NRC will consult in accordance with the amendment and termination procedures in this Agreement.

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Execution of this PA by the NRC, BLM, SHPO, ACHP, and Powertech and the implementation of its terms is evidence the NRC and BLM have taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

Signatories:

Advisory Council on Historic Preservation

By: _____ Date: _____
Title: **John Fowler**, Executive Director

United States Nuclear Regulatory Commission

By: _____ Date: _____
Title: Larry W. Camper, Director
Division of Waste Management and Environmental Protection

United States Bureau of Land Management

By: _____ Date: _____
Title: _____

South Dakota State Historic Preservation Office

By: _____ Date: _____
Title: **Jay Vogt**, State Historic Preservation Officer

South Dakota Attorney General's Office Approval as to Form:

By: _____ Date: _____
Title: _____

Invited Signatories:

Powertech USA, Inc.

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By: _____ Date: _____
Title: _____

Concurring Parties:

Participating Tribes (Signatures block for 23 tribes will be included in the final PA).

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Dewey-Burdock Project

DRAFT Appendix A – Undertaking and Area of Potential Effects

Undertaking

On August 10, 2009, Powertech Inc. submitted an application for an NRC source material license to construct and operate an ISR facility at the proposed Dewey-Burdock ISR Project site and to conduct aquifer restoration, site decommissioning, and reclamation activities. Based on the application, the NRC's federal decision is to either grant or deny the license.

The Atomic Energy Act of 1954, as amended, authorizes the NRC to issue licenses, either as a general or specific license, to qualified applicants for the receipt, possession and use of byproduct and source materials resulting from the removal of uranium ore from its place of deposit in nature. An NRC specific license is issued to a commercial uranium or thorium ISR facility pursuant to the NRC implementing regulations in Title 10 of the Code of Federal Regulations (10 CFR) Part 40.

The BLM manages public lands in accordance with the Federal Land Policy and Management Act of 1976. BLM manages 97 ha [240 ac] of land within the proposed Dewey-Burdock ISR Project area. The applicant controls the locatable mineral rights on this land through Federal Lode Claims and secures access to mineral rights through the terms of the General Mining Act of 1872. Under 43 CFR Subpart 3809, BLM is required to review the environmental impacts of federal actions to assure that there is no "unnecessary or undue degradation of public lands." BLM has requested to be, and is acting as, a cooperating agency with NRC to evaluate the impacts of the Plan of Operations for the proposed Dewey-Burdock ISR Project in accordance with the National Memorandum of Understanding between the two agencies.

Project Location and Proposed Activities

The proposed Dewey-Burdock ISR Project is located within the Great Plains physiographic province on the edge of the Black Hills uplift. The proposed project area covers 4,282 ha [10,580 ac] and is composed of two contiguous areas: the Burdock area and the Dewey area (Figure 1.0). The Burdock area is located in the following townships and ranges: (i) Township 7 South, Range 1 East, Sections 1, 2, 3, 10, 11, 12, and portions of Sections 14 and 15 and (ii) Township 6 South, Range 1 East, Sections 34, 35, and portions of Section 27. The Dewey area is located in the following townships and ranges: (i) Township 7 South, Range 1 East, Section 5 and portions of Section 4 and (ii) Township 6 South, Range 1 East, Sections 29, 30, and 32, and portions of Sections 20, 21, 28, 31, and 33. Approximately 4,185 ha [10,340 ac] of the proposed project area are in the hands of private landowners, while approximately 97 ha [240 ac] are U.S. Government lands managed by U.S. Bureau of Land Management (BLM) (Powertech, 2009a,b).

The applicant's proposed project will include processing facilities and sequentially developed wellfields sited in two contiguous areas: the Burdock area and the Dewey area. As uranium recovery activities cease at a wellfield, the area will be restored and reclaimed while a new wellfield and its supporting infrastructure is developed. Under the applicant's proposal, ISR methods will be used to extract uranium from sandstone-hosted uranium orebodies in the Fall River Formation and the Chilson Member of the Lakota Formation that make up the Inyan Kara Group. The extracted uranium will be loaded onto ion exchange (IX) resin at a central processing plant in the Burdock area and a satellite facility in the Dewey area. All processing of the uranium-loaded IX resin, precipitation, drying, and packaging of the final "yellowcake" product, will take place at the Burdock central processing plant.

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Project Area of Potential Effects

The APE for the review of historic and cultural resources at the proposed Dewey-Burdock ISR Project is the area that may be directly or indirectly impacted by the construction, operation, aquifer restoration, and decommissioning of the proposed project. The APE for the proposed Dewey-Burdock ISR Project coincides with the extent of potential ground disturbance resulting from proposed facility construction and operational activities. The introduction of new visual, auditory, or other sensory elements also has the potential to diminish the integrity of historic properties in the project area.

The extent of the APE for facility construction and operations will depend on the disposal option used at the proposed project to dispose of liquid waste. The applicant plans to dispose of liquid wastes generated during uranium recovery operations through deep injection wells, land application, or a combination of both methods. The APE for facility construction and operations for all the liquid waste disposal options totals 1,067 ha [2,637 ac] (Figure 1.0). This area includes a 969-ha [2,394-ac] buffer zone surrounding 98.3-ha [243-ac] of projected areas for the plant facilities, wellfields, ponds, roads, and pipelines. If land application is used for liquid waste disposal, the APE for facility construction and operations will include an additional maximum area of approximately 506 ha [1,250 ac] surrounding proposed land application areas (Figure 1.0).

The extent of the APE for visual impacts (indirect effects) includes areas within a 4.8-km [3-mi] radius of the central processing plant in the Burdock area and the satellite processing facility in the Dewey area (see Figure 1.0). The central processing plant and satellite processing facility will be the tallest buildings constructed at the proposed Dewey-Burdock ISR Project site. Based on proposed locations of the central processing plant and the satellite processing facility, the APE for visual impacts will extend a maximum of 2.33 km [1.45 mi] from the eastern project boundary in the Burdock area and a maximum of 2.7 km [1.7 mi] from the western project boundary in the Dewey area (see Figure 1.0).

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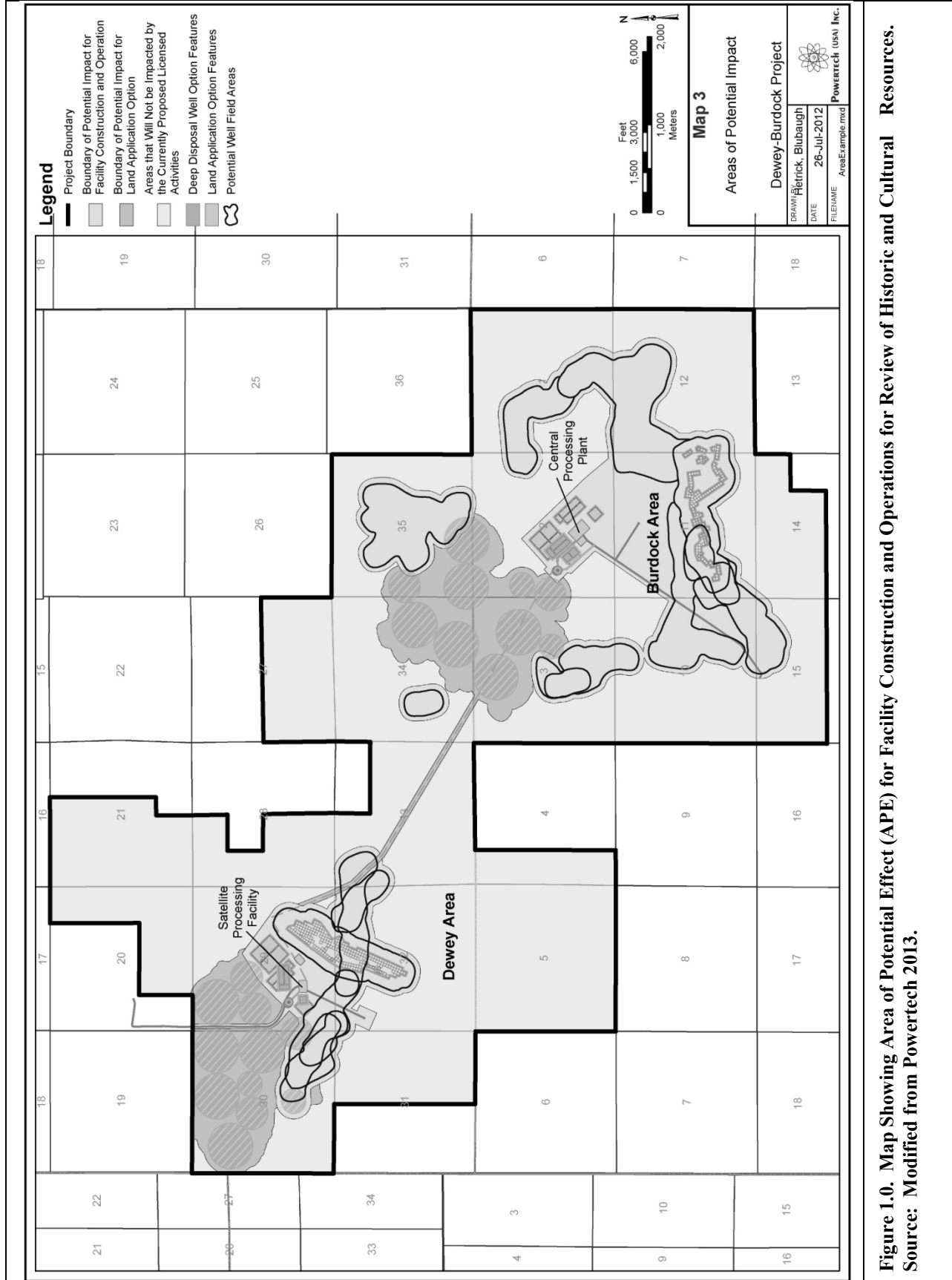


Figure 1.0. Map Showing Area of Potential Effect (APE) for Facility Construction and Operations for Review of Historic and Cultural Resources. Source: Modified from Powertech 2013.

DRAFT Appendix B – Cultural Resource Identification and Consultation Efforts

1. Level III Archeological Investigations

The NRC staff reviewed Level III cultural resource investigations and evaluative testing reports prepared by the Archaeology Laboratory, Augustana College (ALAC) on behalf of the applicant for the proposed Dewey-Burdock ISR Project (Kruse, et al., 2008; Palmer and Kruse, 2008; Palmer 2008, 2009, 2012). The investigations included an archival and historic review of available sources, a search of ARC-maintained records and collections, and review of published field reports. A review of available data shows that six surveys have been conducted within the project boundary of the proposed Dewey-Burdock site (Kruse, et al., 2008). A total of 57 archaeological sites were previously recorded within the proposed project area (Kruse, et al., 2008).

Recent field investigations were conducted by pedestrian surveys of 4,173 ha [10,311 ac] between April and August 2007 and of an additional 526 ha [1,300 ac] between July and September 2008 of the proposed project area. The 2007 and 2008 field investigations included evaluative testing at 43 sites. In 2011, evaluative testing was conducted at 20 unevaluated sites located within the project boundary to provide data for recommendation on NRHP eligibility (Palmer and Kruse, 2012). The results of the evaluative testing determined that one site, 39FA1941, is recommended eligible for listing in the NRHP and 19 sites were recommended ineligible for listing in the NRHP (Palmer and Kruse, 2012). Results of the Level III cultural resource investigations are presented in the following sections.

Archaeological Sites

NRC reviewed site data on over 200 archaeological sites recorded within the proposed project area. During the field investigation, a number of small, individual sites were combined into larger, single sites. One hundred forty-nine (149) sites were determined ineligible for listing in the NRHP when measured against the evaluative criteria found in 36 CFR 60.4. Seventy-nine (79) of these sites are isolated finds consisting of a single tool or few [n<10] items with no possibility of cultural materials or remains within buried horizons; may be aboriginal or historic; are not eligible by definition [SD ARC, 2006]; or lack physical integrity and context. Approximately 140 of these mostly prehistoric sites are located on highly disturbed and eroded landforms and have little potential to possess intact, significant buried cultural deposits.

Fifteen (15) archaeological sites, including two containing cairns and burials, have been recommended as eligible for listing in the NRHP. SD SHPO has previously concurred with the sites recommended eligible to the NRHP under one or more criteria of eligibility in Table 1-1 (SD SHPO, 2012). The archaeological sites recommended for listing in NRHP are discussed below.

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Table 1-1. List of Archaeological Sites Within the Proposed Project Area Recommended Eligible for Listing in the NRHP*

Historic Property (Site Number, Structure Identification, or Historic District)	Description	NRHP Determination
39CU0271	Native American and Archaic artifact scatter and occupation site on a ridge slope with a cairn feature	Eligible, Criterion D
39CU0577	Native American/Euroamerican Occupation site; artifact scatter	Eligible, Criterion D
39CU0584	Native American occupation site and burial on a ridge slope	Eligible, Criterion D
39CU2735	Archaic- Prehistoric occupation site	Eligible, Criterion D
39CU0578	Native American/Euroamerican Dump and occupation site on a ridge slope	Eligible, Criterion D
39CU0586	Native American and Late Archaic occupation site on a ridge crest	Eligible, Criterion D
39CU0588	Native American occupation site on a ridge crest	Eligible, Criterion D
39CU2733	Native American hearth and artifact scatter on a ridge slope	Eligible, Criterion D
39CU2738	Native American occupation site on a ridge crest	Eligible, Criterion D
39CU0590	Native American artifact scatter on a ridge saddle	Eligible, Criterion D
39CU0593	Native American and Euroamerican occupation and artifact scatter on a hill slope	Eligible, Criterion D
39CU3592	Native American artifact scatter and hearth site	Eligible, Criterion D
39FA1941	Native American artifact scatter and hearth site	Eligible, Criterion D
39CU2000	Historic Railroad	Eligible, Criteria A and C
39FA2000	Historic Railroad	Eligible, Criteria A and C
Sources: Kruse, et al. (2008); Palmer and Kruse (2008, 2012); Palmer (2009) *Recommended eligible by ALAC and NRC. SD SHPO has concurred with these recommendations (SD SHPO, 2012).		

2. Tribal Cultural Survey Results

In December 2012, the NRC staff advised all consulting tribes that the Dewey-Burdock site would be open for interested tribes to conduct on-the-ground surveys in the spring of 2013.¹

On February 8, 2013, the NRC staff contacted 23 tribes interested in the proposed Dewey-Burdock ISR Project and invited the 23 tribes to participate in a field survey of the project area for the purpose of identifying properties of religious and cultural significance to tribes. In the spring of 2013, the Dewey-Burdock project site was made available for each consulting tribe to conduct a field identification survey for any historic properties that may have traditional, religious or cultural significance to the tribe. The NRC invited interested tribes to investigate any areas within the 4,282-ha [10,580-ac] Dewey Burdock license area during the month of April 2013. Financial support was offered for as many as three representatives from each tribe and each tribe was invited to develop and implement its own survey methodology. Tribes were asked to respond to NRC no later than March 12, 2013.

Seven tribes participated in the field survey at the proposed Dewey-Burdock site. These tribes included the Northern Arapaho Tribe, Northern Cheyenne Tribe, Turtle Mountain Band of Chippewa Indians,

¹ Letter to Tribal Leaders Responding to Comments Received regarding Tribal Survey, Dewey-Burdock ISR project. (December 14, 2013) (ADAMS Accession No. ML12335A175) <https://adamsxt.nrc.gov/WorkplaceXT/IBMgetContent?vsId={389C91E7-8786-4A5A-81D1-3CB65331519D}&objectType=document&id={2EE3F8FC-01CC-4C19-9A45-DAB53D64C77E}&objectStoreName=Main...Library>

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Crow Creek Sioux Tribe, Cheyenne and Arapaho Tribes of Oklahoma, Crow Nation, and Santee Sioux Tribe. The NRC staff received detailed written reports with NRHP eligibility recommendations from three of the seven tribes who participated in the tribal cultural survey (Northern Arapaho Tribe, Northern Cheyenne Tribe, Cheyenne and Arapaho Tribes of Oklahoma). The Crow Nation provided NRC staff with a copy of field notes identifying several sites of interest to that tribe. A detailed list of sites identified during the tribal cultural survey with management recommendations is included below in Table 1.0. The survey reports prepared by tribes along with maps recording the location of the discoveries identified during the tribal cultural survey are on file at NRC and at each of the respective tribal offices.

The tribal survey teams identified new artifact discoveries or cultural features of interest to tribes at 24 previously reported archaeological sites as well as 47 other locations representing as many as 71 tribal sites. A number of the 47 new discoveries identified by tribes are situated near the boundaries of known archaeological sites and could reasonably be considered part of those sites if the current archaeological site boundaries were expanded to include them. Other new discoveries occur in close proximity to one another and may be culturally related.

Most of the new discoveries identified in the tribal cultural surveys are summarized as individual tribal sites. When tribes indicated cultural relationships exist between new discovered features and known archaeological sites or between groups of individual tribal cultural features, this information is provided in the summary Table 1.0.

Tribal Review of Previously Reported Archaeological Sites

Tribal survey teams recorded 81 cultural features within the boundaries of 24 known archaeological sites. Some of the cultural features recorded by tribal survey teams correspond to features identified in the archaeological surveys; however, many represent new discoveries. Tribes provided specific recommendations for four (4) archaeological sites that were investigated without identifying new cultural features.

Tribal Sites: New Discoveries

A total of 47 new discoveries were recorded as a result of the tribal cultural survey. Forty-four (44) of the 47 new discoveries are individual tribal sites or cultural features and were assigned individual survey numbers. Three tribal sites represent cultural features within a single site. For example, 11 GPS readings were taken to record the location of individual stones that make up a single stone feature (TS080-TS089, TS098). Five associated tribal features (TS007-TS011) make up another tribal site. Another cultural feature assigned duplicate survey numbers (TS041 and TS042).

Twelve (12) of the 47 newly discovered cultural features were identified outside the license boundary. These features include five (5) discoveries on private land (TS024, TS061, TS062, TS075, TS079), five (5) discoveries on BLM property (TS125, TS126, TS127, TS128, TS129), and two discoveries on U.S. Forest Service (USFS) property (TS106, TS107). Sites TS107 and TS125 were identified as a possible gravesites. TS106 and TS107 were recommended eligible for listing in the NRHP under criteria A and C. No eligibility recommendations were provided for the other 10 cultural features or sites. Thirty-five (35) of the 47 new discoveries were identified within the project's license boundary. Ten (10) of these tribal sites were recommended as NRHP- eligible under one or more eligibility criteria. TS002, TS118, and TS120 were recommended as eligible under Criterion A. TS145 is recommended as eligible under Criterion D. TS007-011 is recommended as eligible under Criteria A and D. TS040, TS041-TS042, TS047, and TS080-T089, TS098 are recommended as eligible under Criteria A and C. TS006, a gravesite, is recommended as eligible under Criteria A, C, and D.

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NRHP recommendations were not provided for 25 of the 35 new discoveries recorded within the project license boundary (TS003, TS005, TS023, TS028, TS030, TS036, TS037, TS048, TS049, TS050, TS051, TS052, TS063, TS064, TS065, TS066, TS090, TS091, TS092, TS093, TS094, TS095, TS097, TS131, TS144). These features include isolated artifact finds, animal bone concentrations, stone circles, cairns, and possible fasting sites. TS023, TS048, TS049, TS050, and TS131 were identified during the field survey as possible gravesties. NRC recommends avoidance of these sites because these sites may contain human remains, even though tribes may not consider these locations eligible for listing in the NRHP.

3. Visual Effects Assessment (indirect effects)

In consultation with the SD SHPO and other consulting parties, NRC staff completed an assessment of the project's potential to have visual impacts on historic properties (i.e., properties of any type listed in or considered eligible for listing in the NRHP). This assessment considered whether the construction of the central processing plant and satellite facility would create a visual effect on historic properties. The purpose of the study was to assess whether the introduction of new visual changes in the form of new processing facilities could have potential to diminish those aspects of integrity that qualify historic properties for inclusion in the NRHP. NRC's assessment considered potential visual effects on the integrity of each property's location, design, setting, materials, workmanship, feeling, or association in accordance with the Section 106 regulations at 36 CFR 800.5(a)(1). Setting, feeling, and association are generally those aspects of integrity considered most sensitive to visual intrusions and these aspects of integrity are most likely to contribute to the historic significance of historic properties considered eligible under criteria A, B, or C. Integrity of setting is not often considered a contributing characteristic for properties considered eligible only on the basis of their historic information content (i.e., Criterion D).

NRC's assessment of visual effects included historic properties situated within a 4.8 km [3-mi] radius of the tallest or most prominent building within each processing facility. This assessment therefore includes historic properties located within the license boundary as well as those near and outside the license boundary. The 4.8 km [3-mi] radius was selected based on i) consultation with the SD SHPO, ii) consultation with BLM, and iii) a previous assessment done for the Dakota, Minnesota, and Eastern Railroad's (DM&E) Powder River Basin Expansion project (HDR Inc., 2009). Due to the proposed project's close proximity to the state of Wyoming, NRC staff also consulted with the Wyoming State Historic Preservation Office (WY SHPO) to determine whether reviewing properties located within a 4.8 km [3-mi] radius of the processing facilities would be acceptable for purposes of reviewing potential impacts to significant cultural and historical properties in this portion of the state of Wyoming. The WY SHPO staff agreed with NRC's proposed research approach (WY SHPO, 2013).

For the evaluation of potential visual effects to historic properties in South Dakota, NRC staff compiled a list of 31 historic properties that are either listed on the NRHP or considered eligible for listing on the NRHP under criteria A and/or C. No historic properties within the project area appear to qualify as significant under Criterion B, and historic properties considered eligible for the NRHP solely under Criterion D were not evaluated for potential visual effects because aspects of integrity most likely to be affected by visual changes, i.e., setting, feeling, and association, are not necessary to convey the significance of those property types as sources of important historic information. This group of 31 historic properties includes one NRHP-listed historic district, the Edna and Ernest Young Ranch (90000949) also known as the Bakewell Ranch (CU00000050). The Young Ranch historic district includes several contributing ranch buildings including the principal residence. A nearby homestead district, known as the, Richardson Homestead (CU00000052) is considered not eligible but includes one individually eligible log barn (CU02500002). Other NRHP-eligible properties include one historic bridge (Beaver Creek Bridge, FA00000111), and 28 sites that include 19 archaeological sites and 9 tribal sites.

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Only one historic property located outside the license boundary was included in this review. The Beaver Creek Bridge (Structure FA00000111) is located southwest of the project boundary but falls within the 4.8-km [3-mi] radius for the central processing plant. Two rock art sites in Fall River County (39FA2530, 39FA2531) fell just outside the 4.8-km [3-mi] range for the central processing plant. No other NRHP-listed or eligible properties were identified outside the license boundary. Table 1.0 summarized identified sites impact determination.

A review of NRHP listings for the State of Wyoming and state inventory records on file at the Wyoming Cultural Records Office at the University of Wyoming, Laramie, Wyoming revealed that one NRHP-eligible property was located within a 4.8-km [3-mi] radius of the proposed satellite facility in Wyoming. However, because the environmental setting of this property is not considered to be among the characteristics that contribute to its cultural and historical significance, this property was not included in the LOS study and NRC has determined that no further consultation with the Wyoming SHPO is warranted for this project.

4. Tribal Consultation

The federal government and the State of South Dakota recognize the sovereignty of federally recognized Native American tribes. Pursuant to NHPA Section 106, federal agencies are required to undertake consultation and coordination with each tribal government that may have an interest in a proposed federal action. Consultation with the tribes that have heritage interest in the proposed Dewey-Burdock ISR Project is ongoing. Executive Order 13175 (November 2000), "*Consultation and Coordination with Indian Tribal Governments*," excludes from the requirements of the order, "independent regulatory agencies, as defined in 44 U.S.C. §3502(5)." However, according to Section 8, "Independent regulatory agencies are encouraged to comply with the provisions of this order." Although the NRC is explicitly exempt from the Order, the Commission remains committed to its spirit. The agency has demonstrated a commitment to achieving the Order's objectives by implementing a case-by-case approach to interactions with Native American tribes. NRC's case-by-case approach allows both NRC and the tribes to initiate outreach and communication with one another.

As part of its obligations under Section 106 of the NHPA and the regulations at 36 CFR 800.2(c)(2)(B)(ii)(A), NRC must provide Indian tribes "a reasonable opportunity to identify its concerns about historic properties, advise on the identification and evaluation of historic properties and evaluation of historic properties, including those of religious and cultural importance, articulate its views on the undertaking's effects on such properties, and participate in the resolution of adverse effects."

NRC staff formally initiated the Section 106 consultation process for the proposed Dewey-Burdock ISR Project by contacting tribal governments by letters dated March 19, 2010. Additional invitations to consult with the NRC concerning the proposed project were sent to tribes on September 10, 2010 and March 4, 2011 (NRC 2010b, NRC 2011).

The NRC identified 23 Native American tribes that attach historical, cultural, and religious significance to sites within the Dewey-Burdock ISR Project area. The NRC continues consultation on historic properties with the following tribes:

- Cheyenne River Sioux Tribe
- Crow Creek Sioux Tribe
- Flandreau Santee Sioux Tribe
- Lower Brule Sioux Tribe
- Oglala Sioux Tribe

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- Rosebud Sioux Tribe
- Sisseton-Wahpeton Sioux Tribe
- Standing Rock Sioux Tribe
- Yankton Sioux Tribe
- Three Affiliated Tribes (Mandan, Hidasta, and Arikara Nation)—North Dakota
- Turtle Mountain Band of Chippewa—North Dakota
- Spirit Lake Tribe—North Dakota
- Lower Sioux Indian Community—Minnesota
- Fort Peck Assiniboine and Sioux—Montana
- Northern Cheyenne Tribe—Montana
- Northern Arapaho Tribe—Wyoming
- Eastern Shoshone Tribe—Wyoming
- Ponca Tribe—Nebraska
- Crow Tribe—Montana
- Santee Sioux Tribe—Nebraska
- Omaha Tribe—Nebraska
- Cheyenne and Arapaho Tribes—Oklahoma
- Pawnee Tribe—Oklahoma

NRC staff invited the tribes to participate as consulting parties in the NHPA Section 106 process and sought their assistance in identifying places of religious and cultural significance and any other cultural resources that may be affected by the proposed action.

Since 2010, the NRC staff has had three face-to-face meetings and three teleconferences with Tribal representatives, and we have exchanged many emails, letters, and telephone calls.

The NRC staff plans to continue to invite the above tribes to participate in the development of this Programmatic Agreement.

Table 1.0: NRHP determination has been attached as a separate document due to its size.

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DRAFT Appendix C – Reporting Criteria for the Monitoring Plan

- a) On or before January 1 of each year, unless the Parties agree in writing that the terms of this PA have been fulfilled, Powertech shall prepare and provide a letter report to the NRC detailing how the applicable terms of the PA are being implemented.
- b) Upon acceptance, Powertech shall provide this annual report to the Parties.
- c) The Parties may provide comments on the report to Powertech within **30 days** of receipt, and Powertech will distribute all comments to the Parties.
- d) Powertech shall coordinate a meeting or conference call of the Parties within **60 days** after providing the annual report for the first five (5) years, and every third year thereafter, if the PA remains in effect, unless the Parties agree to another timeframe. The purpose is to review implementation and achieved outcomes of the terms of this PA and to discuss the annual report, as needed.

DRAFT Appendix D – Treatment of Human Remains

From SD SHPO

In the event of an inadvertent discovery of human remains or funerary objects the following steps shall be taken pursuant to South Dakota Codified Law Chapter 34-27-25, 34-27-28, 34-27-31:

- a) The **On-site manager/ Contractor** shall immediately halt construction activities within a 150 foot radius from the point of discovery and implement measures to protect the discovery from looting and vandalism. No digging, collecting or moving human remains or other items shall occur after the initial discovery. Protection measures may include the following.
 - 1) Flag the buffer zone around the find spot.
 - 2) Keep workers, press, and curiosity seekers, away from the find spot.
 - 3) Tarp the find spot.
 - 4) Prohibit photography of the find unless requested by an agency official.
 - 5) Have an individual stay at the location to prevent further disturbance until a law enforcement officer arrives.
- b) The **On-site manager/ Contractor** shall notify local law enforcement, the **Federal/ State Agency** responsible for the project, and the South Dakota State Archaeologist (State Archaeologist) within forty-eight (48) hours of the discovery.
- c) The **Federal/ State Agency** responsible for the project shall notify the South Dakota State Historic Preservation Office (SHPO), Indian tribes, and other consulting parties within forty-eight (48) hours of the discovery.
- d) If local law enforcement determines that the remains are not associated with a crime, the **Federal/ State Agency** responsible for the project shall determine if it is prudent and feasible to avoid disturbing the remains. If the **Federal/ State Agency** in consultation with the **Project Proponent/Applicant/Contractor** determine that disturbance cannot be avoided, the **Federal/ State Agency** shall consult with the State Archaeologist, SHPO, Indian tribes and other consulting parties to determine acceptable procedures for the removal, treatment and disposition of the burial or remains. The **Federal/ State Agency** shall ensure that the **Project Proponent/Applicant/Contractor** implements the plan for removal, treatment and disposition of the burial or remains as authorized by the South Dakota State Archaeologist.
- e) The **Federal/ State Agency** shall notify the **Project Proponent/Applicant/Contractor** that they may resume construction activities in the area of the discovery upon completion of the plan authorize by the State Archaeologist.

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Table 1: NRC Determination of Eligibility and Impact Analysis for Previously Recorded Archaeological Sites and Tribal Sites – Dewey-Burdock Project

Site Number	Type of Site	NRC's NRHP Determination*	Potential Effects			NRC's Effect Determination	Comments
			DDW	LA	Visual		
CU02500002	Building 1 (Log Barn) at the Richardson Homestead (CU00000052)	Eligible A	No	Yes	Yes	Adverse Effect (LA)/No Adverse Effect (Visual)	Found eligible for listing on NRHP in April 2012 under Criterion A. Site located ~76 m [250 ft] south of land application areas. Site will be fenced off to ensure avoidance.
39CU3602 TS119	Artifact Scatter; Hearth	Eligible A	No	No	Yes	No Effect	Viewshed obstructed by tree cover
39CU3607 TS116-117	Artifact Scatter; Hearth	Eligible A	No	No	Yes	No Effect	Viewshed obstructed by tree cover
39FA0096 TS001, TS004, TS013	Occupation; Artifact Scatter; Nonfarm Ruins; Dump; Burial; 2 Tribal Features	Eligible A	Yes	Yes	Yes	Adverse Effect (DDW and LA)/No Adverse Effect (Visual)	Recommend Evaluative Testing. Viewshed obstructed by tree cover; other modern intrusions
39FA1881	Artifact Scatter; Cairn	Eligible A	No	No	Yes	No Adverse Effect (Visual)	Partially screened by topography; other modern intrusions. Site will be avoided
39FA1890 TS012	Artifact Scatter; Cairn; 2 Tribal Features	Eligible A	No	No	Yes	No Effect	Facilities not visible from property. Site will be avoided
39FA1927	6 Cairns	Eligible A	No	No	Yes	No Effect	Facilities not visible from property. Site will be avoided
39FA1952	Hearth; Artifact Scatter	Eligible A	No	No	Yes	No Adverse Effect (Visual)	Other modern intrusions. Site will be Avoided
TS002	stone circle	Eligible A	No	No	Yes	No Adverse Effect (Visual)	Other modern intrusions
TS118	hearth	Eligible A	No	No	Yes	No Effect	Viewshed obstructed by tree cover
TS120	hearth	Eligible A	Yes	Yes	Yes	Adverse Effect (DDW and LA)/No Adverse Effect (Visual)	Site will be avoided; other modern visual intrusions
CU00000050	Bakewell Ranch/ Edna and Ernest Young Ranch Historic District (90000949)	Eligible A C	No	No	Yes	No Adverse Effect (visual)	Listed on the NRHP. Historic property will be avoided
39CU0459 TS108-111	Artifact Scatter; Hearth; 4 Tribal Features	Eligible A C	No	No	Yes	No Adverse Effect (Visual)	Other modern intrusions. Site will be avoided. The boundary for 39CU0459 includes two smaller Artifact Scatters: 39CU0461 and 39CU0528.

Table 1: NRC Determination of Eligibility and Impact Analysis for Previously Recorded Archaeological Sites and Tribal Sites – Dewey-Burdock Project

Site Number	Type of Site	NRC's NRHP Determination*	Potential Effects			NRC's Effect Determination	Comments
			DDW	LA	Visual		
39CU2000	Railroad	Eligible A C	Yes	Yes	Yes	Adverse Effect (DDW and LA)/No Adverse Effect (Visual)	Site crosses proposed wellfield areas; site will be avoided. Setting is confined to narrow corridor along railroad.
39CU3600 TS114-115	Artifact Scatter; Stone Alignment	Eligible A C	No	No	Yes	No Adverse Effect (Visual)	Other modern obstructions. Site will be avoided
39CU3604 TS121-122	Artifact Scatter; Hearth; Stone Circle	Eligible A C	Yes	Yes	Yes	Adverse Effect (DDW and LA)/No Adverse Effect (Visual)	Other modern intrusions.
39CU3620	Artifact Scatter; Hearth; Cairn	Eligible A C	No	No	Yes	No Effect	Viewshed obstructed by tree cover. Site will be Avoided. Partly located on USFS property. ALAC boundary may be expanded to include TS106 and TS107
39FA1922 TS014-017	Artifact Scatter; Stone Circle; 4 Tribal Features	Eligible A C	No	No	Yes	No Effect	Facilities not visible from property. Site will be avoided. Located on BLM Property
39FA1923 TS018, TS142-143	Artifact Scatter; Monument; 3 Tribal Features	Eligible A C	No	No	Yes	No Effect	Facilities not visible from property. Site will be avoided. Located on BLM Property
39FA1926 TS068-073	Artifact Scatter; 6 Tribal Features	Eligible A C	No	No	Yes	No Effect	Facilities not visible from property. Site will be avoided
39FA2000	Railroad	Eligible A C	Yes	Yes	Yes	Adverse Effect (DDW and LA)/No Adverse Effect (Visual)	Site crosses proposed wellfield areas. Setting is confined to narrow corridor along railroad.
TS040	ceremonial site	Eligible A C	No	No	Yes	No Adverse Effect (Visual)	Partially screened by timber; other modern intrusions. Site will be avoided
TS041-042	ceremonial site	Eligible A C	No	No	Yes	No Adverse Effect (Visual)	Partially screened by timber; other modern intrusions. Site will be avoided
TS047	ceremonial site	Eligible A C	No	No	Yes	No Effect	Site is located more than 3 miles from nearest processing facility

Table 1: NRC Determination of Eligibility and Impact Analysis for Previously Recorded Archaeological Sites and Tribal Sites – Dewey-Burdock Project

Site Number	Type of Site	NRC's NRHP Determination*	Potential Effects			NRC's Effect Determination	Comments
			DDW	LA	Visual		
TS080-089, TS098	stone feature	Eligible A C	Yes	Yes	Yes	Adverse Effect (DDW and LA)/No Adverse Effect (Visual)	Mostly screened by topography; other modern intrusions
39CU0584 TS043-046, TS053, TS132-140	Occupation; Burial; 14 Tribal Features	Eligible A C D	No	No	Yes	No Effect	Viewshed obstructed by tree cover. Site will be avoided. Avoid as possible gravesite.
TS006	Cairn	Eligible A C D	No	No	Yes	No Adverse Effect (Visual)	Other modern intrusions. Avoid as gravesite.
39CU3567 TS031-33, TS141	Artifact Scatter; Stone Circle; 4 Tribal Features	Eligible A D	No	Yes	Yes	Adverse Effect (LA)/No Adverse Effect (Visual)	Other modern intrusions. Avoidance
39FA2530	Rockshelter, Rock Art, Artifact Scatter	Eligible A D	No	No	Under Evaluation		Located outside license boundary but within APE for visual effects
39FA2531	Rock Art	Eligible A D	No	No	Under Evaluation		Located outside license boundary but within APE for visual effects
TS007-011	stone circle	Eligible A D	Yes	Yes	Yes	Adverse Effect (DDW and LA)/No Adverse Effect (Visual)	Other modern intrusions. TS007-TS011 may be considered a single site.
39FA1862 TS112-113	Artifact Scatter; Cairn, Stone Circle 2 Tribal Features	Eligible A D (Unevaluated)	No	No	Yes	No Adverse Effect (Visual)	Other modern intrusions. Site will be avoided. Located outside license boundary
FA00000111	Bridge 24-020-020 over Beaver Creek	Eligible C	No	No	No	No Effect	NR Status per CRGRID; Located outside license boundary
39CU0271 TS019 TS035 TS130	Occupation; Hearth; 3 Tribal Features; Possible Gravesite	Eligible D	Yes	Yes	NA	Adverse Effect (DDW and LA)	This site is adjacent to proposed land disturbance. Avoid as possible gravesite. Tribes recorded the site but did not provide eligibility recommendations
39CU0577	Occupation site; artifact scatter	Eligible D	No	No	NA	No Effect	Site will be avoided, no impacts anticipated
39CU0578	Dump; Occupation	Eligible D	No	No	NA	No Effect	Site will be avoided, no impacts anticipated
39CU0586	Occupation	Eligible D	No	No	NA	No Effect	Site will be avoided, no impacts anticipated
39CU0588	Occupation	Eligible D	No	No	NA	No Effect	Site will be avoided, no impacts anticipated
39CU0590	Artifact Scatter	Eligible D	No	No	NA	No Effect	Site will be avoided, no impacts anticipated

Table 1: NRC Determination of Eligibility and Impact Analysis for Previously Recorded Archaeological Sites and Tribal Sites – Dewey-Burdock Project

Site Number	Type of Site	NRC's NRHP Determination*	Potential Effects			NRC's Effect Determination	Comments
			DDW	LA	Visual		
39CU0593	Occupation; Artifact Scatter	Eligible D	No	No	NA	No Effect	Site will be avoided, no impacts anticipated
39CU2733	Hearth; Artifact Scatter	Eligible D	No	No	NA	No Effect	Site will be avoided, no impacts anticipated
39CU2735	Occupation	Eligible D	No	No	NA	No Effect	Site will be avoided, no impacts anticipated
39CU2738	Occupation	Eligible D	No	No	NA	No Effect	Site will be avoided, no impacts anticipated
39CU3592	Artifact Scatter	Eligible D	Yes	Yes	NA	Adverse Effect (DDW and LA)	Site located within a proposed wellfield area. Site will be fenced off to ensure avoidance
39FA1941	Artifact Scatter; Hearth	Eligible D	Yes	Yes	NA	Adverse Effect (DDW and LA)	Site located east of the proposed Burdock central processing plant within a proposed wellfield area.
39FA1955	Hearth; Artifact Scatter	Unevaluated	No	No	NA	No Effect	This site is outside of land disturbance activities
39FA1958	Hearth; Artifact Scatter	Unevaluated	No	No	NA	No Effect	This site is outside of land disturbance activities
39FA1964 TS099-105	Artifact Scatter; Hearth; Cairn	Unevaluated	No	No	NA	No Effect	Site Will be Avoided. Tribes recorded the site but did not provide eligibility recommendations
39FA1965	Artifact Scatter	Unevaluated	No	No	NA	No Effect	This site is outside of land disturbance activities
TS061	stone circle	Unevaluated	No	No	NA	No Effect	Located on or near license boundary
TS062	effigy	Unevaluated	No	No	NA	No Effect	Outside license boundary
TS075	cairn	Unevaluated	No	No	NA	No Effect	Located 60 meters outside license boundary
TS079	stone circle	Unevaluated	No	No	NA	No Effect	Located 230 meters outside license boundary
TS106	fasting circle	Unevaluated	No	No	NA	No Effect	Located on USFS Property 40 meters outside license boundary. Possibly associated with 39CU3620
TS107	modern grave and circle	Unevaluated	No	No	NA	No Effect	Avoid as possible gravesite. Located on USFS Property 60 meters outside license boundary. Possibly associated with 39CU3620
TS125	burial	Unevaluated	No	No	NA	No Effect	Avoid as possible gravesite. Located on BLM Property 60 meters outside license boundary
TS126	staff	Unevaluated	No	No	NA	No Effect	Located on BLM Property 180 meters outside license boundary
TS127	fasting site	Unevaluated	No	No	NA	No Effect	Located on BLM Property 200 meters outside

Table 1: NRC Determination of Eligibility and Impact Analysis for Previously Recorded Archaeological Sites and Tribal Sites – Dewey-Burdock Project

Site Number	Type of Site	NRC's NRHP Determination*	Potential Effects			NRC's Effect Determination	Comments
			DDW	LA	Visual		
							license boundary
TS128	fasting site	Unevaluated	No	No	NA	No Effect	Located on BLM Property 200 meters outside license boundary
TS129	fasting site/ring	Unevaluated	No	No	NA	No Effect	Located on BLM Property 290 meters outside license boundary
TS145	Prayer/offering location	Eligible D	Yes	Yes	No	Adverse Effect (DDW and LA)	Precise location is not known. Located within an 80-acre parcel. Would require relocation to assess potential for site avoidance.
39CU0032A	Artifact Scatter	Unevaluated	No	No	NA	No Effect	
39CU0456	Artifact Scatter	Unevaluated	No	No	NA	No Effect	This site is outside of proposed land disturbance
39CU0457	Artifact Scatter	Unevaluated	No	No	NA	No Effect	This site is outside of proposed land disturbance
39CU0460	Artifact Scatter; Hearth	Unevaluated	No	No	NA	No Effect	This site is outside of proposed land disturbance
39CU0530	Artifact Scatter; Hearth; Cairn	Unevaluated	No	No	NA	No Effect	This site is outside of proposed land disturbance. Site will be avoided, no impact anticipated.
39CU0554	Artifact Scatter	Unevaluated	Yes	No	NA	Adverse Effect (DDW)	This site is within proposed land disturbance. Recommend evaluative testing
39CU0556	Artifact Scatter	Unevaluated	No	No	NA	No Effect	Site will be avoided. This site is outside of proposed land disturbance.
39CU0558	Artifact Scatter	Unevaluated	Yes	Yes	NA	Adverse Effect (DDW and LA)	This site is within proposed land disturbance. Recommend evaluative testing
39CU0561	Artifact Scatter	Unevaluated	No	No	NA	No Effect	This site is outside of proposed land disturbance
39CU0653	Artifact Scatter	Unevaluated	No	Yes	NA	Adverse Effect (LA)	Site within proposed land disturbance. Recommend evaluative testing.
39CU3565	Artifact Scatter	Unevaluated	No	No	NA	No Effect	This site is outside of land disturbance activities
39CU3574 TS021-22	Artifact Scatter; Hearth; 1 Tribal Feature, scraper	Unevaluated	No	No	NA	No Effect	Site will be avoided. Tribes recorded the site but did not provide eligibility recommendations
39CU3584 TS025-027, TS-029	Artifact Scatter; Cairn	Unevaluated	No	Yes	NA	Adverse Effect (LA)	Tribes recorded the site but did not provide eligibility recommendations

Table 1: NRC Determination of Eligibility and Impact Analysis for Previously Recorded Archaeological Sites and Tribal Sites – Dewey-Burdock Project

Site Number	Type of Site	NRC's NRHP Determination*	Potential Effects			NRC's Effect Determination	Comments
			DDW	LA	Visual		
39CU3585	Artifact Scatter and Hearth; Artifact Scatter	Unevaluated	No	No	NA	No Effect	This site is outside of land disturbance activities
39CU3586	Artifact Scatter; Hearth	Unevaluated	No	No	NA	No Effect	This site is outside of land disturbance activities
39CU3587	Artifact Scatter; Burial	Unevaluated	No	No	NA	No Effect	Site will be avoided, no impacts anticipated
39CU3597	Artifact Scatter	Unevaluated	No	No	NA	No Effect	This site is outside of land disturbance activities
39CU3599	Nonfarm Ruins; Artifact Scatter; Depression. Foundation	Unevaluated	No	No	NA	No Effect	This site is outside of land disturbance activities
39CU3601	Artifact Scatter; Hearth	Unevaluated	No	No	NA	No Effect	Site will be avoided. This site is outside of land disturbance activities
39CU3603	Artifact Scatter; Hearth	Unevaluated	Yes	Yes	NA	Adverse Effect (DDW and LA)	Evaluative testing recommended
39CU3605	Artifact Scatter; Hearth	Unevaluated	No	No	NA	No Effect	Site will be Avoided
39CU3606	Artifact Scatter; Hearth	Unevaluated	No	No	NA	No Effect	Site will be avoided
39CU3611	Artifact Scatter; Hearth	Unevaluated	No	No	NA	No Effect	This site is outside of land disturbance activities
39CU3612	Artifact Scatter; Hearth	Unevaluated	No	No	NA	No Effect	This site is outside of land disturbance activities
39CU3615	Artifact Scatter	Unevaluated	No	Yes	NA	Adverse Effect (LA)	Evaluative testing recommended
39CU3623	Artifact Scatter	Unevaluated	No	No	NA	No Effect	This site is outside of land disturbance activities
39CU3624	Artifact Scatter	Unevaluated	Yes	Yes	NA	Adverse Effect (DDW and LA)	Site located less than 30.5 m [100 ft] from a proposed wellfield area. Site will undergo further evaluative testing. Avoidance recommended until

Table 1: NRC Determination of Eligibility and Impact Analysis for Previously Recorded Archaeological Sites and Tribal Sites – Dewey-Burdock Project

Site Number	Type of Site	NRC's NRHP Determination*	Potential Effects			NRC's Effect Determination	Comments
			DDW	LA	Visual		
							testing is complete.
39CU3772	Artifact Scatter	Unevaluated	No	No	NA	No Effect	This site is outside of land disturbance activities
39CU3776	Artifact Scatter; Rock Shelter	Unevaluated	No	No	NA	No Effect	This site is outside of land disturbance activities
39CU3779	Artifact Scatter; Rock Shelter; Hearth	Unevaluated	No	No	NA	No Effect	This site is outside of land disturbance activities
39CU3813	Hearth; Artifact Scatter	Unevaluated	No	No	NA	No Effect	This site is outside of land disturbance activities
39CU3817	Artifact Scatter	Unevaluated	No	No	NA	No Effect	This site is outside of land disturbance activities
39CU3818	Hearth; Artifact Scatter	Unevaluated	No	No	NA	No Effect	This site is outside of land disturbance activities
39CU3819	Depression; Artifact Scatter	Unevaluated	No	No	NA	No Effect	This site is outside of land disturbance activities
39CU3821	Artifact Scatter	Unevaluated	No	No	NA	No Effect	This site is outside of land disturbance activities
39CU3822	Artifact Scatter	Unevaluated	No	No	NA	No Effect	This site is outside of land disturbance activities
39FA0110	Artifact Scatter	Unevaluated	No	No	NA	No Effect	This site is outside of land disturbance activities
39FA0269	Artifact Scatter	Unevaluated	No	No	NA	No Effect	This site is outside of land disturbance activities
39FA0270	Artifact Scatter	Unevaluated	No	No	NA	No Effect	This site is outside of land disturbance activities
39FA0274	Artifact Scatter	Unevaluated	Yes	Yes	NA	Adverse Effect (DDW and LA)	Recommend Evaluative Testing
39FA0275	Artifact Scatter	Unevaluated	No	No	NA	No Effect	
39FA0556	Artifact Scatter	Unevaluated	Yes	Yes	NA	Adverse Effect (DDW and LA)	Recommend Evaluative Testing
39FA0740	Artifact Scatter	Unevaluated	No	Yes	NA	Adverse Effect (LA)	Recommend Evaluative Testing
39FA0777	Artifact Scatter	Unevaluated	N	Yes	NA	Adverse Effect (LA)	Recommend Evaluative Testing
39FA0778	Farmstead	Unevaluated	Yes	Yes	NA	Adverse Effect (DDW and LA)	Recommend Evaluative Testing
39FA1859	Artifact Scatter	Unevaluated	No	No	NA	No Effect	This site is outside of land disturbance activities
39FA1863	Artifact Scatter; Cairn, Stone Circle; Alignment	Unevaluated	No	No	NA	No Effect	Site Will be Avoided. Located outside license boundary

Table 1: NRC Determination of Eligibility and Impact Analysis for Previously Recorded Archaeological Sites and Tribal Sites – Dewey-Burdock Project

Site Number	Type of Site	NRC's NRHP Determination*	Potential Effects			NRC's Effect Determination	Comments
			DDW	LA	Visual		
39FA1864	Artifact Scatter	Unevaluated	No	No	NA	No Effect	Located outside license boundary
39FA1870	Artifact Scatter	Unevaluated	No	No	NA	No Effect	This site is outside of land disturbance activities
39FA1874	Artifact Scatter	Unevaluated	No	No	NA	No Effect	This site is outside of land disturbance activities
39FA1880	Artifact Scatter	Unevaluated	Yes	Yes	NA	Adverse Effect (DDW and LA)	Site will undergo further evaluative testing. Avoid until testing completed
39FA1882	Town Site, Road, School Foundation	Unevaluated	No	No	NA	No Effect	Site will be avoided. This site is outside of land disturbance activities
39FA1892	Artifact Scatter	Unevaluated	No	No	NA	No Effect	Site will be avoided. This site is outside of land disturbance activities
39FA1896	Artifact Scatter	Unevaluated	No	No	NA	No Effect	Site will be avoided. This site is outside of land disturbance activities
39FA1902	Artifact Scatter; Well/Cistern; Burial; Road	Unevaluated	No	No	NA	No Effect	Avoid as possible gravesite
39FA1912	Artifact Scatter	Unevaluated	No	No	NA	No Effect	Site will be avoided. This site is outside of land disturbance activities
39FA1920	Artifact Scatter	Unevaluated	Yes	Yes	NA	Adverse Effect (DDW and LA)	Site located ~30.5 m [110 ft] from a proposed wellfield area. Site will undergo further evaluative testing. Avoidance recommended until testing is complete.
39FA1928	Rock Shelter; Artifact Scatter	Unevaluated	No	No	NA	No Effect	Site will be avoided. This site is outside of land disturbance activities
39FA1933	Artifact Scatter	Unevaluated			NA	No Effect	
39FA1935	Artifact Scatter	Unevaluated	No	No	NA	No Effect	This site is outside of land disturbance activities
39FA1938	Artifact Scatter; Stone Alignment	Unevaluated	No	No	NA	No Effect	This site is outside of land disturbance activities
39FA1940	Stone Circle	Unevaluated	No	No	NA	No Effect	This site is outside of land disturbance activities
TS024	stone circle	Unevaluated	No	No	NA	No Effect	Outside license boundary. Tribes recorded the site but did not provide eligibility recommendations
CU02500001	Building 4 at the Richardson Homestead (CU00000052)	Not Eligible	No	Yes	Yes	No Effect	
CU02500003	Building 7 at the Richardson Homestead (CU00000052)	Not Eligible	No	Yes	Yes	No Effect	
CU02500004	Building 9 at the Richardson Homestead (CU00000052)	Not Eligible	No	Yes	Yes	No Effect	

Table 1: NRC Determination of Eligibility and Impact Analysis for Previously Recorded Archaeological Sites and Tribal Sites – Dewey-Burdock Project

Site Number	Type of Site	NRC's NRHP Determination*	Potential Effects			NRC's Effect Determination	Comments
			DDW	LA	Visual		
CU00000052	Richardson Homestead	Not Eligible	No	Yes	Yes	No Effect	
39CU0251 TS096	Artifact Scatter; Hearth; 1 Tribal Feature	Not Eligible	Yes	Yes	NA	No Effect	Tribes recorded the site but did not provide eligibility recommendations
39CU0451	Artifact Scatter	Not Eligible			NA	No Effect	
39CU0461	Isolated Find	Not Eligible	No	No	NA	No Effect	Site will be avoided; This site is part of 39CU0459
39CU0462	Isolated Find	Not Eligible	No	No	NA	No Effect	Site will be avoided
39CU0463	Artifact Scatter	Not Eligible	Yes	Yes	NA	No Effect	
39CU0464	Isolated Find (originally recorded as an Artifact Scatter)	Not Eligible				No Effect	
39CU0528	Isolated Find	Not Eligible	No	No	NA	No Effect	Site will be avoided; This site is part of 39CU0459
39CU0531	Artifact Scatter; Hearth	Not Eligible	No	No	NA	No Effect	Site will be avoided
39CU0532	Artifact Scatter	Not Eligible	No	No	NA	No Effect	Site will be avoided
39CU0557	Artifact Scatter	Not Eligible			NA	No Effect	
39CU0559	Artifact Scatter; Hearth	Not Eligible			NA	No Effect	
39CU0560	Foundation	Not Eligible			NA	No Effect	
39CU0585	Isolated Find	Not Eligible			NA	No Effect	
39CU0648	Artifact Scatter	Not Eligible			NA	No Effect	
39CU3561	Isolated Find	Not Eligible			NA	No Effect	
39CU3562	Artifact Scatter	Not Eligible			NA	No Effect	
39CU3563	Isolated Find (originally recorded as an Artifact Scatter)	Not Eligible			NA	No Effect	
39CU3566	Artifact Scatter	Not Eligible			NA	No Effect	

Table 1: NRC Determination of Eligibility and Impact Analysis for Previously Recorded Archaeological Sites and Tribal Sites – Dewey-Burdock Project

Site Number	Type of Site	NRC's NRHP Determination*	Potential Effects			NRC's Effect Determination	Comments
			DDW	LA	Visual		
39CU3568	Artifact Scatter	Not Eligible			NA	No Effect	
39CU3569	Isolated Find	Not Eligible			NA	No Effect	
39CU3570	Isolated Find (originally recorded as a quarry)	Not Eligible			NA	No Effect	
39CU3571	Artifact Scatter	Not Eligible			NA	No Effect	
39CU3572 TS034	Artifact Scatter; Stone Circle; at least 1 Tribal Feature	Not Eligible	Yes	Yes	NA	No Effect	Tribes recorded the site but did not provide eligibility recommendations
39CU3573	Artifact Scatter; Hearth	Not Eligible			NA	No Effect	
39CU3575	Artifact Scatter	Not Eligible			NA	No Effect	
39CU3576 TS020	Artifact Scatter	Not Eligible	No	Yes	NA	No Effect	Tribes recorded the site but did not provide eligibility recommendations
39CU3577	Isolated Find	Not Eligible			NA	No Effect	
39CU3578	Isolated Find (originally recorded as an Artifact Scatter)	Not Eligible			NA	No Effect	
39CU3579	Isolated Find (originally recorded as an Artifact Scatter)	Not Eligible			NA	No Effect	
39CU3580	Isolated Find	Not Eligible			NA	No Effect	
39CU3581	Isolated Find	Not Eligible			NA	No Effect	
39CU3582	Isolated Find	Not Eligible			NA	No Effect	
39CU3583	Artifact Scatter; Depression	Not Eligible			NA	No Effect	
39CU3588	Quarry	Not Eligible			NA	No Effect	
39CU3589	Isolated Find (originally recorded as an Artifact Scatter)	Not Eligible			NA	No Effect	

Table 1: NRC Determination of Eligibility and Impact Analysis for Previously Recorded Archaeological Sites and Tribal Sites – Dewey-Burdock Project

Site Number	Type of Site	NRC's NRHP Determination*	Potential Effects			NRC's Effect Determination	Comments
			DDW	LA	Visual		
39CU3590	Artifact Scatter	Not Eligible			NA	No Effect	
39CU3591	Isolated Find	Not Eligible			NA	No Effect	
39CU3593 TS055	Isolated Find (originally recorded as an Artifact Scatter)	Not Eligible	Yes	Yes	NA	No Effect	Tribes recorded the site but did not provide eligibility recommendations
39CU3594	Isolated Find (originally recorded as an Artifact Scatter)	Not Eligible			NA	No Effect	
39CU3595	Isolated Find	Not Eligible			NA	No Effect	
39CU3596 TS054	Isolated Find (originally recorded as an Artifact Scatter)	Not Eligible	Yes	Yes	NA	No Effect	Tribes recorded the site but did not provide eligibility recommendations
39CU3598	Artifact Scatter	Not Eligible			NA	No Effect	
39CU3608	Artifact Scatter; Hearth	Not Eligible	Yes	Yes	NA	No Effect	
39CU3609	Isolated Find (originally recorded as an Artifact Scatter)	Not Eligible	Yes	Yes	NA	No Effect	
39CU3610	Isolated Find (originally recorded as an Artifact Scatter)	Not Eligible	Yes	Yes	NA	No Effect	
39CU3613	Artifact Scatter	Not Eligible	No	No	NA	No Effect	
39CU3614	Isolated Find (originally recorded as an Artifact Scatter)	Not Eligible			NA	No Effect	
39CU3616	Isolated Find	Not Eligible			NA	No Effect	

Table 1: NRC Determination of Eligibility and Impact Analysis for Previously Recorded Archaeological Sites and Tribal Sites – Dewey-Burdock Project

Site Number	Type of Site	NRC's NRHP Determination*	Potential Effects			NRC's Effect Determination	Comments
			DDW	LA	Visual		
39CU3617	Isolated Find (originally recorded as an Artifact Scatter)	Not Eligible			NA	No Effect	
39CU3618	Artifact Scatter	Not Eligible			NA	No Effect	
39CU3619	Farmstead; Artifact Scatter	Not Eligible			NA	No Effect	
39CU3621	Artifact Scatter	Not Eligible			NA	No Effect	
39CU3622	Artifact Scatter	Not Eligible			NA	No Effect	
39CU3771	Artifact Scatter	Not Eligible			NA	No Effect	
39CU3773	Isolated Find	Not Eligible			NA	No Effect	
39CU3774	Artifact Scatter	Not Eligible			NA	No Effect	
39CU3775	Isolated Find	Not Eligible			NA	No Effect	
39CU3777	Isolated Find	Not Eligible			NA	No Effect	
39CU3778	Isolated Find	Not Eligible				No Effect	
39CU3780	Isolated Find (originally recorded as an Artifact Scatter)	Not Eligible			NA	No Effect	
39CU3781	Isolated Find (originally recorded as an Artifact Scatter)	Not Eligible			NA	No Effect	
39CU3782	Isolated Find (originally recorded as an Artifact Scatter)	Not Eligible			NA	No Effect	
39CU3783	Isolated Find (originally recorded as an Artifact Scatter)	Not Eligible	No	No	NA	No Effect	

Table 1: NRC Determination of Eligibility and Impact Analysis for Previously Recorded Archaeological Sites and Tribal Sites – Dewey-Burdock Project

Site Number	Type of Site	NRC's NRHP Determination*	Potential Effects			NRC's Effect Determination	Comments
			DDW	LA	Visual		
39CU3810	Isolated Find (originally recorded as an Artifact Scatter)	Not Eligible			NA	No Effect	
39CU3811	Isolated Find (originally recorded as an Artifact Scatter)	Not Eligible			NA	No Effect	
39CU3812	Artifact Scatter; Cairn	Not Eligible	No	No	NA	No Effect	Site will be avoided. GPS coordinates for this feature were recorded by the NATHPO only. Feature should probably be considered an extension of 39CU3812. Tribes recorded the site but did not provide eligibility recommendations
39CU3814	Artifact Scatter	Not Eligible			NA	No Effect	
39CU3815	Artifact Scatter	Not Eligible			NA	No Effect	
39CU3816	Artifact Scatter	Not Eligible			NA	No Effect	
39CU3820	Artifact Scatter	Not Eligible			NA	No Effect	
39CU3823	Isolated Find	Not Eligible			NA	No Effect	
39CU3823	Isolated Find	Not Eligible			NA	No Effect	
39FA0097	Artifact Scatter; Farmstead	Not Eligible	Yes	Yes	NA	No Effect	
39FA0174	Artifact Scatter	Not Eligible	No	No	NA	No Effect	
39FA0251	Artifact Scatter; Hearth	Not Eligible			NA	No Effect	
39FA0272	Artifact Scatter	Not Eligible	Yes	Yes	NA	No Effect	
39FA0273	Artifact Scatter	Not Eligible			NA	No Effect	
39FA0557	Farmstead	Not Eligible			NA	No Effect	
39FA0558	Isolated Find	Not Eligible			NA	No Effect	
39FA0578	Isolated Find	Not Eligible			NA	No Effect	
39FA0584	Farmstead; Artifact Scatter	Not Eligible			NA	No Effect	
39FA1860	Artifact Scatter	Not Eligible			NA	No Effect	

Table 1: NRC Determination of Eligibility and Impact Analysis for Previously Recorded Archaeological Sites and Tribal Sites – Dewey-Burdock Project

Site Number	Type of Site	NRC's NRHP Determination*	Potential Effects			NRC's Effect Determination	Comments
			DDW	LA	Visual		
39FA1861	Isolated Find	Not Eligible			NA	No Effect	
39FA1865	Artifact Scatter	Not Eligible			NA	No Effect	
39FA1868	Isolated Find	Not Eligible			NA	No Effect	
39FA1869	Artifact Scatter	Not Eligible			NA	No Effect	
39FA1871	Isolated Find	Not Eligible			NA	No Effect	
39FA1872	Isolated Find	Not Eligible			NA	No Effect	
39FA1873	Isolated Find	Not Eligible			NA	No Effect	
39FA1875	Isolated Find (originally recorded as an Artifact Scatter)	Not Eligible			NA	No Effect	
39FA1876	Isolated Find	Not Eligible			NA	No Effect	
39FA1877	Isolated Find	Not Eligible			NA	No Effect	
39FA1878	Isolated Find	Not Eligible			NA	No Effect	
39FA1879	Isolated Find	Not Eligible			NA	No Effect	
39FA1883	Isolated Find (originally recorded as an Artifact Scatter)	Not Eligible	Yes	Yes	NA	No Effect	
39FA1884	Isolated Find (originally recorded as an Artifact Scatter)	Not Eligible	Yes	Yes	NA	No Effect	
39FA1885	Artifact Scatter	Not Eligible	Yes	Yes	NA	No Effect	
39FA1886	Isolated Find (originally recorded as an Artifact Scatter)	Not Eligible	Yes	Yes	NA	No Effect	
39FA1887	Artifact Scatter	Not Eligible	Yes	Yes	NA	No Effect	

Table 1: NRC Determination of Eligibility and Impact Analysis for Previously Recorded Archaeological Sites and Tribal Sites – Dewey-Burdock Project

Site Number	Type of Site	NRC's NRHP Determination*	Potential Effects			NRC's Effect Determination	Comments
			DDW	LA	Visual		
39FA1888	Isolated Find (originally recorded as an Artifact Scatter)	Not Eligible	Yes	Yes	NA	No Effect	
39FA1889	Isolated Find (originally recorded as an Artifact Scatter)	Not Eligible	Yes	Yes	NA	No Effect	
39FA1891	Artifact Scatter	Not Eligible	No	No	NA	No Effect	Site will be avoided. This site is outside of land disturbance activities
39FA1893	Isolated Find	Not Eligible	Yes	Yes	NA	No Effect	
39FA1894	Isolated Find	Not Eligible	Yes	Yes	NA	No Effect	
39FA1895	Artifact Scatter; Hearth	Not Eligible	Yes	Yes	NA	No Effect	
39FA1897	Isolated Find (originally recorded as an Artifact Scatter)	Not Eligible			NA	No effect	
39FA1898	Artifact Scatter	Not Eligible			NA	No Effect	
39FA1899	Isolated Find	Not Eligible			NA	No Effect	
39FA1900	Isolated Find	Not Eligible			NA	No Effect	
39FA1901	Artifact Scatter; Well/Cistern	Not Eligible			NA	No Effect	
39FA1903	Isolated Find (originally recorded as an Artifact Scatter)	Not Eligible			NA	No Effect	
39FA1904	Isolated Find (originally recorded as an Artifact Scatter)	Not Eligible			NA	No Effect	

Table 1: NRC Determination of Eligibility and Impact Analysis for Previously Recorded Archaeological Sites and Tribal Sites – Dewey-Burdock Project

Site Number	Type of Site	NRC's NRHP Determination*	Potential Effects			NRC's Effect Determination	Comments
			DDW	LA	Visual		
39FA1905	Artifact Scatter; Depression	Not Eligible			NA	No Effect	
39FA1906	Isolated Find	Not Eligible			NA	No Effect	
39FA1907	Artifact Scatter	Not Eligible			NA	No Effect	
39FA1908	Artifact Scatter	Not Eligible			NA	No Effect	
39FA1909	Isolated Find	Not Eligible	Yes	Yes	NA	No Effect	
39FA1910	Isolated Find	Not Eligible	Yes	Yes	NA	No Effect	
39FA1911	Artifact Scatter; Nonfarm Ruins	Not Eligible	No	No	NA	No Effect	
39FA1913	Artifact Scatter	Not Eligible	Yes	Yes	NA	No Effect	
39FA1914	Isolated Find	Not Eligible	Yes	Yes	NA	No Effect	
39FA1915	Isolated Find (originally recorded as an Artifact Scatter)	Not Eligible	Yes	Yes	NA	No Effect	
39FA1916	Artifact Scatter	Not Eligible			NA	No Effect	
39FA1917	Isolated Find (originally recorded as an Artifact Scatter)	Not Eligible			NA	No Effect	
39FA1918	Isolated Find	Not Eligible			NA	No Effect	
39FA1919	Isolated Find	Not Eligible			NA	No Effect	
39FA1921	Isolated Find	Not Eligible			NA	No Effect	
39FA1924	Artifact Scatter	Not Eligible			NA	No Effect	
39FA1925	Isolated Find (originally recorded as an Artifact Scatter)	Not Eligible			NA	No Effect	
39FA1931	Isolated Find	Not Eligible			NA	No Effect	

Table 1: NRC Determination of Eligibility and Impact Analysis for Previously Recorded Archaeological Sites and Tribal Sites – Dewey-Burdock Project

Site Number	Type of Site	NRC's NRHP Determination*	Potential Effects			NRC's Effect Determination	Comments
			DDW	LA	Visual		
39FA1934	Isolated Find (originally recorded as an Artifact Scatter)	Not Eligible			NA	No Effect	
39FA1936	Artifact Scatter	Not Eligible			NA	No Effect	
39FA1937	Isolated Find	Not Eligible			NA	No Effect	
39FA1939	Isolated Find	Not Eligible			NA	No Effect	
39FA1944	Artifact Scatter	Not Eligible	Yes	Yes	NA	No Effect	
39FA1953	Isolated Find (originally recorded as an Artifact Scatter)	Not Eligible			NA	No Effect	
39FA1954	Isolated Find (originally recorded as an Artifact Scatter)	Not Eligible			NA	No Effect	
39FA1956	Isolated Find (originally recorded as an Artifact Scatter)	Not Eligible			NA	No Effect	
39FA1957	Isolated Find	Not Eligible				No Effect	
39FA1959	Artifact Scatter	Not Eligible				No Effect	
39FA1960	Isolated Find (originally recorded as an Artifact Scatter)	Not Eligible			NA	No Effect	
39FA1961	Hearth; Artifact Scatter	Not Eligible			NA	No Effect	

Table 1: NRC Determination of Eligibility and Impact Analysis for Previously Recorded Archaeological Sites and Tribal Sites – Dewey-Burdock Project

Site Number	Type of Site	NRC's NRHP Determination*	Potential Effects			NRC's Effect Determination	Comments
			DDW	LA	Visual		
39FA1962	Artifact Scatter; stone circle; cairn	Not Eligible	No	No	NA	No Effect	NATHPO report attributes these identifications to the Cheyenne but they were identified by Alfred Burson – NATHPO. Tribes recorded the site but did not provide eligibility recommendations
39FA1963	Isolated Find (originally recorded as an Artifact Scatter)	Not Eligible	No	No	NA	No Effect	This site is outside of land disturbance activities
39FA1966	Isolated Find (originally recorded as an Artifact Scatter)	Not Eligible	No	No	NA	No Effect	This site is outside of land disturbance activities
TS005	Isolated find (flake)	Not Eligible	Yes	Yes	NA	No Effect	Site will be avoided
TS023	burial	Not Eligible	No	No	NA	No Effect	Avoid as possible Gravesite. Tribes recorded the site but did not provide eligibility recommendations
TS028	stone circles (3); campsite; ceremonial site	Not Eligible	No	Yes	NA	No Effect	Tribes recorded the site but did not provide eligibility recommendations
TS030	stone circle	Not Eligible	No	Yes	NA	No Effect	Tribes recorded the site but did not provide eligibility recommendations
TS036	small cairn or marker	Not Eligible	No	No	NA	No Effect	Tribes recorded the site but did not provide eligibility recommendations
TS037	small cairn	Not Eligible	No	No	NA	No Effect	Tribes recorded the site but did not provide eligibility recommendations
TS048	burial	Not Eligible	No	No	NA	No Effect	Avoid as possible Gravesite. Tribes recorded the site but did not provide eligibility recommendations
TS049	burial	Not Eligible	No	No	NA	No Effect	Avoid as possible Gravesite. Tribes recorded the site but did not provide eligibility recommendations

Table 1: NRC Determination of Eligibility and Impact Analysis for Previously Recorded Archaeological Sites and Tribal Sites – Dewey-Burdock Project

Site Number	Type of Site	NRC's NRHP Determination*	Potential Effects			NRC's Effect Determination	Comments
			DDW	LA	Visual		
TS050	burial	Not Eligible	No	No	NA	No Effect	Avoid as possible Gravesite. Tribes recorded the site but did not provide eligibility recommendations
TS051	fasting site	Not Eligible	No	No	NA	No Effect	Tribes recorded the site but did not provide eligibility recommendations
TS052	stone circle	Not Eligible	No	No	NA	No Effect	Tribes recorded the site but did not provide eligibility recommendations
TS063	No identification	Not Eligible	No	No	NA	No Effect	Tribes recorded the site but did not provide eligibility recommendations
TS064	stone circle	Not Eligible	No	No	NA	No Effect	Tribes recorded the site but did not provide eligibility recommendations
TS065	fasting site	Not Eligible	No	No	NA	No Effect	Tribes recorded the site but did not provide eligibility recommendations. This feature is believed to be the site identified by the NATHPO as the "small cairn" in Section 1
TS066	cairn	Not Eligible	No	No	NA	No Effect	Tribes recorded the site but did not provide eligibility recommendations
TS090	cairn	Not Eligible	No	No	NA	No Effect	Located outside but near 39CU3622. Tribes recorded the site but did not provide eligibility recommendations
TS091	ceremonial site	Not Eligible	No	No	NA	No Effect	Located outside but near 39CU3621. Tribes recorded the site but did not provide eligibility recommendations
TS092	cairn	Not Eligible	No	No	NA	No Effect	Tribes recorded the site but did not provide eligibility recommendations
TS093	possible cairn	Not Eligible	Yes	Yes	NA	No Effect	Tribes recorded the site but did not provide eligibility recommendations
TS094	cairn	Not Eligible	Yes	Yes	NA	No Effect	Tribes recorded the site but did not provide eligibility recommendations
TS095	disturbed cairn (modern survey marker)	Not Eligible	Yes	Yes	NA	No Effect	Tribes recorded the site but did not provide eligibility recommendations
TS097	cairn	Not Eligible	No	No	NA	No Effect	Tribes recorded the site but did not provide eligibility recommendations
TS131	possible graves	Not Eligible	No	No	NA	No Effect	Avoid as possible gravesites. Tribes recorded the site but did not provide eligibility recommendations
TS144	cairn	Not Eligible	Yes	Yes	NA	No Effect	Tribes recorded the site but did not provide eligibility recommendations
39CU3564	Quarry; Cairn	Unevaluated	No	No	NA	No Effect	Site will be avoided, no impacts anticipated

*Unevaluated archaeological sites are considered eligible for listing in the NRHP under Criterion D pending further evaluative testing.