



Oglala Sioux Tribe

Office of the President

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OST-017



March 22, 2013

Kevin Hsueh, Chief
Environmental Review Branch
Division of Waste Management
And Environmental Protection
Office of Federal and State Materials
And Environmental Management Programs

RE: Response to February 8, 2013 letter to Tribal Historic Preservation Officer

On behalf of the Oglala Sioux Tribe, I am writing to express objection to the Nuclear Regulatory Commission's (NRC) December 14, 2012 and February 8, 2013 letters regarding the survey proposal amendments to the Dewey-Burdock *In Situ* Recovery Project.

It is unfortunate that the NRC continues to push its sole justification for such measures are self-imposed timelines and cost restraints when proposing an April 1, 2013 – May 1, 2013 period for completing such a survey along with other Tribes invited to participate. The Oglala Sioux Tribe objects to the terms of the proposal at this time until our Tribal Administration can be made apprised of these new developments and until our contentions are formally addressed by NRC. We continue to have concerns over the scope of work methodology, limited costs and rudimentary cultural sensitivity and awareness on behalf of the NRC, direct and indirect effects on cultural resources and historical burial grounds, and privacy concerns for intellectual property.

Collaboratively, the Oglala Sioux Tribe to date, along with its allies within the Seven Council Fires, have dedicated time and energy towards informal discussions as well as Section 106 consultations on historic and cultural resources, and other concerns and issues surrounding this very sensitive area within our immediate aboriginal Sioux (Lakota, Dakota, Nakota) homelands and territories. The Oglala Sioux Tribe continues to assert its sovereignty and right to existence of Traditional Cultural Properties (TCP) on these lands within the proposed project area. These shared cultural resources and burial grounds with the Seven Council Fires is not something to take lightly or to be done so hastily.

The Oglala Sioux Tribe, at this time demands formal government-to-government consultation rather than the existing National Historic Preservation Act (NHPA) Section 106 consultation, which obviously not working as proposed. Please refer back to our Tribes' November 5, 2012 letter and its numbered contentions listed that were not specifically addressed in either the December 14, 2012 and February 8, 2013 letters, and without the written consent from the Seven Council Fires. There are internal processes that the Oglala Sioux Tribal government and its constituents must go through in order proceed forward on any type of project of this magnitude.

There are at this time too many uranium-related projects proposed that the NRC attempts to consult with the Tribes at the same time, and this convolutes the issues and contentions posed by the Tribes to each respective project. To receive notification of field work to be held April 1, 2013 in the February 8, 2013 letter indicating that negotiations ended between the applicant and proposed contractor for the Dewey-Burdock project does not allow sufficient time to receive the formal authorization from our Tribal Council and constituents. In addition, this unrealistic timeline does not consider other permitting processes currently pending (water rights and wastewater disposal permitting process currently occurring through the State of South Dakota). Until these can be resolved, it has difficult to see how we are to proceed with this section of the process in the identification of cultural resources in the project area.

Our Oglala Sioux Tribal Historic Preservation Office (OSTHPO) continues to serve as our regulatory arm of the Tribal government for historic preservation items and cannot be expected to act in both this capacity as well as a contractor to conduct such survey work. This NRC process initially asked the THPO's for assistance in drafting the scope of work, identifying a contractor with an official letter of support, and possibly identifying Tribal monitors from each representative Tribe with an official letter. To date, there has been nothing formal sent from the Oglala Sioux Tribe because initial information provided by NRC as to which Tribes were actually participating was incorrect. Our OSTHPO was provided incorrect information that the other Seven Council Fire's Tribes were going to participate in the survey, and actually they have confirmed they have not provided this written notification.

This continues to be an environmental justice issue with several federal laws not fully recognized and the NRC needs to do its own research as these are not being upheld appropriately. The Native American Graves Protection and Repatriation Act (NAGPRA) discusses language similar to the following that there are inter-cultural patrimonial considerations regarding the cultural landscape belonging to all respective Sioux Tribes, and not to one or a few Tribes. We understand that there are 23 Tribes being asked to participate with some accepting and some declining. Let it be understood that the Oglala Sioux Tribe actively stands by the other Seven Council Fires in trying to honor this process as best as possible and require a formal government-to-government consultation in order to move forward.

Sincerely,



Bryan V. Brewer, Sr.
Tribal President
Oglala Sioux Tribe

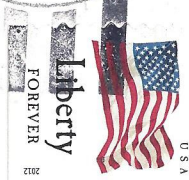
Cc: Oglala Sioux Tribal Council Members
Wilmer Mesteth, Oglala Sioux Tribal Historic Preservation Officer
Seven Council Fires THPO
Charlene Dwin Vaughn, ACHP



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