

August 26, 2015

Mr. Dennis Yellow Thunder  
Tribal Historic Preservation Officer  
Oglala Sioux Tribe  
P.O. Box 129  
Kyle, SD 57752

SUBJECT: CONSULTATION UNDER SECTION 106 OF THE NATIONAL HISTORIC PRESERVATION ACT REGARDING THE DEWEY-BURDOCK IN SITU URANIUM RECOVERY PROJECT (DOCKET NO.: 40-9075)

Dear Mr. Yellow Thunder:

The U.S. Nuclear Regulatory Commission (NRC) appreciates your response to our letter, dated June 23, 2015, regarding consultation under the Section 106 process of the National Historic Preservation Act (NHPA) for the Dewey-Burdock in situ uranium recovery (ISR) project.

In your letter, you requested clarification on the roles and responsibilities of the NRC officials, who would meet with Tribal leaders in a government-to-government context. You also requested clarification regarding how the NRC staff plans to address the Atomic Safety and Licensing Board's (ASLB's) findings in its order, dated April 30, 2015.

In October 2014, the NRC's Office of Federal and State Materials and Environmental Management (FSME) reorganized and merged with the NRC's Office of Nuclear Material Safety and Safeguards (NMSS). Over the years, the NRC has gone through several structural changes in response to changing workload. In 2006, the NRC reorganized NMSS and moved some of its programs into a new office, FSME. In light of recent workload changes, the NRC decided to merge FSME's programs back into NMSS. Work activities, responsibilities, and interactions at the staff level, for the most part, remain unchanged. Accordingly, Ms. Kellee Jamerson will continue to be the primary point-of-contact for the NRC in its consultations with the Oglala Sioux Tribe regarding the Dewey-Burdock ISR project. She has been involved with the project since its early stages and continues to manage the day-to-day project activities.

The merge, however, resulted in organizational and management changes (see NMSS Organizational Chart enclosed). Although the Environmental Review Branch (ERB) continues to retain its responsibilities to conduct environmental reviews, including Section 106 reviews under the NHPA for the materials program, this branch was moved to the Division of Fuel Cycle Safety, Safeguards, and Environmental Review. I serve as the Director of this Division, and Mr. Craig G. Erlanger is the Deputy Director. We hold positions equivalent to those held by Mr. Larry Camper and Mr. Andrew Persinko in the former Division of Waste Management and Environmental Protection, where the ERB used to reside. Ms. Lydia W. Chang is now the Chief of the ERB, taking over the position from Mr. Kevin Hsueh.

Ms. Chang, Mr. Erlanger, and I have held managerial positions within the NRC for a number of years and have decision-making authority over the programs that we oversee. We understand that the Oglala Sioux Tribe has raised concerns with the NRC's government-to-government consultation process, including holding government-to-government consultations with the appropriate level of management. Therefore, the NRC has selected Ms. Chang, Mr. Erlanger, and myself as the individuals, who will serve as the NRC officials, when meeting with Tribal leaders in a government-to-government consultation context. We will continue to be supported by technical staff knowledgeable of the NHPA Section 106 process and the Dewey-Burdock ISR project.

In your letter, you also stated that the NRC staff has not explained how we intend to address the ASLB's finding under the National Environmental Policy Act (NEPA). To clarify, the NRC staff intends to use any additional information it obtains from the Oglala Sioux Tribe to supplement both our NHPA and NEPA reviews.

Accordingly, the NRC again invite the Oglala Sioux Tribe to meet with us on a government-to-government basis. The purpose of the meeting would be twofold: to introduce the NRC staff's new management team and to work toward resolving the issues the ASLB identified in its order. The NRC appreciates the opportunity to further consult with the Oglala Sioux Tribe on matters related to the Dewey-Burdock ISR project and asks that you provide possible meeting dates and locations before September 18, 2015.

In accordance with 10 CFR 2.390 of the NRC's "Agency Rules of Practice and Procedure," a copy of this letter will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records component of the NRC's Agencywide Documents Access and Management System (ADAMS). ADAMS is accessible from the NRC website at <http://www.nrc.gov/reading-rm/adams.html>.

If you have any questions or comments, please contact me at (301) 415-0607 or Ms. Jamerson of my staff. Ms. Jamerson can be reached at (301) 415-7408 or via email at [Kellee.Jamerson@nrc.gov](mailto:Kellee.Jamerson@nrc.gov).

Sincerely,

**/RA CErlanger for/**

Marissa G. Bailey, Director  
Division of Fuel Cycle Safety, Safeguards,  
and Environmental Review  
Office of Nuclear Material Safety  
and Safeguards

Docket No.: 40-9075

Enclosure: NMSS Organization Chart

cc: Mr. John Yellowbird Steele, President

Ms. Chang, Mr. Erlanger, and I have held managerial positions within the NRC for a number of years and have decision-making authority over the programs that we oversee. We understand that the Oglala Sioux Tribe has raised concerns with the NRC's government-to-government consultation process, including holding government-to-government consultations with the appropriate level of management. Therefore, the NRC has selected Ms. Chang, Mr. Erlanger, and myself as the individuals who, will serve as the NRC officials, when meeting with Tribal leaders in a government-to-government consultation context. We will continue to be supported by technical staff knowledgeable of the NHPA Section 106 process and the Dewey-Burdock ISR project.

In your letter, you also stated that the NRC staff has not explained how we intend to address the ASLB's finding under the National Environmental Policy Act (NEPA). To clarify, the NRC staff intends to use any additional information it obtains from the Oglala Sioux Tribe to supplement both our NHPA and NEPA reviews.

Accordingly, the NRC would invite the Oglala Sioux Tribe to meet with us on a government-to-government basis. The purpose of the meeting would be twofold: to introduce the NRC staff's new management team and to work toward resolving the issues the ASLB identified in its order. The NRC appreciates the opportunity to further consult with the Oglala Sioux Tribe on matters related to the Dewey-Burdock ISR project and asks that you provide possible meeting dates and locations before September 18, 2015.

In accordance with 10 CFR 2.390 of the NRC's "Agency Rules of Practice and Procedure," a copy of this letter will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records component of the NRC's Agencywide Documents Access and Management System (ADAMS). ADAMS is accessible from the NRC website at <http://www.nrc.gov/reading-rm/adams.html>.

If you have any questions or comments, please contact me at (301) 415-0607 or Ms. Kellee Jamerson of my staff. Ms. Jamerson can be reached at (301) 415-7408 or via email at [Kellee.Jamerson@nrc.gov](mailto:Kellee.Jamerson@nrc.gov).

Sincerely,

**/RA CErlanger for/**

Marissa G. Bailey, Director  
Division of Fuel Cycle Safety, Safeguards,  
and Environmental Review  
Office of Nuclear Material Safety  
and Safeguards

Docket No.: 40-9075

Enclosure: NMSS Organization Chart

cc: Mr. John Yellowbird Steele, President

**DISTRIBUTION:** LCamper, NMSS MClark, OGC CScott, OGC DDiaz-Toro, NMSS  
CErlanger, NMSS APersinko, NMSS

**ML15238B211 \*via email**

OFFICE	FCSE	FCSE	OGC	FCSE	FCSE
NAME	D.Diaz-Toro for/KJamerson*	AWalker-Smith	MClark for PJehle*	LChang	CErlanger for MBailey
DATE	08/25/15	08/26/15	08/26/15	08/26/15	08/26/15

**OFFICIAL RECORD COPY**