

September 27, 2016

Mr. Russell Eagle Bear
Tribal Historic Preservation Office
Rosebud Sioux Tribe
11 Legion Ave.
Rosebud, SD 57570

SUBJECT: COMMENTS RECEIVED ON THE ROSS IN SITU URANIUM RECOVERY
PROJECT DETERMINATIONS OF ELIGIBILITY
(DOCKET NUMBER: 040-09091)

Dear Mr. Eagle Bear:

In accordance with the Programmatic Agreement (PA) Stipulation B.3, the U.S. Nuclear Regulatory Commission (NRC) staff is sharing comments received in response to our letter, dated July 15, 2016, regarding the NRC's draft Determination of Eligibility for 12 cultural properties. The 12 cultural properties include 4 with Tribal religious and cultural significance (48CK2216, 48CK2217, 48CK2223, and 48CK2224), 7 with archaeological features (48CK2070, 48CK2076, 48CK2080, 48CK2087, 48CK2089, 48CK2090), and 1 isolate (48CK2230). The NRC staff received comments from two parties on our findings of not eligible. The comments received were from Ms. Yufna Soldier Wolf, Northern Arapaho Tribal Historic Preservation Officer and Dr. Alice Tratebas, Archaeologist for the Bureau of Land Management, Newcastle Field Office. The original comments are enclosed although they are redacted where necessary, in accordance with Section 304 of the National Historic Preservation Act. The NRC appreciates the time and effort required to develop these comments and carefully considered their content when making its final determinations for these properties.

Regarding the 4 cultural properties that are unevaluated under Criteria A, although additional information on the significance of the properties provided further understanding, the NRC staff has determined that the additional information is insufficient to demonstrate that the properties retained integrity as defined in the National Register Bulletin 15 (NBR 15). NBR 15 defines integrity as "the ability of a property to convey its significance" and that it "is sometimes a subjective judgement, but it must be grounded in an understanding of a property's physical features and how they relate to its significance." The NRC understands that these 4 properties are significant to the Tribes and may possess some aspects of integrity; however, the NRC staff does not have adequate information to support that the properties retain the necessary integrity to recommend them eligible for listing in the National Register of Historic Places (NRHP).

Regarding the 7 archaeological properties and 1 archaeological isolate that are unevaluated under Criterion D, the NRC staff determined that the archaeological studies performed were consistent with regional practice. The NRC staff also found that the archaeological studies were adequate for determining the properties unlikely to yield information important to prehistory or history and for determining integrity. The researchers observed indicators of bioturbation in test units and cut banks. The observed presence of bioturbation is important because it can result in the loss of stratigraphic context and, therefore, the loss of integrity of location – a key attribute of integrity for archaeological properties considered under Criterion D (NRB 15: page 49). The NRC's determinations of eligibility are based on the information available in the technical reports and property forms provided by the project proponent. In instances where additional clarification was needed, the NRC staff had follow-up conversations with the PA Parties. The NRC staff then considered this information and updated any applicable documentation when appropriate. Based on this information, the NRC staff maintains that the 7 archaeological properties and archaeological isolate are not eligible for listing in the NRHP under Criterion D and will proceed with sending these determinations to the State Historic Preservation Office. This determination does not change the eligibility status, under Criterion A, of 5 of these same properties (48CK2070, 48CK2076, 48CK2080, 48CK2087, and 48CK2089) made by the Keeper of the National Register of Historic Places in May 2015.

If you have any questions regarding the enclosed information, please contact Ms. Jean Trefethen at (301) 415-0867 or via e-mail at: Jean.Trefethen@nrc.gov.

Sincerely,

/RA/

Lydia W. Chang, Chief
Environmental Review Branch
Division of Fuel Cycle Safety, Safeguards,
and Environmental Review
Office of Nuclear Material Safety
and Safeguards

Docket No.: 40-9091
License No.: SUA-1601

Enclosures:

1. Response from the
Northern Arapaho THPO
2. Response from the
Bureau of Land Management

cc: Mr. William Kindle, President

Regarding the 7 archaeological properties and 1 archaeological isolate that are unevaluated under Criterion D, the NRC staff determined that the archaeological studies performed were consistent with regional practice. The NRC staff also found that the archaeological studies were adequate for determining the properties unlikely to yield information important to prehistory or history and for determining integrity. The researchers observed indicators of bioturbation in test units and cut banks. The observed presence of bioturbation is important because it can result in the loss of stratigraphic context and, therefore, the loss of integrity of location – a key attribute of integrity for archaeological properties considered under Criterion D (NRB 15: page 49). The NRC’s determinations of eligibility are based on the information available in the technical reports and property forms provided by the project proponent. In instances where additional clarification was needed, the NRC staff had follow-up conversations with the PA Parties. The NRC staff then considered this information and updated any applicable documentation when appropriate. Based on this information, the NRC staff maintains that the 7 archaeological properties and archaeological isolate are not eligible for listing in the NRHP under Criterion D and will proceed with sending these determinations to the State Historic Preservation Office. This determination does not change the eligibility status, under Criterion A, of 5 of these same properties (48CK2070, 48CK2076, 48CK2080, 48CK2087, and 48CK2089) made by the Keeper of the National Register of Historic Places in May 2015.

If you have any questions regarding the enclosed information, please contact Ms. Jean Trefethen at (301) 415-0867 or via e-mail at: Jean.Trefethen@nrc.gov.

Sincerely,

/RA/

Lydia W. Chang, Chief
 Environmental Review Branch
 Division of Fuel Cycle Safety, Safeguards,
 and Environmental Review
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DATE	09/19/2016	09/19/2016	09/27/2016

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