UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

December 6, 2017

Mr. John M. Mays
Chief Operating Officer
Azarga Uranium Corporation
5575 DTC Parkway, Suite 140
Greenwood Village, CO 80111-3012

SUBJECT: U.S. NUCLEAR REGULATORY COMMISSION'S PROPOSAL TO IDENTIFY HISTORIC, CULTURAL, AND RELIGIOUS SITES AT THE DEWEY-BURDOCK IN SITU URANIUM RECOVERY PROJECT (DOCKET NUMBER: 40-9075)

Dear Mr. Mays:

The U.S. Nuclear Regulatory Commission (NRC) staff has developed a proposed approach to identify sites of historic, cultural, and religious significance to the Lakota Sioux Tribes that could be affected by the Dewey-Burdock *in situ* uranium recovery (ISR) project and gather information to supplement the Final Supplemental Environmental Impact Statement (FSEIS) for the Dewey-Burdock ISR project. In doing so, the NRC staff has reviewed and taken into consideration the information the Oglala Sioux Tribe provided in its May 31, 2017, letter (Agencywide Documents Access and Management System [ADAMS] Accession No. ML17152A109), as well as information included and referenced by the Oglala Sioux Tribe in the adjudicatory hearing docket 40-9075-MLA for the Powertech (USA), Inc. Dewey-Burdock ISR facility. Based on this information, the NRC staff is proposing the approach described below to identify sites of historic, cultural, and religious significance to the Tribes and gather information to supplement the FSEIS for the Dewey-Burdock ISR project. To illustrate how the various proposed activities and milestones are intended to interact, the NRC staff has also prepared a preliminary schedule for implementing this proposed approach (Enclosure). Recognizing that this proposed approach will be informed by further discussions with the Atomic Safety and Licensing Board Panel (Board) and parties, this preliminary schedule accordingly includes timeframes for seeking the parties' views.

Proposed Approach:

1. The NRC staff plans to secure a contractor to facilitate the implementation of the proposed approach.

2. The NRC staff proposes to meet with the Tribal Councils or Tribal Leaders of the Lakota Sioux Tribes to discuss the approach and coordinate the participation of the Lakota Sioux Tribes. Meetings with Tribal Councils and Leaders would be based on their availability and the timeframe for implementing the proposed approach.

3. The NRC staff and its contractor plan to reach out to the Lakota Sioux Tribes to coordinate oral history interviews with Tribal Elders and gather information regarding sites of historic, cultural, or religious significance to their respective Tribe that may be affected by the Dewey-Burdock ISR project.

4. The NRC staff and its contractor plan to coordinate a field survey at the Dewey-Burdock ISR site. The NRC staff proposes that Powertech support this survey by providing site access. The survey would include the following elements:

    a. The NRC staff will invite the Lakota Sioux Tribes who did not participate in the April 2013 survey of the Dewey-Burdock ISR site, including the Oglala Sioux Tribe, to participate in the survey.

    b. The NRC staff anticipates that Powertech will provide each participating tribal representative with a safety briefing. Each participating tribal representative will sign a release of liability. The NRC staff proposes that Powertech provide daily transportation from the Edgemont office to the Dewey-Burdock ISR project area. The NRC staff anticipates that Powertech would escort tribal representatives to the areas to be surveyed, but would not directly accompany the tribal representatives during their examination of the areas.

    c. The NRC staff is proposing that the participating Tribes would examine areas of their choosing within the Dewey-Burdock license area; however, tribal representatives would be encouraged to focus their survey efforts on those portions of the license area that would potentially be disturbed by the project construction and operations.

    d. The NRC staff is requesting input from the Tribes on their preferred survey methodology. In previous field surveys to identify sites of historic, cultural, and religious significance to Tribes conducted for other NRC projects, Tribes have chosen different methods, such as conventional transect, a landscape-based assessment, or a combination.

    e. The NRC staff is proposing a field survey that would take approximately four weeks in length and could occur during the months of June and August 2018 to be divided in two phases. For example, the first phase of the field survey could take place during the month of June 2018 for a two week period and the second phase of the survey could take place during the month of August 2018 for another two week period.

f. During the field survey, the NRC staff, including the NRC contractor, would accompany the participating tribal representatives. The NRC contractor would facilitate the survey, and document findings and supporting information, as appropriate, to be considered in the development of the survey report. The NRC staff proposes that Powertech provide GPS unit(s) to document the general boundaries of potentially sensitive sites or features encountered and identified during the field survey. The NRC staff also proposes that Powertech sign a confidentiality agreement limiting use of this information to appropriate company personnel involved in the project design or operation.

g. Previously, Powertech has proposed to reimburse the Tribes for participation in a survey by offering:

i. $136.00 per day for lodging for up to three participating tribal representatives per participating Tribe;
ii. $59.00 per day for meals and incidental expenses for up to three participating tribal representatives per participating Tribe;
iii. $0.535 per mile for up to two round trips for up to two vehicles per participating Tribe from the tribal representatives' point of origin to Edgemont, South Dakota; and
iv. $10,000 honorarium to each Tribe participating in the survey.

The NRC staff is asking Powertech to confirm whether this proposed reimbursement would be offered again or whether different reimbursement would be offered.

h. Based on the field survey, the NRC staff's contractor would prepare a survey report describing any identified sites of historic, cultural, or religious significance to the Lakota Sioux Tribes. The NRC staff recognizes the importance of the Tribes' input to establishing the basis for determining National Register of Historic Places (NRHP) eligibility, potential impacts, and measures to avoid, minimize, or mitigate potential impacts. Site descriptions in the report need not include interpretive information that the Tribes may consider confidential. Information concerning the location of any identified sites of historic, cultural, or religious significance to the Tribes may be reported separately and directly to the NRC as a confidential appendix to the survey report so that this information would not be disclosed to the public. The NRC staff will share the survey report with the participating Lakota Sioux Tribes for comment prior to finalizing the survey report. The NRC staff anticipates issuing the final survey report by December 2018. The survey report would include:

i. an identifying label for each identified site of historic, cultural, or religious significance to the Tribes (for example, OST-1, OST-2, etc.);
ii. a discussion of the fieldwork completed, including the survey methodology and license areas examined;
iii. a brief description of each individual site recorded;

iv. a NRHP evaluation of each individual site recorded including recommendations concerning the potential NRHP eligibility and basis; and

v. recommendations for appropriate avoidance buffers or possible mitigation measures, should any of the sites be impacted by the project.

5. The NRC staff will prepare a supplement to the FSEIS for the Dewey-Burdock ISR project, Supplement 4 to NUREG-1910, describing potential impacts to sites of historic, cultural, or religious significance to the Lakota Sioux Tribes using the information gathered through the field survey, oral history interviews, and any other information provided by the Tribes. The NRC staff will publish the draft FSEIS supplement for a 45-day public comment period in accordance with Title 10 of the *Code of Federal Regulations* (10 CFR), Section 51.73. After reviewing and considering comments, the NRC staff will publish the final FSEIS supplement. The NRC staff anticipates publishing the final FSEIS supplement by April 2019.

The NRC staff has developed a preliminary schedule, consistent with the proposed approach described above, to support the parties' review of the NRC staff's proposed approach. The preliminary schedule takes into consideration the schedule expectations discussed in the Board's Order LBP-17-09, limited activities that can be accomplished during the winter months, and the Tribes' previous comments regarding schedules and interests. This preliminary schedule may change as a result of input provided by the parties on the proposed approach or other unforeseen circumstances.

To further discussions regarding the NRC staff's proposed approach, the NRC staff is proposing a teleconference call with Powertech, the Oglala Sioux Tribe, and the Consolidated Intervenors in the month of December 2017 to discuss the proposed approach. The NRC staff would appreciate your input regarding the date and time that would be most convenient to schedule the teleconference call. Additional teleconference calls can be scheduled to continue discussions on the approach. Please note, as reflected in the enclosed preliminary schedule, the NRC staff hopes to begin implementation of the proposed activities in early calendar year 2018. Accordingly, the NRC staff is requesting the Powertech's review of the NRC staff's proposed approach and final input as soon as practicable but not later than January 19, 2018. The NRC staff is also requesting review of the proposed approach by Oglala Sioux Tribe and the Consolidated Intervenors. The NRC staff looks forward to Powertech's input.

In accordance with 10 CFR 2.390 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 NRC's ADAMS. ADAMS is accessible from the NRC Web site at http://www.nrc.gov/reading-rm/adams.html.

If you have any questions or comments, please contact Ms. Kellee Jamerson of my staff. Ms. Jamerson can be reached at (301) 415-7408 or via e-mail at Kellee.Jamerson@nrc.gov.

Sincerely,

Cinthya Román

Cinthya I. Román, Chief
Environmental Review Branch
Division of Fuel Cycle Safety, Safeguards,
and Environmental Review
Office of Nuclear Material Safety
and Safeguards

Docket No. 40-9075
License No. SUA-1600

Enclosure:
Preliminary Timeline

cc w/encl.:

Mr. Blake Steele
President and Chief Executive Officer
Powertech (USA), Inc.

Mr. Anthony J. Thompson
Counsel for Powertech (USA), Inc.

Mr. Christopher S. Pugsley
Counsel for Powertech (USA), Inc.

Preliminary Timeline for Discussion in Support of Staff's Proposed Approach for Obtaining Information on Lakota Sioux Cultural Resources Potentially Impacted by the Dewey-Burdock ISR Project

December 6, 2017

Preliminary Timeframe	Information-Gathering Activities and FSEIS Supplementation Activities	Considerations
December 2017	NRC staff provides proposal to Oglala Sioux Tribe, Powertech, and Consolidated Intervenors (parties). NRC staff offers teleconference with parties to initiate discussions on proposed approach and solicit input from parties	Winter weather conditions limit activities at site
Mid-December 2017	NRC staff decides, based on available, information whether to begin contractor acquisition process (process anticipated to take 6-8 weeks)	
January 2018	NRC staff and parties continue discussions on proposed approach based on input provided by parties	
February 2018	NRC staff shares final proposed approach by letter to parties and Lakota Sioux Tribes	
February 2018	NRC staff awards contract for information-gathering activities and FSEIS supplementation support	
Early March 2018	NRC staff issues letters and, as appropriate, makes phone calls to Lakota Sioux Tribes to request meetings with Tribal Councils or Tribal Leaders and to ascertain interest in participating in oral history interviews and survey	
March-April 2018	NRC staff works with interested Lakota Sioux Tribes to arrange meetings with Tribal Councils or Tribal Leaders and oral history interviews, based on their availability and the timeframe for carrying out the efforts in the proposed approach.	
Mid-April 2018	NRC staff begins meetings with interested Lakota Sioux Tribal Councils or Tribal Leaders	
Mid-April 2018	Oral history interviews begin	
Late May 2018	Oral history interview documentation/report completed	
Late May or Early June 2018	NRC staff holds webinar with participating Lakota Sioux Tribes to go over logistics and parameters of field survey	
June 2018	First phase of field survey	
June-July 2018	NRC staff contractor begins drafting survey report with information provided by participating Lakota Sioux Tribes during first phase of tribal field survey	

Enclosure

July 2018		Sun Dance ceremonies
Mid-August 2018	Second phase of tribal field survey	
Late August 2018	NRC staff contractor continues drafting survey report with information provided by participating Lakota Sioux Tribes during second phase of tribal field survey	
Mid-September 2018	Participating Lakota Sioux Tribes provide final input to NRC staff for inclusion in survey report	
Late October 2018	Staff contractor provides survey report to NRC staff for review	Winter weather conditions limit activities at site
Early November 2018	NRC staff provides survey report to participating Lakota Sioux Tribes for review and comment	
December 2018	NRC staff finalizes survey report and begins drafting supplement to FSEIS	
Early February 2019	NRC staff publishes draft supplement to FSEIS for 45-day public review and comment period	
Mid-March 2019	NRC staff considers public comments and begins drafting final supplement to FSEIS	
Late April 2019	NRC staff publishes final supplement to FSEIS	