

Energy & Conservation Law

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From: Travis Stills, Counsel for Oglala Sioux Tribe
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Cc: Kyle White, Oglala Sioux THPO
Ben Rhodd, Rosebud Sioux THPO
Steve Vance, Cheyenne River Sioux THPO
(Other persons listed on Paul Nickem's June 7, 2018 email)

RE: Proposed Schedule for Cultural Resources Survey June 11 – June 22, 2018

Date: June 8, 2018

This memo responds to the progress made on three-hour webinar presented June 4, 2018, the two-hour follow-up call on June 5, 2018, and information and attachments in numerous emails and exchanged this week. The Oglala Sioux Tribe is appreciative of Paul Nickens' suggested plan of work that was sent Tuesday evening, the proposed survey forms sent Thursday afternoon, and the review of existing information sent after close of business on June 7. This information is currently under review by the Tribe(s) and appears to provide important information and context needed to assess and adjust NRC's proposed methodologies.

There has been no agreement on confidentiality, control, and ownership of the work product of the cultural resources survey. There are several remaining steps, including potential motions to the Atomic Safety Licensing Board and requests for Tribes' approval that must precede any involvement of the various Tribes' membership. As confirmed by the adjudication and recognized by NRC contractors, an open site survey is an invitation to chaos. Moreover, effective methods and protocols involving cultural resources information are inseparable from the unresolved expectations and assurances regarding confidentiality and ownership of the survey information and work product.

The schedule below seeks to ensure NRC's surveys are established according to binding agreements, informed by laws and accepted methodologies, so that any flexibility may take place within the scope of these protections.

Prerequisites to Going into the Field

The information and concerns exchanged this week are currently under review and have been taken into account in setting out the following schedule and list of prerequisites that must precede any field work or other revelation of cultural resource information, whether to NRC or its investigators.

- Agreement upon a written methodology and survey protocols.
- Tribes' opportunity to review literature review report.

- Update and execute NRC-required SUNSI agreements.
- NRC/SC&A/Powertech execution of OST-required confidentiality agreements.
- Execute “Authorized Persons” affidavits from:
 - NRC Staff
 - NRC Contractors
 - Powertech participants
- Execute agreements protecting intellectual property of participating Tribes.
- Oglala Sioux Tribe Research Review Board approval for any NRC contractor interaction with Elders.
- Provide copies of SUNSI-protected archeological records to Authorized Persons.

Proposed Schedule and Plan of Work

The following schedule is provided to ensure the cultural resource survey, particularly the field survey methodology, identifies cultural resources in a way that allows NRC to avoid cultural resource impacts and to develop and adopt meaningful protections during the National Environmental Policy Act process set out in the NRC’s March 16, 2018 letter and schedule.

The below schedule focuses the first phase of the field survey on the NRC Contractor’s direct interaction with the Tribes’ THPOs, contractors, and other professional staff with cultural resource backgrounds. The schedule seeks to balance the need for an agreed upon methodology and protocols with the need for flexibility and an interactive process.

Phase 1: Based on Scenario 1 Presented in June 4 Webinar

- Divide first phase into two parts based on Webinar Scenario I.
- Full identification of cultural resources is required due to inadequate previous efforts.
- OST attorneys must be present (by phone) whenever NRC attorneys are present.

Phase 1, Week 1. Week of June 11

- **Monday June 11**
 - NRC Contractors meet with Tribes’ representatives
 - Oglala Sioux Tribe, THPO Offices, East Highway 18, Pine Ridge, South Dakota – Start at 9am.
 - Introductions
 - Discuss proposed set of survey protocols and methodologies.
 - Review current reports and discuss available materials with NRC Contractors
 - Reach tentative agreement on survey methodologies and protocols.
- **Tuesday June 12**
 - NRC Contractors finish drafting written field survey protocol and methodologies based on Monday meeting.
 - Circulate proposed survey methods and protocols for review and adoption.
 - Tribes prepare responses to NRC Contractor’s written proposal.
 - Continue contractors’ review of literature, maps, and other information.

- **Wednesday June 13**
 - Request OST THPO Advisory Council approvals for field survey methodology and protections of cultural resources.
 - OST THPO presents to the advisory council.
 - Quality Services available for questions.
 - Paul Nikkuns – Available for questions and answers.
 - Request other Tribes' approvals, if needed.

- **Thursday June 14**
 - Meet in Pine Ridge to finalize field study and schedule.
 - Additional outreach to specific individuals.
 - Follow-up invitations to Tribes based on the finalized methodology and protocols.

- **Friday June 15**
 - Carry out "windshield tour" with NRC contractors.
 - Make any adjustments based on "windshield tour."
 - Finalize plan of work for going into the field on June 18.

Phase 1, Week 2. Conduct Field Surveys (Establish Meeting Location)

The details and schedule for implementing the specific methods and protocols for the field survey will be set out in a plan of work developed during the week of June 11, and finalized by June 15.

Monday June 18 and Tuesday June 19 - On site.

Wednesday June 20 – OST SHPO's Pine Ridge Offices
 NRC Contractor, THPO, and Tribe's contractors review preliminary information.
 Meet in the afternoon to make any adjustments to method and protocols.

Thursday June 21 and Friday June 22 - On site.

Phase 2: September 2018 - TBD

The information and lessons learned in Phase 1 will be considered and incorporated into the schedule and work plans that will be developed for Phase 2 in conjunction with other tasks set out in the NRC's March 16, 2018 letter and schedule.