



UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD

In the Matter of

POWERTECH USA, INC.

(Dewey-Burdock
In Situ Uranium Recovery Facility)

Docket No. 40-9075-MLA

ASLBP No. 10-898-02-MLA-BD01

Hearing Exhibit

Exhibit Number:

Exhibit Title:



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

July 2, 2018

Mr. Kyle White, Interim Director
Oglala Sioux Tribe Natural
Resources Regulatory Agency
Oglala Sioux Tribe
P.O. Box 320
Pine Ridge, SD 57770

SUBJECT: U.S. NUCLEAR REGULATORY COMMISSION'S RESPONSE TO THE
OGLALA SIOUX TRIBE'S PROPOSED CULTURAL RESOURCES SURVEY
METHODOLOGIES AT THE DEWEY-BURDOCK IN SITU URANIUM
RECOVERY PROJECT IN FALL RIVER AND CUSTER COUNTIES, SOUTH
DAKOTA (DOCKET NUMBER: 40-9075)

Dear Mr. White:

This letter is in response to the Oglala Sioux Tribe's cultural resources survey proposal provided in draft form to the U.S. Nuclear Regulatory Commission (NRC) staff on June 12, 2018, and in revised form on June 15, 2018.

The Oglala Sioux Tribe's new cultural resources survey proposal outlines an approach that is fundamentally incompatible with implementation of the NRC staff's March 16, 2018, selected approach, which was previously negotiated with the Tribe and parties and presented to the Atomic Safety and Licensing Board Panel. The Tribe's proposal includes a wide range of activities and milestones that were not part of the negotiated approach. Specifically, the proposal is significantly larger in scope and would entail costs and completion times that differ dramatically from the selected approach. This contrast is highlighted by the Tribe's description of the activities during the June tribal field survey effort, an integral part of the selected approach, as no more than "preliminary work" under the Tribe's new proposed approach. Further, the Oglala Sioux Tribe's new proposal does not appear to contemplate the participation of other Tribes or the costs associated with involving those Tribes in such an approach.

The Tribe states in its new proposal that it is now NRC's task to accept the Tribe's proposal or propose an alternative approach that tailors the Tribe's proposal to meet what the NRC staff would consider to be a reasonable budget. For the reasons described above, the NRC is unable to accept the Oglala Sioux Tribe's new proposal. NRC considers the March 16, 2018 selected approach to be a reasonable approach that is not cost-prohibitive to implement. Moreover, the selected approach, which reflects a reasoned assessment of both scope and cost, is premised upon extensive previous discussions with the Tribe and the licensee.

The Tribe's participation in the March 16, 2018, selected approach is essential to the success of that approach. Given how far apart the Tribe's new proposal is from the selected approach—an approach previously described by the Tribe as providing a reasonable path toward satisfying National Environmental Policy Act of 1969 the NRC staff believes it cannot reach alignment with the Tribe on an approach to resolve the outstanding contention in this proceeding. Accordingly,

the NRC staff has determined that the appropriate course of action is to discontinue its efforts to implement the selected approach.

The NRC staff would again like to express its appreciation for the opportunity to meet with members of the Oglala Sioux Tribe last month at the Pine Ridge Reservation.

In accordance with Title 10 of the *Code of Federal Regulations*, Part 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 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 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,

/RA/

Cintha 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

cc:

Mr. Troy "Scott" Weston, President
Oglala Sioux Tribe
Mr. Jeff C. Parsons, Counsel
for the Oglala Sioux Tribe
Mr. Travis E. Stills, Counsel
for the Oglala Sioux Tribe

K. White

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SUBJECT: U.S. NUCLEAR REGULATORY COMMISSION'S RESPONSE TO THE OGLALA SIOUX TRIBE'S PROPOSED CULTURAL RESOURCES SURVEY METHODOLOGIES AT THE DEWEY-BURDOCK IN SITU URANIUM RECOVERY PROJECT IN FALL RIVER AND CUSTER COUNTIES, SOUTH DAKOTA (DOCKET NUMBER: 40-9075)

DATED: July 2, 2018

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