



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:

# **U.S. Nuclear Regulatory Commission (NRC) Teleconference Meeting Regarding the Site Survey Methodology for the Dewey-Burdock *In Situ* Uranium Recovery (ISR) Project**

## **Draft Summary**

**Date:** February 8, 2019

**Time:** 12:00 pm ET (10:00 am MT) – 1:30 pm ET (11:30am MT)

### **Participants:**

Cinthya Roman-Cuevas, Branch Chief, NRC  
Lorraine Baer, Attorney, NRC  
Joan Olmstead, Tribal Liaison, NRC  
Jean Trefethen, Project Manager, NRC  
Diana Diaz-Toro, Project Manager, NRC  
Jerry Spangler, Senior Technical Reviewer, SC&A (NRC Contractor)  
Kyle White, Director, Natural Resources Regulatory Agency, Oglala Sioux Tribe  
Thomas Brings, Tribal Historic Preservation Officer, Oglala Sioux Tribe  
Jeff Parsons, Attorney, Oglala Sioux Tribe  
Travis Stills, Attorney, Oglala Sioux Tribe  
Ben Rhodd, Tribal Historic Preservation Officer, Rosebud Sioux Tribe  
Benjamin Young, Rosebud Sioux Tribe

### **Purpose:**

To introduce the NRC staff and contractor to the Oglala Sioux Tribe, and to discuss the process for future negotiation meetings regarding the continued development of the site survey methodology for identifying Tribal sites of religious and cultural significance at the Dewey-Burdock ISR project.

### **Draft Summary:**

After introductions, Ms. Joan Olmstead discussed the purpose and goals of the meeting and the meeting ground rules. Mr. Kyle White stated that the Oglala Sioux Tribe did not consider the teleconference meeting to be a government-to-government consultation in accordance with the Tribe's Ordinance No. 11-10, "Ordinance of the Oglala Sioux Tribal Council Establishing Procedures for Government-to-Government Consultation Between the Oglala Sioux Tribe and the United States Government, and Other Governments."

Ms. Olmstead confirmed the points of contact for the NRC (Ms. Diana Diaz-Toro and NRC's attorneys) and the Oglala Sioux Tribe (Thomas Brings, Kyle White, and Tribe's attorneys). The Tribe requested the addition of Mr. Jerry Spangler (NRC's contractor) to future oral and written communications. Then the group discussed the frequency of future working meetings to develop the site survey methodology. The Oglala Sioux Tribe indicated that weekly meetings appeared to be a reasonable goal; however, the Tribe's attorneys indicated that the group should remain flexible on the frequency of meetings to adjust for scheduling conflicts or to provide more time to better prepare for future meetings. The Oglala Sioux Tribe representatives and attorneys explained that their availability was limited until the week of February 18, 2019, given previous work commitments. Accordingly, the next working meeting was tentatively scheduled for February 19, 2019, at 10:00am MT (12:00pm ET), pending the availability of one

NRC participant. Notwithstanding, the NRC staff anticipated providing this meeting summary, the draft agenda, and a working document related to the site survey methodology on February 12, 2019. The Oglala Sioux Tribe's goal is to provide comments on this meeting summary and draft February 22, 2019 agenda back to the NRC staff by February 15, and comments on the draft cultural resources methodology document before the February 19 meeting.

The NRC staff also proposed to use a combination of webinars and teleconference calls to conduct the working meetings. Webinars are useful for drafting documents in real time. Mr. Travis Stills, however, explained that webinars can be challenging at times and requested that the material be provided electronically ahead of the meeting in the event that webinars cannot be used. With respect to documentation of the meetings, the NRC staff proposed the use of transcripts to facilitate accurately capturing the information shared and exchanged. The Oglala Sioux Tribe's attorneys, however, shared ~~its~~their concerns that transcribing meetings constrains participants' willingness to engage in open conversations, and that culturally sensitive topics could arise. As a result, the group decided to use written meeting summaries as the documentation vehicle for future meetings. For NRC staff-led meetings, the staff will draft the meeting summary and provide it to the Tribe for their review and comment. The NRC staff stressed the importance of timely finalization of the meeting summaries prior to the next meeting.

The Oglala Sioux Tribe's attorneys also shared ~~its~~their concerns with the Tribal Liaison. The Tribe's attorney stated that ~~it~~they expected the Tribal Liaison's role to be a neutral facilitator, and requested Ms. Olmstead give references from other Tribes with whom she has previously worked. The Tribe's attorneys stated that ~~it~~they expected the Tribal liaison to provide the NRC staff further guidance on tribal culture sensitivity. Ms. Olmstead explained that her role is a facilitator. She will ensure that the NRC staff understands the Tribe's position and recommendations so that an informed decision can be made, but she does not advocate for any one party. She also discussed her background and experience, which includes being a member of the NRC's facilitator program, developing training for NRC staff on Tribal issues and policies, and in her former capacity as an OGC attorney, helping develop the NRC's Tribal Policy Statement, Tribal Protocol Manual, and consulting with other Tribal governments on NRC licensing actions and programs. Ms. Olmstead also stated that she has a B.A. in Anthropology. Ms. Lorraine Baer explained that, due to the facilitator's role and the purpose and focus of the future discussions (i.e., developing the site survey methodology), discussing the tribal liaison's references from other Tribes would not be practical or necessary.

The parties next discussed the Oglala Sioux Tribe's February 22, 2019, meeting of its Tribal Historic Preservation Advisory Council. Mr. Kyle White explained that the Council consists of Tribal Elders that have expertise on historic preservation matters and, accordingly, provide direction to the Tribe and advice to the Tribe's Tribal Council. The expectation would be to continue discussing the site survey methodology at the meeting. Mr. White also stated that the Council had been given the Oglala Sioux Tribe's June 15, 2018, cultural resources survey methodology proposal. Mr. White requested that the NRC staff consider that proposal without focusing on the budget. The NRC staff anticipated attending the meeting on February 22. The Tribe anticipates sharing the Tribal Historic Preservation Advisory Council meeting agenda the week of February 11, 2019.

Finally, with respect to the working document that the NRC staff is developing, the document consolidates information that has been previously shared and discussed in different documents (e.g., the NRC's March 16, 2018 Approach, and the November 21, 2018, NRC letter) and meetings with the Tribes (e.g., June 2018 meetings), and builds upon that information with the

goal of using it as a starting point for discussions and to facilitate the development of the methodology. The staff stated that their goal was to share this document with the Tribes by February 12, 2019.

**Action Items:**

- The next working meeting was tentatively scheduled on February 19, 2019, at 10:00am MT (12:00pm ET). The NRC staff needed to confirm availability of one participant.
- The NRC staff will share the following documents with the invited Tribes by February 12, 2019:
  - Draft summary of February 8, 2019, teleconference call
  - Draft agenda for the February 19, 2019, meeting
- The Oglala Sioux Tribe's goal is to provide comments on these documents to the NRC by February 15, 2019.
- To the extent possible, the NRC staff will share the draft cultural resource survey methodology to be used as a starting point for discussion by February 12, 2019.
- The Oglala Sioux Tribe's goal is to provide comments on this document to the NRC before the next meeting on February 19, 2019.