



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:

Meeting Summary

February 22, 2019

Oglala Lakota College Pine Ridge College Center

Pine Ridge, South Dakota

Attendees:

Kyle White, Oglala Sioux Tribe, Director of Natural Resources
Thomas Brings, Oglala Sioux Tribe, Tribal Historic Preservation Officer
Ben Rhodd, Rosebud Sioux Tribe, Tribal Historic Preservation Officer
Steve Vance, Cheyenne River Sioux Tribe, Tribal Historic Preservation Officer
Jon Eagle, Sr., Standing Rock Sioux Tribe, Tribal Historic Preservation Officer
Tim Mentz, Consultant to Oglala Sioux Tribe
Leola One Feather, Oglala Sioux Tribal Historic Advisory Committee
Garvard Good Plume, Oglala Sioux Tribal Historic Advisory Committee
Robert Two Crow, Oglala Sioux Tribal Historic Advisory Committee
Asay No Braid, Oglala Sioux Tribe 5th Member's Office
Toni Poafabitty, Oglala Sioux Tribe 5th Member's Office
Jon Eagle's father in law
Dennis Yellow Thunder, Oglala Sioux Tribe Member
Travis Stills, counsel to Oglala Sioux Tribe
Jeff Parsons, counsel to Oglala Sioux Tribe
Diana Diaz-Toro, Project Lead, Nuclear Regulatory Commission Staff
Cynthia Roman, Nuclear Regulatory Commission Staff
Loraine Bear, Nuclear Regulatory Commission Office of General Counsel
Jerry Spangler, Nuclear Regulatory Commission Staff contractor

Discussion of Draft methodology proposal

- Oglala Sioux Tribe confirmed that the meeting was not to be considered "government to government" consultation because only staff was present and no leadership from any Tribes or Nuclear Regulatory Commission Staff. All Tribal Historic Preservation Officers confirmed that the meeting was not "government to government." This is an informational meeting.
- Mr. Spangler presented the methodology document, stating that he does not possess experience and expertise in Lakota culture and would need to rely on the Tribes to provide the input necessary to create a credible document. The methodology document was drafted with the expectation that every section would be open to revisions and additions.
- The Tribal Historic Preservation Officers confirmed that the current methodology document is not sufficient and would require substantial revision in order for Tribe's to sign off on the design of the cultural resource survey, which ultimately must occur through the elected Tribal Councils.
- Specific topics identified that require additional consideration and revision include:
 - o Use of phrase "scientific method" in methodology that appears to provide a rigid approach and a basis to discount or relegate traditional cultural knowledge and experience to insignificance. An acceptable approach should include scientific principles from the physical and social sciences and must also ensure the survey method relies on traditional cultural knowledge.

- Heavy reliance on LeBeau methodology is problematic. LeBeau's work and methods are controversial, do not enjoy their Tribal Historic Preservation Officers' support, and it should not be used as the primary basis for a methodology.
- The Tribes expressed concern about any reliance on an "open site survey" approach, which is not a recognized cultural resource survey method. The document as yet does not include any on the ground methodology. The parties need to agree on details, such as transects and personnel needs. The Tribes stated that the impacts from the project require survey of the entire project area and consideration of landscape level impacts. The time frames and budget need to be flexible to allow for a credible methodology to be developed that includes traditional cultural knowledge and protocols, then a time frame and budget determined.
- The Tribal Historic Preservation Officers stated, and Mr. Spangler concurred, that the methodology document's expressed purpose is to identify and evaluate cultural resources, including but not limited to, those that qualify as eligible for inclusion in the National Register of Historic Places. This necessarily raises issues with compliance with the identification and evaluation procedures and substantive requirements of the National Historic Preservation Act (NHPA). Similarly, the Tribal Historic Preservation Officers confirmed that conducting the surveys required for the supplemental environmental impact statement process under NEPA triggers NHPA requirements. The document should incorporate and track the NHPA identification and evaluation process.
- Discussion occurred about the additional involvement of the State Historic Preservation Office and the Advisory Council on Historic Preservation.
- Additional components of a methodology discussed that should be incorporated into a methodology included traditional star knowledge, accounting for seasonal variations, wildlife, flagging out proposed facilities to enable assessment of impacts, opportunities for ceremonial activities at the site to aid assessment.
- The Tribes made comparisons between the disparate length of time and resources committed to conducting the archaeological study included in the Augustana Report versus the time periods and budget proposed for this project. Mr. Spangler indicated that he had not reviewed the Augustana Report, so could not assess the differences.
- The Tribes identified problems with the existing Programmatic Agreement (PA), which no Tribes signed. They suggested that the PA should be revisited, given the new effort to identify and evaluate cultural resources and that the Tribes be given signatory status on the PA.
- The Tribes invited continued discussions on the methodology document. Mr. Spangler stated that he was very interested in working with the Tribes to continue to develop an acceptable methodology. The Tribes stated that a longer (multi-day) structured meeting session should be held to delve deep into the specifics of the proposed methodology, particularly the components of the NRC approach that rely on traditional cultural knowledge. NRC Staff is considering the invitation.
- The Tribes restated their concern that a qualified Tribal Liaison did not attend the meeting. The Tribes restated their request for a NRC Staff to engage a Tribal Liaison and NRC contractor(s) with the necessary cultural knowledge to ensure future meetings remain productive and follow necessary protocols. A Tribal Liaison was requested by the Oglala Sioux Tribe to be present at all meetings in the future, including those sponsored by the Oglala Sioux Tribe.
- The meeting ended with a prayer, as the Tribes traditionally open and close every meeting with a prayer.