



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:

DeweyBurdPubEm Resource

From: Diaz Toro, Diana
Sent: Thursday, March 28, 2019 3:58 PM
To: Jeffrey C. Parsons
Cc: Olmstead, Joan; Roman-Cuevas, Cinthya; Baer, Lorraine; Monteith, Emily; Trefethen, Jean; 'JERRY SPANGLER'; 'NRRRA Director'; 'Travis Stills'; t.brings@ogla.org
Subject: RE: RE: Draft meeting summary
Attachments: NRC Staff's Comments and Proposed Revisions-February 22 Meeting.pdf

Mr. Parsons,

Attached please find our comments on the February 22 meeting summary.

Thank you for the opportunity to review and provide comments.

Regards,
Diana

Diana Diaz-Toro
Project Manager
NMSS/FCSE
301-415-0930
diana.diaz-toro@nrc.gov

-----Original Message-----

From: Jeffrey C. Parsons [mailto:wmap@igc.org]
Sent: Monday, March 11, 2019 1:52 PM
To: Diaz Toro, Diana <Diana.Diaz-Toro@nrc.gov>
Cc: Olmstead, Joan <Joan.Olmstead@nrc.gov>; Roman-Cuevas, Cinthya <Cinthya.Roman-Cuevas@nrc.gov>; Baer, Lorraine <Lorraine.Baer@nrc.gov>; Monteith, Emily <Emily.Monteith@nrc.gov>; Trefethen, Jean <Jean.Trefethen@nrc.gov>; 'JERRY SPANGLER' <jerry_cpaa@comcast.net>; 'NRRRA Director' <ost.naturalresources.director@gmail.com>; 'Travis Stills' <stills@frontier.net>; t.brings@ogla.org
Subject: [External_Sender] RE: Draft meeting summary

Ms. Diaz-Toro - as discussed please find attached the Tribe's summary of the February 22 meeting between NRC Staff and the Tribes.

Jeffrey C. Parsons
Senior Attorney
Western Mining Action Project
P.O. Box 349
Lyons, CO 80540
(303) 823-5738

-----Original Message-----

From: Jeffrey C. Parsons <wmap@igc.org>

Sent: Wednesday, February 27, 2019 1:39 PM

To: 'Diaz Toro, Diana' <Diana.Diaz-Toro@nrc.gov>

Cc: 'Olmstead, Joan' <Joan.Olmstead@nrc.gov>; 'Roman-Cuevas, Cinthya' <Cinthya.Roman-Cuevas@nrc.gov>; 'Baer, Lorraine' <Lorraine.Baer@nrc.gov>; 'Monteith, Emily' <Emily.Monteith@nrc.gov>; 'Trefethen, Jean' <Jean.Trefethen@nrc.gov>; 'JERRY SPANGLER' <jerry_cpaa@comcast.net>; 'NRRRA Director' <ost.naturalresources.director@gmail.com>; 'Travis Stills' <stills@frontier.net>; 't.brings@ogla.org' <t.brings@ogla.org>

Subject: RE: Draft meeting summary

Thank you Diana - I appreciate your thoughtful response to our concerns. Your synopsis below reflects what we discussed. I am traveling this week, but doing everything I can to work on the both the Feb 8 and Feb 22 summaries for NRC Staff review.

Jeffrey C. Parsons
Senior Attorney
Western Mining Action Project
P.O. Box 349
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(303) 823-5738

-----Original Message-----

From: Diaz Toro, Diana <Diana.Diaz-Toro@nrc.gov>

Sent: Tuesday, February 26, 2019 12:02 PM

To: Jeffrey C. Parsons <wmap@igc.org>

Cc: Olmstead, Joan <Joan.Olmstead@nrc.gov>; Roman-Cuevas, Cinthya <Cinthya.Roman-Cuevas@nrc.gov>; Baer, Lorraine <Lorraine.Baer@nrc.gov>; Monteith, Emily <Emily.Monteith@nrc.gov>; Trefethen, Jean <Jean.Trefethen@nrc.gov>; JERRY SPANGLER <jerry_cpaa@comcast.net>; NRRRA Director <ost.naturalresources.director@gmail.com>; 'Travis Stills' <stills@frontier.net>; t.brings@ogla.org

Subject: RE: Draft meeting summary

Dear Mr. Parsons,

Thank you for the opportunity to discuss your concerns regarding the public availability of draft meeting summaries. As we discussed with you on Friday, February 22, in an effort to continue to be transparent, our plan moving forward is to offer the Tribe an opportunity to provide comments on draft meeting summaries before they become publicly available. If comments are received, the staff will proceed to make those comments publicly available at the same time as the draft and final meeting summary.

Also, as we discussed with you on Friday, the NRC staff will continue to develop the summaries for NRC-led meetings (i.e., February 8 and February 19), and the Oglala Sioux Tribe will develop summaries of the meetings the Tribe leads (i.e., February 22). Both parties will exchange draft meeting summaries for review and provide comments in a timely manner to finalize the meeting summaries.

We would appreciate your thoughts on these matters so that we can continue to move forward under the same understanding. We look forward to your comments on the draft summary of the February 8, 2019, meeting and your draft summary of the February 22 meeting.

Regards,
Diana

Diana Diaz-Toro
Project Manager
NMSS/FCSE
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-----Original Message-----

From: Jeffrey C. Parsons [mailto:wmap@igc.org]
Sent: Tuesday, February 19, 2019 6:18 PM
To: Diaz Toro, Diana <Diana.Diaz-Toro@nrc.gov>; NRRRA Director <ost.naturalresources.director@gmail.com>; t.brings@oglala.org; Baer, Lorraine <Lorraine.Baer@nrc.gov>; Monteith, Emily <Emily.Monteith@nrc.gov>; Trefethen, Jean <Jean.Trefethen@nrc.gov>; 'JERRY SPANGLER' <jerry_cpaa@comcast.net>; Roman-Cuevas, Cinthya <Cinthya.Roman-Cuevas@nrc.gov>; 'Travis Stills' <stills@frontier.net>
Subject: [External_Sender] Draft meeting summary

Ms. Diaz-Toro, it has come to my attention that the attached DRAFT meeting summary of the February 8 2019 conference call between NRC Staff and the Oglala Sioux Tribe and Rosebud Sioux Tribe representatives has been placed on the public ADAMS site (attached) and broadcast on AZARGA/Powertech social media investment sites (<https://ceo.ca/azz>). This public disclosure of a draft summary before NRC Staff received any input from the Tribe on the contents is problematic and a breach of the protocol for the conference calls the parties discussed. The summary effectively disseminates incomplete and/or incorrect information as to the nature and content of the call and further amplifies the concerns Mr. Stills identified on the call today about the detailed level of notes in the summary. The Tribe requests that no further draft summaries be prepared or disseminated until the parties have an opportunity to discuss this breach of protocol.

Jeffrey C. Parsons
Senior Attorney
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Hearing Identifier: Powertech_Uranium_Dewey_Burdock_LA_Public
Email Number: 390

Mail Envelope Properties (Diana.Diaz-Toro@nrc.gov20190328155800)

Subject: RE: RE: Draft meeting summary
Sent Date: 3/28/2019 3:58:12 PM
Received Date: 3/28/2019 3:58:00 PM
From: Diaz Toro, Diana

Created By: Diana.Diaz-Toro@nrc.gov

Recipients:

"Olmstead, Joan" <Joan.Olmstead@nrc.gov>
Tracking Status: None
"Roman-Cuevas, Cinthya" <Cinthya.Roman-Cuevas@nrc.gov>
Tracking Status: None
"Baer, Lorraine" <Lorraine.Baer@nrc.gov>
Tracking Status: None
"Monteith, Emily" <Emily.Monteith@nrc.gov>
Tracking Status: None
"Trefethen, Jean" <Jean.Trefethen@nrc.gov>
Tracking Status: None
"JERRY SPANGLER" <jerry_cpaa@comcast.net>
Tracking Status: None
"NRRRA Director" <ost.naturalresources.director@gmail.com>
Tracking Status: None
"Travis Stills" <stills@frontier.net>
Tracking Status: None
"t.brings@oglala.org" <t.brings@oglala.org>
Tracking Status: None
"Jeffrey C. Parsons" <wmap@igc.org>
Tracking Status: None

Post Office:

Files	Size	Date & Time	
MESSAGE	5750	3/28/2019 3:58:00 PM	
NRC Staff's Comments and Proposed Revisions-February 22 Meeting.pdf			110743

Options

Priority: Standard
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Sensitivity: Normal
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U.S. Nuclear Regulatory Commission (NRC) Staff's Comments and Proposed Revisions to the February 22, 2019, Meeting with Invited Tribes in Pine Ridge, South Dakota Regarding the Dewey- Burdock ISR Project

Editorial and Miscellaneous - Proposed Revisions

- Cinthya Roman and Lorraine Baer's names are misspelled. Please, revise as follows:
 - Cinthya Román, Branch Chief, Nuclear Regulatory Commission Staff
 - Lorraine Baer, Attorney, Nuclear Regulatory Commission Staff
- Please, revise Ms. Diaz-Toro's title as follows:
 - Project ~~Lead~~-Manager

Discussion – NRC Staff's Comments and Proposed Revisions

- The title of this section, "Discussion of Draft methodology proposal," suggests that, during the February 22 meeting, Mr. Spangler continued his discussion of the proposed draft methodology; that is, he continued to go over the remaining sections of the document not discussed during the February 19 teleconference meeting. Mr. Spangler, however, did not have the opportunity to continue to discuss further sections of the proposed draft methodology during the February 22 meeting. The discussion primarily centered on the invited Tribes' concerns and objections regarding the previously agreed-upon parameters identified in section 3.2 of the proposed draft methodology. Accordingly, the NRC staff recommends that the title of this section (after the list of meeting attendees) be revised to "Discussion" in order to avoid confusion about the focus of the discussions on February 22.
- The NRC staff recommends the following revisions under the second bullet point: "Mr. Spangler ~~presented the methodology document introduced himself and stated~~ that he does not possess ~~experience and~~ expertise in ~~identifying and ascribing significance to~~ Lakota cultural resources and would need to rely on the Tribes to provide the input necessary ~~to continue to develop and finalize~~ the document. The methodology document was drafted with the expectation that ~~every it is a working document section would be~~ open to revisions and additions, ~~but also defined by the March 2018 approach and the Board's Orders dated October 30, 2018.~~" The staff recommends these revisions because Mr. Spangler did not have the opportunity to present the proposed draft methodology document at the February 22 meeting. He also only stated that he did not have expertise in identifying Lakota cultural resources; he does have experience in facilitating cultural resource surveys and collaborating with Indian Tribes.
- Based on statements from Tribal representatives towards the beginning of the meeting, the NRC staff recommends adding a bullet point that states, "The Tribal Historic Preservation Officers expressed their opposition to the Dewey-Burdock ISR project and uranium mining generally."
- In the third bullet point, the use of the word "confirmed" suggests that all parties at the meeting, including the NRC staff and contractor, agreed that the current methodology document is not sufficient and would require substantial revision. Because the NRC staff and contractor did not agree to those statements, the NRC staff recommends that the word "confirmed" be revised to "stated."
- As currently drafted, the fourth bullet point suggests that the entire group (including the NRC staff and contractor) agreed during the meeting that certain topics require revision. The NRC staff suggest revising this bullet point as follows: "Specific topics ~~the Tribes~~ identified that require additional..."

- In response to the discussions about the scientific principles and social sciences, the NRC staff and contractor explained that the proposed draft methodology balances and reconciles a scientific method with the Tribes' traditional cultural knowledge and values. Therefore, the NRC staff recommends adding the following sentence at the end of the first sub-bullet under the "Specific topics" bullet: "The NRC staff contractor explained that the proposed methodology is focused on reconciling and balancing a "scientific method" that relies on traditional cultural knowledge." Other minor proposed revisions to this sub-bullet include: "The Tribal representatives expressed concerns over the use of the phrase "scientific method" in the proposed methodology. They were concerned that the expression ~~that~~ appears to provide a rigid approach..."
- The NRC staff recommends that the second sub-bullet under Specific Topics regarding the discussion regarding Dr. LeBeau's methodology be revised to clarify that the views expressed in the sub-bullet are only the views of the Tribes. This could be accomplished by adding the phrase "The Tribal representatives indicated that" to the beginning of the first sentence, and "According to the Tribal representatives," to the beginning of the second sentence. The NRC staff also recommends replacing "their" with "Cheyenne River Sioux Tribe."
- Similar to previous comments, the NRC staff recommends clarifying that the views expressed in the fourth sub-bullet belong to the Tribes. Therefore, the NRC staff suggests the following revisions: "The Tribal Historic Preservation Officers expressed that the parties need to agree on details, such as transects and personnel needs...Therefore, the Tribes requested that 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."
- In the fifth sub-bullet point, the NRC staff would like to add the following sentence at the end of the sub-bullet point to note NRC staff's response: "The NRC staff indicated that the focus of the efforts are NEPA and not NHPA, as the NHPA contention was adjudicated and closed. However, guidance on survey methodologies is mostly associated with the NHPA and, therefore, was used in developing the proposed methodology because of its content." Also, the NRC staff suggest clarifying "The Tribal Historic Preservation Officers requested that this document ~~should~~ incorporate..."
- With respect to bullet referencing the "Augustana Report" (the full title of which is "A Level III Cultural Resources Evaluation of Powertech (USA) Incorporated's Proposed Dewey-Burdock Uranium Project Locality within the Southern Black Hills, Custer and Fall River Counties, South Dakota," prepared by Archaeology Laboratory, Augustana College), the NRC staff wants to clarify that Mr. Spangler indicated he had not reviewed the report as there was confusion during the meeting about which report was being referenced. Therefore, the NRC staff suggests adding the following at the end of the bullet: "(Mr. Spangler was unsure of which report the Tribes were referring to, which is why he could not indicate whether he had reviewed it.)"
- The NRC staff recommends adding a bullet before the last one to capture the Oglala Sioux Tribe's counsel request that the NRC staff contractor redraft the proposed methodology. The proposed bullet would read: "Towards the end of the meeting, counsel for the Oglala Sioux Tribe requested that Mr. Spangler redraft the proposed methodology taking into consideration the comments and concerns expressed by the Tribal Historic Preservation Officers during the meeting."