

Official Transcript of Proceedings
NUCLEAR REGULATORY COMMISSION

Title: Crow Butte ISR Draft Survey Methodology
Discussion between Crow Butte Resources
and NRC staff

Docket Number: (n/a)

Location: teleconference

Date: Wednesday, August 18, 2021

Work Order No.: NRC-1629

Pages 1-40

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UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

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CROW BUTTE ISR DRAFT SURVEY METHODOLOGY DISCUSSION

BETWEEN CROW BUTTE RESOURCES AND NRC STAFF

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WEDNESDAY

AUGUST 18, 2021

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The Meeting convened via Video
Teleconference, at 3:00 p.m. EDT, Diana Diaz Toro,
Moderator, presiding.

PRESENT:

DIANA DIAZ TORO, NRC NMSS, Moderator

LORRAINE BAER, NRC OGC

ANNE LEIDICH, Pillsbury Winthrop Shaw Pittman

DAVID LEWIS, Pillsbury Winthrop Shaw Pittman

WALTER NELSON, Crow Butte Resources

DOUG PAVLICK, Cameco Resources

MARCIA SIMON, NRC OGC

JERRY SPANGLER, SC&A

JEAN TREFETHEN, NRC NMSS

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P R O C E E D I N G S

3:01 p.m.

1
2
3 MS. DIAZ TORO: So, I'm just going to
4 start by just describing the purpose of the meeting,
5 which is basically to receive your comments, Crow
6 Butte Resources, on the draft methodology to identify
7 sites of historic, cultural, and religious
8 significance to the Oglala Sioux Tribe at the Crow
9 Butte Uranium Recovery site in Crawford, Nebraska, and
10 we provided that draft survey methodology to both the
11 Crow Butte and the Oglala Sioux Tribe on August 10.

12 And so before we move any further, I think
13 it's appropriate to do formal introductions, and so
14 since I'm sort of kicking off this meeting, I'll
15 start. My name is Diana Diaz Toro and I'm the project
16 manager with the U.S. Nuclear Regulatory Commission.
17 Jean?

18 MS. TREFETHEN: Hi, yeah, I'm Jean
19 Trefethen, also with the U.S. Nuclear Regulatory
20 Commission and a project manager on this project.

21 (Simultaneous speaking.)

22 MS. SIMON: This is Marcia Simon. I'm an
23 attorney in the Office of General Counsel for the NRC.

24 MS. BAER: My name is Lorraine Baer. I'm
25 also an attorney in the Office of General Counsel for

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1 the NRC.

2 MR. SPANGLER: I'm Jerry Spangler. I'm
3 the staff contractor with SC&A that developed this
4 methodology.

5 MS. DIAZ TORO: Thank you, Jerry. Doug,
6 that's it from the NRC.

7 MR. PAVLICK: Okay, thank you. Doug
8 Pavlick, general manager, U.S. operations for Cameco
9 Resources, overseeing Crow Butte operation.

10 MR. NELSON: Walt Nelson, SHEQ coordinator
11 at Crow Butte.

12 MR. LEWIS: Dave Lewis of Pillsbury
13 Winthrop Shaw Pittman, counsel for Crow Butte.

14 MS. LEIDICH: And this is Anne Leidich,
15 also with Pillsbury Winthrop Shaw Pittman, counsel for
16 Crow Butte.

17 MS. DIAZ TORO: All right, I think that's
18 it. Thank you, everyone. With respect to the
19 recording and the transcript of this meeting, because
20 the draft survey methodology is publicly available, we
21 don't believe there would be any sensitive information
22 shared during this meeting, but, of course, the plan
23 would be to keep the transcript nonpublic until Crow
24 Butte Resources has had the opportunity to review it.

25 So, once we receive the transcript from

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1 the court reporter, Doug, I'll transmit it to you in
2 an encrypted manner, password protected, and, you
3 know, we would ask that you review it and confirm
4 whether there are or not sensitive or proprietary
5 information that should not be made public.

6 And once we complete that step, then, you
7 know, we would proceed to making the transcript an
8 official record in ADAMS, and it would serve as the
9 meeting summary, and after that, I'll send you the ML
10 number, of course, Doug.

11 MR. PAVLICK: Okay, very good. Thank you.

12 MS. DIAZ TORO: Sure, so -- oh, sorry, I
13 muted myself. So, like I said, the purpose of the
14 meeting is to receive your comments.

15 I wasn't really planning on providing or
16 going through the entire draft survey methodology, but
17 if you all would like me to briefly go through the
18 document, I can.

19 I can do that very briefly. Otherwise, I
20 think, if not, we can, you know, go directly to the
21 comments, and questions, and input you all may have.

22 MR. PAVLICK: Yeah, and I'll identify
23 myself so the court reporter doesn't have to guess,
24 Doug Pavlick, Cameco Resources. Diana, yeah, I don't
25 think we need to go through the entire methodology.

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1 What I do think would be probably helpful is if I turn
2 the discussion over to Dave Lewis.

3 Dave was kind enough to put some draft
4 notes together internally for us and I agree with his
5 discussion points. So, Dave, if that's okay, I'd
6 defer to you to just maybe run through some of the
7 pertinent comments that we have on the draft
8 methodology.

9 MR. LEWIS: Sure, I'd be happy to.

10 MS. DIAZ TORO: Hey, Dave, before you
11 start, would it be helpful if, you know, I share the
12 actual document?

13 MR. LEWIS: If you'd like, sure.

14 MS. DIAZ TORO: Just if it's helpful, I
15 have it.

16 (Pause.)

17 MS. DIAZ TORO: I'm not sure I'm showing
18 it, I apologize, Crow Butte methodology. All right,
19 here we go. All right, it's up, David. If you would
20 like to refer to something, I can try to scroll to
21 that section.

22 MR. LEWIS: Okay, appreciate it. Sort of
23 the main comment, I think, our main reaction was that
24 the methodology doesn't contain sufficient information
25 at this point in time for us to price the work that

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1 might be performed by the Tribe, so this goes to, you
2 know, what is our compensation arrangement?

3 And, you know, if we're going to
4 compensate, then we need either a firm price or we
5 need a lot more specificity as far as hours, and
6 rates, and what are the transects, and how many people
7 are they going to interview.

8 Obviously, you don't have that
9 information, but we view this as giving us basically
10 two choices. One is if we could get the Tribe to
11 agree that they'll handle the tribal survey, they'll
12 pay their contractors and tribal elders if they're
13 interviewed, but we'll give them a lump sum amount and
14 they then do their thing.

15 And if we can convince them to that
16 approach, then there isn't any need to worry about
17 trying to limit the number of interviews and what the
18 transects are. You know, they can do it and they have
19 a fixed amount of money to pay whatever they want to
20 do.

21 But if we end up with something that, you
22 know, was on a time and materials basis, for example,
23 then we'd really need to try and put a lot more in
24 this methodology to narrow it down and make sure we're
25 just not writing a blank check.

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1 I have spoken with Andrew Reid, and after
2 we spoke, he had suggested that I update NRC staff to
3 our discussion, so I think I'm free to do that, but we
4 had suggested -- I had suggested in a conversation
5 with Andrew Reid on Friday that an appropriate amount
6 might be on the order of \$90,000.

7 And I could go through if you want how we
8 broke that down, and Andrew Reid thought the approach
9 was a suitable one, a good one, and had committed to
10 take that back to the Tribe and get back to me. I was
11 hoping he'd get back to me by today, and he said he
12 would try to get back to me by today.

13 I have not heard back from him yet, but
14 that's what we're trying to do. And if we are
15 successful in reaching some sort of, you know, firm,
16 fixed price, then, you know, the need for greater
17 detail in the methodology goes away.

18 Doug, at any point, feel free to jump in
19 if you want to add anything.

20 MR. PAVLICK: Dave, I would just say that
21 why don't you go through that, the breakdown of how we
22 arrived at those costs? It's a short discussion, but
23 --

24 MR. LEWIS: Sure.

25 MR. PAVLICK: -- I think it's helpful.

1 MR. LEWIS: Okay, well, we took the 15
2 days that were proposed in this methodology for the
3 pedestrian survey, multiplied that by eight hours a
4 day, which comes out to 120 hours per day, and then
5 assumed ten people, which was based on the Tribe's,
6 you know, prior proposal.

7 That's five surveyors, three elders, and
8 I think two supervisors, but it's ten people, so that
9 came up to 1,200 hours.

10 We proposed \$50 an hour, and that, you
11 know, some people would be higher and some people
12 would be lower, but this was sort of an all-in rate
13 that would include -- you know, there wouldn't be
14 additional per diem. It would just be a flat rate to
15 come up with \$60,000.

16 On oral history, we were guessing a little
17 bit, but we guessed 20 interviews times 15 hours, and
18 that 15 hours is covering both the interviewer and
19 interviewee together, and then \$50 an hour, so that
20 was another \$15,000.

21 And then we proposed 300 hours for the
22 draft and final report at \$50 an hour coming out to
23 another \$15,000, so that was \$60,000, 15 and 15.

24 And when I had talked about 20 interviews,
25 Andrew Reid said he thought that sounded about right,

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1 like it wasn't agreed on the rate, but that number of
2 interviews, so, you know, for whatever that's worth.

3 So, that was our proposal and I hope we
4 hear back whether that's acceptable or whether they
5 think it should be somewhat higher, but if we can come
6 up with something that's agreeable and not excessive,
7 then again, a lot of, you know, the need for further
8 detail goes away.

9 I'm just going to scroll down my version,
10 but I had a number of just minor edits, mainly going,
11 for example, if you look at introduction, the very
12 first paragraph, the last sentence talks about a hard
13 look at potentials on historic and cultural resources,
14 and there are a number of references to resources.

15 I would suggest that language refer to
16 potential impacts on sites within the CBR licensed
17 area of traditional or historic cultural importance to
18 the Tribe. Resource is just a vague term. We're
19 focusing on sites. This kind of ties to this
20 intangible issue. We're looking at sites.

21 You know, sites may have intangible
22 importance and that's fine, but in here, there's these
23 references to historic or cultural resources. We'd
24 rather refer to sites within the CBR licensed area of
25 traditional, historic, and cultural importance to the

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1 Tribe as the phrase, so that's in the first paragraph
2 and the third paragraph.

3 On the next page, on 2.1, I think it's
4 just a typo. In the second sentence of the first
5 paragraph, it refers to a tribal cultural landscape.
6 I think that should be traditional. That's nothing
7 significant.

8 On page five, in the paragraph on tribal
9 cultural surveys, the second paragraph, the last
10 sentence, it says only tribal members steeped in
11 cultural traditions and practices are capable of
12 describing the intangible value of a site.

13 I might put in, you know, generally only
14 tribal members, like I don't know if that should be
15 that absolute, but that's a minor edit.

16 On the next page, the second full
17 paragraph, in two places there's -- also, in the
18 second line, it talks about to satisfy the NRC's
19 obligations under NEPA and NHPA, the staff plans to
20 supplement the EA for the CBR license renewal with
21 information about sites. We would put in within the
22 CBR licensed area just to keep that nailed down.

23 And then in the last sentence where it
24 refers to resources, change that to sites within the
25 CBR licensed area.

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1 MS. DIAZ TORO: Hey, David, is that on
2 page six you said or --

3 MR. LEWIS: It's page seven.

4 MS. DIAZ TORO: Oh, seven.

5 MR. LEWIS: Sorry.

6 MS. DIAZ TORO: Thank you. No, no, no
7 worries.

8 MR. LEWIS: It's the paragraph that starts
9 to satisfy.

10 MS. DIAZ TORO: Yes, I just saw it. Thank
11 you.

12 MR. LEWIS: So, within the CBR licensed
13 area would go, you know, in the second line after
14 sites, and in the last sentence, resources would be
15 sites within the CBR licensed area.

16 On page eight -- of course I converted
17 this to Word and did a red line, so it's possible my
18 page numbers are now slightly different. Go to the
19 very bottom.

20 MS. DIAZ TORO: After Parameters and
21 Objectives?

22 MR. LEWIS: That's right. Just again to
23 identify sites, it says the survey will consist of
24 field investigation to identify sites. We'd put in
25 within the CBR licensed area again just being

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1 specific, and this goes to we're not looking outside
2 the area of potential effects.

3 On page ten, this was more a substantive
4 comment and it probably doesn't matter again if we can
5 reach a firm price, but it becomes more important if
6 we can't, but in the second paragraph under duration
7 of field investigation, it says the duration -- this
8 is the next to last sentence.

9 Additionally, the duration of the survey
10 consists of the proposed -- the language now is
11 prioritization of areas to be surveyed. This
12 methodology right now, you know, prioritizes surveys
13 of different areas with the lowest priority to the
14 disturbed area, but that still, you know, ultimately,
15 you know, involves a survey of, you know, full surveys
16 of all the areas potentially.

17 And so we would rather introduce the
18 concept of reduction in surveys of areas, so it would
19 be the proposed reduction in survey of areas based on
20 ground disturbance and the similar language changes
21 we've proposed elsewhere.

22 But the idea is not that just, you know,
23 they'll do it last, that if it's really disturbed and
24 there's no evidence that there's something there, that
25 they would screen it out or they would do, you know,

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1 some greatly reduced survey as opposed to just doing
2 it last.

3 In the next section, 4.1.5 on
4 participants, in the first sentence, the two
5 references to Crow Butte should be CBR just for
6 consistency with the abbreviations we're using here,
7 so CBR staff --

8 MS. DIAZ TORO: Yes.

9 MR. LEWIS: -- in those two places. We
10 suggest also in the second sentence saying that the
11 CBR staff would not directly observe the
12 identification process as opposed to saying they would
13 not participate or directly observe.

14 I think there's value for, you know, Mr.
15 Spangler being able to observe the identification
16 process, and we certainly would feel more comfortable
17 with that level of involvement, you know, just as, you
18 know, a QA check and then related to understand what's
19 going on.

20 And ultimately, you know, it is the
21 staff's responsibility to satisfy the NHPA, so we're
22 comfortable, I think, saying that CBR staff would not
23 participate or directly observe, but we would delete
24 the reference to they so that it doesn't carve out the
25 staff's involvement.

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1 In footnote five at the bottom of that
2 page, we'd insert just at the end based on land
3 records to kind of clarify, you know, where the more
4 accurate number comes from.

5 On the next page, this is page 11, under
6 NEPA, we propose changing the language a little bit so
7 it says the NRC staff must take a hard look at
8 potential impacts to, and we put in sites of
9 historical and cultural significance within the
10 affected area.

11 Again, this is really trying to eliminate
12 the more, the looser reference to resources, whatever
13 that may mean, so we're just suggesting putting
14 potential impacts to sites of historical and cultural
15 significance within the affected area, and then the
16 next sentence, two sentence down, it's going to say
17 such sites include those that are not eligible.

18 The next two, Section 5.3 on page 13, this
19 is protection of sensitive information. I don't know
20 if it's here, but somewhere we need to make sure that
21 CBR will have access to the cultural survey report,
22 including the information on the locations, the
23 identified sites.

24 You know, that's necessary to, you know,
25 so that we know where they are so that we can, you

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1 know, not impact them or, you know, if there is a
2 potential impact, be able to address it, and we would
3 also want to have the right to reference such
4 information in support of licensing. If that's added,
5 the last sentence we would propose changing to say the
6 NRC staff and CBR will protect the sensitive
7 information.

8 So, we would provide, you know, the same
9 safeguards, you know, reserved to the protective order
10 in this proceeding, but we didn't want to leave it
11 whereas, you know, the licensee of the site were the
12 only one who doesn't know where the, you know, TCPs
13 might be that need protection and where also, you
14 know, we don't have the benefit of the surveys once
15 they're completed.

16 On the next page, on page 15, the
17 paragraph that starts the standard transect, here the
18 last sentence says this methodology does not propose
19 a particular transect width. I think that's okay if
20 we can reach, you know, a lump sum agreement.

21 If not, you know, then we probably need to
22 specify that, you know, the transects shall not be
23 less than five meters or come up with some restrictive
24 criteria on when they might be reduced, but if we
25 don't have, you know, a fairly firm cost, I'm not sure

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1 we can simply say whatever transect the Tribe decides
2 to do is fine with us.

3 They could strike it down to a meter and
4 we would be paying an awful lot, so that's an example
5 of where we can either hopefully reach a lump sum
6 agreement or we would need to try and, you know, lock
7 these things in.

8 In the next paragraph, this is along the
9 lines of what we had discussed earlier as far as
10 prioritization, so we would change that paragraph to
11 say in light of the current ground disturbances and
12 the scope of the proposed action.

13 Hopefully the final document will delete
14 the language about NRC staff recommending and simply
15 say the methodology shall prioritize survey areas
16 likely to identify sites of traditional significance
17 to the Tribe within the licensed area.

18 And then at the end of the sentence, the
19 next sentence where it talks about the last priority
20 being investigation of previously disturbed sites, we
21 would suggest adding with reduced scrutiny of previous
22 disturbance makes identification of cultural and
23 historic sites unlikely.

24 The idea is that it's not just
25 prioritization, but it's really, you know, a reduction

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1 in surveys, and there's another change that we made
2 along these lines somewhere else in the document I'll
3 get to.

4 In the next paragraph, the second sentence
5 says it's anticipated that up to three spiritual
6 advisors would support. Again, we would hope the
7 final document is firmer than that and takes out it's
8 anticipated that, and so it just says up to three
9 spiritual advisors.

10 Again, I think if we reach a firm, fixed
11 price, then, you know, it probably doesn't matter to
12 us if they bring four or five, but if we're, you know,
13 paying on the basis of hours, you know, then we would
14 need that to be, you know, locked in so that we're not
15 paying for a whole host of people

16 Undisturbed areas in 5.4.1, hopefully in
17 the final document, the language that says the staff
18 recommends that would be deleted and it will instead
19 say undisturbed areas will be the first priority.

20 The same thing on the next page under
21 5.4.2, we would take out the staff recommends that and
22 say reevaluation of previously identified sites shall
23 be the second priority.

24 And then on page 18, the same sort of
25 change in deleting the language about recommendations

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1 and saying the lowest priority will be given to
2 disturbed areas, and on page 19, this is where we
3 tried to put in the concept of screening out areas.

4 So, we had thought about changing that
5 last paragraph so it says given the extensive
6 disturbance within developed areas associated with
7 CBR's ISR activities, the Tribe shall give higher
8 priority to areas surrounding the developed area where
9 there's a greater likelihood of identifying sites of
10 significance to the Tribe.

11 And then something like the Tribe will
12 screen out disturbed areas where identification of
13 sites of historic and cultural importance is unlikely
14 and focus only on areas such as mounds, rock piles, or
15 other features of interest.

16 So, something to say when they're in
17 disturbed areas, you know, unless you see something
18 that warrants further investigation, hopefully those
19 areas can be screened out, and again, if we can agree
20 on some sort of firm, fixed cost arrangement, you
21 know, then this concern, you know, goes away.

22 The same sort of comment in the next
23 paragraph, 5.4.4, the last sentence says the Tribe,
24 you know, could, at their discretion, choose to
25 exclude areas of previous disturbance. That doesn't

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1 give us much protection.

2 So, in the absence of a firm, fixed price,
3 we would hope we could change that to something like
4 absence of readily apparent indication that sites of
5 historic and cultural importance may be present such
6 as mounds or rock formations warranting scrutiny, but
7 the Tribe shall exclude areas with considerable
8 previous disturbance.

9 In the next paragraph, it starts in
10 consultation with the Tribe. If this is the Tribal
11 survey, we weren't quite sure what that language
12 meant. It's the Tribe consulting with the Tribe, so
13 maybe that in consultation with the Tribe should be
14 deleted or maybe it should be in consultation with the
15 NRC staff, but if it's the Tribe, you know, conducting
16 the survey, they won't be consulting with themselves.

17 On page 21, the paragraph that says the
18 Tribe has indicated it might want to conduct
19 interviews on site, but it had not decided how many
20 individuals to interview, and that each interview
21 might take three days.

22 That's the kind of language that, you
23 know, if we don't have a firm, fixed price, is very
24 problematic. That would give them the discretion to
25 interview, you know, the whole Tribe if they wanted

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1 to, and three days, you know, seems excessive.

2 So, again, you know, if we can reach a
3 firm, fixed price, they can choose how many people to
4 interview and how many hours, and this will all be
5 governed by, you know, that firm price, but if not,
6 then we would really need to limit this to, you know,
7 how many individuals are going to be interviewed at
8 how many hours each and try to make it reasonable.

9 In that last sentence where it refers to
10 the NRC, the interviews need to be commensurate with
11 the information the NRC staff needs.

12 We would insert there limited information
13 relevant to identified sites because that's what these
14 oral history interviews should be doing. They should
15 be helping define the significance of identified sites
16 and not just compiling a history for unrelated
17 purposes.

18 On page 22 under implementation, we think
19 our preference, strong preference is not to be the
20 party that is directly contracting and hiring Mr.
21 Mentz and then, you know, compensating the Tribe, you
22 know, further for other people such as the elders who
23 are being interviewed or who may come out to the site.

24 So, our preference again is that we give
25 a lump sum payment to the Tribe, and the Tribe then

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1 does the survey and they use Tim Mentz and he is their
2 contractor, and they do that in, you know, cooperation
3 with the NRC staff, and the staff has a role, you
4 know, to help facilitate, but the Tribe would, you
5 know, prepare the report, and I think, I suspect
6 that's going to be important to them.

7 So, we would delete the introduction that
8 says it could be accomplished in one day. Our hope is
9 that it would be one implementation and it would be
10 that the Tribe employing the, and I'm going to butcher
11 the language, but Tim Mentz's firm, the Makoche
12 Wowapi, would conduct the tribal cultural survey.

13 And then in the same paragraph, after
14 discussing the contractor would accompany the tribal
15 participants and provide support, we would insert
16 there as discussed in Section 5.5, the oral history
17 interview component of this effort would also be
18 conducted by the Tribe.

19 And then at the conclusion of the field
20 work and interviews, the Tribe would prepare a draft
21 report which the NRC contractor would review to ensure
22 it contains sufficient information for the NRC staff
23 to fill its NHPA and NEPA obligations and then the
24 final report.

25 So, that would be the implementation and

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1 it would only be -- there wouldn't be anything further
2 on implementation, and we would add in here, assuming
3 we can reach an agreement, that, you know, CBR will
4 compensate the Tribe in a fixed amount of whatever the
5 final dollar amount is, X, covering all of the Tribe
6 and its members, and Tim Mentz's firm and its
7 employees relating to the tribal cultural survey, the
8 oral history interviews, and the preparation of the
9 draft and final reports.

10 I think that's it. Oh, I failed to get
11 investigation there in the first bullet. There was
12 language saying that the representatives are
13 encouraged to prioritize their efforts, and again, we
14 put in here shall prioritize their efforts, again,
15 more important if we can't reach a firm, fixed price
16 arrangement.

17 Those were just the things I had, you
18 know, we had jotted down and we had gone through this
19 initially, and obviously the big one is, you know,
20 will we be able to reach an acceptable compensation
21 arrangement, one that's acceptable to both parties,
22 and so we've put an offer out there and we're hoping
23 to hear back, and, you know, we'll try and make that
24 work and see where it goes.

25 MR. PAVLICK: Thank you, Dave. That's a

1 great summary of our comments.

2 MS. DIAZ TORO: Dave, thank you. I do
3 appreciate the thorough review and sharing, you know,
4 going through the document with us and sharing those
5 comments, as well as sharing with us your outreach to
6 the Tribe and, you know, that is, I guess, an
7 outstanding item, right, until they come back to you.

8 If they do come back or when they come
9 back to you, you know, we would appreciate also if you
10 could share the response and any agreement that you
11 might reach with the Tribe.

12 MR. LEWIS: Yeah, I'm happy to keep you up
13 to date. Again, when I spoke to Andy Reid, he had
14 actually suggested that after we had talked, that I
15 let, you know, Marcia know what we were discussing,
16 and I had told him that we would be all talking today,
17 so.

18 MS. DIAZ TORO: Okay.

19 MR. LEWIS: Yeah.

20 (Simultaneous speaking.)

21 MR. LEWIS: He thought it would be a good
22 idea to keep you up to speed too on this discussion,
23 so we'll do that.

24 MS. DIAZ TORO: Right, well, I appreciate
25 it very much. I was going to ask at the end of the

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1 meeting, but I'll ask now since it seems pertinent.
2 We never really requested any written comments from
3 either party, but I was going to ask at the end if you
4 were all planning to provide written comments to the
5 NRC in addition to the conversation that we're having
6 today?

7 MR. LEWIS: Doug, I'll leave that up to
8 you. I mean, the comments that I gave, you know, were
9 jotted down, so, Doug, if you want to provide them, we
10 can. I mean, they're the same ones that's in the
11 transcript, so there's not going to be anything
12 different.

13 MS. DIAZ TORO: And there's no
14 expectation. That's why I said we never asked. I'm
15 just asking, and otherwise, I would just ask if your
16 -- you know, I guess my follow-up question would have
17 been if you were comfortable sharing these edits that
18 you went through, David, with us.

19 I know that it's here in the transcript.
20 Some of the page numbers, I know, differed a little
21 bit, and I was taking notes certainly, you know, just
22 if you were comfortable sharing these edits with us,
23 it would be beneficial.

24 MR. PAVLICK: This is Doug. Yes, we're
25 comfortable sharing that. We think there's some

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1 clarity that's needed, and so, yeah, we would
2 appreciate that you take those comments into
3 consideration.

4 MS. DIAZ TORO: And, yeah, that's the
5 purpose of the discussion today, Doug, certainly just
6 for us to listen to you and for us to take that into
7 consideration in finalizing the methodology.

8 So, I was also going to ask you, Doug, if
9 there -- you know, if we did include the draft survey
10 methodology benefits from both the input that was
11 provided by the Tribe through Tim Mentz, as you know,
12 and also the responses from you to our clarifying
13 questions.

14 As you noted, we did include in there the
15 list of the areas that would not be accessible, and so
16 I would ask if you look at, for you all to look at
17 that list again, Doug, and if there are any other
18 areas that we might not have captured, that you share
19 those areas with us just to make sure that it's clear
20 to everyone, to all parties which areas are not,
21 right, definitely not available for examination based
22 on safety and security reasons.

23 So, I would kindly ask that, and then my
24 other follow-up is you might have noticed that we
25 included and referred to a map that was included in

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1 the resources exhibit, sorry I forgot the word
2 exhibit, and it was from an August 2012 document, and
3 that map shows the disturbed areas within the site.

4 So, it says here it's not a request, but
5 if it does need updating, that you feel it, you know,
6 there have been changes in that map, you know, I would
7 also encourage you all to provide that to us only if
8 it needs updating, of course.

9 And I think that's all the questions that
10 -- oh, I did have one more question for you, Doug, and
11 I'm not sure if you can answer it now or not. If not,
12 that's okay, but certainly if you can think about it,
13 any other logistical details that you all would like
14 to provide in addition to what you've shared with us
15 today certainly.

16 But if you all can think of any logistical
17 details that might be beneficial to all parties for
18 not only the field -- well, certainly for the field
19 survey, of course, when we're at the site, that it
20 would be good for the Tribe and for us to know in
21 addition to those areas that are not available.

22 So, if you could let us know or think
23 about that, it would be beneficial as well.

24 MR. PAVLICK: Yeah, Diana, so the one
25 thing I have been pondering is where's an acceptable,

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1 reasonable place to hold the oral interviews. Really
2 the only facility that seems reasonable to me on site
3 would be the office area.

4 You know, we can certainly make the
5 conference room available and maybe provide a couple
6 of offices that, you know, where private discussions
7 can be held.

8 Other than that, we don't have much in the
9 way of facilities, and so I would offer that that's
10 our solution to providing, you know, access, whether
11 it be a place to gather, a place to meet.

12 There's Wi-Fi service available there, you
13 know everything seems to be kind of available there in
14 that main office area where we had the introductory
15 visit discussion, and so that can be made available to
16 those folks involved with the interviews and the
17 surveys.

18 So, the question is, is that acceptable?
19 You know, and like I said, beyond that, we don't
20 really have any other facilities where there's that
21 suite of services, so to speak, available.

22 MS. DIAZ TORO: Thanks for that
23 consideration. It's a sensitive one, certainly, and
24 we'll keep it in mind just as we take steps forward to
25 reaching agreement on this draft methodology, and make

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1 sure that all parties are aware of that and make sure
2 that that's acceptable certainly, Doug. Thank you.

3 MR. NELSON: One thing I would add -- this
4 is Walt at Crow Butte. During the survey, when we
5 have folks onsite in the field, Crow Butte will need
6 to have an employee, from a safety standpoint, observe
7 what's going on.

8 They can be far enough away that they're
9 not able to listen to conversation or know exactly
10 what might have been found or been identified, but
11 from a safety standpoint, somebody that has our safety
12 training will need to observe the activities.

13 I don't think that's laid out, but
14 everybody needs to understand that that's something
15 that we'll need to do to comply with our regulatory.

16 MS. DIAZ TORO: Thank you, Walt. That's
17 certainly something to share with all of the parties
18 as well, that there's going to be a CBR person nearby
19 during the actual conduct or examination, conduct of
20 the field survey for a safety purpose, so I've made
21 note of that as well.

22 So, before I move to the next steps, I
23 want to ask Marcia, or Lorraine, or Jean if I missed
24 something that you all think you want to raise.

25 MS. SIMON: Diana, this is Marcia Simon.

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1 I did want to follow up briefly with Dave Lewis about
2 the discussion that he had about implementing the
3 methodology and the use of Makoche Wowapi.

4 Dave, I just was curious, it seems to me
5 that if you look at Section 7 -- so Diana, I don't
6 know if you want to pull up the methodology, bottom of
7 page 20?

8 MS. DIAZ TORO: I am right now doing so.

9 MS. SIMON: Okay.

10 MS. DIAZ TORO: On page 20, yes.

11 MS. SIMON: So, my question, Dave, is I
12 don't know if you discussed this with Andy Reed or
13 not, but do you think -- it sounds like you're
14 envisioning option two, which is on the top of page
15 21, in a modified form where you would give a lump sum
16 to the Tribe and then they would contract with Makoche
17 Wowapi.

18 I was wondering if you considered whether
19 the first option on the bottom of page 20 where you
20 would give a lump sum to the Tribe and they would
21 conduct the survey with the facilitation from the
22 NRC's contractor, whether that would also work, you
23 know, under a firm lump sum type of price, so I was
24 just curious if you could comment on that.

25 MR. LEWIS: We had tried to combine the

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1 two approaches. So, our combined approach was sort of
2 the option one methodology except that we thought that
3 the Tribe would want to prepare the report.

4 So, instead of Mr. Spangler drafting the
5 report, we had taken that language that was in two and
6 put it into one, and you'll see that.

7 So, I think it's kind of a combination of
8 the two. I think it's most of the language in one
9 except, again, we added that the Tribe will do the
10 oral history interviews and will also prepare the
11 reports, but we kept the language in here about the
12 NRC and contractor would accompany the participants
13 and provide mapping, and note taking, and logistical
14 support.

15 So, I think it's a combination of the two.
16 It's not really -- it's a combination of one and two
17 and not just two.

18 MS. SIMON: Okay, so it sounds like from
19 your perspective, and again, I'm just trying to
20 understand, that from your perspective, it's not --
21 you don't view the use of Mr. Mentz's firm as
22 absolutely necessary. That would be up to the Tribe.

23 MR. LEWIS: Yes.

24 MS. SIMON: You've offered them an amount
25 of money, and if they want to, if they feel that they

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1 can, you know, that that would work for Mr. Mentz,
2 that's fine, and if not, then they could still do the
3 survey without Mr. Mentz. They would just --

4 MR. LEWIS: Yeah, if they wanted to have
5 --

6 MS. SIMON: -- have people from the Tribe.

7 MR. LEWIS: Yeah, if they wanted to have
8 their own tribal historic preservation officer, you
9 know, perform that role instead of Mr. Mentz, then
10 that doesn't, you know, would not make a difference,
11 you know, for us.

12 MS. SIMON: Okay.

13 MR. LEWIS: Again, if we're doing the time
14 and materials, then we'd need to know who, and what
15 their rates are, and how many hours, and all of that
16 stuff, and it gets much, much more complicated.

17 MS. SIMON: Correct, understood. Okay,
18 thank you for that clarification.

19 MR. LEWIS: By the way, I just looked at
20 that figure at the end of the document and the page
21 before it, the page that says Appendix B, I think the
22 license boundary, the number of acres is wrong. I
23 think it's 2,848. Is it not 2,848 or is that from
24 some historically wrong document?

25 MS. SIMON: Yeah, this is Marcia. This

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1 document was, it was actually an exhibit that the
2 board put into the 2015 hearing and this map was part
3 of the exhibit. It's one page out of, I think, ten or
4 12.

5 MR. LEWIS: Yeah, but --

6 MS. SIMON: And so at that time, yeah, at
7 that time, I think, for whatever reason, whoever
8 prepared the map believed that was the area. So, if
9 you do choose to update it, I guess that would be
10 something you could correct.

11 MR. LEWIS: Okay, but the legend before is
12 part of that exhibit you're telling me?

13 MS. SIMON: The legend?

14 MR. LEWIS: There's a page before the --
15 the figure is on one page and there's a legend on the
16 preceding page at the bottom of the page, or maybe my
17 document is breaking differently than yours.

18 MR. PAVLICK: Yeah, Dave, this is Doug.
19 It's showing up differently on the version that we
20 were sent versus what Diana has posted here on the
21 Teams.

22 MS. DIAZ TORO: Oh, really?

23 MR. PAVLICK: So, yeah, but it just, the
24 legend writing posted on the page before at the
25 bottom, so.

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1 MR. LEWIS: I see that. Okay, sorry,
2 that's -- I converted the Adobe document to Word so I
3 could, you know, make some red line changes, and I see
4 that it took some liberties with the document, so, got
5 it, okay.

6 MS. SIMON: Diana, this is Marcia again.
7 I don't have any other questions. That was the only
8 thing I wanted to clarify, so thanks.

9 MS. DIAZ TORO: Thank you, Marcia.

10 MS. TREFETHEN: This is Jean.

11 MS. DIAZ TORO: Jean, yeah, go ahead.

12 MS. TREFETHEN: I don't have any others.
13 No, no, I don't have any others. I just wanted to let
14 you know we can move forward.

15 MS. DIAZ TORO: Thanks, Jean.

16 MS. BAER: And this is Lorraine, same for
17 me. I don't have any other questions.

18 MS. DIAZ TORO: Thank you, Lorraine. So,
19 Doug, I just wanted to let you know about the next
20 steps and what we envision, you know, moving forward.

21 And so we are planning to conduct a
22 similar meeting as this one, but with the Tribe next
23 week, similar format. It will be through Microsoft
24 Teams. It will be also, there will be a court
25 reporter and it will be recorded and transcribed, same

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1 process.

2 We would send the transcript to them, make
3 sure that there's no sensitive information. We
4 wouldn't expect it just like today, right, but
5 certainly we have to provide that opportunity, and
6 then that transcript would serve as the meeting
7 summary, and I would send it to you as I have done in
8 the past.

9 So, once that meeting is completed, the
10 NRC will consider the input provided by both parties
11 in finalizing the methodology, and as we mentioned
12 during the last status conference call with the board,
13 the goal is to send that finalized methodology on or
14 about September 8.

15 And after that, we were going to propose
16 to schedule a meeting with all parties at the same
17 time, Crow Butte Resources, you all, the Oglala Sioux
18 Tribe, and the NRC to discuss the final methodology,
19 the schedule for the field work, and certainly, you
20 know, understand any agreement that might have been
21 reached with respect to the compensation you all
22 discussed today.

23 And that meeting with everyone, we're
24 thinking that a good target would be that second week
25 of September, the one that starts September 13, yes,

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1 September 13. Sorry, I was checking the calendar.

2 And then after that meeting, the goal
3 would be just to tighten up anything else that we
4 hear. Certainly, you know, we don't expect any
5 substantive comments during that meeting since the
6 methodology would be finalized.

7 But anything, you know, any last remaining
8 item related to logistical, logistics or
9 administrative in nature that needs to be tightened
10 up, we can take note of that and continue to work to
11 make sure that we can then start the actual field
12 survey mid-October as previously discussed.

13 So, with that in mind, this is all, of
14 course, right, weather and COVID-19 permitting, right.
15 There are factors such as in the past that can impact
16 the schedule, and so we'll just have to keep a close
17 eye on both of these items.

18 And with the goal of starting that field
19 survey in mid-October, I would ask you all to think
20 about days between mid-October and the end of November
21 that the site might not be available because there
22 might be maintenance being conducted or any other
23 activity, right.

24 If there are any days that you all
25 identify or that you all know that the site might not

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1 be available for the field work, right, I'm kindly
2 asking you all to share that with us as well just as
3 a heads up, and I think that's the last ask that I
4 had.

5 I'm just thinking ahead, of course. Any
6 comments, Doug, about that? Oh, Marcia, did you want
7 to say -- did I forget something? Probably, right?

8 MS. SIMON: This is Marcia. No, I just
9 wanted to ask if -- Doug, you said earlier that you
10 guys were willing to provide the written comments. I
11 didn't know if that would be the red line and/or
12 notes, but I just was wondering when you were planning
13 to do that?

14 MR. PAVLICK: So, this is Doug. Yeah,
15 Marcia, we can have that ASAP. So, it might take
16 another round or internal review, but I would say, and
17 Dave can speak up here, but we can certainly have that
18 shipped off by the end of the week, and then I was
19 going to comment on one thing.

20 MS. DIAZ TORO: Yes.

21 MR. PAVLICK: Regarding the schedule, from
22 our perspective, there's nothing in mid-October to
23 mid-November that we're aware of right now that would
24 preclude the survey from happening on the site.

25 And also, I'd just offer that we can move

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1 faster than, you know, our decision making can be
2 expedited around this to move the process to get it to
3 the survey.

4 So, I'm not sure how the mid-October time
5 frame got chosen, probably just by sliding the
6 schedule out due to where we are in the process, but
7 there's -- I just would make the offer that we're
8 willing and able to, you know, move through these
9 steps quickly, I believe.

10 Obviously, agreeing on a survey cost and
11 procedurally who will do it with the Tribe is
12 paramount there, but if there's an opportunity to get
13 to a survey sooner, we're more than willing to try and
14 assist with that.

15 MS. DIAZ TORO: Thank you, Doug.

16 MR. PAVLICK: And that's -- really, Dave,
17 I spoke for you, but is end of the week okay on
18 shipping off the red line?

19 MR. LEWIS: Sorry, I was on mute. Yes,
20 that's fine. I'm not sure I have anything further on
21 it, but, yes, I mean, we can certainly, you know, do
22 that.

23 MR. PAVLICK: Yeah, very good.

24 MS. DIAZ TORO: Thank you. So, Doug, and
25 David, and Walt, and Anne, we didn't have anything

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1 more to discuss with you. Anything else that you want
2 to share with us? Otherwise, I think we might be able
3 to adjourn.

4 MR. PAVLICK: I'll just reiterate, so the
5 action items for us were to review the list of areas
6 where there's safety issues for the survey, and also
7 review the map, and we will do that, Diana, and turn
8 that around in the next, by the end of next week. I
9 think I can safely say that, so you'll have --

10 MS. DIAZ TORO: Right.

11 MR. PAVLICK: You'll have our reply there
12 on those two documents.

13 MS. DIAZ TORO: Thank you, Doug, and then
14 I have two logistical details for the field survey,
15 which is the place to hold the interviews, Doug, that
16 you mentioned, and that you all have that conference
17 room the main office building, and whether that would
18 be acceptable, and that a CBR person would be
19 accompanying nearby the individuals conducting the
20 actual survey for safety purposes, so just make note
21 of those two items.

22 MR. PAVLICK: Yes.

23 MS. DIAZ TORO: David, anything else?

24 MR. LEWIS: No.

25 MS. DIAZ TORO: Okay, all right, Marcia,

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1 Lorraine, Jean?

2 MS. SIMON: This is Marcia, nothing from
3 me.

4 MS. BAER: Nothing from me either.

5 MS. TREFETHEN: This is Jean, nothing from
6 me. Thank you all.

7 MS. DIAZ TORO: So, Doug, and Dave, and
8 Anne, and Walt, I want to thank you for the time
9 again, and I really appreciate the comments and the
10 observations that you shared with us today, and we
11 look forward to receiving the additional input and the
12 edits that you described today.

13 (Whereupon, the above-entitled matter went
14 off the record at 4:02 p.m.)

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