

From: Jeff Parsons <jeff@wmaplaw.org>
Sent: Thursday, March 20, 2025 1:20 PM
To: Diana Diaz Toro; Kevin Roach
Cc: Trina Lone Hill; StacyTL@ogla.org; 'Travis Stills'
Subject: [External_Sender] Oglala Sioux Tribe letter to Ms. Diaz-Toro (NRC) March 12, 2025
Attachments: Oglala Sioux Tribe letter to Ms Diaz-Toro March 12, 2025.pdf

Ms. Diaz-Toro, please find attached a letter dated March 12, 2025 from Ms. Trina Lone Hill, Oglala Sioux Tribe 5th Member and Tribal Historic Preservation Officer, in response to your request for input regarding consultation related to the proposed Dewey-Burdock uranium mine. Please include myself and Mr. Travis Stills, as counsel for the Tribe on this matter, as well as Ms. Stacy Two Lance, Oglala Sioux Tribal Secretary, copied here, in your response. Thank you.

Jeffrey C. Parsons
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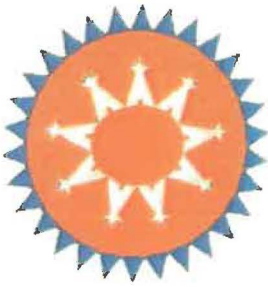
"Trina Lone Hill" <t.lonehill@oglala.org>
Tracking Status: None
"StacyTL@oglala.org" <StacyTL@oglala.org>
Tracking Status: None
"Travis Stills" <stills@eclawoffice.org>
Tracking Status: None
"Diana Diaz Toro" <Diana.Diaz-Toro@nrc.gov>
Tracking Status: None
"Kevin Roach" <Kevin.Roach@nrc.gov>
Tracking Status: None

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Oglala Sioux Tribe

Fifth Member's Office

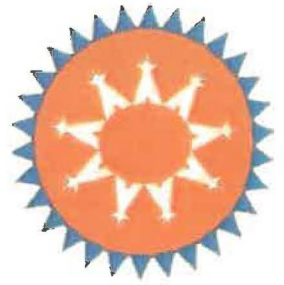
Trina Lone Hill

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March 12, 2025

Diana Diaz-Toro, Dewey-Burdock Project Manager
Office of the Nuclear Material Safety and Safeguards,
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Dear Ms. Diaz-Toro,

The Oglala Sioux Tribe Cultural Affairs and Historic Preservation Office ("Office") has received your letter dated January 24, 2025 regarding National Historic Preservation Act ("NHPA") Section 106 consultation on the renewal license application for the proposed Dewey-Burdock In Situ Leach Uranium Mine. The Office wishes to confirm that it is interested in participating in the consultation processes.

However, as the U.S. Nuclear Regulatory Commission Staff ("NRC Staff") has been made aware previously, the Oglala Sioux Tribe has a specific and defined process for NHPA Section 106 consultation, to which the Office is bound to adhere. Attached hereto is Oglala Sioux Tribe Ordinance 11-10, which sets forth the Oglala Sioux Tribe's long-standing process for NHPA Section 106 consultation activities. As described in Section 7 of Ordinance 11-10, consultation begins with direction from the Oglala Sioux Tribal Council, which may, among other things, authorize technical staff and legal counsel to engage in discussions with NRC Staff regarding potential impacts from the proposed project, including issues related to the NRC Staff's proposed use of a Programmatic Agreement. Indeed, the Ordinance specifies that all consultation "must [o]ccur through a formal meeting with the Oglala Sioux Tribal Council. Neither the Executive Committee nor any Executive Committee member or staff member of the Tribe shall be authorized to engage in government-to-government consultations with any government or governmental agency." Ordinance 11-10, Section 7.a. Thus, no communication with Office Staff, including this letter, may be considered government-to-government consultation until the Oglala Sioux Tribal Council acts in accordance with the Ordinance.

The Office will proceed at all deliberate pace in bringing the NRC Staff's consultation request to the Oglala Sioux Tribal Council. Please advise as to whether NRC Staff would be willing to present to the Oglala Sioux Tribal Council to provide background information related to the proposed project, and we will propose available dates and times. After such meeting, the Office is prepared and willing to move forward with next steps as directed by the Oglala Sioux Tribal Council, consistent with Ordinance 11-10.

In addition to the government-to-government consultation between the Oglala Sioux Tribe and the United States, we would like to discuss mechanisms to address issues concerning other parties with an

interest in these issues in context of the NHPA/NEPA process. For example, there has been widespread concern repeatedly expressed to NRC Staff over the proposed Dewey-Burdock project by several other Sioux tribes with ties to the affected area. While we expect NRC Staff to carry out any government-to-government consultation directly with these tribes, in context of NEPA and NHPA it is the Oglala Sioux Tribe's intent to seek to include cultural and historic preservation staff from these other tribes as the discussion advances.

Also, at some point the issue of Powertech's previously stated unwillingness to meet its financial obligations despite the full-cost recovery provisions imposed by Congress on NRC Staff when addressing and resolving its statutory mandates related to cultural resources impacted by Powertech's application. It is our understanding that the statutory full-cost recovery provisions have no exceptions to discount Powertech's payment of the full cost of NRC carrying out its duties involving consultation and related licensing activities triggered by Powertech's license renewal application. It remains the Tribe's position that the financial bias toward minimizing costs for the licensee should not be elevated such that it is allowed to unduly influence the manner and terms of the NRC Staff's compliance with its NEPA and NHPA Section 106 consultation duties, particularly given the special relationship involved in the Federal Trust Responsibility between the NRC Staff, as the delegate of the United States, and the Oglala Sioux Tribe.

I look forward to your response as to NRC Staff's willingness to present to the Oglala Sioux Tribal Council.

Sincerely,

A handwritten signature in cursive script that reads "Trina Lone Hill".

Trina Lone Hill

5th Member, Oglala Sioux Tribe
Tribal Historic Preservation Officer
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Cc: File