



Section 106 Consultation for the License Renewal of the Dewey-
Burdock Uranium Recovery Project in Custer and Fall River Counties,
South Dakota

March 19, 2026

Purpose of the Meeting

- To provide a status update of the NRC's review of Powertech's license renewal application for the Dewey-Burdock uranium recovery project.
- To discuss NRC's plan for the Section 106 consultation process.

Project Schedule

- In June 2024, NRC accepted Powertech's timely renewal application for a 20-year extension of its 2014 license for the Dewey-Burdock in situ uranium recovery project.
- NRC's goal for this license renewal is 18 months.
- Completion of the NRC's review requires a safety and environmental review.
 - Safety review is complete.
 - Current environmental review schedule was extended to May 2026.
- The consulting parties aligned on using a Section 106 Programmatic Agreement (PA) to expedite licensing, consistent with the approach used for complying with our obligations under Section 106 of the National Historic Preservation Act (NHPA) for the 2014 initial licensing.
 - A PA is an agreement document that establishes the measures and processes the federal agency will implement to evaluate and resolve adverse effects on historic properties.
 - Draft PA was issued in September and December 2025 for review and comment.
 - Parties originally agreed to completion of a tribal survey following issuance of the renewed license.
- NRC's approval of the license renewal is not necessary for Powertech to construct. NRC regulatory authority to construct the facility was provided during initial licensing.

Background- Requirements under the National Historic Preservation Act

- The NRC's review and approval of this license renewal is considered an undertaking under Section 106 of the NHPA.
- Section 106 requires the NRC to consult with the State Historic Preservation Officer (SHPO), federally-recognized Tribes, federal, state, and local governmental agencies, the applicant, additional parties with demonstrated interest, and the public.
- The NRC must demonstrate a good faith and reasonable effort to identify and evaluate historic and cultural resources, including those of significance to Tribes.
 - The passage of time, changing perceptions of significance, or incomplete prior evaluations may require reevaluation of cultural resources.
- To meet these obligations, NRC staff initially proposed, and parties agreed to, developing a new PA that included a tribal cultural resource survey.
 - The 2014 PA expired; it cannot be relied on.
 - The new PA builds on the 2014 PA, which was based on a 2008 archaeological survey and a 2013 tribal survey (not all Tribes participated in the 2013 survey).

Status

- Section 106 regulations do not require a survey; however, conducting a tribal survey for the license renewal request is a reasonable way to carry out the NRC's identification efforts in good faith. But not the only way.
 - The proposed Dewey-Burdock project is adjacent to the Black Hills, which are sacred to Tribes.
 - The proposed tribal survey was based on the Section 106 regulations, ACHP reasonable and good faith effort guidance, SHPO Section 106 guidance, previous tribal survey conducted at another uranium project in NE, and input from all parties, including Tribes who recommended to Powertech and NRC staff that a tribal survey would be an adequate method for identifying and evaluating cultural resources.
- In January 2025, we received disparate comments from the some of the consulting parties (Powertech, Tribes, and South Dakota SHPO).
- NRC is balancing multiple considerations, including Powertech's concerns regarding cost and schedule, ongoing litigation, the NRC's responsibilities under the NHPA, tribal interests, the views of the SHPO and ACHP, and the history of licensing for this site in proceeding with the license renewal.

Status

- In response to comments on the draft PA, the NRC staff recently proposed an alternative path forward: a predictable, avoidance-first approach that minimizes delay.
- On March 16, 2026, we discussed this alternative approach with the Advisory Council on Historic Preservation, South Dakota SHPO, Permitting Council, and Powertech.
- Overall, the meeting participants found the approach reasonable.
- The Tribes are a Section 106 consulting party, and this path forward focuses on tribal sites. Therefore, staff also plans to discuss the path forward with the Tribes because they are the experts.

Alternative Path Forward

- The NRC staff continues to pursue a new PA, which will document the alternative path forward.
- This alternative path forward does not include a tribal survey now but shifts the evaluation of effects and resolution of adverse effects to if and when construction activities would impact previously identified tribal cultural resources.
- Powertech would commit to avoid areas within and adjacent to the direct area of potential effects (APE) where sites of significance to Tribes were previously identified.
- In the event that Powertech determines that ground disturbance will occur within those areas, the NRC staff would follow the process in the PA for evaluation and resolution of adverse effects, which requires tribal engagement.
- NRC staff would add guardrails within the PA to ensure timely and meaningful engagement: specific timeframes and a process for resolving potential impasse.

Next Steps

- We are updating the schedule for the licensing decision to account for the additional time needed to develop an alternative approach.
- We will discuss the alternative approach with Tribes.
- We will revise the draft PA and send it as a draft Final PA to all consulting parties for comment.
- After consideration of comments received, the NRC staff would prepare the Final PA for final signature by the required signatories (NRC and South Dakota SHPO) and invited signatories (BLM, EPA, and Powertech).
- After signature, NRC would submit (execute) the Final PA with the ACHP.
- The NRC staff would then publish the EA/FONSI, which the PA would support, and issue the license renewal.