

From: Diana Diaz Toro
Sent: Thursday, March 26, 2026 8:14 AM
To: Wasley, Katie
Subject: NRC Section 106 review for the license renewal application for the Dewey-Burdock in situ uranium recovery project in Custer and Fall River Counties, South Dakota

Good morning

The U.S. Nuclear Regulatory Commission (NRC) staff is providing you the following information regarding the Section 106 for the review of the license renewal of the Dewey-Burdock in situ uranium recovery project in South Dakota.

The NRC staff is proposing an alternative approach to evaluate cultural resources of significance to federally recognized Tribes that could be affected by the construction and operation of the Dewey-Burdock in situ uranium recovery project that would occur during Powertech (USA), Inc.'s proposed license renewal term. This proposed alternative approach considers the comments received in response to the draft Section 106 Programmatic Agreement (PA) the NRC staff issued for comment in December 2025. This alternative approach will be documented in the PA that the NRC staff continues to develop to satisfy its obligations under Section 106 of the National Historic Preservation Act.

The NRC staff considered a tribal cultural resources survey conducted at the beginning of the project, as initially proposed in the draft PA, to be one reasonable way to carry out the NRC staff's identification and evaluation efforts in good faith. But it is not the only way, as the Section 106 regulations at Title 36 of the Code of Federal Regulations (36 CFR) Part 800, "Protection of Historic Properties," do not state that such surveys are required. The proposed alternative approach does not include a tribal cultural resource survey at the beginning of the project, but it instead shifts the evaluation of significance/eligibility, effects, and resolution of potential adverse effects to later in time, depending on if and when ground disturbing activities would impact previously identified tribal cultural resources (eligible for listing in the National Register of Historic Places, unevaluated, and not eligible). Powertech would commit to avoid areas within and adjacent to the direct area of potential effects (APE) where cultural resources of significance to Tribes were previously identified. If Powertech determines that ground disturbance would occur within those areas, the NRC staff would follow the process in the draft PA for evaluation and resolution of adverse effects (Stipulation 5 of the draft PA). This stipulation will also be revised to add conditions to ensure timely and meaningful consultation.

The proposed alternative approach balances the NRC's mission to enable the safe and secure use and deployment of civilian nuclear energy technologies and radioactive materials by establishing a timely, predictable, and meaningful consultation process for evaluation of significance/eligibility, effects, and resolution of potential adverse effects.

The NRC staff is planning a virtual (closed) government-to-government meeting for Tribes the week of March 30, 2026, to present the proposed alternative approach and answer questions they may have. The NRC staff is considering the afternoon of March 30, March 31, or April 1. We will keep you informed of the date and time.

Thank you for your time.
Diana

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