UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

April 17, 2026

Joseph O'Brien, President
Lower Sioux Indian Community
P.O. Box 308
39527 Res Hwy 1
Morton, MN 56270

SUBJECT: U.S. NUCLEAR REGULATORY COMMISSION DRAFT FINAL SECTION 106 PROGRAMMATIC AGREEMENT FOR THE LICENSE RENEWAL APPLICATION OF POWERTECH (USA) INC.'S DEWEY-BURDOCK URANIUM RECOVERY PROJECT IN CUSTER AND FALL RIVER COUNTIES, SOUTH DAKOTA (DOCKET NUMBER: 40-9075)

Dear President Joseph O'Brien:

The U.S. Nuclear Regulatory Commission (NRC) staff are transmitting the draft Final Programmatic Agreement (PA) for Powertech (USA), Inc.'s license renewal request for the Dewey-Burdock in situ uranium recovery (ISR) project in Custer and Fall River counties, South Dakota, to satisfy NRC's obligations under Section 106 of the National Historic Preservation Act of 1966, as amended. The draft Final PA is enclosed for your review and comment by May 18, 2026. The updates are shown in track changes (redline and strikeout) to make the review process easier.

The PA satisfies NRC's obligations under Section 106 of the National Historic Preservation Act of 1966, as amended. The draft Final PA considers the information provided by consulting parties in response to the updated draft PA transmitted on December 12, 2025 (Agencywide Documents Access and Management System [ADAMS] Accession No. ML25346A050) as well as public comments submitted in response to NRC's *Federal Register* (FR) notice dated December 19, 2025 (90 FR 59593). The Section 106 consultation efforts to date are described in appendix B of the draft Final PA, including a summary of the comments received and revisions to the PA in light of these comments.

As described in NRC staff's March 24, 2026, email, the NRC staff is proposing an alternative approach to identify and evaluate cultural resources of significance to federally recognized Tribes that could be affected by the construction and operation of the Dewey-Burdock ISR project during the proposed license renewal term (ML26083A422). As initially proposed in the draft PA, the NRC staff considered a tribal cultural resources survey to be conducted at the beginning of the project to be one reasonable way to carry out the NRC staff's identification efforts in good faith. But it is not the only way, as the Section 106 regulations do not require such surveys.

The proposed alternative approach, documented in the draft Final PA, 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. This 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 approach provides for avoidance of eligible and unevaluated archaeological sites, and eligible, unevaluated, and not eligible sites of religious and cultural significance to Tribes within and adjacent to the direct APE and the establishment of avoidance buffer areas around these sites. Powertech will propose an avoidance buffer around the site boundary for each site within and adjacent to the direct APE prior to commencing ground disturbing activities, which the NRC staff will distribute to Tribes for comment for sites of significance to Tribes.

The NRC staff also provides below the revised schedule and activities to execute the new PA, which the NRC staff shared via email on April 2, 2026 (ML26096A462).

Activity	Target Date
NRC staff send out the Section 106 draft PA and draft Tribal Survey Methodology to Section 106 consulting parties for a 30-day comment period.	September 30, 2025
Input is due from Section 106 consulting parties.	October 31, 2025
NRC staff send out the Section 106 draft PA and draft Tribal Survey Methodology to Section 106 consulting parties for a 30-day comment period.	December 12, 2025
NRC staff issues the draft Section 106 PA for public comment for a 30-day comment period.	December 19, 2025
Public comment period ends.	January 20, 2026
NRC staff sends out draft Final Section 106 PA to consulting parties for a 30-day comment period.	April 17, 2026
Input from consulting parties due.	May 18, 2026
NRC staff finalizes the Section 106 PA and sends it out for final signature.	June 1, 2026
Signatories, invited signatories, and concurring parties provide signatures.	June 15, 2026
NRC staff executes final PA.	June 22, 2026
NRC staff completes environmental review.	June 22, 2026

In accordance with Title 10 of the *Code of Federal Regulation* section 2.390 of the NRC's "Rules of Practice for Domestic Licensing Proceedings and Issuance of Orders," a copy of this letter will be available for public inspection in the NRC Public Document Room or from the Publicly Available Records component of NRC's ADAMS. The NRC's ADAMS is accessible at https://www.nrc.gov/reading-rm/adams.html.

If you have any questions, please contact Diana Diaz-Toro, Project Manager, via email at diana.diaz-toro@nrc.gov, or by phone at 301-415-0930.

Sincerely,

Signed by Sun, Robert
on 04/17/26

Robert Sun, Chief
Environmental Project Management Branch 2
Division of Rulemaking, Environmental,
and Financial Support
Office of Nuclear Material Safety
and Safeguards

Docket No. 40-9075

Enclosure: As stated

cc: Cheyanne St. John
Tribal History Preservation Office
Cheyanne.stjohn@lowersioux.com

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Date: April 17, 2026

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ADAMS Accession Numbers:

PKG: ML26107A061

LTR: ML26107A212

Encl 1 (Programmatic Agreement): ML26107A123, Encl 2 (PA Appendices): ML26107A124