From:	Diana Diaz Toro
Sent:	Friday, April 17, 2026 9:30 PM
To:	Ashley Forbes; ext_Jon_Winter
Cc:	Tom Lancaster
Subject:	NRC Draft Final Section 106 Programmatic Agreement for the License Renewal for the Dewey-Burdock Uranium Recovery Project
Attachments:	Letter to Powertech Regarding Draft Final Section 106 PA.pdf; Draft Final Section 106 PA-Appendices.pdf; Draft Final Section 106 PA.pdf

Greetings,

Attached please find the electronic copy of NRC's letter transmitting the draft Final Section 106 Programmatic Agreement (PA) for the license renewal application from Powertech (USA) Inc. for the Dewey-Burdock in situ uranium recovery project in Custer and Fall River counties, South Dakota. The NRC is kindly requesting your review and comment on the draft Final PA.

Thank you.
Diana

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

April 17, 2026

Ashley Forbes
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and Regulatory Affairs
Powertech USA, Inc.
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Corpus Christi, TX 78401

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 Ashley Forbes:

Thank you for providing comments on the U.S. Nuclear Regulatory Commission (NRC) staff's updated draft 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. The NRC staff have considered your comments as well as those provided by other consulting parties and have developed a draft Final PA. 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.

This 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 discussed in March 2026, 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 (ML26086A006). 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. Specifically, 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 for comment. Additionally, the NRC staff is proposing that Powertech provides historic preservation training to Powertech's staff and contractors prior to ground disturbing activities.

The NRC staff also provide below the revised schedule and activities to execute the new PA.

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: Jon Winter
jwinter@encoreuranium.com

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)

DATED: April 17, 2026

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ADAMS Accession Numbers:

PKG: ML26107A061

LTR: ML26107A155

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

~~UPDATED~~ DRAFT FINAL APPENDICES

RELATED TO THE

~~UPDATE~~ DRAFT FINAL PROGRAMMATIC AGREEMENT
AMONG
U.S. NUCLEAR REGULATORY COMMISSION,
U.S. BUREAU OF LAND MANAGEMENT,
U.S. ENVIRONMENTAL PROTECTION AGENCY,
SOUTH DAKOTA STATE HISTORIC PRESERVATION OFFICE,
AND
POWERTECH (USA), INC.
REGARDING THE
DEWEY-BURDOCK IN SITU URANIUM RECOVERY PROJECT
LOCATED IN CUSTER AND FALL RIVER COUNTIES,
SOUTH DAKOTA

~~Updated~~ Draft Final Appendix A – Federal Actions, Undertaking, and Area of Potential Effects

Federal Actions

U.S. Nuclear Regulatory Commission

On March 4, 2024, Powertech (USA), Inc. (Powertech) submitted an application to the U.S. Nuclear Regulatory Commission (NRC) requesting to renew source material license SUA-1600 for the proposed Dewey-Burdock in situ uranium recovery (ISR) Project in Custer and Fall River counties, South Dakota. Powertech is requesting renewal of NRC license SUA-1600 for a 20-year term. Powertech plans to recover uranium from the ore body using the ISR process and produce yellowcake, which is used in the production of fuel for commercially-operated nuclear power reactors. The Dewey-Burdock ISR project, however, has not been constructed. As Powertech explains in the license renewal application, "[t]here have been no activities undertaken at the site" and "[t]he project is still years (2-3) away from the ability to start construction."

An NRC specific license is renewed for receipt, possession, and use of byproduct and source materials resulting from the removal of uranium ore from its place of deposit in nature pursuant to the NRC implementing regulations in Title 10 of the *Code of Federal Regulations* (10 CFR) Part 40. If the NRC renews license SUA-1600, Powertech will have met the NRC's requirements to be able to continue to pursue construction and operation of an ISR facility at the Dewey-Burdock ISR project site. Accordingly, the NRC's federal decision is whether to grant the license renewal request.

U.S. Bureau of Land Management

The U.S. Bureau of Land Management (BLM) manages public lands in accordance with the Federal Land Policy and Management Act of 1976. BLM manages 97 hectares (ha) [240 acres (ac)] of land within the proposed Dewey-Burdock ISR Project area. Powertech controls the locatable mineral rights on this land through Federal Lode Claims and secures access to mineral rights through the terms of the General Mining Act of 1872. Under Title of the *Code of Federal Regulations* Subpart 3809, BLM is required to review the environmental impacts of federal actions to assure that there is no "unnecessary or undue degradation of public lands." BLM has requested to be, and is acting as, a cooperating agency with NRC to evaluate the impacts of the Plan of Operations for the proposed Dewey-Burdock ISR Project in accordance with the National Memorandum of Understanding (NRC 2013) between the two agencies.

U.S. Environmental Protection Agency

Under the terms of the Safe Drinking Water Act, Powertech obtained two Underground Injection Control (UIC) Area Permits for the Dewey-Burdock Project from the U.S. Environmental Protection Agency. One is a Class III Area Permit for injection wells used for the extraction of uranium, and the other is a Class V Area Permit for the disposal of treated ISR process fluids at the Dewey-Burdock site in accordance with UIC regulations found at Title 40 of the *Code of Federal Regulations* ~~(40 CFR)~~ Parts 124, 144, 146 and 147.

Undertaking: Project Location and Proposed Activities

The proposed Dewey-Burdock ISR Project is located within the Great Plains physiographic province on the edge of the Black Hills uplift. The proposed project area covers 4,282 ha [10,580 ac] and is composed of two contiguous areas: the Burdock area and the Dewey area (figure 1~~.0~~). The Burdock area is located in the following townships and ranges: (i) Township 7 South, Range 1 East, Sections 1, 2, 3, 10, 11, and 12, and portions of Sections 14 and 15, and (ii) Township 6 South, Range 1 East, Sections 34, 35, and portions of Section 27. The Dewey area is located in the following townships and ranges: (i) Township 7 South, Range 1 East, Section 5 and portions of Section 4, and (ii) Township 6 South, Range 1 East, Sections 29, 30, and 32, and portions of Sections 20, 21, 28, 31, and 33. Approximately 4,185 ha [10,340 ac] of the proposed project area are owned by private landowners, while approximately 97 ha [240 ac] are U.S. government lands managed by the BLM (Powertech 2025).

The proposed Dewey-Burdock ISR Project will include processing facilities and sequentially developed wellfields sited in the two contiguous areas. As uranium recovery activities cease at a wellfield, the area will be restored and reclaimed while a new wellfield and its supporting infrastructure is developed. Under Powertech's proposal, ISR methods will be used to extract uranium from sandstone-hosted uranium orebodies in the Fall River Formation and the Chilson Member of the Lakota Formation that make up the Inyan Kara Group. The extracted uranium will be loaded onto ion exchange (IX) resin at a central processing plant in the Burdock area and a satellite facility in the Dewey area. All processing of the uranium-loaded IX resin, precipitation, drying, and packaging of the final "yellowcake" product, will take place at the Burdock central processing plant. Powertech plans to dispose liquid waste via either Class V deep injection wells and/or land application areas. Associated infrastructure would include pipelines, surface impoundments, and access roads.

Undertaking's Area of Potential Effects

The direct area of potential effect (APE) for the proposed Dewey-Burdock ISR Project coincides with the extent of potential ground disturbance resulting from proposed facility construction and operational activities. The introduction of new visual, auditory, or other sensory elements also has the potential to diminish the integrity of historic properties in the project area.

In terms of effects, the direct APE for the Dewey-Burdock ISR project can vary depending on the option selected by Powertech to dispose of liquid wastes generated during uranium recovery operations. Powertech's preferred disposal option is through Class V deep injection wells. If the capacity of the deep injection wells is not sufficient, Powertech plans to dispose of liquid waste via land application, or a combination of both methods. The APE for facility construction and operations for all the liquid waste disposal options totals 1,067 ha [2,637 ac] (figures 1~~.0~~ and 2~~.0~~). This area includes a 969 ha [2,394 ac] buffer zone surrounding 98.3 ha [243 ac] of projected areas for the plant facilities, wellfields, ponds, roads, and pipelines. If land application is used for liquid waste disposal, the APE for facility construction and operations will include an additional maximum area of approximately 506 ha [1,250 ac] surrounding proposed land application areas. The proposed land disturbance breakdown for deep injection wells and land application options are listed below:

Under the Class V deep injection well liquid waste disposal option, a total of 98 ha [243 ac] will be disturbed. Under the land disposal liquid waste disposal option an additional 481 ha (1,188 ac) will be disturbed (see breakdown in the tables below).

Table 1. Surface Disturbance under the Class V Deep Well Injection and Land Application Liquid Disposal Options

Class V Deep Well Injection Liquid Disposal Option	
Facilities/Infrastructure	**Surface Disturbance**
Site Buildings	9.7 ha [24 ac]
Trunkline Installation	10.1 ha [25 ac]
Access Roads	8.5 ha [21 ac]
Wellfields	56.7 ha [140 ac]
Impoundments (ponds)	13.4 ha [33 ac]
Total	98.3 ha [243 ac]
Land Application Liquid Disposal Option	
Facilities/Infrastructure	**Surface Disturbance**
Site Buildings	9.7 ha [24 ac]
Trunkline Installation	10.1 ha [25 ac]
Access Roads	8.5 ha [21 ac]
Wellfields	56.7 ha [140 ac]
Impoundments (ponds)	55.0 ha [136 ac]
Irrigation Areas	425.7 ha [1,052 ac]
Total	565.7 ha [1,398 ac]
Source: NRC 2014.	

The APE for visual impacts (indirect effects) includes areas within a 4.8 kilometer (km) [3 miles (mi)] radius of the central processing plant in the Burdock area and the satellite processing facility in the Dewey area. The central processing plant and satellite processing facility will be the tallest buildings constructed at the proposed Dewey-Burdock ISR Project site. Based on proposed locations of the central processing plant and the satellite processing facility, the APE for visual impacts will extend a maximum of 2.33 km [1.45 mi] from the eastern project boundary in the Burdock area and a maximum of 2.7 km [1.7 mi] from the western project boundary in the Dewey area (see figures 1~~.0~~ and 2~~.0~~).

Scope of the ~~Draft~~ Programmatic Agreement

The NRC determined a phased process for compliance with Section 106 of the National Historic Preservation Act of 1966, as amended, is appropriate for this undertaking, as specifically permitted under section 800.4(b)(2) of Title 36 of the *Code of Federal Regulations* (36 CFR) Part 800~~)~~, Section 106 implementing regulations, such that completion of the evaluation of and determinations of effects on historic properties and consultation concerning measures to

mitigate any adverse effects will be carried out in phases, as set forth in this Programmatic Agreement (PA) developed in accordance with 36 CFR 800.14(b)(3).[1]

~~The NRC is proposing to conduct a tribal cultural resource survey to evaluate effects to sites of significance to Tribes.~~

~~Also, t~~The applicant's preferred method for disposal of liquid waste is by Class V deep injection well, however, if the capacity of Class V deep injection well method is limited, Powertech will pursue a combination of both Class V deep injection and land application methods. For these reasons, the precise locations of possible future disturbances within the boundary of the land application liquid waste disposal option are unknown, limiting completion of the effects determination for those historic properties identified within this boundary. Because avoidance is the preferred method to preserve historic properties and unevaluated sites, phasing the evaluation and effects determination for these sites until Powertech determines that the land application option is necessary will limit unnecessary field testing for eligibility.

[1] Consistent with Advisory Council on Historic Preservation's guidance, "Guidance on Agreement Documents: Do You Need a Section 106 Agreement?," the regulations allow an agency to pursue a "project PA" rather than an Memorandum of Agreement in certain cases "where completing the Section 106 process prior to making a final decision on a particular undertaking is not practical...The most common situation where a project PA may be appropriate is when, prior to approving the undertaking, the federal agency cannot fully determine how a particular undertaking may affect historic properties or the location of historic properties and their significance and character. For instance, the agency may be required by law to make a final decision on an undertaking within a timeframe that simply cannot accommodate the standard Section 106 process." https://www.achp.gov/do_you_need_a_Section_106_agreement.

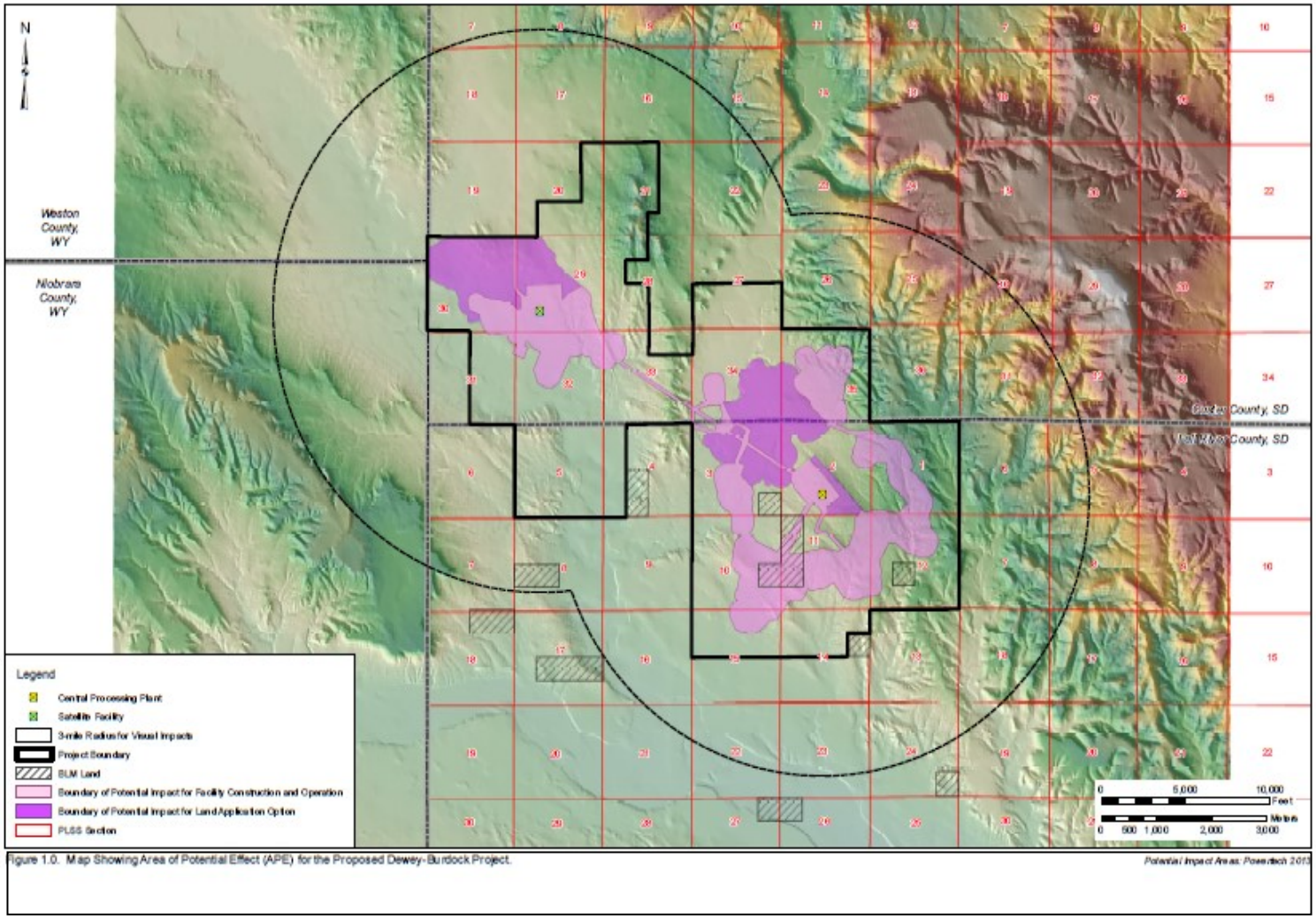

Figure 1.0 Map Showing Area of Potential Effect (APE) for the Proposed Dewey-Burdock Project. Potential Impact Areas: Powertech 2013

Figure 1~~.0~~. Area of Potential Effects for the Dewey-Burdock ISR Project

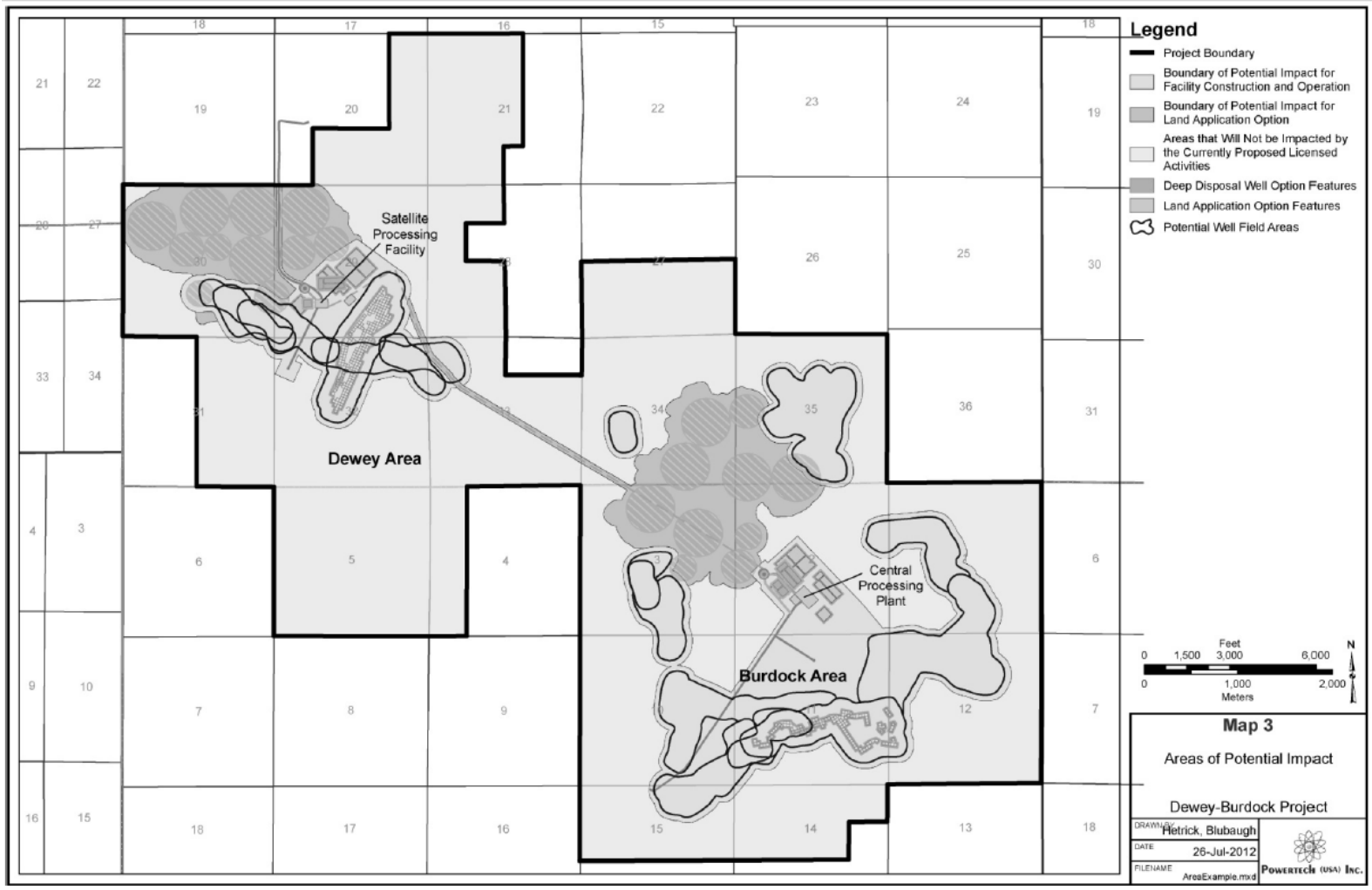

Figure 2~~.0~~. Area of Potential Effects for the Dewey-Burdock ISR Project

References

10 CFR Part 40. *Code of Federal Regulations*, Title 10, *Energy*, Part 40, appendix A, "Criteria Relating to the Operation of Uranium Mills and to the Disposition of Tailings or Wastes Produced by the Extraction or Concentration of Source Material from Ores Processed Primarily from their Source Material Content." Washington, DC: U.S. Government Printing Office.

Powertech (USA), Inc. (2025). "Powertech (USA) Inc., Response to Request for Additional Information for the Dewey- Burdock, License SUA 1600, License Renewal Application, Docket No. 040-09075." March 31, 2025. ADAMS ML25091A216.

U.S. Nuclear Regulatory Commission (2013). "Memorandum of Understanding Between the Bureau of Land Management, Department of Interior and the Nuclear Regulatory Commission, an Independent Agency," February 4, 2013. Washington, DC. ADAMS ML13072A778.

U.S. Nuclear Regulatory Commission (2014). "Programmatic Agreement among the NRC, U.S. Bureau of Land Management, South Dakota State Historic Preservation Office, Powertech, the Advisory Council on Historic Preservation Regarding the Dewey-Burdock In Situ Uranium Recovery Project Located in Custer and Fall River Counties, South Dakota." April 7, 2014. Washington, DC. ADAMS No. ML21005A099.

~~Updated~~ Draft Final Appendix B – Cultural Resource Identification and Consultation Efforts

Previous Cultural Resource Investigations

As part of the issuance of license SUA-1600 in April 2014, the U.S. Nuclear Regulatory Commission (NRC) staff executed a Section 106 Programmatic Agreement (PA) (NRC 2014). The 2014 PA documented the findings of a Class III cultural resources evaluation (Agencywide Documents Access and Management System (ADAMS) Accession No. ML25117A002),[2] conducted in 2007 and 2008 by the Archaeology Laboratory, Augustana College (ALAC) on behalf of Powertech for the proposed Dewey-Burdock in situ uranium recovery (ISR) Project, and evaluative testing (ML12144A263, ML12144A268, ML12144A270, and ML12144A279),[3] conducted in 2011 and 2012. Table 2 presents the archaeological and cultural sites eligible for listing in the National Register of Historic Places (NRHP) that were identified during the Class III cultural resource investigations and evaluative testing.

Table 2. List of Archaeological Sites Within the Area of Potential Effect Recommended Eligible for Listing on the National Register of Historic Places*

Historic Property (Site Number, Structure Identification, or Historic District)	Description	NRHP Determination
39CU0271	Native American and Archaic artifact scatter and occupation site on a ridge slope with a cairn feature	Eligible, Criterion D
39CU0577	Native American/Euroamerican Occupation site; artifact scatter	Eligible, Criterion D
39CU0584**	Native American occupation site and burial on a ridge slope	Eligible, Criterion D
39CU2735	Archaic- Prehistoric occupation site	Eligible, Criterion D
39CU0578	Native American/Euroamerican Dump and occupation site on a ridge slope	Eligible, Criterion D
39CU0586	Native American and Late Archaic occupation site on a ridge crest	Eligible, Criterion D
39CU0588	Native American occupation site on a ridge crest	Eligible, Criterion D
39CU2733	Native American hearth and artifact scatter on a ridge slope	Eligible, Criterion D
39CU2738	Native American occupation site on a ridge crest	Eligible, Criterion D
39CU0590	Native American artifact scatter on a ridge saddle	Eligible, Criterion D
39CU0593	Native American and Euroamerican occupation and artifact scatter on a hill slope	Eligible, Criterion D
39CU3592	Native American artifact scatter and hearth site	Eligible, Criterion D
39FA1941	Native American artifact scatter and hearth site	Eligible, Criterion D
39CU2000	Historic Railroad	Eligible, Criteria A and C
39FA2000	Historic Railroad	Eligible, Criteria A and C

[2] Publicly available Class III cultural resource investigations and evaluative testing.
[3] Some of the evaluative testing is protected and not publicly available.

Sources: Kruse, et al. (2008); Palmer and Kruse (2008, 2012); Palmer (2009)
*Recommended eligible by ALAC and NRC. South Dakota State Historic Preservation Office ~~(SD SHPO)~~ has concurred with these recommendations (2012).
** Based on additional information obtained from Tribal representatives, the eligibility recommendation was updated.

In 2013, seven Tribes participated in a field survey at the proposed Dewey-Burdock ISR site. The 2013 Tribal cultural resource survey report (NRC 2013a and 2013b) documented the results of this survey. The list of sites of religious and cultural significance to Tribes identified during the 2013 Tribal cultural resource survey is included in table 3. This table also includes archaeological sites and the NRHP eligibility, effects determinations, and management recommendations. The NRC staff also completed an assessment of the Dewey-Burdock ISR Project's potential visual impacts on historic properties. Table 3 also presents the findings of the visual impact assessment.

Initiation of the Section 106 Process for NRC's Review of Powertech's License Renewal Application

In accordance with Title 36 of the *Code of Federal Regulations* (36 CFR) Section 800.2(c)(1)(i), the NRC staff initiated National Historic Preservation Act of 1966, as amended (~~the~~ NHPA)~~,~~ Section 106 consultation with the South Dakota State Historic Preservation Office (South Dakota SHPO) for the NRC staff's review of Powertech's license renewal request for the Dewey-Burdock ISR Project, including preparation of this PA, via letter dated January 24, 2025 (ML24291A051).

In response to NRC staff's letter dated January 24, 2025 (ML24291A050), the U.S. Bureau of Land Management (BLM) designated the NRC as the lead agency for compliance with requirements of Section 106 of the NHPA regarding the Dewey-Burdock Project pursuant to 36 CFR 800.2(a)(2) via letter dated ~~on~~ March 6, 2025 (ML25071A049). The NRC staff also invited the U.S. Environmental Protection Agency (EPA) to participate in the Section 106 process for the Dewey-Burdock ISR Project, including preparation of this PA, via letter dated January 24, 2025 (ML24291A056). On November 14, 2025, the EPA designated the NRC as the lead agency for compliance with requirements of Section 106 of the NHPA regarding the Dewey-Burdock Project (ML25335A023) pursuant to 36 CFR 800.2(a)(2).

On January 24, 2025 (ML24291A049), the NRC staff notified the Advisory Council on Historic Preservation (ACHP) of the undertaking and invited the ACHP to participate in NHPA Section 106 consultation for the NRC staff's review of Powertech's license renewal request for the Dewey-Burdock ISR Project and in the preparation of this PA. By letter dated October 14, 2025, the ACHP notified the NRC that appendix A, "Criteria for Council Involvement in Reviewing Individual Section 106 Cases," of Section 106 of the NHPA and its implementing regulations at 36 CFR 800, does not apply to the undertaking and, therefore, its participation in the consultation to resolve adverse effects is not necessary (ML25335A035).

By letters dated January 24, 2025 (ML24290A178), the NRC invited 25 federally-recognized Indian Tribes who may ascribe religious and cultural significance to historic properties that may be affected by the undertaking, including the Cheyenne and Arapaho Tribes of Oklahoma, the Cheyenne River Sioux Tribe, the Crow Nation, the Crow Creek Sioux Tribe, the Eastern Shoshone Tribe, the Flandreau Santee Sioux Tribe, the Fort Peck Assiniboine and Sioux Tribes, the Lower Brule Sioux Tribe, the Lower Sioux Indian Community, the Northern Arapaho Tribe, the Northern Cheyenne Tribe, the Oglala Sioux Tribe, the Omaha Tribe of Nebraska, the Pawnee Nation of Oklahoma, the Ponca Tribe of Nebraska, the Rosebud Sioux Tribe, the Santee Sioux

Tribe of Nebraska, the Sisseton-Wahpeton Oyate, the Spirit Lake Sioux Tribe, the Standing Rock Sioux Tribe, the Three Affiliated Tribes (Mandan, Hidatsa & Arikara Nations), the Turtle Mountain Band of Chippewa Indians, the Yankton Sioux Tribe, the Apache Tribe of Oklahoma, and the Shakopee Mdewakanton Sioux Community of Minnesota (collectively referred to as consulting Tribes) to each be a consulting party in the Section 106 process for the NRC staff's review of Powertech's license renewal request for the Dewey-Burdock ISR Project. Tribal consultation is being conducted on a government-to-government basis in accordance with NRC's Tribal Policy Statement (82 FR 2402). The evaluation of potential impacts on historic and cultural resources, including those of significance to Tribes, is being conducted in accordance with the National Environmental Policy Act (NEPA) and NHPA.[4]

The NRC staff also invited Powertech, in accordance with 36 CFR 800.2(c)(4), to participate in Section 106 consultation and preparation of this PA via letter dated January 24, 2025 (ML24291A094). Additionally, in response to the NDN Collective's request (ML25064A420), dated March 14, 2025, the NRC invited NDN Collective to participate as a consulting party for the Section 106 process for the NRC staff's review of Powertech's license renewal request for the Dewey-Burdock ISR Project, in accordance with 36 CFR 800.2(c)(5) (ML25067A003).

Proposal to Develop New Programmatic Agreement

As part of the NRC staff's invitation to participate in the Section 106 process for the undertaking, the NRC staff proposed to execute a new PA pursuant to 36 CFR 800.4(b)(2), using the 2014 PA as a starting point draft for development of the new PA to satisfy the Section 106 obligations under NHPA. Between January and March 2025, the NRC staff received input on the NRC staff's proposed Section 106 path forward ~~and~~ (i.e., PA) from the South Dakota SHPO (ML25063A116)~~,~~ and Powertech (ML25078A065). The NRC also sought the advice from~~, and~~ ACHP ~~(ML25073A105)~~. In its comments, the SD SHPO shared its willingness to explore a new PA using the 2014 PA as a starting point. The South Dakota SHPO further recommended that a new Class I records search of the area of potential effects (APE) be conducted, given the amount of time that has passed since any activities last occurred at the site. Powertech provided the results of the Class I search on August 1, 2025, which the NRC staff in turn sent to the SHPO. The South Dakota SHPO also noted that additional intensive pedestrian survey and traditional cultural property survey work may need to be completed, if warranted. Other comments focused on defining the review times within the new PA; notifying Tribes within the same 48 hours of unanticipated discoveries as SHPO, and involving Tribes in discussions regarding mitigation for adverse effects to NRHP-eligible sites; providing compliance monitoring updates at least every four months; revisiting the timeline for annual report submissions; and including a list of expected deliverables in the new PA. The NRC staff addressed all of the SHPO's comments in the September 30, 2025, version of the draft PA. On March 12, 2025, the NRC staff met with the SHPO to discuss their comments and questions. During the meeting, the NRC staff confirmed the incorporation of the SHPO's recommendations and comments into the new PA. The NRC staff also confirmed the invitation to BLM and EPA to participate in the Section 106 process with the NRC serving as the lead federal agency. The NRC staff also clarified that there have not been changes to land ownership within the Dewey-Burdock site, and that the NRC's NEPA

[4] The NRC staff is coordinating the NEPA review with the Section 106 review for this undertaking.

environmental review would look at changes that may have occurred since the issuance of the license in 2014 in terms of the affected environment, regulations, and procedures.

In its March 12, 2025, comment letter, Powertech proposed defining some of the terms within the PA for consistency. They also recommended that appendix B and Stipulation 2, "Identification and Evaluation of Historic Properties within the License Boundary," of the 2014 PA be updated to limit NRC's review to an evaluation of the effects of any changes in eligibility criteria since 2014 that may impact previously identified resources and a reasonable evaluation of material new information provided by consulting parties based on 36 CFR 800.4 and NRC's NMSS-ISG-02 guidance, "Guidance for Conducting the Section 106 Process of the National Historic Preservation Act for Uranium Recovery Licensing Actions" (ML19212A753). Powertech further recommended defined review times to enhance project predictability and regulatory certainty. Powertech also proposed that the new PA remain in effect upon timely submittal of a future license renewal application. The NRC staff considered Powertech's comments in developing the new PA.

On January 28, 2025, the Cheyenne River Sioux Tribe's Tribal Historic Preservation Office (THPO) expressed his intention to participate in discussions regarding the proposed action as well as ~~his~~ opposition to the proposed action in part because of potential impacts to the Black Hills, which are sacred to Tribes, and potential impacts to the Oglala aquifer from disposal of liquid waste through deep well injection. The Cheyenne River Sioux THPO also stated that the PA should be renewed because many individuals listed on it no longer are in the positions when the 2014 PA was signed. On May 5, 2025, the Turtle Mountain Band of Chippewa—North Dakota deferred to the nearest THPO or SHPO to the APE, but asked to continue to be kept informed. On April 25, 2025, NDN Collective provided input to NRC staff on the Section 106 path forward and the PA (ML25122A132). In summary, NDN Collective asserted that the project threatens tribal rights, including land access, religious liberty, cultural artifacts, hunting/fishing, and sovereignty. They also stated that NRC must conduct nation-to-nation consultation with Tribes, including the Oglala Sioux Tribe (per OST Consultation Ordinance 11-10). NDN Collective argues there is no legal basis for using a PA under 36 CFR § 800.14(b)(1) because the project does not meet any qualifying criteria and that a full cultural resources survey is necessary to identify, evaluate, and mitigate impacts. NDN Collective also stated that approving the Dewey-Burdock ISR Project would violate constitutional law, international law (UN Declaration on the Rights of Indigenous Peoples), and statutes like the Native American Graves Protection and Repatriation Act of 1990 (NAGPRA) and American Indian Religious Freedom Act. The NRC staff considered the Tribes' and NDN Collective's comments in developing the new PA.

On March 12, 2025, the Oglala Sioux Tribe requested a Government-to-Government meeting with the NRC staff because the Oglala Sioux Tribe Cultural Affairs and Historic Preservation Office must adhere to the Oglala Sioux Tribe Ordinance 11-10, which indicates that consultation begins with direction from the Oglala Sioux Tribal Council (ML25085A421). By letter dated April 23, 2025, the NRC staff welcomed the opportunity to engage with the Oglala Sioux Tribal Council and requested the Tribal Council's preferred dates and times for a meeting (~~ML~~ ML25101A288).

The NRC staff continued its efforts to engage ~~in~~ , consult, and seek input~~ation~~ ~~with~~ from Tribes ~~by sending~~through follow-up and status emails and via ~~holding~~ government-to-government virtual meetings. ~~meetings to gather information related to identification efforts and coordinate meetings~~.

On March 5 and 13, 2025, the NRC staff held closed government-to-government virtual Tribal Information Meetings in support of the Section 106 process (ML25077A115). The purpose of the meetings was to engage with and hear from Tribal representatives invited to participate in and consult on the Section 106 process. Participating Tribes included the Omaha Tribe of Nebraska, Shakopee Mdewakanton Sioux Community, Fort Peck Assiniboine and Sioux Tribes, Crow Tribe, Flandreau Santee Sioux Tribe, and the Standing Rock Sioux Tribe. The BLM, the EPA, the ACHP, and the SD SHPO also attended the meetings.

Tribal Site Visit

On May 2, 2025, the NRC staff invited Tribes to participate in a visit to the Dewey-Burdock ISR site. On June 11, 2025, the NRC staff held a Tribal site visit as part of its ongoing Section 106 consultation (ML25122A228). The purpose of the Tribal site visit was to provide federally-recognized Tribes (i) an overview of the site and proposed ISR facilities, (ii) an overview of the ~~area of potential effects (~~APE~~)~~, (iii) an overview of the areas where cultural resources have been identified in relation to potential surface disturbances, and (iv) answer questions from and gather information from Tribes about sites of religious and cultural significance to them and potential effects on these from the undertaking. Participating Tribes included the Northern Arapaho Tribe, Northern Cheyenne Tribe, and the Oglala Sioux Tribe. Additionally, representatives from BLM, Powertech, and NDN Collective (who accompanied the representative from the Oglala Sioux Tribe) attended the Tribal site visit. In response to NRC staff's request for review of the draft summary of the Tribal site visit ~~()~~, the NRC staff did not receive any comments. The final summary of the June 11, 2025, Tribal site visit was issued on August 1, 2025 (ML25213A145). On September 2, 2025, the Northern Arapaho Tribe THPO provided comments to the NRC in response to the review of the draft summary of the June 11, 2025, Tribal site visit. In summary, the Tribal representatives that participated in the site visit and that provided input emphasized the importance of including a protocol in the new PA for unanticipated discoveries that Powertech would follow during facility construction and operations. Tribal representatives also recommended additional opportunities to survey the site, revisit tribal sites, and re-evaluate eligibility determinations.

September 2025 Draft Programmatic Agreement

As part of NRC staff's information-gathering efforts and based on South Dakota SHPO's recommendation, the staff requested that Powertech conduct a Class I records search of the APE to take into account any new cultural resources that may have been recorded since the issuance of NRC license SUA-1600 for the Dewey-Burdock project (ML25086A262). On August 1, 2025, Powertech transmitted the Class I records search.[5] Although cultural resource surveys have been conducted in Fall River and Custer counties, South Dakota, following those at the Dewey-Burdock project, these investigations have been located farther away from the project. No new cultural resources have been recorded since the ~~direct~~ APE for the Dewey-Burdock ISR project was surveyed.

The NRC staff considered the information provided by all consulting parties in developing a new draft PA and ~~B~~by letter dated September 30, 2025, the NRC staff transmitted the draft PA,

[5] The Class I records search is not publicly available.

developed in accordance with 36 CFR 800.14(b)(3), to ~~the~~ 25 Tribes (ML25273A335), BLM, EPA, ACHP, SD SHPO, and Powertech (ML25273A367) for review and comment. The September 30, 2025, draft PA used the 2014 PA as a starting point and closely followed its content, including the purpose and basis for developing the new PA, which the ACHP, South Dakota SHPO, NRC, BLM, EPA, and Powertech agreed to and signed. As recommended by some of the consulting parties, the new PA incorporates updates related to the Dewey-Burdock ISR project since issuance of the 2014 PA. Other updates included clarifying the purpose of the new PA; clarifying the relationship to previous cultural resource surveys conducted at the Dewey-Burdock ISR site in light of the nature and magnitude of the current undertaking (i.e., while a license renewal, the facility has yet to be constructed); updating the compliance monitoring stipulation; including a list of expected deliverable; and revising the review times. The draft PA also included a stipulation describing the process for addressing unanticipated discoveries.

In the September 30, 2025, letter, the NRC staff also proposed coordinating a Tribal Cultural Resource Survey (ML25273A338). The NRC staff proposed this survey based on the recommendations provided by Tribes during the consultation and after consideration of the regulations at 36 CFR 800.4(b). While the licensing action is a license renewal, consistent with NMSS-ISG-02 guidance, the scope of the activities to be carried out during the proposed license renewal term would be construction and operation of the facility. Therefore, the 'magnitude and nature' of the undertaking considers construction and operation activities, unlike a typical license renewal application where an applicant would seek continued operation. The NRC staff also took into account past planning, research and studies and the likely nature and location of sites and potential effects. Based on the findings from the Class III cultural resource investigations and the tribal cultural resource survey previously conducted at the Dewey-Burdock site, there are a number of sites of significance to Tribes within and adjacent to the APE that could be potentially affected by the construction and operation of the Dewey-Burdock ISR project. Additionally, the site is located adjacent to the Black Hills. The NRC staff also considered the purpose and scope of other tribal surveys conducted at the similar project within the region. Finally, the NRC staff also considered the degree of federal involvement, which includes BLM and EPA. In consideration of timely decision-making, the NRC staff proposed to conduct the Tribal Cultural Survey~~to be conducted~~ after execution of the new PA using the draft survey methodology included as a~~A~~ppendix D of the draft PA (ML25273A338). The staff also requested comments on the draft survey methodology. On November 19, 2025, the NRC staff transmitted the draft PA and draft survey methodology to NDN Collective for review and comment (ML25318A141). In these letters, the NRC staff also shared with the consulting parties the planned schedule and ~~activities~~ milestones to execute the new PA.

On October 1, 2025, the Turtle Mountain Band of Chippewa notified the NRC by email that the Tribe was deferring to the THPO closest to the APE (ML25335A058). By letter dated October 30, 2025, the South Dakota SHPO provided comments on the draft PA and draft survey methodology (ML25335A199). In summary, the South Dakota SHPO's comments sought clarification on the duration of the PA and the ACHP's participation in the development of the PA. While the South Dakota SHPO did not provide comments on the draft tribal survey methodology, the SHPO advised that comments from Tribes should be taken into account when producing the next draft of the PA. The ACHP also provided input to the NRC in its advisory role.

On December 4, 2025, Powertech provided comments on the draft PA. Of note, Powertech recommended that the new PA describes the basis for the proposed tribal cultural resource survey. Powertech highlighted that while 36 CFR 800 regulations allow surveys, the regulations do not require identification of new sites and therefore recommended that the proposed surveys focus only on previously identified sites. Powertech also recommended addressing dispute resolution specifically for situations where agreement cannot be reached on compensation and reporting timelines.

On November 26, 2025, the NRC staff discussed with Powertech the effect of the U.S. Government lapse in appropriations (October 1, 2025, through November 12, 2025) on the NRC staff's review of Powertech's license renewal request for the Dewey-Burdock project (ML25328A084). Subsequently, on December 1, 2025, the NRC staff ~~sent an update via email to~~informed the Tribes, BLM, EPA, ACHP, and South Dakota SHPO~~, informing them~~ that the schedule for completing and executing the new PA would be adjusted (ML25335A201). The NRC staff also informed the parties that it would update the draft PA and draft tribal survey methodology based on the comments received and issue it for another comment period by mid-December 2025. The NRC staff ~~also informed~~notified the Tribes of its plan to schedule a virtual (closed) government-to-government information and listening meeting ~~with Tribes~~ the week of December 15, 2025, to provide an overview of the updated draft documents (ML25335A201). On December 1, 2025, the Shakopee Mdewakanton Sioux Community THPO noted that the project is outside of the Tribe's direct area and requested that NRC staff work with those Tribes and interested parties closer to the project location.

December 2025 Updated Draft Programmatic Agreement

On December 12, 2025, the NRC staff provided the updated draft PA to all consulting parties for review and comment (ML25346A088 and ML25346A078). The updated draft PA addressed comments received from consulting parties. The updates included clarifying the federal agencies' roles and responsibilities within PA process; describing the basis for the proposed tribal cultural resource survey in a 'Whereas' clause within the PA; adding a stipulation to establish a framework for consultation on survey parameters (e.g., contractor and compensation) that also includes defined review timelines and a process for dispute resolution. In this letter, the NRC staff also provided an updated schedule for completing the Section 106 review and NEPA review. On December 19, 2025, the NRC staff published the updated draft PA for a 30-day public review and comment (90 FR 59593).

The NRC staff held two closed government-to-government virtual Tribal Information Meetings on December 18, 2025, and January 7, 2026. The purpose of the meetings was to provide an overview of the Section 106 process, the updated draft PA and draft tribal survey methodology, and hear from Tribal representatives. Participating Tribes included the Omaha Tribe of Nebraska and the Ponca Tribe of Nebraska. Representatives from BLM and EPA also attended the meetings. The NRC staff did not receive any comments during these meetings (ML26037A276).

The Northern Cheyenne Tribe THPO provided comments on January 14, 2026, and the Northern Arapaho THPO provided comments on January 13, 2026. The Pawnee Nation THPO deferred to and concurred with the resident Tribes of South Dakota. In summary, Tribes comments

emphasized the importance of a process for evaluating unanticipated discoveries of traditional cultural places (TCPs) during ground disturbance activity, which the updated draft PA addressed in Stipulation 8, “Unanticipated Anticipated Discoveries.” The updated draft PA also included a stipulation addressing human remains. Tribes recommended monitoring by tribal cultural specialists in sensitive areas during construction. The updated draft PA addressed tribal monitoring as part of treatment plans that would be developed if adverse effects cannot be avoided. Tribes also shared their agreement with the proposed tribal cultural resource survey, including the evaluation of previously identified sites within the APE, and recommended conducting the tribal survey prior to the licensing decision. Otherwise, Tribes recommended conducting the survey prior to any ground disturbance activity. The updated draft PA considered execution of the tribal survey after the NRC’s licensing decision but prior to construction.

On January 16, 2026, the South Dakota SHPO provided comments on the updated draft PA and draft tribal survey methodology (ML26027A186). In summary, the South Dakota SHPO supported the proposed PA and tribal survey but also requested clarification regarding how the PA ensures that consultation remains substantive rather than procedural after execution of the PA; whether tribal input would be sought and consider when selecting a contractor to carry out the tribal survey and discussing funding for the tribal survey; and how avoidance, minimization, and mitigation will be meaningfully applied when TCPs are identified but determined not eligible for listing in the NRHP.

On January 20, 2026, Powertech provided comments on the updated draft Section 106 PA (ML26027A164). Powertech objected to the updated draft PA’s proposed tribal cultural resources survey, including resurveying previously surveyed areas. Powertech commented that the proposed survey exceeds NRC’s obligations under NEPA and NHPA, which mandate only a “reasonable and good faith” identification effort, and is contrary to recent executive orders (e.g., E.O. 14154, “Unleashing American Energy”). Powertech also found the proposed tribal cultural resource survey to be duplicative and overly burdensome. Powertech maintained that the 2014 PA and associated cultural resource surveys were upheld by the D.C. Circuit after extensive litigation and therefore, already satisfy all statutory obligations. Powertech also disagreed with the NRC’s basis for the proposed tribal cultural resource survey and explained that additional surveys would impose excessive costs and cause significant delays to the project. Powertech shared concerns about other consulting parties’ recommendations to survey the entire site. Powertech recommended aligning the new PA with the 2014 PA.

On January 23, 2026, NDN Collective provided comments on the updated draft Section 106 PA (ML26027A189). NDN Collective found that the NRC’s use of a PA for the Dewey-Burdock project before completing formal tribal consultations and a tribal cultural resource survey is not consistent with NHPA Section 106 and lacks legal justification. NDN Collective emphasized the PA and tribal cultural resource survey is required under treaty obligations. NDN Collective requested that NRC comply with NHPA, NEPA, treaty rights, and religious freedom protections before any licensing decision.

April 2025 Draft Final Programmatic Agreement

The NRC staff has developed a draft final PA and draft final tribal survey methodology based on the comments and information provided in response to the December 12, 2026, updated draft PA. In proceeding with the license renewal review, the NRC staff is balancing multiple considerations, including Tribal interests, the views of the South Dakota SHPO, ACHP's advice, Powertech's concerns regarding cost and schedule, and the NRC's responsibilities under the NHPA and NEPA. The NRC staff considered a tribal cultural resources survey to be conducted at the beginning of the project, as initially proposed in the September 2025 draft PA. The Section 106 regulations do not require a tribal survey. While conducting a tribal survey for this license renewal request would be one reasonable way to carry out the NRC's identification efforts in good faith, it is not the only way. In response to comments on the December 2025 updated draft PA, the NRC staff is proposing an alternative approach that places avoidance of adverse effects to sites of significance to Tribes upfront. This alternative approach does not include a tribal survey at the beginning of the project, but instead it shifts the evaluation of significance/eligibility, effects, and resolution of potential adverse effects to if and when ground disturbing activities would impact previously identified tribal cultural resources within the direct APE. Powertech commits to avoid areas within and adjacent to the direct APE where sites of significance to Tribes were previously identified (eligible, not eligible, and unevaluated). These areas will be defined by avoidance buffers. In the event that Powertech determines that ground disturbance will occur within those areas, the NRC staff would follow the process in Stipulation 5 of the PA for evaluation and resolution of adverse effects, which requires tribal consultation.

This alternative approach recognizes the importance of the Tribal efforts in support of and findings from previous cultural resource surveys carried out at the Dewey-Burdock ISR site. These previous tribal cultural resource surveys provide reliable data to determine where to focus the evaluation efforts within the direct APE. As described in ACHP's guidance, "Meeting the "Reasonable and Good Faith" Identification Standard in Section 106 Review," the Section 106 regulations do not require ground verification of the entire APE. Within the APE there are areas where tribal sites were identified and those areas could have higher probability of containing cultural resources than areas within the direct APE where no tribal sites were identified. Accordingly, this alternative approach focuses on those areas. That is, if the avoidance buffer areas cannot be avoided by Powertech, the NRC staff's evaluation efforts would focus on those areas. The evaluations efforts would include sites eligible for listing in the NRHP, unevaluated sites, and sites not eligible for listing in the NRHP that are of significance to Tribes consistent with National Register Bulletin 38, "Identifying, Evaluating, and Documenting Traditional Cultural Places," published in 2024. The ACHP guidance also clarifies that the Section 106 regulations do not require that every historic property be identified. Therefore, both the PA and license condition 9.8 include a post-review discovery provision (unanticipated discovery) because some sites might be identified as the project is implemented. These provisions require Powertech to cease work activities in the area of the unanticipated discovery.

Stipulation 5 of the PA establishes the process for evaluating the significance/eligibility, potential adverse effects, and treatment measures (measures to avoid, minimize, or mitigate adverse effects) if Powertech confirms whether avoidance is not possible. This consultation process would involve tribal engagement and could include additional research and/or field investigations.

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 NRC staff provided an overview of the alternative approach to Powertech, BLM, EPA, South Dakota SHPO, ACHP, and the Federal Permitting Improvement Steering Council (Permitting Council) in March 2026. On March 24, 2026, the NRC staff informed Tribes, via email, of the proposed 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 ISR project during the proposed license renewal term (ML26083A422). Subsequently, on March 26, 2026, the NRC staff shared the proposed alternative approach via email with BLM, (ML26085A502), EPA (ML26085A509), South Dakota SHPO (ML26085A511), and NDN Collective (ML26085A501). The NRC staff also held two closed government-to-government virtual Tribal Information Meetings to provide an overview of the alternative approach and answer questions on March 31 and April 1, 2026 (ML26092A234). On April 2, 2026, the NRC staff followed up with the Tribes, BLM, EPA, and South Dakota SHPO, to share a high-level overview of the next steps and revised schedule for completing the Section 106 and environmental reviews (ML26096A462).

On March 24, 2026, the NRC staff also requested that Powertech identify an avoidance buffer around the site boundary for each tribal site within and adjacent to the direct APE (ML26083A421). The avoidance buffers for tribal sites and archaeological sites will be defined and appropriately demarcated prior to commencement of ground disturbing activities in accordance with Stipulation 5 of the PA.

~~[Placeholder for additional information about the Section 106 consultation process, if necessary]~~

Table 3. NRC Determinations of Eligibility and Impact Analysis for Previously Recorded Archaeological Sites and Tribal Sites – Dewey-Burdock Project

			Potential Effects				
Site Number	**Type of Site**	**NRC's/BLM's (on BLM land) NRHP Determination****	**DDW***	**LA***	**Visual**	**NRC's Effect Determination**	**Comments/Recommendations**
CU02500002	Building 1 (Log Barn) at the Richardson Homestead (CU00000052)	Eligible A	No	Yes	Yes	Adverse Effect (LA)/No Adverse Effect (Visual)	Found eligible for listing on NRHP in April 2012 under Criterion A. Site located ~76 m [250 ft] south of land application areas. Site will be fenced off to ensure avoidance.
39CU3602 TS119	Artifact Scatter; Hearth	Eligible A	No	No	Yes	No Effect	Viewshed obstructed by tree cover
39CU3607 TS116-117	Artifact Scatter; Hearth	Eligible A	No	No	Yes	No Effect	Viewshed obstructed by tree cover
39FA1881	Artifact Scatter; Cairn	Eligible A	No	No	Yes	No Adverse Effect (Visual)	Partially screened by topography; other modern intrusions. Site will be avoided
39FA1890 TS012	Artifact Scatter; Cairn; 2 Tribal Features	Eligible A	No	No	Yes	No Effect	Facilities not visible from property. Site will be avoided
39FA1927	6 Cairns	Eligible A	No	No	Yes	No Effect	Facilities not visible from property. Site will be avoided
39FA1952 TS123-124	Hearth; Artifact Scatter	Eligible A	No	No	Yes	No Adverse Effect (Visual)	Other modern intrusions. Site will be avoided
TS002	stone circle	Eligible A	No	No	Yes	No Adverse Effect (Visual)	Other modern intrusions
TS118	hearth	Eligible A	No	No	Yes	No Effect	Viewshed obstructed by tree cover
TS120	hearth	Eligible A	Yes	Yes	Yes	Adverse Effect (DDW and LA)/No Adverse Effect (Visual)	Site will be avoided; other modern visual intrusions
CU00000050	Bakewell Ranch/ Edna and Ernest Young Ranch Historic District (90000949)	Eligible A C	No	No	Yes	No Adverse Effect (visual)	Listed on the NRHP. Historic property will be avoided
39CU0459 TS108-111	Artifact Scatter; Hearth; 4 Tribal Features	Eligible A	No	No	Yes	No Adverse Effect (Visual)	Other modern intrusions. Site will be avoided. The boundary for 39CU0459 includes two smaller Artifact Scatters: 39CU0461 and 39CU0528. Tribes also recommended this site as eligible under C, however, SHPO requires further documentation to concur with this recommendation.

			Potential Effects				
Site Number	**Type of Site**	**NRC's/BLM's (on BLM land) NRHP Determination****	**DDW***	**LA***	**Visual**	**NRC's Effect Determination**	**Comments/Recommendations**
39CU2000	Railroad	Eligible A C	Yes	Yes	Yes	Adverse Effect (DDW and LA)/No Adverse Effect (Visual)	Site crosses proposed wellfield areas; site will be avoided. Setting is confined to narrow corridor along railroad.
39CU3600 TS114-115	Artifact Scatter; Stone Alignment	Eligible A	No	No	Yes	No Adverse Effect (Visual)	Other modern obstructions. Site will be avoided Tribes also recommended this site as eligible under C, however, SHPO requires further documentation to concur with this recommendation.
39CU3604 TS121-122	Artifact Scatter; Hearth; Stone Circle	Eligible A	Yes	Yes	Yes	Adverse Effect (DDW and LA)/No Adverse Effect (Visual)	Other modern intrusions. Tribes also recommended this site as eligible under C, however, SHPO requires further documentation to concur with this recommendation.
39CU3620	Artifact Scatter; Hearth; Cairn	Eligible A	No	No	Yes	No Effect	Viewshed obstructed by tree cover. Site will be Avoided. Partly located on USFS property. ALAC boundary may be expanded to include TS106 and TS107. Tribes also recommended this site as eligible under C, however, SHPO requires further documentation to concur with this recommendation.
TS106	fasting circle	Eligible A	No	No	NA	No Effect	Located on USFS Property 40 meters outside license boundary. Possibly associated with 39CU3620. Tribes also recommended this site as eligible under C, however, SHPO requires further documentation to concur with this recommendation.
TS107	modern grave and circle	Eligible A	No	No	NA	No Effect	Avoid as possible gravesite. Located on USFS Property 60 meters outside license boundary. Possibly associated with 39CU3620 Tribes also recommended this site as eligible under C, however, SHPO requires further documentation to concur with this recommendation.
39FA1926 TS067-074, TS076-078	Artifact Scatter; 6 Tribal Features	Eligible A	No	No	Yes	No Effect	Facilities not visible from property. Site will be avoided Tribes also recommended this site as eligible under C, however, SHPO requires further documentation to concur with this recommendation.
39FA2000	Railroad	Eligible A C	Yes	Yes	Yes	Adverse Effect (DDW and LA)/No Adverse Effect (Visual)	Site crosses proposed wellfield areas. Setting is confined to narrow corridor along railroad.

			Potential Effects				
Site Number	**Type of Site**	**NRC's/BLM's (on BLM land) NRHP Determination****	**DDW***	**LA***	**Visual**	**NRC's Effect Determination**	**Comments/Recommendations**
TS040	ceremonial site	Eligible A	No	No	Yes	No Adverse Effect (Visual)	Partially screened by timber; other modern intrusions. Site will be avoided. Tribes also recommended this site as eligible under C, however, SHPO requires further documentation to concur with this recommendation.
TS041-042	ceremonial site	Eligible A	No	No	Yes	No Adverse Effect (Visual)	Partially screened by timber; other modern intrusions. Site will be avoided. Tribes also recommended this site as eligible under C, however, SHPO requires further documentation to concur with this recommendation.
TS047	ceremonial site	Eligible A	No	No	Yes	No Effect	Site is located more than 3 miles from nearest processing facility. Tribes also recommended this site as eligible under C, however, SHPO requires further documentation to concur with this recommendation.
TS080-089, TS098	stone feature	Eligible A	Yes	Yes	Yes	Adverse Effect (DDW and LA)/No Adverse Effect (Visual)	Mostly screened by topography; other modern intrusions. Tribes also recommended this site as eligible under C, however, SHPO requires further documentation to concur with this recommendation.
39CU0584 TS043-046, TS053, TS132-140	Occupation; Burial; 14 Tribal Features	Eligible A D	No	No	Yes	No Effect	Viewshed obstructed by tree cover. Site will be avoided. Avoid as possible gravesite. Tribes also recommended this site as eligible under C, however, SHPO requires further documentation to concur with this recommendation.
TS006	Cairn	Eligible A	No	No	Yes	No Adverse Effect (Visual)	Other modern intrusions. Avoid as gravesite. Tribes also recommended this site as eligible under C & D, however, SHPO requires further documentation to concur with this recommendation.
39CU3567 TS031-33, TS141	Artifact Scatter; Stone Circle; 4 Tribal Features	Eligible A	No	Yes	Yes	Adverse Effect (LA)/No Adverse Effect (Visual)	Other modern intrusions. Avoidance. Tribes also recommended this site as eligible under D, however, SHPO requires further documentation to concur with this recommendation.
39FA2530	Rockshelter, Rock Art, Artifact Scatter	Eligible A D	No	No	NA	No effect	Located outside license boundary but within APE for visual effects
39FA2531	Rock Art	Eligible A D	No	No	NA	No effect	Located outside license boundary but within APE for visual effects

			Potential Effects				
Site Number	**Type of Site**	**NRC's/BLM's (on BLM land) NRHP Determination****	**DDW***	**LA***	**Visual**	**NRC's Effect Determination**	**Comments/Recommendations**
TS007-011	stone circle	Eligible A	Yes	Yes	Yes	Adverse Effect (DDW and LA)/No Adverse Effect (Visual)	Other modern intrusions. TS007-TS011 may be considered a single site. Tribes also recommended TS009 as eligible under D, however, SHPO requires further documentation to concur with this recommendation.
39FA1862 TS112-113	Artifact Scatter; Cairn, Stone Circle 2 Tribal Features	Eligible A	No	No	Yes	No Adverse Effect (Visual)	Other modern intrusions. Site will be avoided. Located outside license boundary.
FA00000111	Bridge 24-020-020 over Beaver Creek	Eligible C	No	No	No	No Effect	NR Status per CRGRID; Located outside license boundary
39CU0271 TS019 TS035 TS130	Occupation; Hearth; 3 Tribal Features; Possible Gravesite	Eligible D	Yes	Yes	NA	Adverse Effect (DDW and LA)	This site is adjacent to proposed land disturbance. Avoid as possible gravesite. Tribes recorded the site but did not provide eligibility recommendations
39CU0577	Occupation site; artifact scatter	Eligible D	No	No	NA	No Effect	Site will be avoided, no impacts anticipated
39CU0586	Occupation	Eligible D	No	No	NA	No Effect	Site will be avoided, no impacts anticipated
39CU0588	Occupation	Eligible D	No	No	NA	No Effect	Site will be avoided, no impacts anticipated
39CU0590	Artifact Scatter	Eligible D	No	No	NA	No Effect	Site will be avoided, no impacts anticipated
39CU0593	Occupation; Artifact Scatter	Eligible D	No	No	NA	No Effect	Site will be avoided, no impacts anticipated
39CU2733	Hearth; Artifact Scatter	Eligible D	No	No	NA	No Effect	Site will be avoided, no impacts anticipated
39CU2735	Occupation	Eligible D	No	No	NA	No Effect	Site will be avoided, no impacts anticipated
39CU2738	Occupation	Eligible D	No	No	NA	No Effect	Site will be avoided, no impacts anticipated
39CU3592	Artifact Scatter	Eligible D	Yes	Yes	NA	Adverse Effect (DDW and LA)	Site located within a proposed wellfield area. Site will be fenced off to ensure avoidance
39FA1941	Artifact Scatter; Hearth	Eligible D	Yes	Yes	NA	Adverse Effect (DDW and LA)	Site located east of the proposed Burdock central processing plant within a proposed wellfield area.
39FA1955	Hearth; Artifact Scatter	Unevaluated	No	No	NA	No Effect	This site is outside of land disturbance activities
39FA1958	Hearth; Artifact Scatter	Unevaluated	No	No	NA	No Effect	This site is outside of land disturbance activities
39FA1965	Artifact Scatter	Unevaluated	No	No	NA	No Effect	This site is outside of land disturbance activities

			Potential Effects				
Site Number	**Type of Site**	**NRC's/BLM's (on BLM land) NRHP Determination****	**DDW***	**LA***	**Visual**	**NRC's Effect Determination**	**Comments/Recommendations**
TS061	stone circle	Unevaluated	No	No	NA	No Effect	Located on or near license boundary
TS062	effigy	Unevaluated	No	No	NA	No Effect	Outside license boundary
TS075	cairn	Unevaluated	No	No	NA	No Effect	Located 60 meters outside license boundary
TS079	stone circle	Unevaluated	No	No	NA	No Effect	Located 230 meters outside license boundary
TS125	burial	Unevaluated	No	No	NA	No Effect	Avoid as possible gravesite. Located on BLM Property 60 meters outside license boundary
TS126	staff	Unevaluated	No	No	NA	No Effect	Located on BLM Property 180 meters outside license boundary
TS127	fasting site	Unevaluated	No	No	NA	No Effect	Located on BLM Property 200 meters outside license boundary
TS128	fasting site	Unevaluated	No	No	NA	No Effect	Located on BLM Property 200 meters outside license boundary
TS129	fasting site/ring	Unevaluated	No	No	NA	No Effect	Located on BLM Property 290 meters outside license boundary
39CU0032A	Artifact Scatter	Unevaluated	No	No	NA	No Effect	
39CU0456	Artifact Scatter	Unevaluated	No	No	NA	No Effect	This site is outside of proposed land disturbance
39CU0457	Artifact Scatter	Unevaluated	No	No	NA	No Effect	This site is outside of proposed land disturbance
39CU0460	Artifact Scatter; Hearth	Unevaluated	No	No	NA	No Effect	This site is outside of proposed land disturbance
39CU0530	Artifact Scatter; Hearth; Cairn	Unevaluated	No	No	NA	No Effect	This site is outside of proposed land disturbance. Site will be avoided, no impact anticipated.
39CU0554	Artifact Scatter	Unevaluated	Yes	No	NA	Adverse Effect (DDW)	This site is within proposed land disturbance. Recommend evaluative testing
39CU0556	Artifact Scatter	Unevaluated	No	No	NA	No Effect	Site will be avoided. This site is outside of proposed land disturbance.
39CU0558	Artifact Scatter	Unevaluated	Yes	Yes	NA	Adverse Effect (DDW and LA)	This site is within proposed land disturbance. Recommend evaluative testing
39CU0561	Artifact Scatter	Unevaluated	No	No	NA	No Effect	This site is outside of proposed land disturbance
39CU0653	Artifact Scatter	Unevaluated	No	Yes	NA	Adverse Effect (LA)	Site within proposed land disturbance. Recommend evaluative testing.
39CU3564	Quarry; Cairn	Unevaluated	No	No	NA	No Effect	Site will be avoided, no impacts anticipated

			Potential Effects				
Site Number	**Type of Site**	**NRC's/BLM's (on BLM land) NRHP Determination****	**DDW***	**LA***	**Visual**	**NRC's Effect Determination**	**Comments/Recommendations**
39CU3565	Artifact Scatter	Unevaluated	No	No	NA	No Effect	This site is outside of land disturbance activities
39CU3574 TS021-22	Artifact Scatter; Hearth; 1 Tribal Feature, scraper	Unevaluated	No	No	NA	No Effect	Site will be avoided. Tribes recorded the site but did not provide eligibility recommendations
39CU3584 TS025-027, TS-029	Artifact Scatter; Cairn	Unevaluated	No	Yes	NA	Adverse Effect (LA)	Tribes recorded the site but did not provide eligibility recommendations. SHPO recommended this site remain unevaluated in 2012.
39CU3585	Artifact Scatter and Hearth; Artifact Scatter	Unevaluated	No	No	NA	No Effect	This site is outside of land disturbance activities
39CU3586	Artifact Scatter; Hearth	Unevaluated	No	No	NA	No Effect	This site is outside of land disturbance activities
39CU3587	Artifact Scatter; Burial	Unevaluated	No	No	NA	No Effect	Site will be avoided, no impacts anticipated
39CU3597	Artifact Scatter	Unevaluated	No	No	NA	No Effect	This site is outside of land disturbance activities
39CU3599	Nonfarm Ruins; Artifact Scatter; Depression. Foundation	Unevaluated	No	No	NA	No Effect	This site is outside of land disturbance activities
39CU3601	Artifact Scatter; Hearth	Unevaluated	No	No	NA	No Effect	Site will be avoided. This site is outside of land disturbance activities
39CU3603	Artifact Scatter; Hearth	Unevaluated	Yes	Yes	NA	Adverse Effect (DDW and LA)	Evaluative testing recommended
39CU3605	Artifact Scatter; Hearth	Unevaluated	No	No	NA	No Effect	Site will be Avoided
39CU3606	Artifact Scatter; Hearth	Unevaluated	No	No	NA	No Effect	Site will be avoided
39CU3611	Artifact Scatter; Hearth	Unevaluated	No	No	NA	No Effect	This site is outside of land disturbance activities
39CU3612	Artifact Scatter; Hearth	Unevaluated	No	No	NA	No Effect	This site is outside of land disturbance activities
39CU3615	Artifact Scatter	Unevaluated	No	Yes	NA	Adverse Effect (LA)	Evaluative testing recommended
39CU3619	Farmstead; Artifact Scatter	unevaluated	No	Yes	NA	No Effect	SHPO recommends that this site be considered as unevaluated until further studies are done taking into account four standing structures: CU-025-00001, CU-025-00002, CU-025-00003, CU-025-00004
39CU3623	Artifact Scatter	Unevaluated	No	No	NA	No Effect	This site is outside of land disturbance activities

			Potential Effects				
Site Number	**Type of Site**	**NRC's/BLM's (on BLM land) NRHP Determination****	**DDW***	**LA***	**Visual**	**NRC's Effect Determination**	**Comments/Recommendations**
39CU3624	Artifact Scatter	Unevaluated	Yes	Yes	NA	Adverse Effect (DDW and LA)	Site located less than 30.5 miles (m) [100 feet (ft)] from a proposed wellfield area. Site will undergo further evaluative testing. Avoidance recommended until testing is complete.
39CU3772	Artifact Scatter	Unevaluated	No	No	NA	No Effect	This site is outside of land disturbance activities
39CU3776	Artifact Scatter; Rock Shelter	Unevaluated	No	No	NA	No Effect	This site is outside of land disturbance activities
39CU3779	Artifact Scatter; Rock Shelter; Hearth	Unevaluated	No	No	NA	No Effect	This site is outside of land disturbance activities
39CU3813	Hearth; Artifact Scatter	Unevaluated	No	No	NA	No Effect	This site is outside of land disturbance activities
39CU3817	Artifact Scatter	Unevaluated	No	No	NA	No Effect	This site is outside of land disturbance activities
39CU3818	Hearth; Artifact Scatter	Unevaluated	No	No	NA	No Effect	This site is outside of land disturbance activities
39CU3819	Depression; Artifact Scatter	Unevaluated	No	No	NA	No Effect	This site is outside of land disturbance activities
39CU3821	Artifact Scatter	Unevaluated	No	No	NA	No Effect	This site is outside of land disturbance activities
39CU3822	Artifact Scatter	Unevaluated	No	No	NA	No Effect	This site is outside of land disturbance activities
39FA0096 TS001, TS004, TS013	Occupation; Artifact Scatter; Nonfarm Ruins; Dump; Burial; 2 Tribal Features	Unevaluated	Yes	Yes	Yes	Adverse Effect (DDW and LA)/No Adverse Effect (Visual)	This site was divided into 8 areas when ARC testing was conducted in 2012. Tribes identified area 1 and 6 within 39FA0096 as eligible under A. A portion of the land is on BLM administered land. BLM recommends this site remain unevaluated until further information is obtained to validate eligibility under A. BLM requires 200 ft. avoidance buffer around the site boundary. Viewshed obstructed by tree cover; other modern intrusions.
39FA0110	Artifact Scatter	Unevaluated	No	No	NA	No Effect	This site is outside of land disturbance activities.
39FA0269	Artifact Scatter	Unevaluated	No	No	NA	No Effect	This site is outside of land disturbance activities. Located on BLM administered Land. BLM requires 200 ft. avoidance buffer around the site boundary.

			Potential Effects				
Site Number	**Type of Site**	**NRC's/BLM's (on BLM land) NRHP Determination****	**DDW***	**LA***	**Visual**	**NRC's Effect Determination**	**Comments/Recommendations**
39FA0270	Artifact Scatter	Unevaluated	No	No	NA	No Effect	This site is outside of land disturbance activities
39FA0274	Artifact Scatter	Unevaluated	Yes	Yes	NA	Adverse Effect (DDW and LA)	Recommend Evaluative Testing
39FA0275	Artifact Scatter	Unevaluated	No	No	NA	No Effect	
39FA0556	Artifact Scatter	Unevaluated	Yes	Yes	NA	Adverse Effect (DDW and LA)	Recommend Evaluative Testing
39FA0740	Artifact Scatter	Unevaluated	No	Yes	NA	Adverse Effect (LA)	Recommend Evaluative Testing
39FA0777	Artifact Scatter	Unevaluated	No	Yes	NA	Adverse Effect (LA)	Recommend Evaluative Testing
39FA0778	Farmstead	Unevaluated	Yes	Yes	NA	Adverse Effect (DDW and LA)	Recommend Evaluative Testing
39FA1859	Artifact Scatter	Unevaluated	No	No	NA	No Effect	This site is outside of land disturbance activities
39FA1863	Artifact Scatter; Cairn, Stone Circle; Alignment	Unevaluated	No	No	NA	No Effect	Site Will be Avoided. Located outside license boundary
39FA1864	Artifact Scatter	Unevaluated	No	No	NA	No Effect	Located outside license boundary
39FA1870	Artifact Scatter	Unevaluated	No	No	NA	No Effect	This site is outside of land disturbance activities
39FA1874	Artifact Scatter	Unevaluated	No	No	NA	No Effect	This site is outside of land disturbance activities
39FA1880	Artifact Scatter	Unevaluated	Yes	Yes	NA	Adverse Effect (DDW and LA)	Site will undergo further evaluative testing. Avoid until testing completed
39FA1882	Town Site, Road, School Foundation	Unevaluated	No	No	NA	No Effect	Site will be avoided. This site is outside of land disturbance activities
39FA1892	Artifact Scatter	Unevaluated	No	No	NA	No Effect	Site will be avoided. This site is outside of land disturbance activities
39FA1896	Artifact Scatter	Unevaluated	No	No	NA	No Effect	Site will be avoided. This site is outside of land disturbance activities Located on BLM administered Land. BLM requires 200 ft. avoidance buffer around the site boundary
39FA1902	Artifact Scatter; Well/Cistern; Burial; Road	Unevaluated	No	No	NA	No Effect	Avoid as possible gravesite
39FA1912	Artifact Scatter	Unevaluated	No	No	NA	No Effect	Site will be avoided. This site is outside of land disturbance activities
39FA1920	Artifact Scatter	Unevaluated	Yes	Yes	NA	Adverse Effect (DDW and LA)	Site located ~30.5 m [110 ft] from a proposed wellfield area. Site will undergo further evaluative testing. Avoidance recommended until testing is complete.

			Potential Effects				
Site Number	**Type of Site**	**NRC's/BLM's (on BLM land) NRHP Determination****	**DDW***	**LA***	**Visual**	**NRC's Effect Determination**	**Comments/Recommendations**
39FA1922 TS014-017	Artifact Scatter; Stone Circle; 4 Tribal Features	Unevaluated	No	No	Yes	No Effect	Facilities not visible from property. Site will be avoided. Located on BLM administered Land. BLM recommends this site remain unevaluated until further information is obtained to validate eligibility under A. BLM requires 200 ft. avoidance buffer around the site boundary. Tribes recommended this site eligible under A & C.
39FA1923 TS018, TS142-143	Artifact Scatter; Monument; 3 Tribal Features	unevaluated	No	No	Yes	No Effect	Facilities not visible from property. Site will be avoided. Located on BLM administered Land. BLM recommends this site remain unevaluated until further information is obtained to validate eligibility under A. BLM requires 200 ft. avoidance buffer around the site boundary. Tribes recommended this site eligible under A & C.
39FA1928	Rock Shelter; Artifact Scatter	Unevaluated	No	No	NA	No Effect	Site will be avoided. This site is outside of land disturbance activities
39FA1932	Artifact Scatter	Unevaluated	No	No	NA	No Effect	Site will be avoided. This site is outside the license boundary
39FA1933	Artifact Scatter	Unevaluated	No	No	NA	No Effect	
39FA1935	Artifact Scatter	Unevaluated	No	No	NA	No Effect	This site is outside of land disturbance activities
39FA1938	Artifact Scatter; Stone Alignment	Unevaluated	No	No	NA	No Effect	This site is outside of land disturbance activities
39FA1940	Stone Circle	Unevaluated	No	No	NA	No Effect	This site is outside of land disturbance activities
39FA1964 TS099-105	Artifact Scatter; Hearth; Cairn	unevaluated	No	No	NA	No Effect	Site Will be Avoided. Tribes recorded the site but did not provide eligibility recommendations
TS024	stone circle	Unevaluated	No	No	NA	No Effect	Outside license boundary. Tribes recorded the site but did not provide eligibility recommendations
TS145	Prayer/offering location	Unevaluated	Yes	Yes	No	Adverse Effect (DDW and LA)	Precise location is not known. Located within an 80-acre parcel. Would require relocation to assess potential for site avoidance. Tribes also recommended this site as eligible under D, however, SHPO requires further documentation to concur with this recommendation.

			Potential Effects				
Site Number	**Type of Site**	**NRC's/BLM's (on BLM land) NRHP Determination****	**DDW***	**LA***	**Visual**	**NRC's Effect Determination**	**Comments/Recommendations**
39CU0251 TS096	Artifact Scatter; Hearth; 1 Tribal Feature	Unevaluated	Yes	Yes	NA	Adverse Effect (DDW and LA)	Tribes recorded the site but did not provide eligibility recommendations. Eligibility changed from not eligible to unevaluated based on comments from Standing Rock Tribe.
39CU3572 TS034	Artifact Scatter; Stone Circle; at least 1 Tribal Feature	Unevaluated	Yes	Yes	NA	Adverse Effect (DDW and LA)	Tribes recorded the site but did not provide eligibility recommendations. Eligibility changed from not eligible to unevaluated based on comments from Standing Rock Tribe.
39CU3576 TS020	Artifact Scatter	Unevaluated	No	Yes	NA	Adverse Effect LA)	Tribes recorded the site but did not provide eligibility recommendations. Eligibility changed from not eligible to unevaluated based on comments from Standing Rock Tribe.
39CU3593 TS055	Isolated Find (originally recorded as an Artifact Scatter)	Unevaluated	Yes	Yes	NA	Adverse Effect (DDW and LA)	Tribes recorded the site but did not provide eligibility recommendations. Eligibility changed from not eligible to unevaluated based on comments from Standing Rock Tribe.
39CU3596 TS054	Isolated Find (originally recorded as an Artifact Scatter)	Unevaluated	Yes	Yes	NA	Adverse Effect (DDW and LA)	Tribes recorded the site but did not provide eligibility recommendations. Eligibility changed from not eligible to unevaluated based on comments from Standing Rock Tribe.
TS005	Isolated find (flake)	Unevaluated	Yes	Yes	NA	Adverse Effect (DDW and LA)	Eligibility changed from not eligible to unevaluated based on comments from Standing Rock Tribe.
TS028	stone circles (3); campsite; ceremonial site	Unevaluated	No	Yes	NA	Adverse Effect (LA)	Tribes recorded the site but did not provide eligibility recommendations. Eligibility changed from not eligible to unevaluated based on comments from Standing Rock Tribe.
TS030	stone circle	Unevaluated	No	Yes	NA	Adverse Effect (LA)	Tribes recorded the site but did not provide eligibility recommendations. Eligibility changed from not eligible to unevaluated based on comments from Standing Rock Tribe.
TS093	possible cairn	Unevaluated	Yes	Yes	NA	Adverse Effect (DDW and LA)	Tribes recorded the site but did not provide eligibility recommendations. Eligibility changed from not eligible to unevaluated based on comments from Standing Rock Tribe.
TS094	cairn	Unevaluated	Yes	Yes	NA	Adverse Effect (DDW and LA)	Tribes recorded the site but did not provide eligibility recommendations. Eligibility changed from not eligible to unevaluated based on comments from Standing Rock Tribe.

			Potential Effects				
Site Number	**Type of Site**	**NRC's/BLM's (on BLM land) NRHP Determination****	**DDW***	**LA***	**Visual**	**NRC's Effect Determination**	**Comments/Recommendations**
TS095	disturbed cairn (modern survey marker)	Unevaluated	Yes	Yes	NA	Adverse Effect (DDW and LA)	Tribes recorded the site but did not provide eligibility recommendations. Eligibility changed from not eligible to unevaluated based on comments from Standing Rock Tribe.
TS144	cairn	Unevaluated	Yes	Yes	NA	Adverse Effect (DDW and LA)	Tribes recorded the site but did not provide eligibility recommendations. Eligibility changed from not eligible to unevaluated based on comments from Standing Rock Tribe.
CU02500001	Building 4 at the Richardson Homestead (CU00000052)	Not Eligible	No	Yes	Yes	No Effect	
CU02500003	Building 7 at the Richardson Homestead (CU00000052)	Not Eligible	No	Yes	Yes	No Effect	
CU02500004	Building 9 at the Richardson Homestead (CU00000052)	Not Eligible	No	Yes	Yes	No Effect	
CU00000052	Richardson Homestead	Not Eligible	No	Yes	Yes	No Effect	
39CU0451	Artifact Scatter	Not Eligible	No	Yes	NA	No Effect	
39CU0461	Isolated Find	Not Eligible	No	No	NA	No Effect	Site will be avoided; This site is part of 39CU0459
39CU0462	Isolated Find	Not Eligible	No	No	NA	No Effect	Site will be avoided
39CU0463	Artifact Scatter	Not Eligible	Yes	Yes	NA	No Effect	
39CU0464	Isolated Find (originally recorded as an Artifact Scatter)	Not Eligible	Yes	Yes	NA	No Effect	
39CU0528	Isolated Find	Not Eligible	No	No	NA	No Effect	Site will be avoided; This site is part of 39CU0459
39CU0531	Artifact Scatter; Hearth	Not Eligible	No	No	NA	No Effect	Site will be avoided
39CU0532	Artifact Scatter	Not Eligible	No	No	NA	No Effect	Site will be avoided
39CU0557	Artifact Scatter	Not Eligible	Yes	Yes	NA	No Effect	

			Potential Effects				
Site Number	**Type of Site**	**NRC's/BLM's (on BLM land) NRHP Determination****	**DDW***	**LA***	**Visual**	**NRC's Effect Determination**	**Comments/Recommendations**
39CU0559	Artifact Scatter; Hearth	Not Eligible	No	No	NA	No Effect	
39CU0560	Foundation	Not Eligible	Yes	Yes	NA	No Effect	
39CU0578	Dump; Occupation	Eligible	No	No	NA	No Effect	Site will be avoided, no impacts anticipated.
39CU0585	Isolated Find	Not Eligible	No	No	NA	No Effect	
39CU0648	Artifact Scatter	Not Eligible	No	No	NA	No Effect	
39CU3561	Isolated Find	Not Eligible	No	No	NA	No Effect	
39CU3562	Artifact Scatter	Not Eligible	No	No	NA	No Effect	
39CU3563	Isolated Find (originally recorded as an Artifact Scatter)	Not Eligible	No	No	NA	No Effect	
39CU3566	Artifact Scatter	Not Eligible	No	No	NA	No Effect	
39CU3568	Artifact Scatter	Not Eligible	No	No	NA	No Effect	
39CU3569	Isolated Find	Not Eligible	No	No	NA	No Effect	
39CU3570	Isolated Find (originally recorded as a quarry)	Not Eligible	Yes	Yes	NA	No Effect	
39CU3571	Artifact Scatter	Not Eligible	Yes	Yes	NA	No Effect	
39CU3573	Artifact Scatter; Hearth	Not Eligible	No	No	NA	No Effect	
39CU3575	Artifact Scatter	Not Eligible	No	No	NA	No Effect	
39CU3577	Isolated Find	Not Eligible	No	Yes	NA	No Effect	
39CU3578	Isolated Find (originally recorded as an Artifact Scatter)	Not Eligible	Yes	Yes	NA	No Effect	
39CU3579	Isolated Find (originally recorded as an Artifact Scatter)	Not Eligible	No	Yes	NA	No Effect	
39CU3580	Isolated Find	Not Eligible	No	Yes	NA	No Effect	
39CU3581	Isolated Find	Not Eligible	No	Yes	NA	No Effect	
39CU3582	Isolated Find	Not Eligible	No	Yes	NA	No Effect	

			Potential Effects				
Site Number	**Type of Site**	**NRC's/BLM's (on BLM land) NRHP Determination****	**DDW***	**LA***	**Visual**	**NRC's Effect Determination**	**Comments/Recommendations**
39CU3583	Artifact Scatter; Depression	Not Eligible	Yes	Yes	NA	No Effect	
39CU3588	Quarry	Not Eligible	No	No	NA	No Effect	
39CU3589	Isolated Find (originally recorded as an Artifact Scatter)	Not Eligible	No	No	NA	No Effect	
39CU3590	Artifact Scatter	Not Eligible	Yes	Yes	NA	No Effect	
39CU3591	Isolated Find	Not Eligible	No	No	NA	No Effect	
39CU3594	Isolated Find (originally recorded as an Artifact Scatter)	Not Eligible	No	No	NA	No Effect	
39CU3595	Isolated Find	Not Eligible	No	No	NA	No Effect	
39CU3598	Artifact Scatter	Not Eligible	Yes	No	NA	No Effect	
39CU3608	Artifact Scatter; Hearth	Not Eligible	Yes	Yes	NA	No Effect	
39CU3609	Isolated Find (originally recorded as an Artifact Scatter)	Not Eligible	Yes	Yes	NA	No Effect	
39CU3610	Isolated Find (originally recorded as an Artifact Scatter)	Not Eligible	Yes	Yes	NA	No Effect	
39CU3613	Artifact Scatter	Not Eligible	No	No	NA	No Effect	
39CU3614	Isolated Find (originally recorded as an Artifact Scatter)	Not Eligible	No	No	NA	No Effect	
39CU3616	Isolated Find	Not Eligible	No	No	NA	No Effect	
39CU3617	Isolated Find (originally recorded as an Artifact Scatter)	Not Eligible	Yes	No	NA	No Effect	

			Potential Effects				
Site Number	**Type of Site**	**NRC's/BLM's (on BLM land) NRHP Determination****	**DDW***	**LA***	**Visual**	**NRC's Effect Determination**	**Comments/Recommendations**
39CU3618	Artifact Scatter	Not Eligible	No	No	NA	No Effect	
39CU3621	Artifact Scatter	Not Eligible	No	No	NA	No Effect	
39CU3622	Artifact Scatter	Not Eligible	Yes	No	NA	No Effect	
39CU3771	Artifact Scatter	Not Eligible	Yes	No	NA	No Effect	
39CU3773	Isolated Find	Not Eligible	Yes	No	NA	No Effect	
39CU3774	Artifact Scatter	Not Eligible	Yes	No	NA	No Effect	
39CU3775	Isolated Find	Not Eligible	No	No	NA	No Effect	
39CU3777	Isolated Find	Not Eligible	No	No	NA	No Effect	
39CU3778	Isolated Find	Not Eligible	No	No		No Effect	
39CU3780	Isolated Find (originally recorded as an Artifact Scatter)	Not Eligible	No	No	NA	No Effect	
39CU3781	Isolated Find (originally recorded as an Artifact Scatter)	Not Eligible	Yes	No	NA	No Effect	
39CU3782	Isolated Find (originally recorded as an Artifact Scatter)	Not Eligible	Yes	No	NA	No Effect	
39CU3783	Isolated Find (originally recorded as an Artifact Scatter)	Not Eligible	No	No	NA	No Effect	
39CU3810	Isolated Find (originally recorded as an Artifact Scatter)	Not Eligible	No	No	NA	No Effect	
39CU3811	Isolated Find (originally recorded as an Artifact Scatter)	Not Eligible	No	No	NA	No Effect	
39CU3812	Artifact Scatter; Cairn	Not Eligible	No	No	NA	No Effect	Site will be avoided. GPS coordinates for this feature were recorded by the National Association of Tribal Historic Preservation Officers (NATHPO) only. Feature should probably be considered an extension of 39CU3812. Tribes recorded the site but did not provide eligibility recommendations
39CU3814	Artifact Scatter	Not Eligible	No	No	NA	No Effect	
39CU3815	Artifact Scatter	Not Eligible	No	No	NA	No Effect	

			Potential Effects				
Site Number	**Type of Site**	**NRC's/BLM's (on BLM land) NRHP Determination****	**DDW***	**LA***	**Visual**	**NRC's Effect Determination**	**Comments/Recommendations**
39CU3816	Artifact Scatter	Not Eligible	No	No	NA	No Effect	
39CU3820	Artifact Scatter	Not Eligible	No	No	NA	No Effect	
39CU3823	Isolated Find	Not Eligible	No	No	NA	No Effect	
39FA0097	Artifact Scatter; Farmstead	Not Eligible	Yes	Yes	NA	No Effect	
39FA0174	Artifact Scatter	Not Eligible	No	No	NA	No Effect	
39FA0251	Artifact Scatter; Hearth	Not Eligible	Yes	No	NA	No Effect	
39FA0272	Artifact Scatter	Not Eligible	Yes	Yes	NA	No Effect	
39FA0273	Artifact Scatter	Not Eligible	No	Yes	NA	No Effect	
39FA0557	Farmstead	Not Eligible	Yes	Yes	NA	No Effect	
39FA0558	Isolated Find	Not Eligible	No	Yes	NA	No Effect	
39FA0578	Isolated Find	Not Eligible	No	No	NA	No Effect	Located on BLM administered Land. BLM recommends no further work or protection for this site
39FA0584	Farmstead; Artifact Scatter	Not Eligible	Yes	Yes	NA	No Effect	
39FA1860	Artifact Scatter	Not Eligible	No	No	NA	No Effect	
39FA1861	Isolated Find	Not Eligible	No	No	NA	No Effect	
39FA1865	Artifact Scatter	Not Eligible	No	No	NA	No Effect	
39FA1868	Isolated Find	Not Eligible	Yes	No	NA	No Effect	
39FA1869	Artifact Scatter	Not Eligible	Yes	No	NA	No Effect	
39FA1871	Isolated Find	Not Eligible	No	No	NA	No Effect	
39FA1872	Isolated Find	Not Eligible	No	No	NA	No Effect	
39FA1873	Isolated Find	Not Eligible	No	No	NA	No Effect	
39FA1875	Isolated Find (originally recorded as an Artifact Scatter)	Not Eligible	No	No	NA	No Effect	
39FA1876	Isolated Find	Not Eligible	No	No	NA	No Effect	
39FA1877	Isolated Find	Not Eligible	Yes	No	NA	No Effect	
39FA1878	Isolated Find	Not Eligible	No	Yes	NA	No Effect	
39FA1879	Isolated Find	Not Eligible	No	No	NA	No Effect	

			Potential Effects				
Site Number	**Type of Site**	**NRC's/BLM's (on BLM land) NRHP Determination****	**DDW***	**LA***	**Visual**	**NRC's Effect Determination**	**Comments/Recommendations**
39FA1883	Isolated Find (originally recorded as an Artifact Scatter)	Not Eligible	Yes	Yes	NA	No Effect	
39FA1884	Isolated Find (originally recorded as an Artifact Scatter)	Not Eligible	Yes	Yes	NA	No Effect	
39FA1885	Artifact Scatter	Not Eligible	Yes	Yes	NA	No Effect	
39FA1886	Isolated Find (originally recorded as an Artifact Scatter)	Not Eligible	Yes	Yes	NA	No Effect	
39FA1887	Artifact Scatter	Not Eligible	Yes	Yes	NA	No Effect	
39FA1888	Isolated Find (originally recorded as an Artifact Scatter)	Not Eligible	Yes	Yes	NA	No Effect	
39FA1889	Isolated Find (originally recorded as an Artifact Scatter)	Not Eligible	Yes	Yes	NA	No Effect	
39FA1891	Artifact Scatter	Not Eligible	No	No	NA	No Effect	Site will be avoided. This site is outside of land disturbance activities
39FA1893	Isolated Find	Not Eligible	Yes	Yes	NA	No Effect	Located on BLM administered Land. BLM recommends no further work or protection for this site
39FA1894	Isolated Find	Not Eligible	Yes	Yes	NA	No Effect	Located on BLM administered Land. BLM recommends no further work or protection for this site
39FA1895	Artifact Scatter; Hearth	Not Eligible	Yes	Yes	NA	No Effect	
39FA1897	Isolated Find (originally recorded as an Artifact Scatter)	Not Eligible	No	No	NA	No effect	Located on BLM administered Land. BLM recommends no further work or protection for this site
39FA1898	Artifact Scatter	Not Eligible	Yes	Yes	NA	No Effect	
39FA1899	Isolated Find	Not Eligible	No	No	NA	No Effect	
39FA1900	Isolated Find	Not Eligible	Yes	No	NA	No Effect	
39FA1901	Artifact Scatter; Well/Cistern	Not Eligible	No	Yes	NA	No Effect	

			Potential Effects				
Site Number	**Type of Site**	**NRC's/BLM's (on BLM land) NRHP Determination****	**DDW***	**LA***	**Visual**	**NRC's Effect Determination**	**Comments/Recommendations**
39FA1903	Isolated Find (originally recorded as an Artifact Scatter)	Not Eligible	No	Yes	NA	No Effect	
39FA1904	Isolated Find (originally recorded as an Artifact Scatter)	Not Eligible	No	Yes	NA	No Effect	
39FA1905	Artifact Scatter; Depression	Not Eligible	Yes	Yes	NA	No Effect	
39FA1906	Isolated Find	Not Eligible	No	Yes	NA	No Effect	
39FA1907	Artifact Scatter	Not Eligible	Yes	No	NA	No Effect	
39FA1908	Artifact Scatter	Not Eligible	Yes	No	NA	No Effect	
39FA1909	Isolated Find	Not Eligible	Yes	Yes	NA	No Effect	
39FA1910	Isolated Find	Not Eligible	Yes	Yes	NA	No Effect	
39FA1911	Artifact Scatter; Nonfarm Ruins	Not Eligible	No	No	NA	No Effect	
39FA1913	Artifact Scatter	Not Eligible	Yes	Yes	NA	No Effect	
39FA1914	Isolated Find	Not Eligible	Yes	Yes	NA	No Effect	
39FA1915	Isolated Find (originally recorded as an Artifact Scatter)	Not Eligible	Yes	Yes	NA	No Effect	
39FA1916	Artifact Scatter	Not Eligible	Yes	No	NA	No Effect	
39FA1917	Isolated Find (originally recorded as an Artifact Scatter)	Not Eligible	Yes	No	NA	No Effect	
39FA1918	Isolated Find	Not Eligible	No	No	NA	No Effect	
39FA1919	Isolated Find	Not Eligible	Yes	No	NA	No Effect	
39FA1921	Isolated Find	Not Eligible	Yes	No	NA	No Effect	
39FA1924	Artifact Scatter	Not Eligible	No	No	NA	No Effect	
39FA1925	Isolated Find (originally recorded as an Artifact Scatter)	Not Eligible	No	No	NA	No Effect	

			Potential Effects				
Site Number	**Type of Site**	**NRC's/BLM's (on BLM land) NRHP Determination****	**DDW***	**LA***	**Visual**	**NRC's Effect Determination**	**Comments/Recommendations**
39FA1929	Isolated Find	Not Eligible	No	No	NA	No Effect	Outside License Boundary
39FA1930	Isolated Find	Not Eligible	No	No	NA	No Effect	Outside License Boundary
39FA1931	Isolated Find	Not Eligible	No	No	NA	No Effect	
39FA1934	Isolated Find (originally recorded as an Artifact Scatter)	Not Eligible	No	No	NA	No Effect	
39FA1936	Artifact Scatter	Not Eligible	No	No	NA	No Effect	
39FA1937	Isolated Find	Not Eligible	Yes	No	NA	No Effect	
39FA1939	Isolated Find	Not Eligible	No	No	NA	No Effect	
39FA1943	Isolated Find (originally recorded as an Artifact Scatter)	Not Eligible	No	No	NA	No Effect	Outside License Boundary
39FA1944	Artifact Scatter	Not Eligible	Yes	Yes	NA	No Effect	
39FA1953	Isolated Find (originally recorded as an Artifact Scatter)	Not Eligible	No	No	NA	No Effect	
39FA1954	Isolated Find (originally recorded as an Artifact Scatter)	Not Eligible	No	No	NA	No Effect	
39FA1956	Isolated Find (originally recorded as an Artifact Scatter)	Not Eligible	No	No	NA	No Effect	
39FA1957	Isolated Find	Not Eligible	No	No	NA	No Effect	
39FA1959	Artifact Scatter	Not Eligible	No	No	NA	No Effect	
39FA1960	Isolated Find (originally recorded as an Artifact Scatter)	Not Eligible	No	No	NA	No Effect	
39FA1961	Hearth; Artifact Scatter	Not Eligible	No	No	NA	No Effect	
39FA1962 TS056-060	Artifact Scatter; stone circle; cairn	Not Eligible	No	No	NA	No Effect	NATHPO report attributes these identifications to the Cheyenne. Tribes recorded the site but did not provide eligibility recommendations

			Potential Effects				
Site Number	**Type of Site**	**NRC's/BLM's (on BLM land) NRHP Determination****	**DDW***	**LA***	**Visual**	**NRC's Effect Determination**	**Comments/Recommendations**
39FA1963	Isolated Find (originally recorded as an Artifact Scatter)	Not Eligible	No	No	NA	No Effect	This site is outside of land disturbance activities
39FA1966	Isolated Find (originally recorded as an Artifact Scatter)	Not Eligible	No	No	NA	No Effect	This site is outside of land disturbance activities
TS003	Buffalo bones	Not Eligible	No	No	NA	No Effect	Tribes recorded site but did not make eligibility recommendations.
TS023	burial	Not Eligible	No	No	NA	No Effect	Avoid as possible Gravesite. Tribes recorded the site but did not provide eligibility recommendations
TS036	small cairn or marker	Not Eligible	No	No	NA	No Effect	Tribes recorded the site but did not provide eligibility recommendations
TS037	small cairn	Not Eligible	No	No	NA	No Effect	Tribes recorded the site but did not provide eligibility recommendations
TS048	burial	Not Eligible	No	No	NA	No Effect	Avoid as possible Gravesite. Tribes recorded the site but did not provide eligibility recommendations
TS049	burial	Not Eligible	No	No	NA	No Effect	Avoid as possible Gravesite. Tribes recorded the site but did not provide eligibility recommendations
TS050	burial	Not Eligible	No	No	NA	No Effect	Avoid as possible Gravesite. Tribes recorded the site but did not provide eligibility recommendations
TS051	fasting site	Not Eligible	No	No	NA	No Effect	Tribes recorded the site but did not provide eligibility recommendations
TS052	stone circle	Not Eligible	No	No	NA	No Effect	Tribes recorded the site but did not provide eligibility recommendations
TS063	No identification	Not Eligible	No	No	NA	No Effect	Tribes recorded the site but did not provide eligibility recommendations
TS064	stone circle	Not Eligible	No	No	NA	No Effect	Tribes recorded the site but did not provide eligibility recommendations
TS065	fasting site	Not Eligible	No	No	NA	No Effect	Tribes recorded the site but did not provide eligibility recommendations. This feature is believed to be the site identified by the NATHPO as the "small cairn"
TS066	cairn	Not Eligible	No	No	NA	No Effect	Tribes recorded the site but did not provide eligibility recommendations
TS090	cairn	Not Eligible	No	No	NA	No Effect	Located outside but near 39CU3622. Tribes recorded the site but did not provide eligibility recommendations
TS091	ceremonial site	Not Eligible	No	No	NA	No Effect	Located outside but near 39CU3621. Tribes recorded the site but did not provide eligibility recommendations

			Potential Effects				
Site Number	**Type of Site**	**NRC's/BLM's (on BLM land) NRHP Determination****	**DDW***	**LA***	**Visual**	**NRC's Effect Determination**	**Comments/Recommendations**
TS092	cairn	Not Eligible	No	No	NA	No Effect	Tribes recorded the site but did not provide eligibility recommendations
TS097	cairn	Not Eligible	No	No	NA	No Effect	Tribes recorded the site but did not provide eligibility recommendations
TS131	possible graves	Not Eligible	No	No	NA	No Effect	Avoid as possible gravesites. Tribes recorded the site but did not provide eligibility recommendations

*DDW stands for deep well injection, and LA stands for land application.
** Unevaluated archaeological sites are considered eligible for listing in the NRHP under Criterion D pending further evaluative testing.

Table 4. NRC Determination of Potential Adverse Effect Analysis for Previously Recorded Archaeological Sites and Tribal Sites – Dewey-Burdock Project

			Potential Effects				
Site Number	**Type of Site**	**NRC's/BLM's (on BLM land) NRHP Determination[6]**	**DDW ***	**LA***	**Visual**	**NRC's Effect Determination**	**Comments/Recommendations**
CU02500002	Building 1 (Log Barn) at the Richardson Homestead (CU00000052)	Eligible A	No	Yes	Yes	Adverse Effect (LA)/No Adverse Effect (Visual)	Found eligible for listing on NRHP in April 2012 under Criterion A. Site located ~76 m [250 ft] south of land application areas. Site will be fenced off to ensure avoidance.
TS120	hearth	Eligible A	Yes	Yes	Yes	Adverse Effect (DDW and LA)/No Adverse Effect (Visual)	Site will be avoided; other modern visual intrusions
39CU2000	Railroad	Eligible A C	Yes	Yes	Yes	Adverse Effect (DDW and LA)/No Adverse Effect (Visual)	Site crosses proposed wellfield areas; site will be avoided. Setting is confined to narrow corridor along railroad.
39CU3604 TS121-122	Artifact Scatter; Hearth; Stone Circle	Eligible A	Yes	Yes	Yes	Adverse Effect (DDW and LA)/No Adverse Effect (Visual)	Other modern intrusions. Tribes also recommended this site as eligible under C, however, SHPO requires further documentation to concur with this recommendation.
39FA2000	Railroad	Eligible A C	Yes	Yes	Yes	Adverse Effect (DDW and LA)/No Adverse Effect (Visual)	Site crosses proposed wellfield areas. Setting is confined to narrow corridor along railroad.
TS080-089, TS098	stone feature	Eligible A	Yes	Yes	Yes	Adverse Effect (DDW and LA)/No Adverse Effect (Visual)	Mostly screened by topography; other modern intrusions. Tribes also recommended this site as eligible under C, however, SHPO requires further documentation to concur with this recommendation.
39CU3567 TS031-33, TS141	Artifact Scatter; Stone Circle; 4 Tribal Features	Eligible A	No	Yes	Yes	Adverse Effect (LA)/No Adverse Effect (Visual)	Other modern intrusions. Avoidance. Tribes also recommended this site as eligible under D, however, SHPO requires further documentation to concur with this recommendation.
TS007-011	stone circle	Eligible A	Yes	Yes	Yes	Adverse Effect (DDW and LA)/No Adverse Effect (Visual)	Other modern intrusions. TS007-TS011 may be considered a single site. Tribes also recommended TS009 as eligible under D, however, SHPO requires further documentation to concur with this recommendation.

[6] Unevaluated archaeological sites are considered eligible for listing in the NRHP under Criterion D pending further evaluative testing.

			Potential Effects				
Site Number	**Type of Site**	**NRC's/BLM's (on BLM land) NRHP Determination[6]**	**DDW ***	**LA***	**Visual**	**NRC's Effect Determination**	**Comments/Recommendations**
39CU0271 TS019 TS035 TS130	Occupation; Hearth; 3 Tribal Features; Possible Gravesite	Eligible D	Yes	Yes	NA	Adverse Effect (DDW and LA)	This site is adjacent to proposed land disturbance. Avoid as possible gravesite. Tribes recorded the site but did not provide eligibility recommendations
39CU3592	Artifact Scatter	Eligible D	Yes	Yes	NA	Adverse Effect (DDW and LA)	Site located within a proposed wellfield area. Site will be fenced off to ensure avoidance
39FA1941	Artifact Scatter; Hearth	Eligible D	Yes	Yes	NA	Adverse Effect (DDW and LA)	Site located east of the proposed Burdock central processing plant within a proposed wellfield area.
39CU0554	Artifact Scatter	Unevaluated	Yes	No	NA	Adverse Effect (DDW)	This site is within proposed land disturbance. Recommend evaluative testing
39CU0558	Artifact Scatter	Unevaluated	Yes	Yes	NA	Adverse Effect (DDW and LA)	This site is within proposed land disturbance. Recommend evaluative testing
39CU0653	Artifact Scatter	Unevaluated	No	Yes	NA	Adverse Effect (LA)	Site within proposed land disturbance. Recommend evaluative testing.
39CU3584 TS025-027, TS-029	Artifact Scatter; Cairn	Unevaluated	No	Yes	NA	Adverse Effect (LA)	Tribes recorded the site but did not provide eligibility recommendations. SHPO recommended this site remain unevaluated in 2012.
39CU3603	Artifact Scatter; Hearth	Unevaluated	Yes	Yes	NA	Adverse Effect (DDW and LA)	Evaluative testing recommended
39CU3615	Artifact Scatter	Unevaluated	No	Yes	NA	Adverse Effect (LA)	Evaluative testing recommended
39CU3624	Artifact Scatter	Unevaluated	Yes	Yes	NA	Adverse Effect (DDW and LA)	Site located less than 30.5 m [100 ft] from a proposed wellfield area. Site will undergo further evaluative testing. Avoidance recommended until testing is complete.
39FA0096 TS001, TS004, TS013	Occupation; Artifact Scatter; Nonfarm Ruins; Dump; Burial; 2 Tribal Features	Unevaluated	Yes	Yes	Yes	Adverse Effect (DDW and LA)/No Adverse Effect (Visual)	This site was divided into 8 areas when ARC testing was conducted in 2012. Tribes identified area 1 and 6 within 39FA0096 as eligible under A. A portion of the land is on BLM administered land. BLM recommends this site remain unevaluated until further information is obtained to validate eligibility under A. BLM requires 200 ft. avoidance buffer around the site boundary Viewshed obstructed by tree cover; other modern intrusions.
39FA0274	Artifact Scatter	Unevaluated	Yes	Yes	NA	Adverse Effect (DDW and LA)	Recommend Evaluative Testing
39FA0556	Artifact Scatter	Unevaluated	Yes	Yes	NA	Adverse Effect (DDW and LA)	Recommend Evaluative Testing

			Potential Effects				
Site Number	**Type of Site**	**NRC's/BLM's (on BLM land) NRHP Determination[6]**	**DDW ***	**LA***	**Visual**	**NRC's Effect Determination**	**Comments/Recommendations**
39FA0740	Artifact Scatter	Unevaluated	No	Yes	NA	Adverse Effect (LA)	Recommend Evaluative Testing
39FA0777	Artifact Scatter	Unevaluated	No	Yes	NA	Adverse Effect (LA)	Recommend Evaluative Testing
39FA0778	Farmstead	Unevaluated	Yes	Yes	NA	Adverse Effect (DDW and LA)	Recommend Evaluative Testing
39FA1880	Artifact Scatter	Unevaluated	Yes	Yes	NA	Adverse Effect (DDW and LA)	Site will undergo further evaluative testing. Avoid until testing completed
39FA1920	Artifact Scatter	Unevaluated	Yes	Yes	NA	Adverse Effect (DDW and LA)	Site located ~30.5 m [110 ft] from a proposed wellfield area. Site will undergo further evaluative testing. Avoidance recommended until testing is complete.
TS145	Prayer/offering location	Unevaluated	Yes	Yes	No	Adverse Effect (DDW and LA)	Precise location is not known. Located within an 80-acre parcel. Would require relocation to assess potential for site avoidance. Tribes also recommended this site as eligible under D, however, SHPO requires further documentation to concur with this recommendation.
39CU0251 TS096	Artifact Scatter; Hearth; 1 Tribal Feature	Unevaluated	Yes	Yes	NA	Adverse Effect (DDW and LA)	Tribes recorded the site but did not provide eligibility recommendations. Eligibility changed from not eligible to unevaluated based on comments from Standing Rock Tribe.
39CU3572 TS034	Artifact Scatter; Stone Circle; at least 1 Tribal Feature	Unevaluated	Yes	Yes	NA	Adverse Effect (DDW and LA)	Tribes recorded the site but did not provide eligibility recommendations. Eligibility changed from not eligible to unevaluated based on comments from Standing Rock Tribe.
39CU3576 TS020	Artifact Scatter	Unevaluated	No	Yes	NA	Adverse Effect (LA)	Tribes recorded the site but did not provide eligibility recommendations. Eligibility changed from not eligible to unevaluated based on comments from Standing Rock Tribe.
39CU3593 TS055	Isolated Find (originally recorded as an Artifact Scatter)	Unevaluated	Yes	Yes	NA	Adverse Effect (DDW and LA)	Tribes recorded the site but did not provide eligibility recommendations. Eligibility changed from not eligible to unevaluated based on comments from Standing Rock Tribe.
39CU3596 TS054	Isolated Find (originally recorded as an Artifact Scatter)	Unevaluated	Yes	Yes	NA	Adverse Effect (DDW and LA)	Tribes recorded the site but did not provide eligibility recommendations. Eligibility changed from not eligible to unevaluated based on comments from Standing Rock Tribe.
TS005	Isolated find (flake)	Unevaluated	Yes	Yes	NA	Adverse Effect (DDW and LA)	Eligibility changed from not eligible to unevaluated based on comments from Standing Rock Tribe.

			Potential Effects				
Site Number	**Type of Site**	**NRC's/BLM's (on BLM land) NRHP Determination[6]**	**DDW ***	**LA***	**Visual**	**NRC's Effect Determination**	**Comments/Recommendations**
TS028	stone circles (3); campsite; ceremonial site	Unevaluated	No	Yes	NA	Adverse Effect (LA)	Tribes recorded the site but did not provide eligibility recommendations. Eligibility changed from not eligible to unevaluated based on comments from Standing Rock Tribe.
TS030	stone circle	Unevaluated	No	Yes	NA	Adverse Effect (LA)	Tribes recorded the site but did not provide eligibility recommendations. Eligibility changed from not eligible to unevaluated based on comments from Standing Rock Tribe.
TS093	possible cairn	Unevaluated	Yes	Yes	NA	Adverse Effect (DDW and LA)	Tribes recorded the site but did not provide eligibility recommendations. Eligibility changed from not eligible to unevaluated based on comments from Standing Rock Tribe.
TS094	cairn	Unevaluated	Yes	Yes	NA	Adverse Effect (DDW and LA)	Tribes recorded the site but did not provide eligibility recommendations. Eligibility changed from not eligible to unevaluated based on comments from Standing Rock Tribe.
TS095	disturbed cairn (modern survey marker)	Unevaluated	Yes	Yes	NA	Adverse Effect (DDW and LA)	Tribes recorded the site but did not provide eligibility recommendations. Eligibility changed from not eligible to unevaluated based on comments from Standing Rock Tribe.
TS144	cairn	Unevaluated	Yes	Yes	NA	Adverse Effect (DDW and LA)	Tribes recorded the site but did not provide eligibility recommendations. Eligibility changed from not eligible to unevaluated based on comments from Standing Rock Tribe.
*DDW stands for deep well injection, and LA stands for land application.							

References

36 CFR Part 60. *Code of Federal Regulations*, Title 36, *Parks, Forests, and Public Property*, Part 60, Section 4. “Criteria for Evaluation.” Washington, DC: U.S. Government Printing Office.

36 CFR Part 800. *Code of Federal Regulations*, Title 36, *Parks, Forests, and Public Property*, Part 800. “Protection of Historic Properties.” Washington, DC: U.S. Government Printing Office.

Advisory Council on Historic Preservation (2011). “Meeting the “Reasonable and Good Faith” Identification Standard in Section 106 Review.” November 15, 2001. Washington DC. https://www.achp.gov/sites/default/files/guidance/2018-05/reasonable_good_faith_identification.pdf

HDR, Engineering Inc (2009). “Assessment of the Visual Effects of the Powder River Basin Project, New Build Segment, on Previously Identified Historic Properties in South Dakota and Wyoming.” Report prepared for the Dakota, Minnesota and Eastern Railroad, Sioux Falls, SD by HDR, Inc. in Compliance with the Section 106 Programmatic Agreement for the Surface Transportation Board, Washington DC. 2009.

Kruse, J.M., T.V. Gillen, J.R. Bozell, L. Palmer, and A.A. Buhta (2008). “A Level III Cultural Resources Evaluation of Powertech (USA) Incorporated’s Proposed Dewey-Burdock Uranium Project Locality Within the Southern Black Hills, Custer and Fall River Counties, South Dakota.” Archeological Contract Series No. 216. Sioux Falls, South Dakota: Augustana College, Archeology Laboratory. ADAMS Nos. ML100670302, ML100670309, ML100670314, ML100670318, ML100670240, ML100670250, ML100670255, ML100670257, ML100670258, ML100670259, ML100670261, ML100670267, ML100670277, ML100670280, ML100670286, ML100670289, ML100670363, ML100670365, ML100670366, ML100670482, ML100670232.

U.S. National Park Service. National Register Bulletin 38. 2024. “Identifying, Evaluating, and Documenting Traditional Cultural Places.” Washington, DC, 2024. https://irma.nps.gov/DataStore/DownloadFile/713282

U.S. Nuclear Regulatory Commission (2014). “Programmatic Agreement among the NRC, U.S. Bureau of Land Management, South Dakota State Historic Preservation Office, Powertech, the Advisory Council on Historic Preservation Regarding the Dewey-Burdock In Situ Uranium Recovery Project Located in Custer and Fall River Counties, South Dakota.” April 7, 2014. Washington, DC. ADAMS No. ML21005A099.

U.S. Nuclear Regulatory Commission (2013a). “Summary Report Regarding the Tribal Cultural Surveys Completed for the Dewey-Burdock Uranium In-Situ Recovery Project.” December 2013. ADAMS No. ML13343A142.

U.S. Nuclear Regulatory Commission (2013b). “Overall Determinations of Eligibility and Assessment of Adverse Effects.” December 2013. ADAMS No. ML13343A155.

Palmer, L (2008). “A Level III Cultural Resources Evaluation of Powertech (USA) Incorporated’s Proposed Dewey-Burdock Uranium Project Locality within the Southern Black Hills, Custer and Fall River Counties, South Dakota.” Addendum 1: Additional Survey Report. Archeological Contract Series No.227. Sioux Falls, South Dakota: Augustana College, Archeology Laboratory. ADAMS Nos. ML100670483, ML100670485, ML100670487, ML100670490.

Palmer, L (2009). “Evaluative Testing of Four Sites within Powertech (USA) Incorporated’s Proposed Dewey-Burdock Uranium Project Locality, Southern Black Hills, Custer and Fall River Counties, South Dakota.” Archeological Contract Series No. 231. Sioux Falls, South Dakota: Augustana College, Archeology Laboratory.

Palmer, L. and J.M. Kruse (2008). “A Level III Cultural Resources Evaluation of Powertech (USA) Incorporated’s Proposed Dewey-Burdock Uranium Project Locality within the Southern Black Hills, Custer and Fall River Counties, South Dakota.” Addendum 2: Additional Survey Report. Archeological Contract Series No.229. Sioux Falls, South Dakota: Augustana College, Archeology Laboratory. ADAMS Nos. ML100670466, ML100670472, ML100670474, ML100670478, ML100670492.

Palmer, L. and J.M. Kruse (2012). “Evaluative Testing of 20 Sites in the Powertech (USA) Inc. Dewey-Burdock Uranium Project Impact Areas.” Black Hills Archaeological Region. Volumes I and II. Archaeological Contract Series No. 251. Sioux Falls, South Dakota: Archeology Laboratory, Augustana College. ADAMS Nos. ML12144A270, ML12144A279, ML12144A263.

South Dakota State Historic Preservation Office (2012). “Comment (28) of Jay D. Vogt and Paige Olson, on Behalf of SD State Historical Society, on NRC-2012-0277-0001, Supplemental Environmental Impact Statement for Proposed Dewey-Burdock In-Situ Uranium Recovery Project in Custer and Fall River Counties, SD.” December 13, 2012. Pierre, South Dakota. ADAMS No. ML13010A059.

~~Updated~~ Draft Final Appendix C – Treatment of Human Remains on State, Private, and BLM Land

1) In the event of an inadvertent discovery of human remains or funerary objects on State or Private Land, the following steps shall be taken pursuant to South Dakota Codified Law Chapter 34-27-25, 34-27-28, 34-27-31:

    a) The Facilities Manager shall immediately halt construction activities within a 150-foot radius from the point of discovery (protection zone) and implement measures to protect the discovery from looting and vandalism. Construction activities may continue outside this protection zone. No digging, collecting or moving human remains or other items shall occur in the protection zone after the initial discovery. Protection measures would include the following.

        1) Flag the buffer zone around the find spot.
        2) Keep workers, press, and curiosity seekers away from the find spot.
        3) Cover the remains with a tarp or other protective covering.
        4) Prohibit photography of the find unless requested by an agency official or law enforcement officer.
        5) Station an individual at the location to prevent further disturbance until a law enforcement officer arrives.
        6) Treat human remains with dignity and respect at all times.

    b) The Facilities Manager shall notify local law enforcement, the **U.S. Nuclear Regulatory Commission (NRC)** and the South Dakota State Archaeologist (State Archaeologist) within 48 hours of notification by the Facilities Manager. The NRC will notify the U.S. Bureau of Land Management (BLM) and U.S. Environmental Protection Agency as a courtesy.

    c) The **NRC** shall notify the South Dakota State Historic Preservation Office (South Dakota SHPO), Indian Tribes, and other consulting parties within 48 hours of the discovery.

    d) If local law enforcement determines that the remains are not associated with a crime, the **NRC** shall determine if it is prudent and feasible to avoid disturbing the remains. If the **NRC,** in consultation with the **Powertech,** determines that disturbance cannot be avoided, the **NRC** shall consult with the State Archaeologist, SHPO, Indian Tribes, and other consulting parties to determine acceptable procedures for the recovery, documentation, housing, and disposition of the burial or remains. The **NRC** shall ensure that **Powertech** implements the plan for recovery, documentation, housing, and disposition of the burial or remains as authorized by the South Dakota State Archaeologist.

    e) The **NRC** shall notify **Powertech** that they may resume construction activities in the protection zone upon completion of the plan authorized by the State Archaeologist.

2) In the event of an inadvertent discovery of human remains or funerary objects on BLM Administered Land, the following steps shall be taken according to Native American Graves Protection and Repatriation Act~~NAGPRA~~ as outlined in the Stipulation 10(b): Human Remains of the Programmatic Agreement.

   a) The **On-site manager/Contractor** shall immediately halt construction activities within a 150 foot radius from the point of discovery (protection zone) and implement measures to preserve all finds in place and protect the discovery from looting and vandalism. Construction activities may continue outside this protection zone. No digging, collecting or moving human remains or other items shall occur in the protection zone after the initial discovery. Protective measures could include the following:

      1) Preserve the find in place.
      2) Flag the buffer zone around the find spot.
      3) Keep workers, press, and curiosity seekers away from the find spot.
      4) Tarp the find spot.
      5) Prohibit photography of the find unless requested by an agency official.
      6) Have an individual stay at the location to prevent further disturbance until a BLM federal agency representative arrives.
      7) Treat human remains with dignity and respect at all times

   b) The **On-site Manager/Contractor** shall notify the **BLM on BLM administered land**. Immediately contact the BLM official of the discovery by telephone or email. The official would include BLM Law Enforcement, BLM Field Office Manager, BLM Archaeologist, BLM Deputy Historic Preservation Officer, or BLM State Tribal Coordinator.

   c) The **BLM** shall notify the Local Law Enforcement, South Dakota State Archaeologist, ~~South Dakota State Historic Preservation Office (~~South Dakota SHPO~~)~~, Indian Tribes, NRC, and other consulting parties within 48 hours of the discovery.

   d) Inadvertent discovery of Native American remains and objects. In the event the human remains are of Native American descent then the agency will follow protocol as set forth in NAGPRA, Title 43 of the *Code of Federal Regulations* ~~43 CFR~~ Part 10, Subpart B.

~~Updated Draft Appendix D~~

~~Updated Draft Survey Methodology to Identify Sites of Historic, Cultural, and Religious Significance to Indian Tribes for the Powertech (USA), Inc. Dewey-Burdock In Situ Uranium Recovery Facility in Custer and Fall River Counties, South Dakota~~

~~(Updated Draft Appendix D is provided in a separate document)~~

~~Updated~~ Draft Final Appendix D~~E~~ - List of Programmatic Agreement Plans and Reports

The following table describes the plans and reports that Powertech (USA), Inc., is required to develop in accordance with the Programmatic Agreement.

Plan or Report	Description	Stipulation
~~Tribal Survey Report~~	~~Report documenting the results of a tribal survey to be conducted in accordance with Stipulation 2(c).~~	~~2(c)~~
Investigation Plan	Powertech's investigation methodology for conducting supplemental research or field investigations to determine eligibility of unevaluated properties that cannot be avoided.	3(c)
Project Monitoring Plan	Powertech's Project Monitoring Plan, which will describe the anticipated construction and operation schedule and specify the construction and operations activities ~~for the first year~~. The project monitoring plan will also include provisions for annual reporting.	12(b)
Annual Report - Monitoring	Powertech's annual periodic updates providing an annual status update of the project monitoring program.	12(d)
Adverse Effects Evaluation Plan	Proposed research and/or field investigation plan to evaluate significance/eligibility, effects, and potential adverse effects when avoidance is not possible.	5(d)
Treatment Plans	Plans developed by Powertech describing the effects on each adversely affected historic property (eligible and unevaluated) and traditional cultural place and a description of the proposed treatment for each of those ~~historic properties~~sites.	5(f~~e~~)
Treatment Monitoring Plan	A treatment plan would also have a treatment monitoring plan if monitoring by a qualified archaeologist and/or Tribal monitor is part of the strategy for resolving or preventing adverse effects.	5(h~~e~~)~~(ii)~~

ATTACHMENTS

RELATED TO THE

DRAFT FINAL PROGRAMMATIC AGREEMENT
AMONG
U.S. NUCLEAR REGULATORY COMMISSION,
U.S. BUREAU OF LAND MANAGEMENT,
U.S. ENVIRONMENTAL PROTECTION AGENCY,
SOUTH DAKOTA STATE HISTORIC PRESERVATION OFFICE,
AND
POWERTECH (USA), INC.
REGARDING THE
DEWEY-BURDOCK IN SITU URANIUM RECOVERY PROJECT
LOCATED IN CUSTER AND FALL RIVER COUNTIES,
SOUTH DAKOTA

[Copies of Letters from BLM, EPA, and ACHP

To be added to the final PDF version for signature]

~~UPDATED~~ DRAFT FINAL PROGRAMMATIC AGREEMENT
AMONG
U.S. NUCLEAR REGULATORY COMMISSION,
U.S. BUREAU OF LAND MANAGEMENT,
U.S. ENVIRONMENTAL PROTECTION AGENCY,
SOUTH DAKOTA STATE HISTORIC PRESERVATION OFFICE,
AND
POWERTECH (USA), INC.
REGARDING THE
DEWEY-BURDOCK IN SITU RECOVERY PROJECT
LOCATED IN CUSTER AND FALL RIVER COUNTIES
SOUTH DAKOTA

Date

WHEREAS, the U.S. Nuclear Regulatory Commission (NRC) received an application from Powertech (USA), Inc. (Powertech or licensee) to renew NRC license SUA-1600, for a 20-year term, for the Dewey-Burdock in situ uranium recovery (ISR) Project (Dewey-Burdock Project or the undertaking), which has yet to be constructed, and is located near Edgemont, South Dakota in Custer and Fall River counties, South Dakota, pursuant to the NRC licensing authority under the Atomic Energy Act of 1954 (AEA), 42 U.S.C. §§ 2011 *et seq.*; and

WHEREAS, NRC is considering the renewal of license SUA-1600 for the Dewey-Burdock Project pursuant to its authority under the AEA, 42 U.S.C. §§ 2011 *et seq.*, which makes the project an undertaking requiring compliance by NRC with Section 106 of the National Historic Preservation Act (NHPA), 54 U.S.C. § 300101 et seq., and its implementing regulations at Title 36 of the *Code of Federal Regulations* (36 CFR) Part 800 (2004); and

WHEREAS, if NRC renews license SUA-1600, Powertech will have met the NRC's requirements to continue to pursue construction and operation of the Dewey-Burdock Project, which will use an ISR methodology to extract uranium and process it to produce yellowcake; and

WHEREAS, the licensed area consists of approximately 10,580 acres (ac) (4,282 hectares [ha]) of mostly private land (97.7 percent) located on both sides of Dewey Road (County Road 6463) and includes portions of Sections 1-5, 10-12, 14, and 15, in Township 7 South, Range 1 East and portions of Sections 20, 21, 27, 28, 29, and 30-35 in Township 6 South, Range 1 East, Black Hill Meridian, (see appendix A and figure 1~~.0~~ for fuller description and a map of the project area, respectively); and

WHEREAS, under the terms of the General Mining Act of 1872, Powertech has filed Federal Lode mining claims and secured mineral rights on 240 ac (97 ha) of public lands open to mineral entry and administered by the U.S. Department of the Interior, Bureau of Land Management (BLM), and has the right to develop the mining claims as long as this can be accomplished without causing unnecessary or undue degradation to public lands and in accordance with pertinent laws and regulations under Title 43 of the *Code of Federal Regulations* (43 CFR) Subpart 3809; and

WHEREAS, review and approval of a Plan of Operations for the project that meets the requirements of 43 CFR Subpart 3809 by the BLM-South Dakota Field Office makes the project an undertaking requiring compliance by BLM with Section 106 of the NHPA, 54 U.S.C. § 306108 and 36 CFR Part 800; and

WHEREAS, the BLM, by letter dated March 6, 2025, designated the NRC as the lead agency for compliance with requirements of Section 106 of the NHPA regarding the Dewey-Burdock Project (Agencywide Documents Access and Management System (ADAMS) Accession No. ML25071A049) pursuant to 36 CFR 800.2(a)(2) and is included in the Attachments to this Programmatic Agreement (PA); and

WHEREAS, under the terms of the Safe Drinking Water Act, Powertech obtained from the Environmental Protection Agency (EPA) two Underground Injection Control (UIC) Area Permits for the Dewey-Burdock Project, a Class III Area Permit for injection wells used for the extraction of uranium and a Class V Area Permit for the disposal of treated ISR process fluids at the Dewey-Burdock site, in accordance with UIC regulations found at Title 40 of the *Code of Federal Regulations* Parts 124, 144, 146 and 147; and

WHEREAS, the EPA, by letter dated November 14, 2025, designated the NRC as the lead agency for compliance with requirements of Section 106 of the NHPA regarding the Dewey-Burdock Project (ML25335A023) pursuant to 36 CFR 800.2(a)(2) and is included in the Attachments to this Programmatic Agreement (PA); and

WHEREAS, the NRC determined a phased process for compliance with Section 106 of the NHPA is appropriate for this undertaking as was used for the issuance of NRC license SUA-1600, as specifically permitted under 36 CFR 800.4(b)(2), such that completion of the evaluation of and determinations of effects on historic properties, and consultation concerning measures to avoid, minimize, or mitigate any adverse effects will be carried out in phases, as set forth in this ~~Programmatic Agreement (~~PA~~)~~ developed in accordance with 36 CFR 800.14(b)(3); and

WHEREAS, the area of potential effects (APE) for the undertaking is the area at the Dewey-Burdock Project site and its immediate environs, which may be directly or indirectly impacted by construction and operation activities associated with the proposed project, as detailed in appendix A (see maps in appendix A), which is consistent with the APE defined for the Section 106 review of the issuance of NRC license SUA-1600 for the Dewey-Burdock Project; and

WHEREAS, in accordance with 36 CFR 800.2(b), the NRC, by letter dated January 24, 2025 (ML24291A049), notified the Advisory Council on Historic Preservation (ACHP) of the potential for adverse effects to historic properties from the undertaking and invited the ACHP to participate in Section 106 consultation and in the preparation of this PA; and

WHEREAS, the ACHP, by letter, dated October 14, 2025 (ML25335A035), notified the NRC that it will not participate in the consultation to resolve adverse effects; and

WHEREAS, in accordance with 36 CFR 800.2(c)(1)(i), the NRC initiated consultation with the South Dakota State Historic Preservation Officer (SD SHPO) via letter dated January 24, 2025 (ML24291A051); and

WHEREAS, in accordance with 36 CFR 800.2(c)(4), the NRC invited Powertech to participate in Section 106 consultation and preparation of this PA via letter dated January 24, 2025 (ML24291A094); and

WHEREAS, consistent with 36 CFR 800.2(c)(2)(ii), by letters dated January 24, 2025 (ML24290A178), the NRC invited 25 federally-recognized Indian Tribes who may ascribe religious and cultural significance to historic properties that may be affected by the undertaking, including the Cheyenne and Arapaho Tribes of Oklahoma, the Cheyenne River Sioux Tribe, the Crow Nation, the Crow Creek Sioux Tribe, the Eastern Shoshone Tribe, the Flandreau Santee Sioux Tribe, the Fort Peck Assiniboine and Sioux Tribes, the Lower Brule Sioux Tribe, the Lower Sioux Indian Community, the Northern Arapaho Tribe, the Northern Cheyenne Tribe, the Oglala Sioux Tribe, the Omaha Tribe of Nebraska, the Pawnee Nation of Oklahoma, the Ponca Tribe of Nebraska, the Rosebud Sioux Tribe, the Santee Sioux Tribe of Nebraska, the Sisseton-Wahpeton Oyate, the Spirit Lake Sioux Tribe, the Standing Rock Sioux Tribe, the Three Affiliated Tribes (Mandan, Hidatsa & Arikara Nations), the Turtle Mountain Band of Chippewa Indians, the Yankton Sioux Tribe, the Apache Tribe of Oklahoma, and the Shakopee Mdewakanton Sioux Community of Minnesota (collectively referred to as consulting Tribes) to each be a consulting party in the Section 106 process (see appendix B for additional details); and

WHEREAS, in accordance with 36 CFR 800.2(c)(5), by letter dated March 14, 2025 (ML25067A003), the NRC invited NDN Collective to be a consulting party in the Section 106 process and development of this PA; and

WHEREAS, the NRC invited each of the 25 consulting Tribes to participate in the development of this PA and to sign the PA as a Concurring Party; and

WHEREAS, the BLM, as a federal agency with a federal action related to this undertaking has participated in the Section 106 consultation and development of this agreement and will be an invited signatory; and

WHEREAS, the EPA as a federal agency has participated in the Section 106 consultation and development of this PA and will be an invited signatory; and

WHEREAS, Powertech, as the licensee for federal approvals has been invited to execute this agreement as an invited signatory in recognition of the responsibilities assigned to the licensee under the terms of this PA; and

WHEREAS, the NRC previously completed a Section 106 review for the initial issuance of license SUA-1600 for the Dewey-Burdock Project, which consisted of consultation with BLM, EPA, SD SHPO, ACHP, Tribes that attach religious and cultural significance to properties, and Powertech, and included archaeological surveys, tribal surveys, line-of-sight analysis (for visual effects), evaluation and determination of eligibility for listing in the ~~National Register of Historic Places (~~NRHP~~)~~, evaluation of adverse effects on historic properties, and recommendations to resolve adverse effects (see appendix B), all of which culminated in the execution of a PA in April 2014 (ML14066A347 and ML14066A350) that expired in April 2024 without being implemented; and

WHEREAS, the surveys conducted included a Class III archaeological survey and evaluative testing (ML25117A002, ML12144A263, ML12144A268, ML12144A270, and ML12144A279) and tribal surveys (ML13343A142, and ML13343A155) to identify properties of religious and cultural significance to Tribes; and

~~**WHEREAS**, in consideration of the time that has passed since the issuance of NRC license SUA-1600, the information that has been gathered during consultation of this PA (described in appendix B), and the magnitude and nature of the undertaking consistent with 36 CFR 800.4, the NRC proposed to conduct a tribal cultural resource survey within the direct APE of the undertaking after execution of this PA and in accordance with the survey methodology in appendix D; and~~

~~**WHEREAS**, the NRC invited the consulting Tribes to participate in the development of a tribal survey methodology for identifying properties of cultural and religious significance to Tribes, which is included in appendix D to this PA; and~~

~~**WHEREAS**, Powertech's roles and responsibilities in the tribal cultural resource survey are described in this PA and appendices; and~~

~~[Placeholder for additional WHEREAS related to the ongoing consultation process, if necessary]~~

NOW, THEREFORE, the NRC, BLM, EPA, SD SHPO, and Powertech agree that the undertaking shall be implemented in accordance with the following stipulations to take into account the effects of the undertaking on historic properties.

STIPULATIONS:

NRC, BLM (on BLM-administered land), and EPA shall ensure that the following measures are carried out within their regulatory authorities:

1) Conditions for Federal Approval:

a) The NRC will require that Powertech comply with all applicable stipulations and provisions of this PA as a condition of Powertech's renewed license for the Dewey-Burdock Project.

b) If the Powertech Dewey-Burdock Uranium ISR Plan of Operations is approved, the BLM will ensure this PA, including all applicable stipulations and provisions therein, will be entered as a condition.~~The BLM will ensure that a Record of Decision on an acceptable Plan of Operation will not be signed until the NRC and SD SHPO have executed this PA, and BLM, EPA, and Powertech have signed the PA as invited signatories (collectively, the "Signatories"). This PA will be entered as a condition of Powertech's Plan of Operation, if approved by the BLM.~~

c) The NRC shall not renew Powertech's license until the NRC and the South Dakota SHPO have executed this PA, and BLM, EPA, and Powertech have signed the PA as invited signatories (collectively, the "Signatories"). ~~all signatories have signed and the PA has been executed.~~ Upon receipt of a fully executed PA, the NRC will renew the license when all other requirements for the NRC license renewal have been met.

d) If an NRC license amendment is required due to a change in the design or operation of the Dewey-Burdock Project and if that change would involve ground disturbing activities outside the currently identified disturbance areas as described in appendix A, NRC will reconsider the eligibility determinations of any archaeological sites and tribal sites ~~with tribally defined features and any tribally identified sites~~ previously found not eligible that may be affected by the new ground disturbance.

2) Identification and Evaluation of Historic Properties within the License Boundary:

a) Appendix B provides information on the previously conducted archaeological and tribal field surveys and describes the cultural resources previously identified ~~to date~~ within and adjacent to the APE for the Dewey-Burdock Project ~~site~~. More than 300 cultural resources were identified.

b) To date, approximately 14 percent of identified sites have been determined eligible for listing on the NRHP, 55 percent have been determined not eligible, and 31 percent remain unevaluated.

~~c) Within 60 days of execution of this PA, the NRC will begin to coordinate a tribal cultural resource survey within the direct APE to revisit and reevaluate previously-recorded sites of significance to consulting Tribes and identify new sites of religious and cultural significance to consulting Tribes using the survey methodology described in appendix D.~~

~~i. Coordination activities will include supporting the selection of a contractor by Powertech to lead and carry out the survey, reimbursement and compensation for tribal representatives participating in the survey by Powertech, the dates of the survey agreeable to the participants, and support for any other activity identified during this coordination period. These coordination activities will be completed, to the extent possible, within 90 days.~~

~~ii. Any party may provide an objection in writing within 5 days of raising the issue. The NRC will consult with the party to resolve the objection within 30 days after receipt of the written objection. If the NRC determines the objection cannot be resolved through consultation, the NRC will follow the process at Stipulation 13(a) – (c) to refer the objection to the ACHP for its advisory opinion.~~

~~iii. Within 30 days of publication of the survey report, the NRC will submit final determinations of NRHP-eligibility and effects to the SD SHPO for a 30-day review and concurrence period. The NRC will circulate copies of this correspondence to all the consulting parties.~~

~~iv. When the SD SHPO agrees with an eligibility determination, avoidance of NRHP-eligible properties will be the preferred option. When avoidance is not possible and adverse effects will result, adverse effects will be resolved in accordance with Stipulation 5—Resolution of Adverse Effects.~~

~~v. If identified cultural resources are determined not eligible for listing on the NRHP but are considered traditional cultural places consistent with National Register~~

~~Bulletin 38, "Identifying, Evaluating, and Documenting Traditional Cultural Places," published in 2024, avoidance will be the preferred option.~~

~~vi. If identified cultural resources are not eligible for listing on the NRHP and are not considered traditional cultural places, no further review or consideration of the properties will be required under this PA.~~

~~vii. When the NRC, BLM, and EPA and the SD SHPO disagree on NRHP-eligibility and the disagreement cannot be resolved through further consultation and avoidance is not an option, the NRC will refer the issue to the Keeper of the National Register (Keeper) and request a formal determination of eligibility, in accordance with 36 CFR § 800.4(c)(2).~~

3) Protection and Evaluation of Unevaluated Properties within the APE:

a) Powertech will protect properties identified as "unevaluated" in appendix B ("Unevaluated Properties") until an NRHP-eligibility determination is completed in accordance with 36 CFR § 800.4(c). Avoidance of Unevaluated Properties will be the preferred option in accordance with Stipulation 5(a). When avoidance is not possible, adverse effects will be resolved in accordance with Stipulation 5—Resolution of Adverse Effects after making eligibility determinations.

b) If changes in the design or operation of the Dewey-Burdock Project, including wellfield configurations, result in ground disturbance that could affect Unevaluated Properties, Powertech shall sponsor necessary supplemental research and/or field investigations prior to commencing any ground-disturbance activities. The additional studies and/or field investigations will provide information to enable NRC, EPA, and BLM, in consultation with consulting Tribes and the SD SHPO, to make NRHP-eligibility determinations for Unevaluated Properties.

c) Powertech must provide to NRC, EPA, and BLM a written plan of its investigation methodology ("Investigation Plan") at least four months prior to commencement of work, to enable the NRC, EPA, and BLM to allocate staff resources for Section 106 reviews; additional review time may be necessary if NRC, EPA, and BLM staff resources are limited or due to conditions beyond the NRC, EPA, or BLM's control.

d) The NRC will distribute the Investigation Plan to all consulting parties within three (3) business days of receipt.

e) Consulting parties will have 30 days to review the Investigation Plan. The NRC will consider any comments received in writing from consulting parties within the specified review period. The NRC will notify Powertech in writing if revisions are necessary within 30 days of the completion of the review period. If revisions to the Investigation Plan are necessary, Powertech will revise the plan accordingly and circulate the revised Investigation Plan to the NRC, BLM (on BLM-administered land), and EPA within 30 days of NRC's notification. The NRC will forward the revised plan to all consulting parties. A second review period of 30 days may be requested.

f) Upon approval of the Investigation Plan by the NRC, BLM (on BLM-administered land), and EPA, Powertech will conduct the supplemental research and/or field investigations and provide recommendations concerning NRHP-eligibility of previously unevaluated cultural resources and evaluation of effects for NRC, EPA, and BLM consideration. The report shall follow documentation standards outlined in 36 CFR § 800.11.

g) The NRC will submit the draft findings of NRHP-eligibility evaluation and draft findings of effects to SD SHPO and consulting Tribes for a 30-day review and comment period.

h) The NRC may request revisions to the reports or additional investigations after consideration of comments received from SD SHPO, and consulting Tribes. The NRC will provide the revisions, if any, to all consulting parties for a 30-day review and comment period.

i) The NRC will submit final determinations of NRHP-eligibility and effects to SD SHPO for 30-day review and concurrence period.

j) When the NRC, EPA, BLM, and SD SHPO~~,~~ in consultation with the Tribes~~,~~ agree on NRHP-eligibility, avoidance will be the preferred option in accordance with Stipulation 5(a). Avoidance measures may include, but are not limited to, the relocation of pipelines, roads, facilities, monitoring wells, and other disturbances. When avoidance is not possible, adverse effects will be resolved in accordance with Stipulation 5—Resolution of Adverse Effects.

k) When the NRC, BLM (on BLM-administered land), EPA and the SD SHPO disagree on NRHP-eligibility and the disagreement is not resolved through further consultation and the resource cannot be avoided, the NRC or BLM (on BLM-administered land) will refer the issue to the Keeper of the National Register (Keeper) and request a formal determination of eligibility in accordance with 36 CFR § 800.4(c)(2).

~~k)~~l) If identified cultural resources are determined not eligible for listing on the NRHP but are considered traditional cultural places consistent with National Register Bulletin 38, "Identifying, Evaluating, and Documenting Traditional Cultural Places," published in 2024, avoidance will be the preferred option in accordance with Stipulation 5(a). When avoidance is not possible and adverse effects will result, adverse effects will be resolved in accordance with Stipulation 5—Resolution of Adverse Effects.

4) Assessment of Effects:

a) As part of its consideration of the effects of construction and operations on the landscape, the NRC conducted a line-of-sight analysis as part of the issuance of license SUA-1600 to assess the potential for adverse visual effects on all known historic properties located within three miles of the tallest buildings on both the Dewey and Burdock facilities.

~~b)~~ The NRC and BLM also consulted with SD SHPO and consulting Tribes in making its determination that eligible or unevaluated archaeological sites and properties of religious and cultural significance to Tribes will be adversely affected by the undertaking as part of

the issuance of license SUA-1600. The effects determination is presented in appendix B, table 3.

~~c)~~

~~d)~~b) ~~An assessment of adverse effects will also be conducted as part of the tribal survey to be carried out consistent with Stipulation 2(c) of this PA.~~

~~e)~~c) The NRC, BLM, and EPA will consult with all consulting parties to develop proposals to resolve adverse effects (as summarized in appendix B table 4 ~~and tribal survey report~~) in accordance with the process set forth in Stipulation 5—Resolution of Adverse Effects.

5) Resolution of Adverse Effects:

a) Avoidance of the NRHP-eligible properties, unevaluated properties, and traditional cultural places will be the preferred option. Powertech shall avoid 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. 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. The NRC will provide the proposed avoidance buffers to BLM, EPA, South Dakota SHPO, and Tribes for a 30-day comment period upon receipt of Powertech's proposal. Powertech will consider the comments received in finalizing the avoidance buffers to be provided to NRC 15 days after NRC transmits the comments to Powertech. Prior to commencement of ground disturbing activities, the avoidance buffers must be appropriately demarcated to avoid inadvertent incursions by Powertech staff or contractors.

~~a)~~b) At least 60 days prior to commencing ground disturbing activities within each wellfield, Powertech shall submit to the NRC, BLM, and EPA, written confirmation that Powertech will not conduct ground disturbing activities within the avoidance buffer areas identified in accordance with Stipulation 5(a). When avoidance is not possible ~~and adverse effects will result~~, adverse effects will be resolved as described below.

c) The notification in Stipulation 5(b) must include a detailed description of the activities (e.g., scope of activities, schedule of the activities, duration of the activities) that would result in potential adverse effects and identify the sites that would be impacted. The notification should also include a map showing the location of the potentially affected sites in relation to the location of the ground disturbing activities. The NRC will solicit suggestions from consulting parties, through a 30-day comment period to start within 15 days of Powertech's notification that avoidance is not possible, concerning supplemental research and/or field investigations necessary to evaluate adverse effects and potential measures to avoid, minimize, or mitigate adverse effects on NRHP-eligible properties, unevaluated properties, and traditional cultural places described in appendix B for that discrete area that cannot be avoided ~~and the tribal survey report described in Stipulation 2(c) of this PA~~. The evaluation of adverse effects could include re-evaluation of the NRHP-eligibility or tribal cultural place determination.

d) Powertech must provide to NRC, EPA, and BLM the written plan of the proposed research and/or field investigations ("Adverse Effects Evaluation Plan") that considers

the input received from consulting parties within 30 days after the NRC transmits the input received in response to Stipulation 5(c).

~~b)~~

e) The NRC, BLM, and EPA, in consultation with consulting parties, will determine what treatment measures are appropriate to each adversely affected NRHP-eligible properties, unevaluated properties, and traditional cultural places.

~~c)~~f) Treatment plans will be coordinated with any research and/or field investigations to be conducted in accordance with Stipulation 5(c) through (f) to the extent practicable.

~~d)~~g) Treatment ~~measures~~ plans can include, but are not limited to the following:

i. For archaeological properties that are significant for their research data potential (Eligibility Criterion D, NRHP), the treatment measures may follow standard mitigation through data recovery. ~~Treatment plan(s) for d~~Data recovery shall include, at a minimum, a research design with provisions for data recovery and recordation, analysis, reporting, and curation of resulting collection and records, and shall be consistent with the *Secretary of Interior's Standards and Guidelines* (48 FR 44734-44737). Treatment plan(s) must be consistent with easement and permit requirements of other agencies, when applicable. To the extent possible, treatment plan(s) should group related sites and areas, so related resources can be considered in context, and to minimize the burden of review and approval by agencies.

ii. Treatment plan(s) for properties eligible under Criteria A, B, and C, or significant for values other than their potential research potential shall specify approaches for treatment or mitigation of the property in accordance with the principles, standards, and guidelines appropriate to the resource, if warranted. This may include, but not be limited to, use of such approaches as relocating the historic property, landscaping to reduce visual effects, public interpretation, ethnographic recordation, oral history, archival research, or prescribing use of a component or activity of this undertaking in such a way as to minimize effects to historic properties. Methods of recordation and documentation described in the treatment plan(s) shall be consistent with the *Secretary of the Interior's* standards and guidelines or other standards specified by NRC.

iii. In lieu of standard mitigation approaches described above, treatment plan(s) may adopt other alternative approaches to avoid, minimize, or mitigate effects to historic properties, including, but not limited to, assisting in the development of Tribal historic preservation plans, developing detailed historic contexts for the region, developing educational materials, purchasing properties containing historic resources, or developing historic property management plans.

~~e)~~h) ~~In conjunction with the submission of their Project Monitoring Plan and Annual Report-Monitoring (see Stipulation 12), which will detail construction and operations activities for each year,~~ Powertech will submit one or more ~~draft~~ treatment plans based

on input provided by all consulting parties on potential treatment measures in conjunction with the Adverse Effects Evaluation written plan. A ~~draft~~ treatment plan will identify properties that will be affected ~~that year~~ and measures that will be taken to avoid, minimize, or mitigate those effects. To the extent possible, treatment plan(s) should group related sites and areas, so related resources can be considered in context, and to minimize the burden of review and approval. ~~A draft treatment plan will be submitted for NRC, BLM, and EPA review four months prior to construction, so the NRC, EPA, and BLM can appropriately allocate staff resources to the extent possible;~~ Aadditional time may be necessary in the event that NRC, BLM, and EPA staff resources are limited due to conditions beyond the staff's control.

i. The treatment plan shall contain a description of the effects on each adversely affected historic property, unevaluated property, and tribal cultural place and a description of the proposed treatment for each of those properties.

ii. If monitoring by a qualified archaeologist and/or Tribal monitor is part of the strategy for resolving or preventing adverse effects, the treatment plan shall include a Treatment Monitoring Plan. The objective of monitoring is to protect known sites from construction impacts, identify at the time of discovery any archaeological materials exposed during ground disturbance, and protect such resources from damage until the procedures for discoveries per Stipulation 8—Unanticipated Discoveries are implemented.

iii. If data recovery is determined to be an appropriate treatment and part of the strategy for resolving adverse effects, the treatment plan shall specify all details of the research design, field, and laboratory work methodology (including mapping, geomorphological or other specialized studies, controlled scientific excavation methods, analyses of data recovered, and photographic documentation as appropriate), and report preparation.

~~f)~~ Upon receipt of a ~~draft~~ treatment plan and Adverse Effects Evaluation written plan, the NRC will transmit the Adverse Effects Evaluation written plan and treatment plan to the consulting parties and will begin coordination of the implementation of these plans with the consulting parties within 10 days of receipt of the plans. ~~submit the draft treatment plan to all c~~Consulting parties ~~for a~~will have 15~~30~~-day review and comment period~~. The NRC, BLM, and EPA will share all comments and consider any comments received in writing from consulting parties within the specified review period.~~

~~g)~~

~~h)~~ . The NRC may ask Powertech to revise the ~~draft~~ treatment plan and Adverse Effects Evaluation plan based on comments received from the consulting parties. ~~The NRC will forward proposed revisions to the draft treatment plan to all consulting parties for a 15-day review and comment period. The NRC will share any changes with the licensee.~~

i)

~~i)~~ The NRC will then distribute the final treatment plan and Adverse Effects Evaluation plan to SD SHPO for a 30-day review and concurrence period, and copies of the plan will be distributed to consulting parties. Upon concurrence by the SD SHPO, or if the SD SHPO

does not respond in writing within 30 days, Powertech can begin implementing the treatment plan.

j)

~~j)~~

k) Any party may provide an objection in writing within 5 days of raising the issue. If, after consultation, the NRC, BLM, and EPA and the SD SHPO cannot agree on appropriate terms for the treatment plan or "Adverse Effects Evaluation" plan, the NRC will refer the matter to the ACHP for comment pursuant to Stipulation 13(a) – (c) ~~Dispute Resolution~~. ~~The NRC, BLM, and EPA will consider ACHP comments in making a final decision on measures to resolve the adverse effects.~~

~~k)~~l) Powertech will provide regular (at least once every two years) Historic Preservation Training to Powertech staff or contractors prior to ground disturbing activities. The training will be documented in Annual Report.

6) Coordination with Other Federal Reviews:

Any federal agency that will provide approval or assistance for the undertaking as presently proposed may comply with its Section 106 responsibilities for the undertaking by agreeing to the terms of this PA in writing and sending copies of such written agreement to all the signatories and consulting parties of this PA. Such agreement to the terms of this PA will not necessitate an amendment to the PA.

7) Confidentiality:

The NRC, BLM, EPA, and other parties to this agreement acknowledge the need for confidentiality concerning tribal spiritual and cultural information, which was or may be provided to the NRC, BLM, and EPA during the consultation process. Information provided by consulting tribal representatives, which has been identified as sensitive and was accompanied by a request for confidentiality, will remain confidential to the extent permitted by state and federal laws.

NRC, BLM, and EPA shall restrict disclosure of information concerning the location or other characteristics of historic properties, as well as properties of religious and cultural significance to Tribes, to the fullest extent permitted by law in conformance with Section 304 of the NHPA, South Dakota Codified Laws, § 1-20-21.2, Section 9 of the Archaeological Resources Protection Act of 1979, and Executive Order on Indian Sacred Sites 13007 (61 FR 26771; May 29, 1996).

8) Unanticipated Discoveries:

In the event a previously unknown cultural resource is discovered during the implementation of the Dewey-Burdock Project, all ground disturbance activities shall halt within 150 feet of the area of discovery to avoid or minimize impacts until the property is evaluated for listing on the NRHP by qualified personnel. The following additional steps shall be taken:

a) Powertech will notify the NRC, BLM (if the site is on BLM-administered land), EPA, the SD SHPO, and the consulting Tribes (Tribal Historic Preservation Officer and/or the

Tribal Cultural Resource Office) of the discovery within 48 hours. Unanticipated discoveries may include artifacts, bone, features, or concentrations of these materials outside previously identified sites, or in and adjacent to previously identified eligible and not eligible sites. Discoveries may also include stones and groups of stones that are out of place in their sedimentary contexts and may be parts of stone features. A "discovery" may also include content suspected to be man-made.

b) Powertech will have the discovery evaluated for NRHP eligibility by a professional who meets the Secretary of the Interior's Professional Qualifications Standards in Archaeology (36 CFR § 61).

c) Powertech will provide results of evaluation and initial eligibility recommendation to the NRC, BLM, and EPA within five business days of the discovery, and the NRC will in turn provide the results of the evaluation and eligibility recommendation to the Tribes for a 5-business day review and comment period.

d) The NRC, BLM, and EPA will request concurrence from the SD SHPO within five business days of receipt of the concurrence request.

e) When the NRC, BLM, EPA, and SD SHPO agree evaluated cultural resources are NRHP-eligible, avoidance of the cultural resources will be the preferred option in accordance with Stipulation 5(a). When avoidance is not possible and adverse effects will result, adverse effects will be resolved in accordance with Stipulation 5—Resolution of Adverse Effects.

f) If the NRC, BLM, EPA, and SD SHPO make the determination that identified cultural resources are not eligible for listing on the NRHP, no further review or consideration of the properties will be required under this PA. If identified cultural resources are determined not eligible for listing on the NRHP but are considered traditional cultural places consistent with National Register Bulletin 38, "Identifying, Evaluating, and Documenting Traditional Cultural Places," published in 2024, avoidance will be the preferred option in accordance with Stipulation 5(a).

g) When the NRC, BLM (on BLM-administered land), EPA, and the SD SHPO disagree on NRHP-eligibility and the disagreement is not resolved through further consultation and the resource cannot be avoided, the NRC will refer the issue to the Keeper and request a formal determination of eligibility in accordance with 36 CFR § 800.4(c)(2).

h) Human remains identified during ground disturbance activities will be treated in accordance with Stipulation 9—Human Remains and appendix C—Treatment of Human Remains on State, Private, and BLM Land.

i) In the event of unanticipated discovery, Powertech may continue to work in other areas of the site; however, ground disturbance activities shall not resume in the area of discovery until the NRC, BLM, and EPA have issued a written notice to proceed.

9) Human Remains:

a) The NRC, EPA, BLM, and Powertech recognize human remains, funerary objects, sacred objects, and items of cultural patrimony encountered during ground disturbance activities should be treated with dignity and respect.

b) Native American human remains, funerary objects, sacred objects, or items of cultural patrimony found on BLM land will be handled according to Section 3 of the Native American Graves Protection and Repatriation Act (NAGPRA) and its implementing regulations (43 CFR § 10). BLM will be responsible for compliance with the provisions of NAGPRA on Federal land.

c) Native American human remains, funerary objects, sacred objects, or items of cultural patrimony found on state or private land will be handled in accordance with applicable law as described in appendix C – Treatment of Human Remains on State, Private, and BLM Land.

d) Non-Native American human remains found on federal, state, or private land will be treated in accordance with applicable state law.

10) Disposition of Archaeological Collections:

a) BLM will curate artifacts, materials or records resulting from archaeological identification and mitigation conducted on BLM land at the Billings Curation Center, in accordance with the Billings Curation Center Packaging Requirements in accordance with 36 CFR § 79, “Curation of Federally-Owned and Administered Archaeological Collections.” BLM will consult with Tribes as required by 36 CFR § 79.

b) Where testing or excavation is conducted on private land, any recovered artifacts remain the property of the landowner. Powertech will return the artifacts to landowners. Powertech will encourage landowners to donate the artifacts to the SD Archaeological Research Center or a Tribal entity, in coordination with the NRC, EPA, SHPO, and consulting Tribes. Where a property owner declines to accept responsibility for the artifacts and agrees to transfer ownership of the artifacts to SD Archaeological Research Center or Tribal entity, Powertech will assume the cost for curating the artifacts in a facility meeting the requirements of 36 CFR § 79, “Curation of Federally-Owned and Administered Archaeological Collections.”

11) Qualifications:

The identification, evaluation, and mitigation of historic properties carried out pursuant to this PA shall be performed by or under the direct supervision of qualified individuals in the appropriate historic preservation discipline meeting the appropriate standards set forth in 36 CFR § 61.

In recognition of the special expertise Tribal experts have concerning properties of religious and cultural significance, the standards of 36 CFR § 61 will not apply to knowledgeable, designated tribal representatives carrying out identification and evaluation efforts for properties of religious and cultural significance to Tribes.

12) Compliance Monitoring:

NRC, BLM, EPA, and Powertech affirm that avoidance of adverse effects to historic properties and traditional cultural places remains the preferred course of action as committed to by Powertech. The following additional steps shall be taken:

a) Powertech will ensure employees and/or contractors involved in all phases of the Dewey-Burdock Project are aware of and comply with the requirements of the PA. Powertech may use measures such as initial orientation training, as well as pre-job briefings to inform employees and contractors of their responsibilities under the PA.

b) Prior to initiating construction activities, Powertech will develop a Project Monitoring Plan identifying specific areas, activities, and if appropriate, historic properties, unevaluated properties, and traditional cultural places that require monitoring during development of the Dewey-Burdock project, ensuring the requirements of this PA and the treatment plans developed under the provisions of Stipulation 5—Resolution of Adverse Effects are met. The project monitoring plan will contain the anticipated construction and operation schedule and specify the construction and operations activities ~~for the first year~~. The project monitoring plan will also include provisions for annual reporting of the results of the monitoring program to the signatories of and the consulting parties to this PA.

    i. Powertech will provide the Project Monitoring Plan to the NRC, which will distribute it to the signatories and consulting parties to this PA for a 30-day review and comment period.

    ii. The NRC will request that Powertech make any necessary revisions to the plan, and the revised Project Monitoring Plan will remain in effect for all covered ground-disturbing activities during the license period.

c) Powertech will engage the services of a Monitor with specific responsibilities to coordinate the requirements of the monitoring plan, the treatment plans, and this PA during the Dewey-Burdock Project construction.

    i. The Monitor will meet the Secretary of the Interior's Professional Qualifications for Archaeology. Preference will be given to individuals meeting those qualifications who are employed by tribal enterprises, especially during phases of the monitoring program where sites with religious and cultural significance to the Tribes might be affected. In the case of an unanticipated discovery or imminent threat to a historic property (for which avoidance had been planned), the Monitor shall have authority to stop certain construction activities.

    ~~i.~~ii. The Monitor will coordinate with Powertech and its contractors during the construction phases of the Dewey-Burdock project.

d) Powertech will provide annual ~~periodic~~ updates (Annual Report – Monitoring) to all consulting parties on the status of the project monitoring program as follows:

i. On or before ~~January~~ October 31 of each year following the commencement of construction, unless the signatories agree in writing that the terms of this PA have been fulfilled, Powertech shall prepare and provide an annual report to the NRC, BLM, EPA, and SD SHPO detailing how the applicable terms of the PA are being implemented, anticipated ground disturbing activities for the next year, and any deviations worth noting. This report will also provide photo documentation confirming that the demarcated avoidance buffers established in Stipulation 5 have been avoided.

ii. Powertech shall provide an annual report every year if ground disturbing activities have or will occur, and every third year thereafter if no ground disturbing activities have or will occur, as long as the PA remains in effect, unless the signatories agree to another time period for reporting.

iii. Powertech shall provide copies of the report to all consulting parties.

~~i.~~iv. If any of the signatories so request, Powertech shall coordinate a conference call with all participating consulting parties to review the annual report, assess the outcomes achieved, and/or discuss issues raised in the annual report. The conference call shall be coordinated within 30 days after the request.

13) Dispute Resolution:

Should any signatory to this PA object in writing to any action proposed or to the manner in which terms of the PA are implemented, the NRC shall consult with the party to resolve the objection. If the NRC determines the objection cannot be resolved, the NRC will:

a) Forward all documentation relevant to the dispute, including the NRC proposed resolution, to the ACHP and send a copy to all other consulting parties. The ACHP shall provide NRC with its advice on the resolution of the objection within 30 days of receiving adequate documentation. Prior to reaching a final decision on the dispute, NRC shall prepare a written response that takes into account timely advice or comments regarding the dispute from the ACHP, signatories, concurring parties, and consulting parties, and provide a copy of this written response to them. NRC will then proceed according to its final decision.

b) If the ACHP does not provide its advice regarding the dispute within the 30-day period, the NRC may make a final decision on the dispute and proceed accordingly. Prior to reaching a final decision, NRC shall prepare a written response that takes into account timely comments regarding the dispute from the signatories, and provide the signatories and the ACHP with a copy of such written response.

c) The NRC's responsibilities under this PA, which are not the subject of the dispute, shall remain unchanged.

14) Amendment:

This PA may be amended when such an amendment is agreed to in writing by all signatories. If a required signatory does not sign the amended PA, the amendment will be void.

Any party that signs this PA as a concurring party will be provided an opportunity to consult and comment on the proposed amendment.

The amendment will be effective on the date a copy signed by all of the signatories is filed with the ACHP. The amendment shall be appended to this PA as an appendix.

15) Termination:

a) If any signatory to this PA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other parties to attempt to develop an amendment to the PA pursuant to Stipulation 14—Amendment. If within 30 days (or another period agreed to by all signatories) an amendment cannot be reached, any signatory may terminate the PA upon written notification to the other signatories.

b) If this PA is terminated the NRC shall either (i) execute a new PA pursuant to 36 CFR § 800.6(c)(8) with signatories as defined in 36 CFR § 800.6(c)(1) or, (ii) the NRC shall request comments, take into account, and respond to the comments of the ACHP under 36 CFR § 800.7(c)(4). NRC shall notify the signatories as to the course of action it will pursue.

c) After the termination of this PA and until the NRC completes consultation and a new PA is executed or the NRC has requested, taken into account, and responded to the comments of the ACHP under 36 CFR § 800.7, Powertech is required to follow the terms and conditions of this PA for current ground-disturbing activities and is not permitted to begin any such activities in new areas.

d) If the terms of this PA are satisfied prior to its expiration date, NRC shall provide written notification to the other signatories and consulting parties to close out this PA.

16) Duration:

This PA shall remain in effect for 20 years from its date of execution (last date of signature by signatories), or until completion of the work stipulated, whichever comes first, unless extended by agreement among the signatories. During the effective period and prior to the expiration of the PA, the NRC may consult with the signatories and concurring parties to amend this stipulation to extend the duration of the PA, in accordance with Stipulation 14—Amendment.

17) Anti-Deficiency Act:

The stipulations of this Agreement are subject to the provisions of the Anti-Deficiency Act (Pub.L. 97–258, 96 Stat. 923; 31 U.S.C. §1341, Limitations on expending and obligating amounts). If compliance with the Anti-Deficiency Act alters or impairs the ability of the NRC to implement this Agreement, the NRC will consult in accordance with the amendment and termination procedures in this Agreement.

18) Execution:

Execution of this PA by the NRC, BLM, EPA, SD SHPO, and Powertech and the implementation of its terms is evidence the NRC and BLM have taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

Nothing in this PA shall be construed or interpreted to alter the NRC's enforcement authority related to compliance with the NRC's regulations or license conditions.

This PA may be executed in counterparts, each of which shall constitute an original, and all of which shall constitute one and the same agreement.

19) Severability~~.~~:

Should any portion of this PA be judicially determined to be illegal or unenforceable, the remainder of the PA shall continue in full force and effect, and any party may renegotiate the terms affected by the severance.

20) Sovereign Immunity~~.~~:

No signatory to this agreement waives their sovereign or governmental immunity by entering into this PA and each fully retains all immunities and defenses provided by law with respect to any action based on or occurring as a result of the PA.

~~Nothing in this PA shall be construed or interpreted to alter the NRC's enforcement authority related to compliance with the NRC's regulations or license conditions.~~

~~This PA may be executed in counterparts, each of which shall constitute an original, and all of which shall constitute one and the same agreement.~~