

**From:** Dyan Youpee <d.youpee@fortpecktribes.net>  
**Sent:** Friday, May 8, 2026 12:20 AM  
**To:** Diana Diaz Toro  
**Cc:** Floyd Azure  
**Subject:** [External\_Sender] Re: NRC Draft Final Section 106 Programmatic Agreement for the License Renewal for the Dewey-Burdock Uranium Recovery Project

**VIA EMAIL:** [diana.diaz-toro@nrc.gov](mailto:diana.diaz-toro@nrc.gov)

Robert Sun, Chief Environmental Project Management  
Branch 2 Division of Rulemaking, Environmental, and Financial Support  
Office of Nuclear Material Safety and Safeguards U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555-0001

**RE: Response to Draft Final Section 106 Programmatic Agreement for the Dewey-Burdock Uranium Recovery Project (Docket Number: 40-9075)**

To whom It will concern,

The Fort Peck Assiniboine and Sioux Tribal Historic Preservation Office have reviewed the U.S. Nuclear Regulatory Commission's (NRC) letter dated April 17, 2026, and the accompanying Draft Final Programmatic Agreement (PA) for the Dewey-Burdock Project. We submit these comments to formally question the fundamental Western-centric "cultural resource" framework used throughout this document and to assert our perspective on the preservation of both tangible and intangible heritage.

There seems to be a failure of fragmented preservation, where the current PA framework continues to treat Indigenous heritage as a collection of isolated "sites" and "archaeological artifacts" such as hearths, stone circles, and "artifact scatters". This fragmented approach—identifying individual dots on a map while ignoring the connective tissue of the landscape—is a direct affront to our sovereignty and belief systems.

For the Tribes, the Black Hills (He Sapa) are not merely a location for "undertakings" or "wellfields"; they are a singular, living, and sacred entity. The NRC's focus on physical "land disturbance" as the primary trigger for "adverse effects" fails to account for the spiritual and intangible integrity of the landscape. When a sacred landscape is pierced by uranium extraction, the damage is not confined to the diameter of a borehole; it is a spiritual injury to the whole.

**Legal Obligations and Sacred Integrity** The NRC claims this PA satisfies its obligations under Section 106 of the **National Historic Preservation Act (NHPA)**. However, Section 106 requires more than a phased "mitigation" of physical sites. It requires meaningful consultation that respects the religious and cultural significance Tribes ascribe to these properties.

Furthermore, we bring forward the following authorities which the current PA fails to properly integrate:

- **American Indian Religious Freedom Act (AIRFA):** This law protects our inherent right to believe, express, and exercise our traditional religions, including access to

sacred sites and the freedom to worship through ceremonial and traditional rites. The industrialization of the Black Hills through the Dewey-Burdock project constitutes a substantial burden on these protected religious practices.

- **Executive Order 13007:** This order mandates that federal agencies shall, to the extent practicable, "avoid adversely affecting the physical integrity of Indian sacred sites." By limiting the "Area of Potential Effects" (APE) to immediate environs and visual radii, the NRC ignores the holistic physical and spiritual integrity of the Black Hills as a sacred site.

**Tangible vs. Intangible Realities** The PA mentions that "avoidance is the preferred method to preserve historic properties". While the NRC may "avoid" a physical hearth, it cannot "avoid" the intangible desecration caused by the extraction of yellowcake from the womb of the Black Hills. The spiritual relationship with the land is an "ancestral property" that cannot be mitigated through "monitoring plans" or "evaluative testing". There are more adverse effects than physical. The viewshed and closeness of the project is adverse enough.

The Tribes find the "phased process" described in the PA to be a bureaucratic mechanism designed to facilitate project development rather than achieve true preservation. We question a process that seeks to "satisfy" legal obligations while the very people whose history is at stake remain in fundamental opposition to the destruction of a sacred landscape.

The Black Hills are not a "resource" to be managed; they are our relatives. We request that the NRC move beyond the "archaeological" lens and engage in a decolonized consultation process that recognizes the totality of the Black Hills as a sacred, living entity protected under the NHPA, AIRFA, and EO 13007.

Thank you for your time and request to review.

On Fri, Apr 17, 2026 at 7:14 PM Diana Diaz Toro <[Diana.Diaz-Toro@nrc.gov](mailto:Diana.Diaz-Toro@nrc.gov)> wrote:

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*

Project Manager

U.S. Nuclear Regulatory Commission

NMSS/REFS/EPMB2

301-415-0930

[diana.diaz-toro@nrc.gov](mailto:diana.diaz-toro@nrc.gov)

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**Ms. Dyan Youpee - T.H.P.O.**

**Cultural Preservation Director**

Fort Peck Assiniboine & Sioux Tribes

501 Medicine Bear Rd, P.O. Box 1027

Poplar Montana, 59255

O: 406-768-2382

Site: [Cultural Preservation Department](#)



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"Floyd Azure" <floyd.azure@fortpecktribes.net>  
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"Diana Diaz Toro" <Diana.Diaz-Toro@nrc.gov>  
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