UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8
1595 Wynkoop Street
Denver, CO 80202-1129
Phone 800-227-8917
www.epa.gov/region08

NOV 25 2015

Ref: 8P-W-UIC

Honorable Myra Pearson, Chairperson
Spirit Lake Tribe
P.O. Box 359
Fort Totten, North Dakota 58335-0357

Re: U.S. Environmental Protection Agency Underground Injection Control Program Invitation for Formal Consultation on the Dewey-Burdock Uranium Recovery Site Near Edgemont, South Dakota

Dear Chairperson Pearson:

The U.S. Environmental Protection Agency (EPA) Region 8 Underground Injection Control (UIC) Program would like to consult with you, and any other representatives you would like to invite, on the proposed Dewey-Burdock uranium in-situ recovery (ISR) site in the southern Black Hills near Edgemont, South Dakota. The location of the Dewey-Burdock site is shown in the enclosed Figure 1.

The EPA UIC Program has received two permit applications from Powertech (USA) Inc.: one is for Class III injection wells used during the uranium recovery process; the second is for deep injection wells for the disposal of treated ISR process waste water. For additional information about the proposed Dewey-Burdock site, please see the enclosed page entitled *Background Information on the Proposed Dewey-Burdock Uranium In-Situ Recovery Site* and enclosed Figures 1 through 5.

In August 2015, the EPA initiated "inform and educate" sessions under the EPA's Tribal Consultation Policy and spoke with a number of tribal leaders, Tribal Historic Preservation Offices and tribal environmental directors about the UIC permit applications the EPA received. These sessions provided information about the proposed project scope and requested both information and feedback regarding the project area, tribal interest, and additional information tribes would like to have as we proceed into formal consultation.

Purpose of Formal Consultation
The EPA's policy is to consult on a government-to-government basis with federally recognized tribal governments when the EPA actions and decisions may affect tribal interests. The EPA views consultation as a process of meaningful communication and coordination between the EPA and tribal officials prior to the EPA taking actions or implementing decisions that may affect tribes.

For information about the EPA Tribal Consultation Policy please visit the following website: http://www2.epa.gov/tribal/forms/consultation-and-coordination-tribes.

A separate consultation responsibility arises under section 106 of the National Historic Preservation Act (NHPA). Wherever appropriate, the EPA attempts to integrate section 106 consultation with the general

consultation under our Tribal Consultation Policy. The EPA acknowledges that Indian tribes possess special expertise in assessing the National Register eligibility of historic properties that possess religious and cultural significance.

During the formal consultation meeting, we would like to present information about the scope of the Powertech-proposed process and relevant EPA-regulated activities that would be conducted at the Dewey-Burdock site, if permitted. We would also discuss the EPA's approach to both general consultation and the NHPA Section 106 consultation process. Given the questions and concerns a number of tribes have about the potential impacts on the Black Hills, the EPA would like to engage in government-to-government consultation with the Spirit Lake Tribe to:

- Discuss the proposed Dewey-Burdock project and the UIC permit applications;
- Discuss your concerns about potential historic properties, including those of traditional religious and cultural importance, within the Dewey-Burdock area of potential effect;
- Provide information to the EPA on the Tribe's interest in identifying and/or evaluating any properties or sites and hearing the Tribe's recommendations on who should perform this work;
- Provide your views on how the EPA actions at the Dewey-Burdock site might affect any properties or sites; and
- Participate with the EPA in resolving potential adverse effects.

We understand that the Spirit Lake Tribe may raise issues in consultation that should be kept confidential and nonpublic. During the course of our consultation process, if there is information that you would like to provide, but that you believe should remain confidential, please contact us by phone, and we will explore options for keeping the information confidential in accordance with 36 CFR § 800.11(c). As we move forward with the consultation process, please be aware that any information you provide to the EPA in writing will become a part of the public record unless other arrangements are made to maintain confidentiality.

We look forward to engaging in formal government-to-government consultation with the Spirit Lake Tribe regarding the Dewey-Burdock project. We would appreciate a reply from you as to whether or not you are interested in engaging in formal consultation with the EPA by Friday, December 11, 2015. Please provide a point of contact from your Tribe so we can keep you informed as the EPA moves forward with this consultation process. Please reply back to Douglas Minter, the UIC Unit Chief, and indicate if you would like to schedule a meeting with us for formal consultation. Mr. Minter can be reached at (800) 227-8917, extension 312-6079 or (303) 312-6079; or by email at minter.douglas@epa.gov.

Sincerely,

Darcy O'Connor
Acting Assistant Regional Administrator
Office of Partnerships and Regulatory Assistance

Enclosures (6)

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cc: Dr. Erich Longie, Tribal Historic Preservation Officer
Mr. Joshua Tweeton, Environmental Director

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