UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8
1595 Wynkoop Street
Denver, CO 80202-1129
Phone 800-227-8917
www.epa.gov/region8

September 18, 2020

Ref: 8WP-SDU

SENT VIA EMAIL
DIGITAL READ RECEIPT REQUESTED

Honorable Julian Bear Runner
President, Oglala Sioux Tribe
Pine Ridge, South Dakota
president.bearrunner@oglala.org

Re: Response to August 21, 2020 Letter Requesting Joint EPA – Bureau of Land Management Tribal Consultation with the Oglala Sioux Tribe

Dear President Bear Runner:

EPA received your letter dated August 21, 2020, requesting that the Environmental Protection Agency and the Bureau of Land Management (BLM) hold a joint tribal consultation meeting with the Oglala Sioux Tribe (Tribe) regarding the proposed Dewey-Burdock uranium in-situ recovery site, including the Underground Injection Control (UIC) permit applications submitted to EPA regarding that proposed site. EPA and the Tribe discussed this request during our August 28, 2020 videoconference. Since then, EPA has been in contact with BLM representatives, and both agencies plan to attend the tribal consultation meeting scheduled for October 2, 2020 that will be held at the Tribe's headquarters on the Pine Ridge Indian Reservation.

EPA emphasizes the importance of adhering to the schedule for holding the EPA – BLM joint tribal consultation meeting with the Tribe on October 2, 2020, given that EPA would like to receive the Tribe's input on the UIC permit applications, and that EPA plans to make its final decisions on the UIC permit applications shortly after that October 2, 2020 date. As background, EPA first offered consultation with the Tribe regarding the Dewey-Burdock UIC permit applications in November 2015, and most recently offered additional tribal consultation in July 2019, regarding EPA's revised draft UIC permits and related draft documents. Subsequently, the Tribe scheduled in person tribal consultation meetings with EPA at the Pine Ridge Reservation on March 23 and June 24, 2020. EPA was not able to attend in person due to its COVID-19 travel restrictions, and offered teleconference or videoconference meetings instead, but the Tribe declined. Thereafter, the Tribe and EPA scheduled a tribal consultation videoconference on August 28, 2020 and held that meeting. This constituted a tribal consultation meeting pursuant to the EPA Policy on Consulting and Coordinating with Indian Tribes. However, the Tribe informed EPA that it did not constitute tribal consultation under the Tribe's Ordinance No. 11-10 on Government-to-Government Consultation because a quorum of Tribal Council members was not present. In order to continue tribal consultation with the Tribe, EPA has postponed its previous schedule

to take final action on the UIC permit applications, but EPA must balance the consultation requests from the Tribe with the fact that the UIC permit applications have been pending since January 2013. Therefore, EPA emphasizes the importance of adhering to the schedule for holding the EPA – BLM joint tribal consultation meeting with the Tribe on October 2, 2020.

During the October 2, 2020, tribal consultation meeting, the Tribe will have the opportunity to discuss topics previously identified by the Tribe and EPA, as outlined in the enclosed June 24, 2020 proposed agenda that the Tribe provided to EPA, in addition to any other topics the Tribe would like to discuss. Moreover, EPA is available to hold the technical meetings requested by the Tribe before the October 2, 2020 tribal consultation meeting, and urges the Tribe to hold those meetings to gather technical information to share with the Oglala Sioux Tribal Council in advance of the October 2, 2020, tribal consultation meeting.

The Tribe also requested that EPA and BLM invite to the October 2, 2020, tribal consultation meeting other tribes who were signatories to the 1868 Treaty of Fort Laramie. EPA would like to clarify that we have previously offered tribal consultation to 38 federally-recognized Indian tribes, which to EPA's knowledge includes all federally-recognized tribes that were signatories to the 1868 Treaty (or that trace their history to tribes and bands that were signatories). Further, EPA has already held tribal consultation meetings with each tribe that requested consultation, and no other tribe has requested further tribal consultation at this time.

EPA is aware of the Tribe's Ordinance No. 11-10 on Government-to-Government Consultation and will endeavor to honor the Ordinance to the extent possible, and consistent with the EPA Policy on Consulting and Coordinating with Indian Tribes, including EPA conducting consultation with Tribal Council at the Pine Ridge Indian Reservation.

Please have your staff contact Valois Robinson of my staff at robinson.valois@epa.gov to schedule the technical meetings with EPA. Please contact me by phone at 303-312-6392 or by email at oconnor.darcy@epa.gov if you would like to have additional discussion about this letter or our upcoming consultation meeting.

Sincerely,

HUMBERTO GARCIA

Digitally signed by HUMBERTO GARCIA
Date: 2020.09.18 13:17:50 -06'00'

For
Darcy O'Connor, Director
Water Division

cc: Ms. Jennifer Spotted Bear, Oglala Sioux Tribe Secretary
Mr. Reno Red Cloud, Oglala Sioux Tribe Water Administrator
Mr. Chancy Wilson, Oglala Sioux Tribe Land Committee, Chairman
Ms. Barbara Yellow Hair, Oglala Sioux Tribe Land Committee, Secretary
Mr. Russell Zephier, Oglala Sioux Tribe Attorney
Mr. Mario Gonzalez, Oglala Sioux Tribe Attorney