1. Stating general opposition to uranium mining, drilling and uranium waste disposal, especially in the Black Hills (without more specific information).

Letter ID	Commenter Name	Commenter Org.	Text

2. General concerns for impacts to Native Americans/the sacred Black Hills.

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
00008	Ex. 5 Deliberative Process (DP)	Individual	Subject: South Dakota Uranium Mining I oppose the allowance of these mining permits, as they endanger the drinking water in nearby areas, as well as intrudes on Indigenous-owned spaces.	Ex. 5 Deliberative Process (DP)	
00019		Individual	Subject: Valois Shea , permits to mine uranium This is unacceptable. permits to mine uranium in the southern Black Hill should be denied! Putting poison water in to the ground should never be permitted .....The Black Hills, the heart of everything that is. The 1868 Fort Laramie Treaty was ratified by Congress and was never amended. Under international law it is Native land. "The laws of the United States, the NRC regulations, and the individuals who sit behind those desks can honor treaty law, the life way of the Lakota, environmental laws, and demonstrate respect for Mother Earth by denying application to mine uranium."		
00026		Individual	Subject: Uranium mining/aquifer S. D. I am writing to oppose the plan to dump wastes from uranium mining under the aquifer in S. D. This is not wise from many standpoints. Once again our Native American tribes are threatened with a real risk to their drinking water.		
00099		Individual	Why would anyone think that it should be allowed to issue permits that would needlessly expose the Lakota Oyate to the devastation of uranium mining and continue America's war against Red Nations' peoples.		
00113		Individual	As the wife, and mother, of enrolled members of the Oglala Sioux Tribe, I am even more concerned what impact this project will have on the well being of my native brothers and sisters. It is clear, if history is any indicator, that this proposed project will leave them most vulnerable.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
00137	Ex. 6 Personal Privacy (PP)	Individual	Not to mention, the Black Hills are sacred ground to the Lakota people. After everything that happened at Standing Rock, the brutality and the suppression of our fellow people, please help our country learn from past mistakes. These short-term risks our country is taking with the environment are not worth the detrimental effects they will have for decades. I know you pursued your career to make a change for the greater good. You have the chance to take a stand against environmental catastrophe. Please deny the Dewey-Burdock permit.	Ex. 5 Deliberative Process (DP)	
00160		Individual	Native Americans have been consistently exploited in our nation and have had sacred lands taken from them to allow for the extraction of resources too many times. The Dewey-Burdock project would continue and encourage this trend, whether it is intentional or not. Uranium mining and the technologies associated with this process also create a danger and risks for an accident or mistake to be made along the way. A lot can go wrong, particularly when injecting wastewater from uranium mining back down into aquifers. There are preventative measures put into place to avoid and deal with accidents, but when it comes down to it, there is no way to guarantee safety. [...] When considering the wellbeing and interests of Native American tribes, the Dewey-Burdock project oversteps onto the rights and important lands that these tribes cherish. There are still plenty of agreements that must, but may not be reached with these tribes and as the Nuclear Regulatory Commission states, "The NRC identified 23 Native American tribes that attach historical, cultural, and religious significance to sites within the Dewey-Burdock ISR Project area" (NRC, 2014). Twenty-three is a very large number and they should all have a voice that is heard and acknowledged by our democratic system to prevent this project from occurring. The value of historic land and loss of culture cannot be made up with money.		
00174		Individual	Subject: Opposition to Dewey Burdock Uranium Aquifer Mining [...] Crazy Horse told his people he wanted them to remember him whenever they saw the Black Hills. This is sacred land. Visitors to this area come for contemplation, rejuvenation, and inspiration. I believe strongly in the value of our natural environment. These treasures must be protected as unique and important to our		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			history, the people who live in the Black Hills, travelers to the area, the larger environment, and the people of the world	Ex. 5 Deliberative Process (DP)	
00245	Ex. 6 Personal Privacy (PP)	Individual	Subject: Dewey-Burdock NO Dear Ms. Shea, I testified at one of the hearings that were held at the Ramkota in Rapid City. I would like to reiterate my comments here. I am 100 percent against the dewey-burdock plan to "mine" for uranium and to dump waste in our aquifers. 1.Environmental in...justice: Native American Tribes have put up with a multitude of ways in which their lands have been stolen. Now the plan seems to be to strip them of clean safe water.		
00429		Individual	Another subject about this project that gives me reason to pause is the proposal to do this on Native American land. I was able to witness the lack of respect given to Natives during the construction of the Dakota access pipeline. Sacred sites were not respected nor was a cease order given, when requested from other government agencies, when sacred sites where at risk. With all that is considered in this project I don't think the E.P.A. would be standing up to their name by allowing these permits. Please consider rejecting the permits for these projects. Thank you for your time.		
			And we should think of my Native brothers and sisters, what they have given to this country. There's no measure of what has been given by them, taken from them for the benefit of this country. We owe them a hell of a lot, and maybe now we better start listening to their hearts. They tell some stories of history, things we should be paying attention to. We're not so wise. [...] They can't leave, and we cozily sit at home, watching our TV, sipping a tall drink or a short one. When I get home, I'm going to have one, I'll guarantee you, after this afternoon.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			In 2007, the Oglala Sioux Tribe declared the Pine Ridge Reservation a nuclear-free zone. I know that the EPA knows about respecting the environment -- the environmental quality across jurisdictions. After the publication titled "Stream sediment geochemistry of the upper Cheyenne River watershed within the abandoned uranium mining region of the Southern Black Hills, South Dakota, USA" was released, how was this draft permit for further uranium mining respectful of my tribe's wish to be a nuclear-free zone? [...] You want to segregate us and call us the Oglala Sioux Tribe, the Rosebud Sioux Tribe, the Cheyenne River Sioux Tribe, the Standing Rock Sioux Tribe, go ahead. But you also need to consider that we are the Great Sioux Nation and think about how you're impacting us. Thank you.	Ex. 5 Deliberative Process (DP)	
			Turtle Island, this land, that's what it's called -- [...] WANKINYA HO WASTE: All right. Again, this land you're on is called Turtle Island, Keya Wita. The Black Hills is the heart of this nation. And if you was to lay the cancer you call uranium on that heart, you will kill all future representations of the culture in this state, which is our seventh generation.		
			Why is it that you guys want this land? Why do they want this land to destroy it so bad when this is the sacred grounds? (Speaking in indigenous language.) [...] You know what? We were put here to take care of this land. We don't own this land. Nobody owns this land. We all belong to this land. When we die, we go back to the land. Why is it so important for you guys to come and do all this stuff on our land? And then again, I'm going to get mad at you ones that support this. My people, I'm going to say something. (Speaking in indigenous language.)		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			Good late afternoon. (Speaking in indigenous language.) I am a -- have heard everybody saying they're members of something. I am a lifetime member of the Oglala Lakota, and I am very humbled to be here in front of you today. (Speaking in indigenous language.) I extend a warm handshake to each and every one of you. I am -- I have two degrees, and I feel obligated to introduce myself in a very, very cultural way. I represent the lesbian, gay, bisexual, trans persons, queer, and two-spirit oyate people. I have been with my lifetime partner, Felipa De Leon, for 14 years. And we have come upon and have very, very much, with our humble hearts, been active in environmental causes to the extremes of we are reaching that threshold in our life now that we are here to protect Mother Earth. And just to get that introduction out of the way, I want to say that I would like the Environmental Protection Agency to know that this is wrong, and we highly oppose anything that they try to do going forward. I think the whole entire Environmental Protection Agency has to understand, you're not only affecting right now, we are taking up a major, major cultural journey. You're affecting generations to come. We all know that we have taken Mother Earth for granted, Unci Maka. And I can't sit down anymore. I cannot sit down. I cannot be quiet. It's -- It's terrible that we have to be up here in a hearing method, and the heads of EPA and the President of the United States can't understand that. [...] We are Lakota. We are indigenous Native Americans. We are Mother Earth. We were here before you came. We're the only ones that can stop this from happening. And I have to stand up here, and I have to oppose you. And I know everybody, and I humbly ask for your forgiveness, and I apologize if I'm speaking out of time. But I have to tell you, EPA, this is wrong. This is terrible what you're doing. Because my grandkids are growing up. They are going to have kids. I know each and every one of you has kids. Your kids are going to have kids. Their kids are going to have kids. Are they going to even have a place to stay?	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			One more thing. Never, ever take money over where you live. Water is the most important thing. Mni wiconi. Water is life. It's the most important thing. It is a cleansing process. It's already dirtied up. We're not doing anything to fix it. EPA, you're just doing stuff to get it even worse. Stop it. I fully, 100 percent oppose this. Please don't do it. Stop it. Do not allow this to happen. Is that it? (Speaking in indigenous language.)		
8050 (10/5 Hot Springs hearing)	Ex. 6 Personal Privacy (PP)	Individual	My name is -- can you hear me? My name is Reno Red Cloud. I'm with the Oglala Sioux Tribe, Water Resource Department. I am the great-grandson of Chief Red Cloud. I am the sixth generation. And I just wanted to give some comments today concerning our position with these water -- draft water permits. First of all, I think these draft water permits are coming from the Black Hills aquifer, and they are recharged for our aquifers on the reservation, originally the Ogallala Aquifer, so -- and then the Cheyenne River is the headwaters for our surface and groundwater. And those are -- the sources are interconnected. That's how we believe, they are interconnected, surface and groundwater. And I do have a history of working with the EPA. I was an employee for the Mni Wiconi water project for 16 years. I worked with the Region 8 Tribal water program, so I have an insight of the Safe Drinking Water Act and the compliance and regulations. And right now, I did -- back in about three years ago, there was a deep injection well proposed in South Dakota by the South Dakota School of Mines, and I gave testimony at that, opposing it. And I don't think that it ever went anywhere. But I think any type of deep wastewater injection in our homeland, the treaty land is -- is not -- not acceptable because of our -- this is our -- this is our survival. This is our homeland. This is where we -- existence is from, the Black Hills here, so our culture, our livelihood, our survival.	Ex. 5 Deliberative Process (DP)	
8050 (10/5 Hot Springs hearing)		Individual	My name is Debra White Plume. I am Oglala Lakota and Cheyenne from the beautiful Pine Ridge homeland. I am from the 1851 and 1868 treaty territory lands and waters of ancestral territory, great cultural significance.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			Your process wants us to identify sacred sites, but Mother Earth is a sacred site. We have sacred places here which correlate to star constellations. That's how old we are. We can't name for you a specific date. It goes back too far. I recognize you as a department, invader, and settler government who occupies our ancient and sacred Mother Earth right now. Your laws require you to be here today so you can determine whether or not Powertech/Azarga can further violate lands, water, and all of life with permits. You're not the decision-makers. I know that. The EPA's decision to issue or deny permits to inject toxic water into groundwater impacts my family as the aquifers in the Black Hills connect to the Arikaree and Ogallala Aquifers where I live, as do the surface waters and the mine site connect to the surface waters where I live along the banks of Wounded Knee Creek. My blood obligates me to voice my opposition to the uranium mining and injection wells that will go into the ground. This water we are given is finite, and through this water, we are given life. We are obligated to protect sacred water for coming generations and Mother Earth. In this place, there are petroglyphs of my nation. These mountains, we named them -- Hinyan Kaga Paha, Mato Paha, Mato Tipila, Pe Sla, Inyan Kara. These are our names that your fed gov goes by, too. A decision to issue permits will unleash a monster that cannot be destroyed. Remember that old saying: Whatever befalls the Earth, befalls the people of the Earth. It is the insane act of Fat Taker to poison your own water to put money into someone else's pocket, Canada's pocket, China's pocket. In order to feed an insatiable beast, who will never be satisfied, that's Fat Taker. That's corporations.		
8120	Anonymous	Northern Cheyenne Tribal Historic Preservation Office	The Northern Cheyenne Tribal Historic Preservation Office is writing in regards to the permit request for aquifer exemption for the Dewey-Burdock uranium in-situ project. The aquifer's are essential to the wellbeing and continued cultural connection area tribes and tribes with ancestral ties to the area continue to maintain. A decision to approve this permit would cause irreparable harm to the cultural landscapes and quality drinking water that is pertinent to the livelihood of humans, plant and wildlife resources of the land. [...] Additionally, cultural resources located on the landscapes where mining activities occur are in danger and are threatened by a foreseeable adverse impact to all elements that define the cultural landscape. Finally, it is essential	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			that all consulting tribes are given the opportunity to participate in the identification of cultural resources that have not been identified by tribes, as well as to address the imprevisionlications this project will have on various resources of religious and cultural significance to their nation.	Ex. 5 Deliberative Process (DP)	
8122	Anonymous	Individual	To go through with the mining project is nothing short of racist, and shows a callous disregard for US lands and citizens.		
8131	Anonymous	Individual	If that's not enough, our Native friends say there has been on investigation into what could be a sacred site with graves and sacred objects buried here.		
8136	Anonymous	Individual	Additionally, it is unconscionable to think of doing this without protecting areas sacred to the Lakota, and no authentic examination this area has been done to show where the areas might be. Stop this project NOW!		
8142	Ex. 6 Personal Privacy (PP)	The Esperanza Project	Equally important is the impact on the tribal peoples who consider these lands sacred, and who have historical rights to the area. The tribes have not been adequately consulted and this alone should compel a denial of these permits and exemptions.		
8148		Individual	Also, in its revised draft permits, the EPA acknowledges that the Lakota and other indigenous nations have important cultural, spiritual, and legal ties to the Black Hills. But then the EPA says it won't consider these issues in making its decisions. This is a clear violation of the requirement that these types of issues must be considered during the permitting process.		
8268		Individual	The EPA's draft environmental justice analysis raises important points related to the significance of the Black Hills as a sacred site and related to treaty obligations, but the EPA appears to separate these issues from their responsibility to protect underground sources of drinking water. As the EPA states, "The purpose of the UIC regulations is to prevent the movement of fluids containing contaminants into USDWs if the presence of those contaminants may cause a violation of a primary drinking water regulation or otherwise adversely affect human health." **The EPA must consider potential adverse impacts to human health from a cultural perspective as well as from a technical/scientific perspective, and the EPA must remember that per Article 6 of the US Constitution, treaties remain the supreme law of the land.** The EPA cannot separate scientific and technical questions from cultural and legal questions.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			Further, an environmental justice analysis must do more than just pay lip-service to an expanded study area. In particular, specific impacts to specific Indigenous communities are not considered. The Black Hills sits up-gradient and serves as a headwaters zone for watersheds to the east. In particular, Wakpa Waste, or the Cheyenne River, flows from the Dewey-Burdock area through the northwestern corner of the Pine Ridge Indian Reservation and serves as the southern boundary of the Cheyenne River Reservation before joining the Missouri River. At a bare minimum, specific impacts to Oglala Sioux Tribe and Cheyenne River Sioux Tribe lands and members must be considered in relation to this proposal, particularly in light of the prior contamination both reservations have experienced as a result of historic mining activities.		

3. Concerns about tribal trust responsibilities and tribal treaty rights.

Letter ID	Commenter Name	Commenter Org.	Text	Legal context	
00027	Ex. 6 Personal Privacy (PP)	Individual	Subject: Please Leave the Black Hills In Peace Please, we need you to participate in doing the "ethical and sane" thing. Please leave our Black Hills alone. I know the powers that be would like to have us warring, angry, overwhelmed and distracted. We know this. Please step up and care about this nation as a whole. We the people deserve healing, lucidity and truth from our governing bodies. The treaties were broken, 1000 times over, the gas lighting never ceased, Indigenous nations were decimated and destroyed - turning our people into shells, barely human. Our government succeeded in humiliating, destroying and bringing Indigenous Nations on this continent to our knees. That is not a governing body who unites, nurtures and expands - it is divisive. Please work with the ethical, the humane and the joyful parts of yourself and this nation. Please stay out of sacred sites and allow us our peace. Honor the Treaties!	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal context	
00036	Ex. 6 Personal Privacy (PP)	Individual	The Black Hills region was recognized as the land of the Dakota, Nakota, and Lakota peoples of the 'Great Sioux Nation' in the Fort Laramie treaties signed with the US government in 1851 and 1868. After gold was discovered in the region in 1874, the Act of 1877 was orchestrated to provide legal cover for the seizure of the Black Hills by the US federal government, facilitating the entry of prospecting settlers. In 1980 after years of protracted legal arguments, the US Supreme Court affirmed that the sale of Black Hills had indeed violated these treaties and awarded the 'Great Sioux Nation' a settlement of $106 million. Not one nation accepted the payment, insisting that the sacred region cannot be sold. The settlement, now approaching $1 billion, continues to grow in an interest-earning account (Howe, Soldier, and Lee 2011). Today home to the mining, logging, ranching, and tourist industries, the Black Hills remains contested, unceded treaty territory to which Native and non-Native peoples, with very different understandings of and relationships to the federal government, economic development, and the land, lay claim. The politics of uranium mining in the region must be understood in this complex context.	Ex. 5 Deliberative Process (DP)	
00042		Individual	The indigenous communities have treaties to this land. Please honor our shared resources and the sacred treaties. Our word is our honor.		
00057		Individual	Subject: In situ leach mining, Black Hills Hello. I am writing to express my opposition to the Underground Injection Control (UIC) Draft Area Permits and one associated proposed aquifer exemption decision for the Dewey-Burdock uranium in-situ recovery (ISR) site located near Edgemont, South Dakota. These aquifers belong by treaty to the Lakota Sioux people, who have been working toward the return of their ancestral lands.		
00060		Individual	Subject: Uranium from the Black Hills I urge you to reject the plan to mine Uranium in the Black Hills. Please protect the Hills and the aquifer below them. Respect the Treaties.		
00063		Individual	Subject: Dewey Burdock Uranium Aquifer Territories governed by treaty should be protected from exploitation of people and resource. The uranium mining above an aquifer under their promised tribal lands does that. This would put the country in violation of international law, and our own Constitution. It could open a state or the country as a whole to sanctions by		

Letter ID	Commenter Name	Commenter Org.	Text	Legal context	
			governing bodies. Also consumer boycotts of great expense and exorbitant legal challenges that will get my consideration for support. Hope the next time we communicate it is not prior notice		
00066	Ex. 6 Personal Privacy (PP)	Individual	Subject: Powertech Uranium I understand that you are seeking public comment on a project where uranium could be used on Lakota lands. As a citizen, my comments is please, please, no. This seems an egregious betrayal of too many treaties and against the common good of both Lakota nation and United States citizens.	Ex. 5 Deliberative Process (DP)	
00073		Individual	Subject: Business Hello, my name is Ex. 6 Personal Privacy (PP) nd I'm just curious as to why you think it's a good idea to store uranium on American Indian lands. One it's against the treaty's and 2 it's just plain wrong. Besides the history and the usual blah blah blah tell me why you think it's a good idea?		
00081		Individual	Subject: No Mining There should not be any mining in the Black Hills. US Treaty clearly states this is Native land. A Sovereign Nation,		
00085		Individual	This is treaty territory for our natives and it's against treaties to destroy this area for uranium.		
00090		Individual	Subject: NO to Uranium Mining Uranium mining of the Black Hills is not only an assault on Native sovereignty over a religious, cultural, and historic site for many Nations,		
00097		Individual	Uranium and the Winters Doctrine by Ex. 6 Personal Privacy (PP) The Winters Doctrine, which I discussed at the Edgemont hearings, was just upheld by a June 14, 2017 court decision for the Standing Rock Sioux Tribe in the latest North Dakota Pipeline decision. This reaffirmed their rights against water pollution. The Winters Doctrine mentioned in this case is a cornerstone of Native American Law. This confirmed their rights to an ancestral home, which implies original water		

Letter ID	Commenter Name	Commenter Org.	Text	Legal context	
			rights dating from the original treaty agreement. This allows for present and future water needs along with things like hunting and fishing. It did not matter that Dakota Pipeline was upstream from the reservations: any potential disasters were still a threat to a basic concept of a livable reserved homeland. In the Edgemont, South Dakota hearing I presented 11 pages on the Winters Doctrine. This doctrine provides a legal framework to hang all testimony in defense of a reserve homeland by the Tribes. These concepts have just been upheld in court. These concepts have grown wider in application over time, and now apply reserve rights to things like National Grasslands, National Parks, and National Recreation Areas as well as tribal reservations. The Rapid City Journal notes rancher John Sides of the Fall River County Conservation District says a uranium exemption and development could devastate 125 wells. "It would turn communities into ghost towns and ranches into wastelands ." In applying the Winters Doctrine to National Grassland ranching, it does not matter that contaminated wells for leases would be located just outside the Grassland boundary. It is still the same aquifer and the effect is still disastrous on the federally reserved resource, hence unallowable. The same applies to all federally reserved lands from the time of their inception. The Standing Rock decision brings this water law doctrine into the 21st century for Native American issues. Even if amounts are not easily quantifiable, a usable homeland cannot have zero usable water. Left overs and contaminated dregs destroy the concept of a reservation. Original treaties were based on what was understood at the time, not on some rules, policies, executive actions, or laws made up decades or centuries later. In the years following 1950 the government and President Nixon made a decision that areas of the country would be considered sacrificial areas mandated by atomic pollution. This decision and the resultant succeeding culture spawned countless decisions that were damaging and poisonous to the Cheyenne River and Sioux homelands. Just like the pipeline decision these were considered inconsequential		

Letter ID	Commenter Name	Commenter Org.	Text	Legal context	
			since they were outside the reservation boundaries. A poor minority would receive the negative results while the powerful got rich. How well would a poor minority be able to defend themselves anyway? This totally ignores that the federal government holds these rights in trust for the Tribes. The government must defend these rights as their own and all decisions must be in the Tribes' favor. For decades or more uranium decisions have not been made in the Tribes' favor, or even in the favor of other federally reserved areas, such as the Badlands National Park, where the Cheyenne River flows. The issue of uranium is not just whites versus Indians. The Winters Doctrine applies to at least nine local federally reserved areas, including the two reservations. Edgemont water quality analysis shows above acceptable radiation limits, and uranium near the limits in two categories. It is time for the EPA to reopen investigation and enforcement of suspect private uranium mines and gain physical entrance, as per multiple tribal and non-tribal requests at the hearings. Such questions under investigation should not allow further questionable, likely damaging, and possible irreversible actions to the environment to be made. It is time for the federal government to stand up to their trust responsibilities under the Winters Doctrine.		
00109	Ex. 6 Personal Privacy (PP)	Individual	Subject: NO to Dewey Burdock Uranium Aquifer Mining Hello, Sending public comment on Dewey Burdock Uranium Aquifer Mining. Don't allow mining there. No uranium on treaty territory.	Ex. 5 Deliberative Process (DP)	
00110		Individual	Subject: Don't Allow Uranium Waste Storage on Lakota Land Dear Valois Shea, I'm writing to ask that the EPA deny the permits for the proposed Dewey-Burdock Uranium Mine project. This proposed mining project is likely to contaminate aquifers of the Black Hills and put the health and safety of those drinking that water at risk. In addition, the mining project is next to the Black Hills, and is within the boundaries of an area set aside for the tribes of the Great Sioux Nation by treaties signed in 1851 and 1868. The Black Hills are sacred to the Lakota Nation. These		

Letter ID	Commenter Name	Commenter Org.	Text	Legal context	
			tribes oppose this mining project; it violates their 1851 & 1868 Treaty Rights and they did not give up their water rights or mineral rights to these areas. The EPA must deny these permits. Thank you very much for your time.		
00146	Ex. 6 Personal Privacy (PP)	Individual	[...] In addition, the mining project is next to the Black Hills, and is within the boundaries of an area set aside for the tribes of the Great Sioux Nation by treaties signed in 1851 and 1868. The Black Hills are sacred to the Lakota Nation. These tribes oppose this mining project; it violates their 1851 & 1868 Treaty Rights and they did not give up their water rights or mineral rights to these areas. The EPA must deny these permits. Thank you very much for your time.	Ex. 5 Deliberative Process (DP)	
00155		Individual	Subject: Powertech for uranium mining These Lands belong to the Native Tribes, they are Sacred and/or Treaty Lands. This proposal will deface and pollute and contaminate the land. Why is this necessary? We need clean water & land more than we need uranium.		
00198		Individual	Subject: Dewey Burdock Uranium Aquifer Mining [...] Furthermore this is treaty land. This mining is illegal. Help us stand up for our children's future. Thank you.		
00214		Individual	Subject: No Uranium Waste Storage on Lakota Land Dear Valois Shea, I'm writing to ask that the EPA deny the permits for the proposed Dewey-Burdock Uranium Mine project. This proposed mining project is likely to contaminate aquifers of the Black Hills and put the health and safety of those drinking that water at risk. In addition, the mining project is next to the Black Hills, and is within the boundaries of an area set aside for the tribes of the Great Sioux Nation by treaties signed in 1851 and 1868. The Black Hills are sacred to the Lakota Nation. These tribes oppose this mining project; it violates their 1851 & 1868 Treaty Rights and		

Letter ID	Commenter Name	Commenter Org.	Text	Legal context	
			they did not give up their water rights or mineral rights to these areas. The EPA must deny these permits. Thank you very much for your time.		
00247	Ex. 6 Personal Privacy (PP)	Individual	Furthermore, many treaties, including the Fort Laramie Treaties of 1851, require consent of the Indigenous peoples whose land mines would be located on. Without consent, mining is a genocidal act of theft and desecration.	Ex. 5 Deliberative Process (DP)	
00252		Individual	Subject: Black Hills Dear U.S.,EPA Region 8, I am asking for no uranium in treaty territory. I am asking for a strong no to the Dewey Burdock Uranium in the Black Hills. No, to this whole thing.		
00260		Individual	Subject: Say no to the Dewy Burdock Uranium Aquafer mining The Black Hills are sacred territory and treaty land. We have already stolen so much from native peoples when are we going to stop? For once do the right thing and keep the water clean.		
00269		Individual	Subject: Uranium mining in Treaty Territory Please help to discontinue this vile procedure of uranium mining on any Treaty or Native American lands. Thank you for your cooperation.		
00275		Individual	Subject: Public comments for draft permits Dewey Burdock Please be advised that I am hereby submitting my comments regarding the draft permits on DeweyBurdock insitu mining. An enrolled member of the Standing Rock Sioux Tribe, I disagree with any mining on our treaty lands, and jeopardizing the aquifers from which the Great Sioux Nation (Oceti Sakowin) receives drinking water. For your information the Oceti Sakowin is made up of seven councils of recent history.		
00279		Individual	It is not necessary. Why should any exemptions be made?. This land is owned by the tribes and should be treated just like any other private land.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal context	
00279	Ex. 6 Personal Privacy (PP)	Individual	Subject: EPA seeks public comment - draft permits and aquifer exemption for uranium mining project in southwestern South Dakota Please do not continue with these draft permits and aquifer exemption for uranium mining in the Black Hills. These are the tribes land. All protections should be done to protect these lands and water from ever having any mining on them. It is not necessary. Why should any exemptions be made?. This land is owned by the tribes and should be treated just like any other private land. the water should be protected from contaminants at all cost.		
00289		Individual	Granting these exemptions would be illegal. It violates the treaty rights of the Sioux Nation. The Pine Ridge and Rosebud reservations will be effected by this proposed mining because they take a portion of their drinking water &om the aquifers that are threatened. They also still have hunting and fishing rights in this area pursuant to the Fort Laramie Treaty of 1868. These are precisely the issues that are now swinging the tide in the favor of the Standing Rock Sioux and the other tribes who have joined them in their ongoing battle against the Dakota Access Pipeline. The United States Supreme Court has held in, United States v. Sioux Nation of Indians,448 U.S. 371 (1980) that the Black Hills including the area of the Dewey Burdock proposed mines was illegally taken from the Sioux Nation and awarded them compensation with interest from the date of the taking, 1877. This money is still accumulating and is being held in trust for the Tribe because they do not accept it and want the Black Hills returned to them. Granting these exemptions would lead to more taking of rights from the Sioux Nation, rights to hunt, fish, gather and to have safe water. [...] More compensation plus interest would have to be paid to the Sioux Nation and to these other people under the Fifth Amendment of the United States Constitution.	Ex. 5 Deliberative Process (DP)	
00301		Individual	Subject: Uranium mining & storage on Lakota Lands Lakota land belongs to the Lakota people. No mining or any other thing should be done on these lands. The United States has broken countless treaties over the years. Please chose to be the person who stops this.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal context	
00306, 00307	Ex. 6 Personal Privacy (PP)	Individual	What it boils down to is that the more we allow these companies to do whatever they want to do, especially if they are doing it unregulated and irresponsibly, the more lives we are effectively putting in danger! Uranium mining should not be allowed for the simple fact that not only will it contaminate the water it will contaminate the air as well, it puts far too many lives in danger human, animal and otherwise, but the more legal argument is that it would take place on treaty land that would directly impact the tribe that owns it! Do we think the company that wants to do it cares? Sure they do! They care as much as Kelsey Warren and Energy Transfer Partners gave a damn about the Sioux and The Standing Rock Reservation! We simply cannot allow these companies to do whatever they want to wherever they want to simply because they have money! There are many things in this world that money cannot buy nor replenish and our environment is right at the top of that list! Once a species of plant or animal is extinct it is gone forever, there is no bringing it back and cloning is not a substitute for natural organic matter! Please help us to deliver a message loud and clear the we are not interested in their materialism and that you do not make a country great again by dismantling it from the inside and killing off its citizens via contaminated water, air and soil! No good will come from allowing anyone to blast for uranium, it's bad for the people, it's bad for the environment and again as far as the legal argument is concerned this company wants to blast on treaty land and the tribe has already spoken, therefore the tribes request should be honored and the company needs to be denied access. At the end of the day what should prevail is what works for the greater good and that is honoring the treaties and protecting the environment, not allowing any company to endanger both in pursuit of the almighty dollar and their own corporate greed!	Ex. 5 Deliberative Process (DP)	
00326		Individual	Subject: NO to uranium mining in the Black Hills! I am writing to virulently object to proposed uranium mining in the Black Hills. The fact that this land is stolen means no settlers should be there in the first place. But to engage in a practice that has poisoned thousands, and for something so fleeting and filthy as money, is the lowest form of evil.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal context	
00355	Ex. 6 Personal Privacy (PP)	Individual	Dear Shea, If you can send me any information pertaining to any activities on Treaty Territory of 1851 and 1868 Fort Laramie Treaties. I understand there is some activity with uranium mining.	Ex. 5 Deliberative Process (DP)	
00390		Individual	Subject: Uranium in the black hills. In these times of tension, I believe few things could be as damaging toward a true reconciliation with and the recognition and respect of the sovereignty held by the first people of this continent than the EPA's proposed plans to extract Uranium in the Black hills; particularly without tribal sanction. It seems that with each passing year, the US seems less and less committed of maintaining its obligations to the First Nations; first forcing the unwanted Keystone pipeline upon them and now this. We as a nation should be reaffirming our commitment to respecting the sovereignty and cultural spaces which connect the Indigenous communities to their history & culture, which both have a lot to teach us all about the true meaning of stewardship, reciprocity, and conservation.		
00393		Individual	In addition, this mining project is next to the Black Hills, and is within the boundaries of an area set aside for the tribes of the Great Sioux Nation by treaties signed in 1851 and 1868. The Black Hills are sacred to the Lakota Nation, and these tribes are opposed to this mining project, it clearly violates their 1851 & 1868 Treaty Rights. They did not give up their water rights or minerals rights to these areas. Therefore, to follow the law, the EPA has no choice but to deny these permits.		
00396	N/A	Sicangu Lakota Treaty Council	SICANGU LAKOTA TREATY COUNCIL RESOLUTION NO. 2017-02 WHEREAS, the Rosebud Sioux Tribal Council has established a Sicangu Lakota Treaty Council to protect, analyze, educate, and study issues related to the Fort Laramie Treaty of 1851 and the Fort Laramie Treaty of 1868, and other related treaties; and WHEREAS, the Sicangu Lakota Treaty Council to consider and protect the Sicangu Lakota Way of Life pertaining to cultural practices and sacred sites within the treaty boundaries makes the following recommendation, and		

Letter ID	Commenter Name	Commenter Org.	Text	Legal context	
			WHEREAS, the Rosebud Sioux Tribe or Sicangu Lakota Oyate is a successor Tribe to the bands of the Dakota/Nakota/Lakota Oceti Sakowin Tribes also known as the Great Sioux Nation that are signatory bands to the Fort Laramie Treaties of 1851 and 1868; and WHEREAS, the Oceti Sako win tribes of the Lakota, Dakota, and Nakata consider the Black Hills of South Dakota embodies ancient sacred sites to include and not limited to Inya Kaga, Ki Iyanka Ocanku Sa (Red Race Track), Wasun Wiconiye (Wind Cave), Mato Tipila (Bear Butte), Hihan Kaga (Black Elk Peak), Buffalo Gap, Pesla, and WHEREAS, the Sicangu Lakota Treaty Council determines that the Dewey Burdock Uranium Mine Injection Wells are within the sacred site Ki Iyanka Ocanku Sa or Red Race Track which is held as a spiritual and sacred site, and WHEREAS, the Policy Statement in the EPA's policy is to consult on a government-to-government basis with federally recognized governments when EPA actions and decisions may affect tribal interests. Consultation is process of meaningful communication and coordination between EPA and tribal officials prior to EPA taking actions or implementing decisions that may affect tribes. As a process, consult includes several methods of interaction that may occur at different levels. The appropriate level of interaction is determined by past and current practices, adjustments made through its Policy the continuing dialogue between EPA and tribal governments, and program and regional of consultation procedures and plans. and WHEREAS, the United States Environmental Protection Agency Region 8 is requesting public comment by May 19, 20177, on two Underground Injection Control (UIC) Draft Area Permits and one associated proposed aquifer exemption decision for the Dewey-Burdock uranium in-situ recovery (ISR) site located near Edgemont, South Dakota, under the authority of the Safe Drinking Water Act and VIC program regulations. The Dewey-Burdock site is located in southwestern Custer County and northwestern Fall River County, on the Wyoming/South Dakota border, and WHEREAS, the EPA Region 8 UIC Program is issuing two Draft UIC Area Permits to Powertech (USA) Inc. of Greenwood Village, Colorado, for injection activities related to uranium recovery. One is a UIC Class ill Area Permit for injection wells for the ISR of uranium; the second is a UIC Class V Area Permit for deep injection wells that will		

Letter ID	Commenter Name	Commenter Org.	Text	Legal context	
			be used to dispose of ISR process waste fluids into the Minnelusa Formation after treatment to meet radioactive waste fluids into the Minnelusa Formation after treatment to meet radioactive waste and hazardous waste standards. The EPA is also proposing an aquifer exemption approval in connection with the Class III Area Permit to exempt the uranium-bearing portions of tine Inyan Kara Group aquifers, and WHEREAS, the EPA is also seeking comment on two options for approval of the aquifer exemption that Powertech requested related to the Class ill permit application. The two options are discussed in the Auquifer Exemption Draft Record of Decision available on the EPA Region 8 UI Program Website, and WHEREAS, the Sicangu Lakota Treaty Council has determined that both of the proposed injection wells are located within the 1851 and 1868 Fort Laramie Treaty Boundary lines, and therefore in violation of the Fort Laramie Treaty of 1851 and 1868, WHEREAS, Article 6 if the US Constitution states that "This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding." And WHEREAS, the American Indian Religious Freedom Act (AIRFA) (16 U.S.C. 1996) AIRFA establishes the policy of the federal government "to protect and preserve for American Indians their inherent right of freedom to believe, express, and exercise the traditional religions of the American Indian, Eskimo, Aleut, and Native Hawaiians, including, but not limited to, access to sites, use and possession of sacred objects, and the freedom to worship through ceremonials and traditional rites and WHEREAS, the Archeological Resources Protection Act of 1979. (ARPA) (16 U.S.C. 470aa-mm) ARPA requires federal agencies to consult with tribal authorities before permitting archeological excavations on tribal lands (16 U.S.C. 470cc(c)). It also mandates the confidentially of information concerning the nature and location of archeological resources, including tribal archeological resources, and		

Letter ID	Commenter Name	Commenter Org.	Text	Legal context	
			WHEREAS, the National Historic Preservation Act (NHPA) Regulations Implementing Section 106 (36 CFR Part 800) The regulations implementing Section 106 of the NHPA require consultation with Indian tribes throughout the historic preservation review process. Federal agencies are required to consult with Indian tribes on a government-to-government basis, in a manner that is respectful of tribal sovereignty. The regulations require federal agencies to acknowledge the special expertise of Indian tribes in determining which historic properties are ofreligious and cultural significance to them, and WHEREAS, the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 , et. seq.) NAGPRA requires consultations with Indian tribes, traditional religious leaders and lineal descendants of Native Americans regarding the treatment and disposition of specific kinds of human remains, funerary objects, sacred objects and other items. Under the Act, consultation is required under certain circumstances, including those identified in Sections 3002(c), 3002(d), 3003, 3004, and 3005, and WHEREAS, the National Environmental Policy Act (NEPA) Implementing Regulations 40 CFR Part 1500 NEPA requires the preparation of an environmental assessment (EA) or environmental impact statement (EIS) for any proposed major federal action that may significantly affect the quality of the human environment. While the statutory language of NEPA does not mention Indian tribes, the Council on Environmental Quality (CEQ) regulations and guidance do require agencies to contact Indian tribes and provide them with opportunities to participate at various stages in the preparation of an EA or EIS. CEQ has issued a Memorandum for Tribal Leaders encouraging tribes to participate as cooperating agencies with federal agencies in NEPA reviews. Section 40 CFR 1501.2(d)(2) requires that Federal agencies consult with Indian tribes early in the NEPA process, and WHEREAS, the EPA states that "Class V wells are used to inject non-hazardous fluids underground. Most Class V wells are used to dispose of wastes into or above underground sources of drinking water. This di sposal can pose a threat to ground water quality if not managed properly.", and near the Black Hills which the Oceti Sakowin Tribes considers sacred, and WHEREAS, the Sicangu Lakota Treaty Council reminds the EPA that according to Lakota oral history there are underground water channels or chambers in the Black Hills region that reach the Oglala Aquifer and that said the injection wells toxic		

Letter ID	Commenter Name	Commenter Org.	Text	Legal context	
			chemicals or substances could harm water sources, wells and supplies that are used by humans within tbe said Treaty Boundaries, and WHEREAS, The Sicangu Lakota Treaty Council opposes any permits to be granted by the EPA for mining, injection wells, fracking, or any type of activities that will hann tbe Sacred Black Hills and the Oceti Sakowin Tribes within the Fort Laramie Treaty of 1851 and 1868, and THEREFORE, BE IT RESOLVED, that the Sicangu Lakota Treaty Council hereby strongly urges and requests the EPA to deny both permits and any future permit applications relating to Uranium mining or the extraction of minerals or rare earth elements. CERTIFICATION This is to certify that the above Resolution No. 2017-02 was duly passed by the Sicangu Lakota Treaty Council on May 2, 2017, Motion to approve by Shane Red Hawk. Second by Delano Clairmont with a vote of Four (4) in favor, Zero (0) opposed, and One (1) not voting. The said resolution was adopted pursuant to authority vested in the Sicangu Lakota Treaty Council under the laws of the Rosebud Sioux Tribe. A quorum was present. ATTEST: Fremont Fallis - Chairman Sam High Crane - Vice-Chairman		
00419	Ex. 6 Personal Privacy (PP)	Individual	Subject: Uranium Mining comment Dear Valois Shea, My name is Tasina Sapa Win and that means Black Shawl Woman in Lakota. I am Hunkpapa, Mnicoujou, and Itazipco Lakota of the Cheyenne River Tribe in South Dakota. I am 24 years old and am a mother to a beautiful six year old boy. I want to submit my comment in OPPOSITION of the draft permits wishing to be granted by company, Azarga for the reasons listed below: -First and foremost, according to the treaties of 1851 and 1868, this is completely illegal-- the Black Hills belong to the Lakota and for over a century, the US government allows companies to commit these crimes that circulate around the using indigenous soils and waters as ways to profit for their own selfish needs	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal context	
00441	Ex. 6 Personal Privacy (PP)	Individual	The Black Hills of South Dakota are owned by the Great Sioux Nation who have treaties that will be dishonored by allowing the uranium mining to occur. Our Great Sioux Nation has the first and last word regarding what is to take place on their homeland. These are the highest laws of American, Native Americans are about protecting the land, water, and air for the greater good of all mankind. No uranium mining should ever be allowed. We need to support the Native Americans who are the owners and keepers of this sacred land. God bless Native America and keep her safe from ravagers.	Ex. 5 Deliberative Process (DP)	
00470		Individual	Additionally I believe the Black Hills are rightfully the land of the Lakota & should be returned. Honor the Treaties.		
00470		Individual	The Black Hills have been awarded to the Lakota People by Supreme Court decision		
00472		Individual	The Tribal sovereignty and cultural issues have not been genuinely addressed.		
00482		Individual	I would like to submit a comment regarding the Black Hills. Please, no uranium in treaty territory. Please, no to the Dewey Burdock Uranium Aquifer Mining.		
00487		Individual	3. The *morality* of giving permits to companies without Native American, farmers and ranchers, and other citizens living in the area, without their consent or benefit. The white Europeans have done their best to abuse and steal the lands in the 1868 treaty. But there is now a coalition of people who will try to legally fight these permits because there are 10 other companies standing in line, licking their chops to do mining projects. **WE DO NOTWANTTHEMI**		
00495		Individual	Uranium mining of the Black Hills is an assault on Native sovereignty...		
00503		Individual	NO URANIUM IN TREATY		

Letter ID	Commenter Name	Commenter Org.	Text	Legal context	
00506		Individual	A Summary of the 1851 and 1868 Treaty Issue in South Dakota The Great Sioux Nation, which is composed of the Lakota, Dakota, and Nakota speaking people, once resided in a vast land area in the central part of the United States covering what is now 14 states and 3 Canadian Provinces. One of the Lakota origin stories says that the people of the Great Sioux Nation came onto the Earth from the mouth of Wind Cave in the. Black Hills. The Black Hills were so sacred that they were used for ceremonial, medicinal, and funeral purposes only. The encroachment of the European-Americans, and the subsequent devastation of the buffalo, caused the people of the Great Sioux Nation to wage war upon the United States. When the US realized that they could not win the war, they asked the Great Sioux Nation for a treaty for peace. The Great Sioux Nation agreed in 1851, and again in 1868, to treaties for peace at the request of the US, both times relinquishing large tracts of land but always keeping the sacred Black Hills intact within their care. The people of the Great Sioux Nation had resided in this area for over 11,000 years. On March 3rd, 1871, the US Congress passed a law which said that treaties made prior to that date would not be abolished. It also said that no new treaties would be made in the future with Indian nations. From that date to this, since the Fort Laramie Treaty of 1868 was made prior to March 3, 1871, any laws passed by the United States are applicable only to the people of the United States, but not to the people of the Great Sioux Nation. To try to enforce any American law that violates the Fort Laramie Treaties of 1851 and 1868 would also be a violation of the March 3rd Act of 1871. Furthermore, to violate any treaty would also be a violation of the US Constitution which states that "treaties are the supreme law of the land." The land area that is stipulated in the Fort Laramie Treaties of 1851 and 1868 includes all of western South Dakota from the East bank of the Missouri River to the summits of the Big Horn Mountains. This also includes all of the Black Hills and is the actual, legal, land base of the Great Sioux Nation. A larger land area surrounds this central base and is reserved for the exclusive use of the people of the Great Sioux Nation. This reserved area includes portions of Nebraska, Colorado, Wyoming, Montana, and North Dakota.	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal context	
			William Allen White, a newspaper publisher, once said, "Peace without justice is tyranny." Upholding the 1868 Fort Laramie Peace Treaty would be upholding justice as well as the Constitution of the United States.		
00520	Ex. 6 Personal Privacy (PP)	Oglala Sioux Tribal Court, Northern Cheyenne Tribal Courts	Please be advised, pursuant inherent rights, power, and authority, as handed down through the generations and embraced by the United States Congress of the United States of America, the Black Hills Sioux Nation Treaty Council continues to serve the people (Oyate) in a representative capacity, as it has done in the years and centuries past. The Black Hills Sioux Nation Treaty Council asserts its authority pursuant the following: 1. The United States Constitution states that no State shall enter into a Treaty, thereby precluding the State of South Dakota from entering any Treaty, nor amending or otherwise modifying any existing Treaty to wit: The Constitution of the United States Article. I. US Const., Art. I, Section. 10. No State shall enter into any Treaty... 2. The United States Constitution states in Article VI that Treaties shall be the supreme law of the land, to wit: US Const., Article. VI. This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; <u>and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.</u> 3. Attorneys across America who have taken oaths, by and through their licensing process, to support and defend the United States Constitution equally take an oath to support and defend Article VI (treaties) of the same United States Constitution. A violation, willful misinterpretation or circumvention of a Treaty (1851 & 1868 inclusively) is a violation of the United States Constitution.	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal context	
			4. Pursuant the United States Constitution, done in Convention by the Unanimous Consent of the States present the Seventeenth Day of September in the Year of our Lord one thousand seven hundred and Eighty seven and of the Independence of the United States of America the Twelfth, the 1851 and the 1868 Treaties are supreme law of the land. 5. The Black Hills Sioux Nation Treaty Council is a well established Council embraced and approved by the Oyate (people) of the member Tribes extending 1851 Treaty territory as defined by the 1851 Fort Laramie Treaty signed on September 17, 1851. 6. The delegates of the Council, as descendents and/or successors of the 1851 Treaty Council Delegates, are appointed or elected by the respective member Tribe's traditional processes. The Council Members or Delegates, singularly or collectively, carry a very unique and special authority, and also in a representative capacity, as traditional leaders of the Oyate ("people") and various Tiospayes ("extended families"). This authority has been recognized and embraced since the first Treaties made by and between the United States of America and the various Tribes, more particularly the 1851 and 1868 Fort Laramie Treaties. See below: *September 17, 1851* Articles of a treaty made and concluded at Fort Laramie, in the Indian Territory, between D. D. Mitchell, superintendent of Indian affairs, and Thomas Fitzpatrick, Indian agent, commissioners specially appointed and authorized by the President of the United States, of the first part, and the chiefs, headmen, and braves of the following Indian nations, residing south of the Missouri River, east of the Rocky Mountains, and north of the lines of Texas and New Mexico, viz, the Sioux or Dahcotahs, Cheyennes, Arrapahoes, Crows, Assinaboines, Gros-Ventre Mandans, and Arrickaras, parties of the second part, on the seventeenth day of September, A.D. one thousand eight hundred and fifty-one. ARTICLE 6. Parties to the second part of this treaty having selected principals or head-chiefs for their respective nations, thorough whom all national business will hereafter be conducted, do hereby bind themselves to sustain said chiefs and their successors during good behavior. 7. By the highlighted sentences, we can clearly see that the Chiefs, Headmen, Principals and HeadChiefs served the respective Tribal Nations in a representative		

Letter ID	Commenter Name	Commenter Org.	Text	Legal context	
			capacity before the United States representatives. By the United States Congress's approval of the Treaty, the Congress also validated the Chiefs, Headmen, Principals and Head-Chiefs as representatives for the various Tribal Nations. Additionally, the United States of America and its Congress, as authors of the Treaty, offered, granted, and approved that the Chiefs, Headmen, Principals and Head-Chiefs, and their successors, to conduct [A]ll national business thereafter, and further to bind themselves to sustain said chiefs and their successors during good behavior. 8. The above stated Chiefs, Headmen, Principals and Head-Chiefs served as a Treaty Council *de facto,* although not so named at the time of making the Treaty. 9. We also learn that the Chiefs, Headmen, Principals and Head-Chiefs maintained their representative capacity, as Treaty Delegates by and through the 1868 Fort Laramie, to wit: Fort Laramie Treaty, 1868 ARTICLES OF A TREATY MADE AND CONCLUDED BY AND BETWEEN Lieutenant General William T. Sherman, General William S. Hamey, General Alfred H. Terry, General 0. 0. Augur, J.B. Henderson, Nathaniel G. Taylor, John G. Sanborn, and Samuel F. Tappan, duly appointed commissioners on the part of the United States, and the different bands of the Sioux Nation of Indians, by their chiefs and headmen, whose names are hereto subscribed, they being duly authorized to act in the premises. ARTICLE XVII. It is hereby expressly understood and agreed by and between the respective parties to this treaty that the execution of this treaty and its ratification by the United States Senate shall have the effect, and shall be construed as abrogating and annulling all treaties and agreements heretofore entered into between the respective parties hereto, so far as such treaties and agreements obligate the United States to furnish and provide money, clothing, or other articles of property to such Indians and bands of Indians as become parties to this treaty, but no further. 10. In other words, except for territory (Article II), money, clothing and articles of property (farm implements'), no other provision of the 1851 Treaty was abrogated		

Letter ID	Commenter Name	Commenter Org.	Text	Legal context	
			or annulled. Article 6 of the 1851 Treaty providing for the Chiefs, Headmen, Principals and Head-Chiefs, and their successors, to conduct (A]ll national business thereafter, and further to bind themselves to sustain said chiefs and their successors during good behavior remained in full force and effect. 11. In 1934, the Indian Reorganization Act ("IRA") was signed into law, however, because the 1851 and 1868 Treaties are supreme laws of the land under the US Constitution, and preceded the enactment of IRA, IRA could only prevail if the writings drafted were within the framework of the already existing Constitutional Article VI, thereby forcing continuance in honoring the Treaties. 12. The above is further evidenced by a 1935 amendment to IRA codified as 25 USC Sec. 478b, to wit: US TITLE 25 - INDIANS CHAPTER14-MISCELLANEOUS SUBCHAPTER V - PROTECTION OF INDIANS AND CONSERVATION OF RESOURCES Sec. 478b. Application of laws and treaties STATUTE- All laws, general and special, and all treaty provisions affecting any Indian reservation which has voted or may vote to exclude itself from the application of the Act of June 18, 1934 (48 Stat. 984) [25 U.S.C. 46 I et seq.], shall be deemed to have been continuously effective as to such reservation, notwithstanding the passage of said Act of June 18, 1934. Nothing in the Act of June 18, 1934, shall be construed to abrogate or impair any rights guaranteed under any existing treaty with any Indian tribe, where such tribe voted not to exclude itself from the application of said Act. SOURCE- (June 15, 1935, ch. 260, Sec. 4, 49 Stat. 378.) The Indian Reorganization Act of June 18, 1934 (IRA, Sec. 16). Any Indian tribe, or tribes, residing on the same reservation, shall have the right to organize for its common welfare; and may adopt an appropriate constitution and bylaws, which shall become effective when ratified by a majority vote of the adult		

Letter ID	Commenter Name	Commenter Org.	Text	Legal context	
			members of the tribe, or of the adult Indians residing on such reservation, as the case may be, at a special election authorized by the Secretary of the Interior under such rules and regulations as he may prescribe...]. In addition to all powers vested in any Indian tribe or tribal council by existing law, the constitution adopted by said tribe shall also vest in such tribe or its tribal council the following rights and powers: To employ legal counsel, the choice of counsel and fixing of fees to be subject to the approval of the Secretary of the Interior; to prevent the sale, disposition, lease, or encumbrance of tribal lands, interests in lands, or other tribal assets without the consent of the tribe,...]. 13. THEREFORE, notwithstanding the Indian Reorganization Act of 1934, nor as may be amended, the 1851 and 1868 Treaties continue today as the supreme law of the land, and Article 6 of the 1851 Treaty providing for the Chiefs, Headmen, Principals and Head-Chiefs, and the successor Treaty Councils shall continue to conduct [A]ll national business, and further to bind themselves to sustain said chiefs and their successors during good behavior. Article 6 of the 1851 Treaty remains in full force and effect. 14. The Oglala Sioux Tribal Council, and its courts are bound by the 1851 and 1868 Treaties as further evidenced by their own Tribal Constitution, to wit: PREAMBLE We, the Oglala Sioux Tribe of the Pine Ridge Indian Reservation, in order to establish a more perfect organization, promote the general welfare, conserve and develop our lands and resources, secure to ourselves and our posterity the power to exercise certain rights of home rule not inconsistent with Federal laws and our treaties, and in recognition of God Almighty and His Divine Providence, do ordain and establish this constitution for the Oglala Sioux Tribe. ARTICLE IV - POWERS OF THE COUNCIL Section 4. Enumerated Powers. The Oglala Sioux Tribal Council shall exercise the following powers; subject to any limitation imposed by the statutes or the Constitution of the Unites States and subject further to all express restrictions upon such powers contained in this Constitution and the attached Bylaws: ARTICLE XV - OATH OF OFFICE		

Letter ID	Commenter Name	Commenter Org.	Text	Legal context	
			Section 1. Each Tribal Council Representative and Executive Committee Officer shall be required to take an oath of office prior to assuming constitutional duties. (Oath) I,[*insert name here*] do solemnly swear that I will promote, preserve, and strengthen the general health and welfare of the Oglala Lakota Oyate, ; and I will support and defend this Constitution and the human rights of the Oglala Lakota Oyate and the human rights of other peoples as recognized in international laws, treaties - which includes both the 1851 and 1868 Fr. Laramie Treaties, and declarations. 15. The Oglala Sioux Tribal Law & Order Code, Ch. 1, § 20.27 (a) clearly states that Treaties shall have binding effect, to wit: Chapter I, SECTION 20.27 - APPLICABLE LAW In determining any case over which it has jurisdiction, the Oglala Sioux Tribal Court shall give binding effect to: (a) any applicable constitutional provision, treaty, law, or any valid regulation of the United States; 16. Because the Tribal Constitution asserts that it may not enact any law inconsistent with the Treaties (1851 & 1868), nor enact any law inconsistent with the Federal laws (US Constitution Article 6 and 25 USC 478b. Application of laws and treaties), and furthermore, in light of Council Representatives and Executive Committee Officers taking oaths to support and defend treaties (1851 & 1868), treaties take precedent over any and all Tribal law and ordinances. 17. THEREFORE, pursuant paragraphs 16 through 30, the Black Hills Sioux Nation Treaty Council, and/or its delegates, asserts that by and through their inherent rights, authority and power as successor representatives of the 1851 and 1868 Treaties (Treaty Councils), they have the right, authority, power and duty to have standing in any and all actions of any court on any membership reservation. This standing and/or personal jurisdiction extends to representation over all Tribal business, land and resources (whether natural or otherwise) issues of a kind, Tribal finances, the general welfare of the Oyate, and etcetera.		
00521	Ex. 6 Personal Privacy (PP)	Black Hills Sioux Nation	A DECLARATION TO INVOKE INHERENT RIGHTS AND AUTHORITY UNDER THE 1851 AND 1868 FORT LARAMIE TREATIES • OVER MINERAL EXPLORATION AND EXTRACTION;	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal context	
		Treaty Council	• OVER ENERGY AND FUEL PIPELINES OF A KIND; • THE UNAUTHORIZED CEDING OF LAND IN THE NAME OF PARKS; • AND OTHER MATTERS. TO ALL UNITED STATES: STATE, FEDERAL,AND OTHER OFFICIALS LISTED ON THE ATTACHED SERVICE LIST AND THE PUBLIC AT LARGE: By the power and authority vested in the Black Hills Sioux Nation Treaty Council, by and through a traditional and inherent process of the Oyate (people), hereby declares DECLARATION TO INVOKE INHERENT RIGHTS AND AUTHORITY OVER MINERAL EXPLORATION AND EXTRACTION: AND OVER ENERGY AND FUEL PIPELINES OF A KIND: AND THE UNAUTHORIZED CEDING OF LAND IN THE NAME OF PARKS (Tribal National Park) UNDER THE 1851 AND 1868 FORT LARAMIE TREATIES, and submits the following positions: [ATTACHMENT: "Black Hills Sioux Nation Treaty Council Declaration of Inherent Authority over Treaty Land"]		
00523	Ex. 6 Personal Privacy (PP)	Cheyenne River Sioux Tribe	The Tribe's Rights and Trust Resources in the vicinity of the Dewey-Burdock Uranium Mine • Reserved water rights: The Tribe enjoys reserved water rights in the Missouri River Basin as well as related groundwater in an amount sufficient to fulfill the purposes of the Reservation. See Winters v. United States, 207 U.S. 564 (1908); Arizona v. California, 373 U.S. 546, 600 (1963). These reserved water rights are a trust resource for which the United States owes a fiduciary duty. These rights are a function of the Tribe's extant treaty rights. See Treaty of Fort Laramie with the Sioux, Etc., 11 Stat. 749 (Sep. 17, 1851); Treaty with the Sioux -Brule, Oglala, Mniconjou, Yanktonai, Hunlcpapa, Blackfeet, Cuthead, Two Kettle, Sans Arc, and Santee, 15 Stat. 635 (Apr. 29, 1968). The Tribe retains reserved water rights in off-Reservation waterways and other bodies of water in the Missouri River Basin as well as groundwater and aquifers outside its Reservation. • Hunting and fishing rights: The Tribe enjoys hunting and fishing rights in Lake Oahe, the reservoir of the Missouri River that are subject to the United States' trust duty. The rights are a function of the Tribe's extant treaty rights and have been preserved by Congress. See Treaty of Fort Laramie with the Sioux, Etc., 11 Stat. 749 (Sep.17, 1851); Treaty with the Sioux-Brule, Oglala, Mniconjou, Yanktonai,	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal context	
			Hunlcpapa, Blackfeet, Cuthead, Two Kettle, Sans Arc, and Santee, 15 Stat. 635 (Apr. 29, 1868); Act of Sep. 3 1954, Pub. L. 83-776, 68 Stat. 1191. Numerous off-Reservation tributaries and aquifers belong to the Lake Oahe hydrologic system and consequently will impact the Tribe's retained hunting and fishing rights in Lake Oahe. • Historic. spiritual, and cultural resources: There are numerous sites of historic, spiritual, and cultural significance to the Tribe throughout the Tribe's large aboriginal territory, but especially within the boundaries of the lands reserved to the Tribe in the *Treaty of Fort Laramie with the Sioux, Etc.,* 11 Stat. 749 (Sep. 17, 1851). Furthermore, the Tribe's reserved water 1ights themselves constitute a spiritual and cultural resource in light of the primary role that water plays in Lakota religious sacraments, which require environmenta1ly and ritually pure water. (A map showing the Tribe's 1851 territory is enclosed herewith.) ***United States Trust Duty*** The United States has a two-fold trust duty to the Tribe. Courts have long recognized the "existence of a general trust relationship between the United States and the Indian people." *United States v. Mitchell,* 463 U.S. 206, 225 (1983). The courts are clear that "any Federal government action is subject to the United States' fiduciary responsibilities toward the Indian tribes." *Nance v. EPA,* 645 F.2d 701, 711 (9th Cir. 1981) (emphasis in original) (citing *Seminole Nation v. United States,* 316 U.S. 268, 297 (1942)). Secondly, the federal government has a specific trust duty to protect the rights reserved in the 1851 and 1868 Fort Laramie Treaties. The Tribe was a party to the 1851 and 1868 Fort Laramie Treaties, which reserved land and water to the Tribe in order to fulfill the purpose of the Reservation to provide for self-sufficiency. *See Winters* v. *United States,* 207 U.S. 564 (1908). The reserved water right recognized in the *Winters* doctrine, and reserved for the Tribe, includes the right to clean, safe water. *See, e.g., United States v. Gila River Irrigation Dist.,* 920 F. Supp. 1444, 1448 (D. Ariz. 1996). Likewise, the Tribe has retained its right to hunt, fish, and gather on the Reservation and in Lake Oahe. Act of September 3, 1954, Pub. L. 83-766, 68 Stat. 1191; *South Dakota* v. *Bourland,* 508 U.S. 679, 697 (1993) (noting that Congress explicitly has reserved the Cheyenne River Sioux Tribe's original treaty rights, including the right to hunt and fish, on Lake Oahe); *see also United States* v. *Dion,* 476 U.S. 734, 738 (1986) ("Indians enjoy exclusive treaty rights to hunt and		

Letter ID	Commenter Name	Commenter Org.	Text	Legal context	
			fish on lands reserved to them .... "). The Tribe's water rights include a right to water that is sufficient in amount and quality to support hunting and fishing rights. *United States v. Adair,* 723 F.2d 1394, 1409, 1411 (9th Cir. 1983). As a result of the federal government's trust responsibilities to the Tribe, the EPA must ensure that such trust resources are preserved in any activity that may impact the Tribe's rights, including the Underground Injection Control Draft Area Pennit and Proposed Aquifer Exemption decision for Dewey-Burdock Uranium In-Situ Recovery Site. [...] *Tribe's Requests Concerning the Underground I11jection Control Draft Area Permit and Proposed Aquifer Exemption decision for Dewey-Burdock Uranium In-Situ Recovery Site* 1. The Dewey-Burdock Uranium In Situ Recovery Site Poses a Serious Threat to Tribal Rights that the EPA Must Thoroughly Evaluate The Dewey-Burdock Uranium Mine is proposed to be sited within the Tribe's 1851 territory and in areas that impact aquifers and tributaries that affect Cheyenne River Sioux Reservation lands and waters. As such, the Dewey-Burdock Uranium Mine will have se1ious impacts on (a) the Tribe's treaty rights and reserved water rights, (b) the Tribe's cultural resources; and (c) the Tribe's religious exercise, as set forth in further detail below. **a. The Dewey-Burdock Uranium Mine Poses a Serious Threat to the Tribe's Treaty Rights and Reserved Water Rights** The proposed Dewey-Burdock Uranium Mine is proposed to be sited in areas that affect aquifers, watersheds, and tributaries that are hydrologically connected to the waters that affect Cheyenne River Sioux Reservation lands and waters. These lands and waters have been guaranteed to us by Treaty, and the United States must act as our fiduciary in protecting them as a matter of federal law as set forth above. In 2005, when a drought threatened the Tribe's only source of drinking water, which is drawn from an intake project at the confluence of the Cheyenne River and the Missouri River at Lake Oahe, the U.S. Army Corps of Engineers determined that a loss of this water source would devastate our Tribe. As a consequence, we are vigilant in our monitoring and stewardship of our waters. The Cheyenne River, the waterway that gives our Reservation its name, constitutes the southern border of our Reservation and flows into the Missouri River (Lake Oahe) at precisely the place		

Letter ID	Commenter Name	Commenter Org.	Text	Legal context	
			where the United States has built the water intake that serves our entire Reservation. The Cheyenne River also flows through the Black Hills very close to the site of the proposed Dewey Burdock Uranium Mine. Other historical uranium mines and other metal mines have been sited near the Cheyenne River in the Black Hills. The Tribe has collected water samples over many years from the Cheyenne River in an effort to protect the health, safety, and welfare of our people. These samples show levels of 16-32 pCiPl (Pico liter series per liter) in the Cheyenne River. This demonstrates that past uranium mining has, and future uranium mining will, migrate out of the resources and will not be contained. We have also seen high levels of radiation on the Moreau River, another tributary of the Missouri River, caused from past uranium mining upstream. In light of these facts, the Cheyenne River Sioux Tribe strongly opposes any and all current, new, or ongoing uranium mining projects in lands and waters that affect our Reservation. The current analyses of the Dewey-Burdock Uranium Mine specifically identifies the Cheyenne River and its tributaries as an area that will be affected by the Dewey-Burdock Uranium Mine. Significantly, however, the current analyses conspicuously do not address the impacts of the mining activity on the Cheyenne River Sioux Tribe. There is no risk data concerning human health impact of the Dewey-Burdock Uranium Mine on the Cheyenne River Sioux people as it relates to the aquifers, watersheds, or tributaries that feed our Reservation. There is no analysis of impacts to fish and wildlife on our Reservation and in Lake Oahe, to which we have rights embodied in both Treaty and federal statute. There is also no analysis of impacts upon plants that we rely upon for food and medicine. [...] In light of its fiduciary duty to the Cheyenne River Sioux Tribe, until the EPA has thoroughly evaluated the above impacts to the Tribe, any authorizations of the instant uranium mine violates federal law and would be arbitrary and capricious. [...] I appreciate the EPA's request for comments on this important issue. As noted above, these comments are ***preliminary.***		

Letter ID	Commenter Name	Commenter Org.	Text	Legal context	
00524	Ex. 6 Personal Privacy (PP)	Cheyenne River Sioux Tribe	Transmitted herewith are an original and two (2) copies of Resolution No. 145-2017-CR which was duly adopted by the Cheyenne River Sioux Tribal Council during its Regular Session held on May 4, 2017. [ATTACHMENT: "RESOLUTION NO. 145-2017-CR"]		
00525	Ex. 6 Personal Privacy (PP)	Cheyenne River Sioux Tribe	As the Chairman of the Cheyenne River Sioux Tribe ("Tribe"), I am contacting the U.S. Environmental Protection Agency ("EPA") to submit the Tribe's official comments on the EPA's Region 8 Underground Injection Control Draft Area Permit and Proposed Aquifer Exemption decision for Dewey-Burdock Uranium In-Situ Recovery Site. The Cheyenne River Sioux Reservation is located wholly within the exterior boundaries of the State of South Dakota. (A map showing the location of the Tribe's Reservation is enclosed herewith.) However, our rights and trust resources extend beyond our Reservation borders as a matter of federal law, and they are rights for which the United States owes us a fiduciary duty. [...] The Tribe's Rights and Trust Resources in the vicinity of the Dewey-Burdock Uranium Mine • Reserved water rights: The Tribe enjoys reserved water rights in the Missouri River Basin as well as related groundwater in an amount sufficient to fulfill the purposes of the Reservation. See Winters v. United States, 207 U.S. 564 (1908); Arizona v. California, 373 U.S. 546, 600 (1963). These reserved water rights are a trust resource for which the United States owes a fiduciary duty. These rights are a function of the Tribe's extant treaty rights. See Treaty of Fort Laramie with the Sioux, Etc., 11 Stat. 749 (Sep. 17, 1851); Treaty with the Sioux -Brule, Oglala, Mniconjou, Yanktonai, Hunlcpapa, Blackfeet, Cuthead, Two Kettle, Sans Arc, and Santee, 15 Stat. 635 (Apr. 29, 1968). The Tribe retains reserved water rights in off-Reservation waterways and other bodies of water in the Missouri River Basin as well as groundwater and aquifers outside its Reservation. • Hunting and fishing rights: The Tribe enjoys hunting and fishing rights in Lake Oahe, the reservoir of the Missouri River that are subject to the United States' trust duty. The rights are a function of the Tribe's extant treaty rights and have been preserved by Congress. See Treaty of Fort Laramie with the Sioux, Etc., 11 Stat. 749	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal context	
			(Sep.17, 1851); Treaty with the Sioux-Brule, Oglala, Mniconjou, Yanktonai, Hunlcpapa, Blackfeet, Cuthead, Two Kettle, Sans Arc, and Santee, 15 Stat. 635 (Apr. 29, 1868); Act of Sep. 3 1954, Pub. L. 83-776, 68 Stat. 1191. Numerous off-Reservation tributaries and aquifers belong to the Lake Oahe hydrologic system and consequently will impact the Tribe's retained hunting and fishing rights in Lake Oahe. • Historic. spiritual, and cultural resources: There are numerous sites of historic, spiritual, and cultural significance to the Tribe throughout the Tribe's large aboriginal territory, but especially within the boundaries of the lands reserved to the Tribe in the *Treaty of Fort Laramie with the Sioux, Etc.,* 11 Stat. 749 (Sep. 17, 1851). Furthermore, the Tribe's reserved water 1ights themselves constitute a spiritual and cultural resource in light of the primary role that water plays in Lakota religious sacraments, which require environmenta1ly and ritually pure water. (A map showing the Tribe's 1851 territory is enclosed herewith.) *United States Trust Duty* The United States has a two-fold trust duty to the Tribe. Courts have long recognized the "existence of a general trust relationship between the United States and the Indian people." *United States v. Mitchell,* 463 U.S. 206, 225 (1983). The courts are clear that "any Federal government action is subject to the United States' fiduciary responsibilities toward the Indian tribes." *Nance v. EPA,* 645 F.2d 701, 711 (9th Cir. 1981) (emphasis in original) (citing *Seminole Nation v. United States,* 316 U.S. 268, 297 (1942)). Secondly, the federal government has a specific trust duty to protect the rights reserved in the 1851 and 1868 Fort Laramie Treaties. The Tribe was a party to the 1851 and 1868 Fort Laramie Treaties, which reserved land and water to the Tribe in order to fulfill the purpose of the Reservation to provide for self-sufficiency. *See Winters* v. *United States,* 207 U.S. 564 (1908). The reserved water right recognized in the *Winters* doctrine, and reserved for the Tribe, includes the right to clean, safe water. *See, e.g., United States v. Gila River Irrigation Dist.,* 920 F. Supp. 1444, 1448 (D. Ariz. 1996). Likewise, the Tribe has retained its right to hunt, fish, and gather on the Reservation and in Lake Oahe. Act of September 3, 1954, Pub. L. 83-766, 68 Stat. 1191; *South Dakota* v. *Bourland,* 508 U.S. 679, 697 (1993) (noting that Congress explicitly has reserved the Cheyenne River Sioux Tribe's original treaty rights, including the right to hunt and fish, on Lake Oahe); *see also United States* v.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal context	
			Dion, 476 U.S. 734, 738 (1986) ("Indians enjoy exclusive treaty rights to hunt and fish on lands reserved to them .... "). The Tribe's water rights include a right to water that is sufficient in amount and quality to support hunting and fishing rights. *United States v. Adair,* 723 F.2d 1394, 1409, 1411 (9th Cir. 1983). As a result of the federal government's trust responsibilities to the Tribe, the EPA must ensure that such trust resources are preserved in any activity that may impact the Tribe's rights, including the Underground Injection Control Draft Area Permit and Proposed Aquifer Exemption decision for Dewey-Burdock Uranium In-Situ Recovery Site. [...] *Tribe's Requests Concerning the Underground I11jection Control Draft Area Permit and Proposed Aquifer Exemption decision for Dewey-Burdock Uranium In-Situ Recovery Site* 1. The Dewey-Burdock Uranium In Situ Recovery Site Poses a Serious Threat to Tribal Rights that the EPA Must Thoroughly Evaluate The Dewey-Burdock Uranium Mine is proposed to be sited within the Tribe's 1851 territory and in areas that impact aquifers and tributaries that affect Cheyenne River Sioux Reservation lands and waters. As such, the Dewey-Burdock Uranium Mine will have se1ious impacts on (a) the Tribe's treaty rights and reserved water rights, (b) the Tribe's cultural resources; and (c) the Tribe's religious exercise, as set forth in further detail below. **a. The Dewey-Burdock Uranium Mine Poses a Serious Threat to the Tribe's Treaty Rights and Reserved Water Rights** The proposed Dewey-Burdock Uranium Mine is proposed to be sited in areas that affect aquifers, watersheds, and tributaries that are hydrologically connected to the waters that affect Cheyenne River Sioux Reservation lands and waters. These lands and waters have been guaranteed to us by Treaty, and the United States must act as our fiduciary in protecting them as a matter of federal law as set forth above. In 2005, when a drought threatened the Tribe's only source of drinking water, which is drawn from an intake project at the confluence of the Cheyenne River and the Missouri River at Lake Oahe, the U.S. Army Corps of Engineers determined that a loss of this water source would devastate our Tribe. As a consequence, we are vigilant in our monitoring and stewardship of our waters. The Cheyenne River, the waterway that gives our Reservation its name, constitutes the southern border of		

Letter ID	Commenter Name	Commenter Org.	Text	Legal context	
			our Reservation and flows into the Missouri River (Lake Oahe) at precisely the place where the United States has built the water intake that serves our entire Reservation. The Cheyenne River also flows through the Black Hills very close to the site of the proposed Dewey Burdock Uranium Mine. Other historical uranium mines and other metal mines have been sited near the Cheyenne River in the Black Hills. The Tribe has collected water samples over many years from the Cheyenne River in an effort to protect the health, safety, and welfare of our people. These samples show levels of 16-32 pCiPl (Pico liter series per liter) in the Cheyenne River. This demonstrates that past uranium mining has, and future uranium mining will, migrate out of the resources and will not be contained. We have also seen high levels of radiation on the Moreau River, another tributary of the Missouri River, caused from past uranium mining upstream. In light of these facts, the Cheyenne River Sioux Tribe strongly opposes any and all current, new, or ongoing uranium mining projects in lands and waters that affect our Reservation. The current analyses of the Dewey-Burdock Uranium Mine specifically identifies the Cheyenne River and its tributaries as an area that will be affected by the Dewey-Burdock Uranium Mine. Significantly, however, the current analyses conspicuously do not address the impacts of the mining activity on the Cheyenne River Sioux Tribe. There is no risk data concerning human health impact of the Dewey-Burdock Uranium Mine on the Cheyenne River Sioux people as it relates to the aquifers, watersheds, or tributaries that feed our Reservation. There is no analysis of impacts to fish and wildlife on our Reservation and in Lake Oahe, to which we have rights embodied in both Treaty and federal statute. There is also no analysis of impacts upon plants that we rely upon for food and medicine. [...] In light of its fiduciary duty to the Cheyenne River Sioux Tribe, until the EPA has thoroughly evaluated the above impacts to the Tribe, any authorizations of the instant uranium mine violates federal law and would be arbitrary and capricious. [...] I appreciate the EPA's request for comments on this important issue. As noted above, these comments are *preliminary.* [ATTACHMENT: “Sioux Treaty lands and surrounding area” and untitled map (images)]		

Letter ID	Commenter Name	Commenter Org.	Text	Legal context	
00537	Ex. 6 Personal Privacy (PP)	Native Research Solutions	**III. The Federal Government Has a Legally-Recognized Federal Trust Responsibility to Protect Native American Sacred Sites.** **While the necessary cultural data still needs to be collected and analyzed and the granting of the mine permits is premature without this cultural data, one thing is certain- the federal government has a trust responsibility to protect Native American sacred sites. The National Historic Preservation Act, the Native American Graves Protection and Repatriation Act, the Religious Freedom Restoration Act, and Executive Order No. 13007 all offer protections for Native American sacred sites and weigh in favor of denying the permits.** **The federal government and Indian tribes have a unique legal relationship, known as the trust relationship, in which the federal government has legal obligations and duties to Indian tribes.[25] This trust relationship requires the federal government to protect the property and resources of Indian tribes, including rights to water and protection of sacred sites.[26] Here, there is no doubt that the proposed mining project would impact Indian people and communities.** **EPA itself has taken a broad view of the role of tribal governments in policy decisionmaking. In the EPA Policy for the Administration of Environmental Programs on Indian Reservations, the EPA states, "the Agency will view tribal governments as the appropriate nonfederal parties for making decisions and carrying out program responsibilities affecting Indian reservations, their environments, and the health and welfare of the reservation populace."[27] In addition, EPA states it will "look directly to Tribal Governments to play this lead role for matters affecting reservation environments."[28] Here, the proposed permits significantly impact tribal communities and resources. EPA should adhere to its own policy and follow the lead of the tribe. The tribe has been clear in its position and its opposition to uranium mining in the sacred Black Hills.** [...] **IV. The Treaty Rights of the Lakota People Under the 1868 Fort Laramie Treaty Should Be Recognized and Honored.** The Lakota have exclusive treaty rights to the Black Hills and have never waived those rights. After the Lakota were successful in defending their lands from white settlers and their victory over the U.S. military in the Powder River War of 1866-1867, the United States government sought to end the conflict in the region and	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal context	
			initiated treaty negotiations, resulting in the 1868 Fort Laramie Treaty. The Lakota agreed to withdraw their opposition to the construction of railroads, to not attack settlers, and to withdraw their opposition to military posts in exchange for absolute rights to the land as well as hunting grounds outside the reservation.32 The United States pledged that the Great Sioux Reservation and the Black Hills would be "set apart for the absolute and undisturbed use and occupation of the Indians."33 The U.S. agreed that no unauthorized persons "shall ever be permitted to pass over, settle upon, or reside in [the] territory."34 However, after gold was discovered in the area, the U.S. government, under the direction of President Grant, failed to uphold their treaty obligations and allowed miners and non-Indians to invade lands set aside exclusively for the Lakota.[35] After the U.S. government breached its treaty obligations by allowing miners onto land expressly reserved for the Lakota, the U.S. Supreme Court found the government guilty of an unconstitutional taking of the Black Hills from the Lakota.[36] In 1876, the government withheld food rations from the Lakota in an attempt to starve them into signing an agreement giving away the Black Hills.[37] The Lakota refused. Article XII of the Treaty provided "No treaty for the cession of any portion or part of the reservation herein described which may be held in common shall be of any validity or force as against the said Indians, unless executed and signed by at least three-fourths of all the adult male Indians."[38] Even in the face of starvation, the U.S. government was only able to secure signatures from 10% of the adult male population, far fewer than the three-fourths of adult male signatures legally required by the Treaty.[39] As such, the Lakota never consented and never agreed to give their rights to the Black Hills away. The Lakota retain their treaty rights to the Black Hills and their opposition to uranium mining in the Black Hills should be recognized and adhered to. Without following the direction of the tribe, the United States continues an unconstitutional taking and carries on a legacy of disrespect and dishonorable dealings with Indian tribes.		
00537	Ex. 6 Personal Privacy (PP)	Native Research Solutions	**VI. EPA Should Recognize and Follow United Nations Human Rights Principles ar Deny the Permits.**	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal context	
			The EPA should look to principles of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) when working with Native American communities. The UNDRIP requires that state and federal governments, in good faith, receive "free, prior, and informed consent" from tribal nations on any project affecting their lands, territories, or resources.[45] Clearly, the Lakota have not given consent to mine uranium in the Black Hills. UNDRIP recognizes that "respect for indigenous knowledge, cultures, and traditional practices contributes to sustainable and equitable development and proper management of the environment."[46] Indigenous peoples throughout the world believe in principles of natural law as opposed to western concepts of law. Whereas western law prohibits the mix of church and religion with law, Indigenous peoples rely on cultural and religious teachings as the ultimate source of law. Natural law is a set of laws that originates from the earth and recognizes all living beings as equal. It is the belief that all beings in creation are connected and that there are familial relationships among all of creation. Natural law recognizes the role of a human as a steward of the land, to look after the land, and protect the land for future generations rather than using the earth and its resources for temporary gain. It is a concept that recognizes that the lives of human beings may end, but the world will regenerate and continue on without humans.[47] Natural law is based on principles of respect and responsibility. These principles are reflected in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). Article 25 of the Declaration states, "Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally-owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard."[48] To grant the proposed permits to Powertech, the EPA violates this internationally-recognized human right. In early 2017, United Nations Special Rapporteur on the Rights of Indigenous Peoples, Victoria Tauli-Corpuz visited Indigenous communities throughout the US. Ms. Tauli-Corpuz summarized her findings, recommending that a full environmental impact statement be done in every case where an extractive industry project affects Indian tribes. In addition, the UN Special Rapporteur noted the challenges that exist in the consultation process between tribal governments and the US government. The		

Letter ID	Commenter Name	Commenter Org.	Text	Legal context	
			Special Rapporteur mentioned Executive Order 13175 as a well-intentioned but confusing and disjointed framework that "suffers from loopholes, ambiguity, and a general lack of accountability."[49] The Special Rapporteur went on to write, "The breakdown of communication and lack of good faith involvement in the review of federal projects has left tribal governments functionally unable to participate in consequential dialogue with the United States on projects affecting their lands, territories, and resources."[50] As a signatory to the UN Declaration on the Rights of Indigenous Peoples, the United States has an obligation to meet its human rights obligations and provide for fair and meaningful engagement of tribal governments. The UN Special Rapporteur reminds US agencies: The goal of tribal consultation is not simply to check a box, or to merely give tribes a chance to be heard. Rather, the core objective is to provide federal decision makers with context, information, and perspectives needed to support informed decisions that actually protect tribal interests. Treaty rights, the federal trust responsibility to tribes, environmental justice, and the principles enshrined in the Declaration all must be given life and meaning in federal decisions that impact tribes.[51] The EPA should fulfill its human rights responsibilities under the UN Declaration on the Rights of Indigenous Peoples and deny the mine permits. Thank you for your consideration of these comments.		
00546	Ex. 6 Personal Privacy (PP)	Oglala Sioux Tribe	I serve as President of the Oglala Sioux Tribe, and I write to submit testimony on behalf of the Oglala Sioux Tribal Council, in opposition to the application by Powertech, Inc. for a Class V Underground Injection Control (UIC) permit, for uranium mining waste at the proposed Dewey-Burdock project site. An overview of our concerns is as follows: [...] As discussed in more detail below, for these reasons, the permit application must be denied. THE PROPOSED DEWEY BURDOCK PERMIT VIOLATES THE 1851 FORT LARAMIE TREATY AND 1868 FORT LARAMIE TREATY In 1848, the United States needed the permission of the *Oceti Sakowin Oyate* to establish the Oregon Trail. This resulted in the Fort Laramie Treaty of 1851, in which	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal context	
			the United States recognized as Sioux Country a vast territory in the northern plains. (11 Stat. 749). Article V defines the territory of the Great Sioux Nation as follows: The territory of the Sioux or Decotah Nation, commencing at the mouth of the White Earth River on the Missouri River: thence in a southwesterly direction to the forks of the Platte River; thence up the north fork of the Platte River to a point known as the Red Butte, or where the road leaves the river; thence along the mountain range known as **the Black Hills,** to the headwaters of the Heart River; thence down Heart River to its mouth and thence down the Missouri River to the place of beginning. (11 Stat. 749). T he proposed Dewey-Burdock underground injection wells are clearly within the boundaries of Sioux Country as defined in Article V of the 1851 Fort Laramie Treaty. The permit application, if granted, will violate the Treaty rights of the Oglala Sioux Tribe under the 1851 Treaty. Soon after the Treaty was ratified by Congress, the 1863 Montana gold rush resulted in trespassers entering Sioux Country. The United States began building military outposts in Wyoming Territory, in violation of the 1851 Fort Laramie Treaty. Oglala Lakota forces led by Chief Red Cloud defeated the United States in the Powder River War of 1866-1867, forcing closure of the military forts. The United States then negotiated the Fort Laramie Treaty of April 29, 1868. In the 1868 Treaty, the Oglala and other bands of the *Oceti Sakowin Oyate* reserved the Great Sioux Reservation, as described in Article II: The United States agrees that the following district of country, to wit, viz: commencing on the east bank of the Missouri river where the 46th parallel of north latitude crosses the same, thence along lowwater mark down said east bank to a point opposite where the northern line of the State of Nebraska strikes the river, thence west across said river, and along the northern line of Nebraska to the 104th degree of longitude west from Greenwich, thence north on said meridian to a point where the 46th parallel of north latitude intercepts the same, thence due east along said parallel to the place of beginning; and in addition thereto, all existing reservations of the east back of said river, shall be and the same is, set apart for the absolute and undisturbed use and occupation of the Indians herein named, and for		

Letter ID	Commenter Name	Commenter Org.	Text	Legal context	
			such other friendly tribes or individual Indians as from time to time they may be willing, with the consent of the United States, to admit amongst them; and the United States now solemnly agrees that **no persons,** except those herein designated and authorized so to do, and except such officers, agents, and employees of the government as may be authorized to enter upon Indian reservations in discharge of duties enjoined by law, **shall ever be permitted to pass over, settle upon, ot reside in the territory described in this article.** (15 Stat. 635). Thus, the Great Sioux Reservation comprised all of present-day South Dakota west of the Missouri River (to the east bank), including the Black Hills. Article II recognizes the right of our Tribe to exclude PowerTech. The sacred nature of the Black Hills to the *Oceti Sakowin Oyate* is well documented -these are sacred lands that should not be desecrated in the manner described in the draft UIC permit. The Black Hills are integral to our creation story, and remain an important place for pilgrimage and ceremony by our Tribal members. Ultimately, the proposed permit violates Article II of the 1868 Fort Laramie Treaty and must be denied. The recharge area for the Black Hills aquifers affected by the proposed DeweyBurdock permit is also protected under the 1868 Treaty. The Powder and Platte River basins were identified as Sioux Country in the 1851 Treaty. Although they lay outside of the Great Sioux Reservation as described in Article II of the 1868 Treaty, we retained title to these lands for hunting. Under Article XVI of the Fort Laramie Treaty of 1868, these areas are defined as unceded, and remain in Sioux ownership: The United States hereby agrees and stipulates that the country north of the North Platte River and east of the summits of the Big Hom mountains shall be held and considered to be **unceded.** Indian territory, and also stipulates and agrees that no white person or persons shall be permitted to settle upon or occupy any portion of the same; or without the consent of the Indians, first had and obtained, to pass through the same. (15 Stat. 639). Article XI of the 1868 Treaty established a process by which a Commission would be formed, to include our head men, prior to approval of "works of utility or necessity" that may affect the Great Sioux Reservation. The Dewey-Burdock permit application		

Letter ID	Commenter Name	Commenter Org.	Text	Legal context	
			may not be approved by EPA in the absence of the formation of a commission as required by Article XI of the 1868 Fort Laramie Treaty. Under Article XII of the 1868 Treaty: No treaty for the cession of any portion or part of the reservation herein described which may be held in common shall be of any validity or force as against the said Indians, unless executed and signed by at least three-fourths of all the adult male Indians. 15 Stat. 638. The United States violated Article XII in every unilateral land taking against the *Oceti Sakowin Oyate.* In any event, these treaty obligations remain in effect today. As explained by the Chief Justice John Marshall – The Indian nations had always been considered as distinct, independent communities, retaining their original natural rights, as the undisputed possessors of the soul from time immemorial. . . The very term 'nation," so generally applied to them, means "a people distinct from all others." The constitution, by declaring treaties already made, as well as those to be made, the supreme law of the land, has adopted and sanctioned the previous treaties with the Indian nations, and consequently admits their rank among those powers who are capable of making treaties. The words "treaty" and "nation" are words of our own language, selected in our diplomatic and legislative proceedings by ourselves, having each a definite and well understood meaning. We have applied them to Indians as we have applied them to other nations of the earth. They are all applied in the same sense. *(Worcester v. Georgia,* 31 U.S. (6 Pet.) 515, 559-560 (1832)). Consequently, the obligations of the United States to the Oglala Sioux Tribe under the 1851 and 1868 Fort Laramie Treaties remain in effect today. The Fort Laramie Treaties enjoy a legal status comparable to treaties with foreign nations. For this reason, the requirements of the United Nations Declaration of the Rights of Indigenous Peoples apply to the Dewey-Burdock UIC permits. Article 29 paragraph 2 prohibits approval of the proposed permits without the consent of the Oglala Sioux Tribe:		

Letter ID	Commenter Name	Commenter Org.	Text	Legal context	
			States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands or territories of indigenous peoples without their free, prior and informed consent. (U.N. Doc. NRES/61/295, Sept. 13, 2007). In Article 37, paragraph 1, the U.N. Declaration requires compliance with our Treaty rights: Indigenous peoples shall have the right to the recognition, observance and enforcement of treaties. These requirements gain special significance under international law where, as here, sacred lands are at risk. Article 25 of the U.N. Declaration provides that: Indigenous people have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied lands. The Dewey-Burdock UIC permit application threatens Treaty land and water of the Oglala Sioux Tribe. The applicable principles of international law require EPA to deny the permit. These requirements are incorporated into the laws of the United States, pursuant to Executive Order 13175 on *Consultation and Coordination with Indian Tribal Governments.* E. 0. 1317 5 provides that: The United States continues to work with Indian tribes on a government-to-government basis to address issues concerning Indian... treaty and other rights. **Agencies shall... honor treaty rights** and other rights. (65 Fed. Reg. 67249). The title to the Dewey-Burdock project area remains disputed by the Oglala Sioux Tribe. In the case of *United States v. Sioux Nation of Indians,* 448 U.S. 371,387 (1980), the United States Supreme Court ruled that the taking of Sioux Nation treaty lands under the Act of February 2, 1877 and other laws violated the 5th Amendment of the United States constitution. In affirming a judgment of $108 million, the Court described the treatment of the Sioux Nation by the United States as "(a) more ripe and rank case of dishonorable dealings will never, in all probability, be found in our nation's history." The Oglala Sioux Tribe and *Oceti Sakowin Oyate* have not accepted the award of money damages, and have continuously insisted that land restoration be the		

Letter ID	Commenter Name	Commenter Org.	Text	Legal context	
			cornerstone of a settlement of the outstanding Treaty claims under the 1851 and 1868 Treaties. As explained by South Dakota District Judge Lawrence Piersol, "If there is to be any other resolution for these past wrongs ... then (it) must come from Congress." *(Different Horse v. Salazar,* Civ. 09-4049, Memorandum Op. and Order p. 9, (D.S.D. 2009)). Legislation has been introduced in past Congress' to return title to the lands affected by the proposed Dewy Burdock project to the *Oceti Sakowin Oyate.* E.g. 99th Cong., S. 1453 ("Sioux Nation Black Hills Act"). Indeed, the centuries-long efforts of the Oglala Sioux Tribe for the return of our sacred Black Hills has been well documented, and is ongoing. Ultimately, as the largest band of the *Oceti Sakowin Oyate,* the Oglala Sioux Tribe retains an unresolved claim under the 1868 Fort Laramie Treaty to the title to the land within and surrounding the project area. The EPA cannot ignore this claim. The proposed Class V UIC permit violates the 1851 and 1868 Fort Laramie Treaties, the United Nations Declaration of the Rights of Indigenous Peoples and Executive Order 13175. The EPA must deny the Dewey-Burdock permit application. THE PROPOSED INJECTION WELLS THREATEN WATERS OF THE OGLALA SIOUX TRIBE Under the principles enunciated by the United States Supreme Court in *Winters v. United States,* 207 U.S. 564 (1908), in the Fort Laramie Treaties, the Oglala Sioux Tribe reserved water rights for all present and future beneficial uses on the Pine Ridge Indian Reservation. The waters sources to fulfill our rights extend to all waters arising upon, flowing over, and bordering our Reservation, as well as to groundwater. Indian water rights are prior and superior to the state law water rights of non-Indians, because they derive from Treaties with an earlier priority date, and are recognized by federal law, and are not dependent upon state law. Our reserved water rights extend to the Cheyenne River. The proposed injection wells threaten the Cheyenne River watershed near its headwaters. The proposed DeweyBurdock injection wells and potential migration pathways lead to the Cheyenne River. Dewey Burdock directly threatens waters subject to the Winters Doctrine water rights claims of the Oglala Sioux Tribe. Water rights are property rights, reserved in our Treaties. In addition to our reservation ofland, our forefathers reserved the water necessary to transform our		

Letter ID	Commenter Name	Commenter Org.	Text	Legal context	
			remaining landholdings into a permanent homeland for our people. This is specified in Article XV of the 1868 Fort Laramie Treaty: The Indians herein named agree that when the agency-house or other buildings shall be constructed on the reservation named, **they will regard said reservation their permanent home.** 15 Stat. 639. Thus, our water rights extend to all waters needed for a permanent homeland. This includes the right to water free from contamination or degradation *(United States v. Gila Valley Irrigation Dist.,* 920 F.Supp. 1444 (D. Ariz. 1996). Consequently, the risk to water quality posed by approval of Dewey-Burdock will violate the Winters Doctrine water rights of the Oglala Sioux Tribe.		
00546	Ex. 6 Personal Privacy (PP)	Oglala Sioux Tribe	The proposed waste injection site is within the boundaries of the Great Sioux Reservation, as defined in the Treaty of Fort Laramie of April 29, 1868. (15 Stat. 635). The United Nations Declaration of the Rights of Indigenous peoples prohibits approval of the permits without our consent, and we do not consent. In fact, the Oglala Sioux Tribe adopted Ordinance No. 07-40 explicitly declaring the Pine Ridge Indian Reservation, including its aboriginal territory boundaries, to be a nuclear-free area. Executive Order 13175 on Consultation and Coordination with Indian Tribal Governments requires all agencies to respect Treaty rights, and approval of the Dewey-Burdick permit violate the 1868 Fort Laramie Treaty. Under the Fort Laramie Treaty, and applicable principles of federal and international law, the permit must be denied. The Oglala Sioux Tribe possesses reserved water rights to the Cheyenne River, under the legal principles established in *United States v. Winters,* 207 U.S. 564 (1908). The interconnection of the Madison and Minnelusa aquifers and of ground and surface water at artesian springs threatens the Cheyenne headwaters with contamination. The EPA lacks adequate data to demonstrate that our waters will remain protected. Under section 106 of the National Historic Preservation Act, the EPA must consult with the Oglala Sioux Tribal Historic Preservation Office in the identification, evaluation and determination of potential impacts to historic properties by the proposed DeweyBurdock injection wells. (54 U.S.C. §306108). Under Executive Order 13175, the EPA must also engage in government-to-government consultation	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal context	
			with the Oglala Sioux Tribal Council on the proposed UIC permit. (65 Fed. Reg. 67249). The attempt by EPA to combine Section 106 consultation meetings with government-to-government consultation resulted in confusion and lack of compliance with either consultation requirement.		
00547	Ex. 6 Personal Privacy (PP)	Oglala Sioux Tribe	ORDINANCE OF THE OGLALA SIOUX TRIBAL COUNCIL ENACTING THE OGLALA SIOUX TRIBE NATURAL RESOURCES PROTECTION ACT OF 2007. WHEREAS, the Oglala Sioux Tribe has adopted its Constitution and By-Laws by referendum vote on December 14, 1935, in accordance with Section 16 of the Indian Reorganization Act of 1934 (25 U.S.C. § 476), and under Article IV of the Oglala Sioux Tribe Constitution the Oglala Sioux Tribal Council is the governing body of the Pine Ridge Indian Reservation, and WHEREAS, the Oglala Sioux Tribal Council is vested with authority "to protect and preserve the natural resources of the Tribe, and to regulate the use and disposition of property upon the reservation" under Article IV, Section 1 (m) of the Oglala Sioux Tribal Constitution, and (n) "to protect the heal th and general welfare of the Tribe", and WHEREAS, the purpose of the Oglala Sioux Tribe's Natural Resources Protection Act of 2007 is to ensure that no damage will come to the people, the culture, the environment, including the air and water, and economy of the Oglala Sioux Tribe because of uranium mining or processing in the region of the Upper Midwestern United States, and...	Ex. 5 Deliberative Process (DP)	
00552		Santee Sioux Nation	WHEREAS, THAT LAND IN, ON OR AROUND THE He' Sapa ARE FOREVER SACRED AND MUST BE PROTECTED BY ALL NA TIO NS OF THE SIOUX PEOPLE IN ACCORDANCE WITH Wope' OR NATURAL LAW AND TRIBAL LAW, APPROVED BY TRIBES.		
00555		Standing Rock Sioux Tribe	I write to submit written testimony of the Standing Rock Sioux Tribe in opposition to the Dewey Burdock Class V Underground Injection Control permit application, by Powertech USA, Inc. I request that this letter be included in the administrative		

Letter ID	Commenter Name	Commenter Org.	Text	Legal context	
			record for the Dewey Burdick UIC permit application, and that our concerns be given full consideration by EPA. The Standing Rock Sioux Tribe opposes the permit application for the following reasons: (1) The proposed Dewey Burdock project will desecrate sacred lands and waters in the Black Hills, in violation of the Treaty of Fort Laramie of April 29, 1868. (15 Stat. 635); [...] As discussed in more detail below, for these reasons, the permit application must be denied.		
00555	Ex. 6 Personal Privacy (PP)	Standing Rock Sioux Tribe	1. The Draft Dewey Burdock Permit Violates the 1868 Fort Laramie Treaty The Treaty of Fort Laramie of April 29, 1868 is denominated "Treaty with the Sioux - Brule, Oglala, Minneconjou, Y anktonai, Hunkpapa, Blackfeet, Cuthead, Two Kettle, Sans Arcs, and Santee ... " (15 Stat. 635). The Standing Rock Sioux Tribe is comprised of the Y anktonai, Hunkpapa, Blackfeet and Cuthead bands of the Lakota and Dakota Nation. Accordingly, Standing Rock is a signatory to the 1868 Fort Laramie Treaty and our Tribe is entitled to the rights prescribed therein. The 1868 Fort Laramie Treaty established the Great Sioux Reservation. The boundaries of the Reservation were described in Article 2: The United States agrees that the following district of country, to wit, viz: commencing on the east bank of the Missouri River where the 46th parallel of north latitude crosses the same, thence along low-water mark down said east bank to a point opposite where the northern line of the State of Nebraska strikes the river, thence west across said river, and along the northern line of Nebraska to the 104th degree of longitude west from Greenwich, thence north on said meridian to a point where the 46th parallel of north latitude intercepts the same, thence due east along said parallel to the place of beginning; and in addition thereto, all existing reservations of the east back of said river, shall be and the same is, set apart for the absolute and undisturbed use and occupation of the Indians herein named, and for such other friendly tribes or individual Indians as from time to time they may be willing, with the consent of the United States, to admit amongst them; and the United States now solemnly agrees that no persons, except those herein designated	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal context	
			and authorized so to do, and except such officers, agents, and employees of the government as may be authorized to enter upon Indian reservations in discharge of duties enjoined by law, shall ever be permitted to pass over, settle upon, or reside in the territory described in this article. (15 Stat. 635). The Black Hills are a significant part of our Treaty Reservation. In the negotiations for the 1868 Treaty, our forefathers emphasized the importance of the Black Hills to our Tribe and ensured that our Treaty Reservation included the Black Hills. This is sacred land. The Black Hills are integral to our creation story, and remain an important place for pilgramage and ceremony by our Tribal members. They are the spiritual center for the Lakota and Dakota Nation. The late David Blue Thunder, a prominent Sicangu ceremonial leader, explained that "The Black Hills are the heart of our home, and the home of our heart." (S. Hrg. 99-844, p. 234, statement of David Blue Thunder). It is akin to Jerusalem or Bethlehem, for Christianity and Judaism. It is unlikely that EPA would suggest that uranium mining waste be permitted to be injected into disposal wells at those sacred places. EPA should not permit injection wells for uranium mining wells at the Dewey Burdock project location in the Black Hills. Article 12 of the 1868 Treaty was supposed to ensure that our sacred lands would not be taken or despoiled without our consent: No treaty for the cession of any portion or part of the reservation herein described which may be held in common shall be of any validity or force as against the said Indians, unless executed and signed by at least three-fourths of all the adult male Indians. (15 Stat. 638). Nevertheless, as explained by the Standing Rock Sioux Tribal leader Aljoe Agard to the U.S. Senate Committee on Indian Affairs: Members of the committee, there are only two things that caused the government to break the 1868 treaty and deny our rights to the Black Hills. These two things were gold and greed. Once many white men learned there was gold in the Black Hills, they began to move in, driven by greed ... Our efforts to protect land made		

Letter ID	Commenter Name	Commenter Org.	Text	Legal context	
			the Government angry. The Government decided that we must give up our land. They tried everything - negotiations, threats, and then fierce attacks by the Army. Nothing worked. We refused to sell our land. How could we sell it? As Crazy Horse said, "One does not sell the earth upon which the people walk." And when General Custer tried to wipe us out, we defeated him at the great battle of Little Big Horn. The Government then decided to starve us into selling our land. They cut off all our rations and dent a commission to make an agreement with us. But the usual threats and bribes did not work. Under the 1868 treaty, no agreement was valid unless it was approved by three-fourths of the adult male Sioux. Less than 10 percent of our men approved the agreement. Having totally failed to either fight us, bribe us, or starve us into selling our land, Congress tried to pass a law trying to take our Black Hills. But it is my firm belief, and the firm belief of the Sioux Nation, that these illegal acts did not succeed in tearing the sacred Paha Sapa away from us. (S. Hrg. 99-844, pp. 44-45, statement of Aljoe Agard). The title to the Dewey Burdock project area remains disputed by the Standing Rock Sioux Tribe. In the case of United States v. Sioux Nation of Indians, 448 U.S. 371, 387 (1980), the United States Supreme Court ruled that the taking of Sioux Nation treaty lands under the Act of February 2, 1877 and other laws violated the 5th Amendment of the United States constitution. In affirming a judgment of $108 million, the Court described the treatment of the Sioux Nation by the United States as "(a) more ripe and rank case of dishonorable dealings will never, in all probability, be found in our nation's history." The Standing Rock Sioux Tribe and Oceti Sakowin Oyate have not accepted the award of money damages, and have continuously insisted that land restoration be the cornerstone of a settlement of the outstanding Treaty claims under the 1851 and 1868 Treaties. As explained by Aljoe Agard: It has been over 100 years since the Federal Government broke faith with our people and illegally tried to take the Black Hills from us ... we will continue our fight for the restoration of our sacred lands. We have not given up in 100 years and we will not give up now.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal context	
			(S. Hrg. 99-844, p. 44). The Standing Rock Sioux Tribe and Oceti Sakowin Oyate have rejected a monetary settlement of the issues litigated in the United States v Sioux Nation case, and have insisted that land restoration be the cornerstone of any settlement. Consequently, there is a cloud on the title to the land impacted by the proposed Dewey Burdock project. There is uncertainty with respect to future land use in the area, as the Oceti Sakowin Oyate pursues our claim. Ultimately, the proposed Dewey Burdock UIC permit violates Article 2 of the 1868 Fort Laramie Treaty and must be denied. The requirements of the United Nations Declaration of the Rights of Indigenous Peoples apply to the Dewey Burdock UIC permits. Article 29 paragraph 2 prohibits approval of the proposed permits without the consent of the Standing Rock Sioux Tribe: States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands or territories of indigenous peoples without their free, prior and informed consent. (U.N. Doc. A/RES/61/295, Sept. 13, 2007). In Article 3 7, paragraph 1, the U .N. Declaration requires compliance with our Treaty rights: Indigenous peoples shall have the right to the recognition, observance and enforcement of treaties. These requirements are incorporated into the laws of the United States, pursuant to Executive Order 13175 on Consultation and Coordination with Indian Tribal Governments. E.O. 13175 provides that: The United States continues to work with Indian tribes on a government-to-government basis to address issues concerning Indian .. . treaty and other rights. Agencies shall... honor treaty rights and other rights. (65 Fed. Reg. 67249). The proposed Class V UIC permit violates the 1868 Fort Laramie Treaty, the United Nations Declaration of the Rights of Indigenous Peoples and Executive Order 13175. The EPA must deny the Dewey Burdock permit application.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal context	
00565	Ex. 6 Personal Privacy (PP)	Thunder Valley Community Development Corporation	There are other omissions. The first is consideration of the Fort Laramie Treaties of 1851 and 1868, which reserve the Black Hills to the Lakota. The U.S. Supreme Court recognized this in a 1980 decision, and the U.S. constitution recognizes treaties as "the supreme law of the land." [...] Lakota people say "Mni Wiconi" which roughly translates to "Water is Life." Anything that threatens our water in any form in this semi-arid region is of immediate concern due to the need for water, our spiritual connection to water, and the status of the area's water under treaty law. Lakota people and their allies have a history of protecting water resources from uranium mining, and we will continue to do so. If you have any questions, please feel free to contact me at the address or phone number shown, or by e-mail at [HYPERLINK "mailto:ntilsen@thundervalley.org"].		
07459 (Valentine hearing)	Ex. 6 Personal Privacy (PP)	Individual	These sacred Black Hills that belong to us were given to us by treaty. [...] We have spiritual significance. And historically, my tribe has also given testimony from different administrations. They have also provided resolutions that are not accepting this permit that they are requiring. The former tribal president, Bryan Brewer issued one. My tribe issued one. And I am sure the president of the Oglala Sioux Tribe will be forthcoming with that document. Our reasons are, there's an immediate threat of contamination which will create irreparable harm. My people still hunt. My people still fish.	Ex. 5 Deliberative Process (DP)	
07459 (Valentine hearing)		Individual	And I'd like to know if -- oh, I know that you are in violation of international law for violating the treaty. And the treaty, it says you've got to get three-fourths male referendum vote from the Great Sioux Nation to dig a hole anywhere on our land. You've never, ever done that. That's a violation of international law. That's why I'm asking, you know, why are you guys doing that? A treaty is supreme law of the land they tell us. For who? Because this is our land, and you're constantly stealing our natural resources.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal context	
			We see the coal being stolen every day, now the uranium. Leave the -- leave the natural resources alone. Leave it in the ground where it belongs. You're killing Mother Earth. Thank you.		
07459 (Valentine hearing)	Ex. 6 Personal Privacy (PP)	Individual	The Fort Laramie Treaties of 1851 and 1868 were imposed upon the Lakota by the federal government and ultimately breached by Congress in 1877. The result of these broken treaties were generations of resentful Indians with a deep mistrust of the government and its officials. [...] In 1980, the Supreme Court ruled that the United States federal government did misappropriate the Black Hills and awarded the Lakota $105 million in monetary damages. Today, that figure is over $1 billion and is currently sitting in the Federal Treasury. Under the Fort Laramie Treaty of 1851, we gather today on unceded Indian territory in what is now known as Valentine, Nebraska. Through genocide, ecocide, historical and intergenerational trauma, and in the wake of being one of the most poverty-stricken areas in the world, we prefer to retain and protect our sacred Black Hills.	Ex. 5 Deliberative Process (DP)	
07459 (Valentine hearing)		Individual	Also, I would also like to ask that you consider, as some of our other people that came up, is to honor our treaty as it is a ratified act of Congress and it's a supreme law of the land, and that there are other laws that are -- that are within the departments of the United States that support EPA and the other laws -- environmental laws in different departments, that they be considered when you're doing this.		
07459 (Valentine hearing)		Individual	PHILIMON TWO EAGLE: (Speaking in indigenous language.) My name is Phil Two Eagle. I'm here on behalf of my tiyospaye, my future generations, the unborn. Also I represent the Sicangu Lakota Treaty Council. We are chartered by the Rosebud Sioux Tribe since 1992 to address treaty-related issues. Also, I want to start with the Treaty of 1851 that was signed, the first treaty that was signed. There's a lot of other treaties, but I want to refer to the Treaty of 1851 and tie it to the U.S. Constitution Article VI that states that: The Constitution, and		

Letter ID	Commenter Name	Commenter Org.	Text	Legal context	
			the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the Supreme Law of the Land; and the Judges in every State shall be bound thereby, any -- any Thing in the Constitution or Laws of any state to the contrary notwithstanding."		
07460 (5/8 Rapid City hearing)	Ex. 6 Personal Privacy (PP)	Individual	CAREY MACCARTHY: Hello, members of the panel and everybody in the audience. Thank you so much for giving us this opportunity to voice our hearts and our minds on this issue. It's very important. First of all, I'd like to just say I'm here speaking on behalf of the Native people of this land. You want to drill for uranium in the Black Hills, which, for one, is not our land to drill on. It was stolen by a broken treaty, and it's not okay to just continue with greed and force people into making choices that they have no jurisdiction.	Ex. 5 Deliberative Process (DP)	
07460 (5/8 Rapid City hearing)		Individual	HELENE GADDIE: Good evening. I am coming from the Oglala Lakota Nation. My name is Helene Gaddie. My Lakota name is (Speaking in indigenous language). And I wanted to share my concerns about this uranium mine that is proposed. There's some -- the greatest concerns that I have for this is, of course, the treaties first because they are the supreme law of the land, the 1868 and 1851 treaties, which we shouldn't even be standing here questioning why somebody wants to put a mine, why it should have gone this far.		
07460 (5/8 Rapid City hearing)		Individual	MARGARET ROSS: Good afternoon. I had no plans on speaking today because of my voice is giving out and -- however, I just wanted to add to what many of my relatives were talking about today. When they talked about, I listened to my leksi talk about the 1851 and the 1868 Fort Laramie Treaties.		
07460 (5/8 Rapid City hearing)		Individual	But I do have faith in spiritual laws and natural laws, and I do have faith in the people. The Black Hills is still owned by the Lakota Nation, Oceti Sagowin, all the Lakota-Dakota.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal context	
07460 (5/8 Rapid City hearing)	Ex. 6 Personal Privacy (PP)	Individual	And, you know, if you look at our people here and you look at the Black Hills, the Supreme Court ruling saying that, you know -- this rank and disarm dealings in history. And now the American people are starting to realize what we've already realized, you know, and what we realized and live with today, you know.		
07460 (5/8 Rapid City hearing)		Individual	FLOYD LOOKS FOR BUFFALO: Hello. Excuse me. Too loud. I come here on behalf of the Great Sioux Nation of the 1851 and '68 treaty. I am a treaty chief of the Oglalas under Red Cloud. I'm a descendant. And what I'm here for is that during Obama's administration, under the United States Constitution Article VI is a supreme law of this country after 1492. We gave a trespass authority on -- under 1851 to the European-American immigrants to trespass to West Coast. We did not give them the water rights, our mineral rights. And under this declaration, we reminded Obama. So as of August 23rd, 2013, Obama in executive order acknowledged that. And the declaration we have here is that the members of the Cheyenne River, Crow Creek, Fort Peck, Lower Brule, Oglala Pine Ridge, Rosebud, Standing Rock, Yankton, and Santee. This Treaty Council represents the Great Sioux Nation of the Black Hills, and we own the property of the 1868 territory, which is the Black Hills. So therefore, the declaration here I have is the Declaration to Invoke Inherent Rights and Authority Under the 1851 and '68 Fort Laramie Treaties over mineral exploration and extraction; over energy and fuel pipelines of a kind; the unauthorized ceding of land in the name of the parks; and other matters. To all United States: State, federal, and other officials listed on the attached service list and the public at large. Then invoke inherent rights and authority over mineral exploration and extraction; over energy and fuel pipelines of any kind; and the unauthorized ceding of land in the name of parks under the '51 and '68 Fort Laramie Treaties. And if you look at the United States Article VI, it will clearly tell you that North America is a ceded land under treaty. And an order -- this is direct and inherent rights of Native people. Underneath that is an agreement between the United States government and the Native people. They call that Bible and a pipe transaction, sacred pipe. That is an	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal context	
			agreement which is called Article VI, treaty to live here, not to extract mineral. We own the mineral. Furthermore, I would like to remind you that I will side with the Clean Water Act here, and we're not going to go through the federal. We are going to go through the United Nations Treaty. And while the United Nations Constitution automatically suspends the state action and federal. Because under the treaty act, the federal is the second one. And the last is the state. That's the order of -- under the United States Constitution. So you need to know your U.S. Constitution and Treaty Council before you start trying to -- what I foresee here is that privatization of all these uranium areas we have under Trump. And what I see coming here is condemnation of all you old home folks in Black Hills, to extract the minerals, gas and oil and zeolite and uranium or inositol. And let's not bother the aquifer with a lot of fairy tales because that's our livelihood. That's what's serious. Don't mix oil and water and drink it together. I'll go without water. No uranium. I'm going to put a stop to it under the treaty. Thank you.		
07461 (5/9 Rapid City hearing)	Ex. 6 Personal Privacy (PP)	Individual	Red Cloud is Lakota. He was trying to get a treaty, but it was the other people who were trying to get the treaty. He just wanted hunting lands. He wanted some food for his people. He didn't even want to consider the part of the treaty that says that your country was going to give him all the means to provide that food by growing it out of the ground, out of the land. You should honor that part of the treaty before you consider putting anything in the earth.	Ex. 5 Deliberative Process (DP)	
07461 (5/9 Rapid City hearing)		Individual	And second, I have done a number of these kind of scoping meetings, and I'm kind of familiar with them. And, you know, when you leave, you're going to count the comments and the number that actually supported the treaty and the NEPA process and tribal historic rights. And so before I continue on, I want you to take a note of a silent vote from the people here.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal context	
			And so I'm asking the people here standing behind to show your hand if you support the 1868 Treaty of the Lakota people and raise your hand. So I'd like you to take note that the majority of people here who might not mention that did, in fact, vote in favor of you recognizing the working power and authority of the 1868 Treaty. [...] Next, I would like you to take note that the United States or its signators to the 1974 Self-Determination Act of the indigenous people of this country known as United States, and by doing so, that gave us a constitutional right under the U.S. Constitution and the recognition of the sovereign authority of the indigenous peoples wherever they live. And so I would like you to take note of that. And then also, I want to -- I think it's important that you understand also that there's also not only the previous violations that I spoke of, where you had the show of hands, silent vote in favor of those comments of mine, but you also need to recognize international law and the rights of indigenous people under the United Nations Declaration on the Rights of Indigenous Populations [sic], which the United States is a signator to. So I want to read that to you as quickly as I can before I lose my time. The United Nations Declaration on the Rights of Indigenous Populations [sic]. Article 27, Adjudication: "States shall establish and implement, in conjunction with indigenous peoples concerned, a fair, independent, impartial, open, and transparent process, giving due recognition to indigenous peoples' laws, traditions, customs, and land tenure systems, to recognize and adjudicate the rights of indigenous peoples pertaining to their lands, territories, and resources, including those which were traditionally owned or otherwise occupied or used. Indigenous peoples shall have the right to participate in this process." Article 25 of the U.N. Declaration on the Rights of Indigenous Peoples, a Distinctive Relationship: "Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters, and coastal seas and other resources and to uphold their responsibilities to future generations in this regard."		

Letter ID	Commenter Name	Commenter Org.	Text	Legal context	
			Article 26 of the same document -- [...] KEITH JANIS: I will right now. Use and Ownership: "Indigenous peoples have the right to the lands, territories, and resources which they have traditionally owned, occupied, or otherwise used or acquired. Indigenous peoples have the right to own, use, develop, and control the lands, territories, and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired." And: "States shall give legal recognition and protection to these lands, territories, and resources. Such recognition shall be conducted with due respect to the customs, traditions, and land tenure systems of the indigenous people concerned." Thank you. Mni Wiconi.		
07461 (5/9 Rapid City hearing)	Ex. 6 Personal Privacy (PP)	Individual	And then when I looked into my genealogy, found that my great-great-grandfather was a warrior, Akicita, and fought for my grandfather and father's right to these treaties that they signed with you guys. And I'm not sure that you've read them, honestly, because if you guys have read these treaties, you would understand what you're doing is just simply wrong in every sense of the word.	Ex. 5 Deliberative Process (DP)	
07461 (5/9 Rapid City hearing)		Individual	You know, you look at our treaties, and I know you guys recognize our treaties. I always said in prior meetings with government officials, when an Indian violates federal law, you throw us into Leavenworth or some federal prison; but when you violate federal law, nothing happens. And this action is in violation of federal law because the treaty is law, a contract. Now, as I asked -- I asked, and I know you won't answer this question. But do you live and promote the United States Constitution? If so, Article VI should be adhered to. Our treaties are the supreme law of the land. And I don't even know why you guys are doing this, because we own everything underneath. We even own Spearfish because we've never been paid for it. You guys come in, took our lands, and you justify it by bringing a treaty to our people, a peace treaty, telling		

Letter ID	Commenter Name	Commenter Org.	Text	Legal context	
			us where we can live, where we can, you know, work, what we can do and can't do. Promises made that were never kept. So these are all violations of federal law, but yet none of you will see or sit behind bars. But if an Indian did, we would be. Shame on the federal government. The federal government has always failed us. Always has and always will. You know, this is going to end up in court. That's the only way I see. Or any frontline action necessary to try to stop this. Because you guys will come and come and come. And we always -- if you look back and understand who we truly are, we are powerful people, and we're just standing up to protect our future, your future as well if you live here.		
07461 (5/9 Rapid City hearing)	Ex. 6 Personal Privacy (PP)	Individual	You'd be doing the same -- if I was to lay uranium in your backyard, you'd be doing the same protection. But I'm not allowed to do that because I'm an Indian. I have no rights on your land, so why not -- why should you have rights on mine? By treaties, you have no rights.	Ex. 5 Deliberative Process (DP)	
07462 (Hot Springs hearing)		Individual	BEN GOOD BUFFALO: (Speaking in indigenous language.) A treaty is a contract between two or more sovereign nations. That is as binding today on the governments that signed it as when agreed to more than 100 years ago. (Speaking in indigenous language.) You violated all these treaties, our treaties. [...] And I was thinking about this treaty here. And I think sometimes this treaty belongs, this EPA, this should be on the reservation. I don't see them there. I don't even see them there at all. That's where the people are. The people are there to -- like him, Hollenbeck, they want to talk to him, like you. And they want to know what's the best direction, but there's none of that. [...] BEN GOOD BUFFALO: And today it's not going to be -- I see it's not going to be dealt with. (Speaking in indigenous language.)		

Letter ID	Commenter Name	Commenter Org.	Text	Legal context	
			I hope you study this treaty. I'm going to pass it on to you other people. I hope you have a job tomorrow.		
07462 (Hot Springs hearing)	Ex. 6 Personal Privacy (PP)	Individual	ENDONNIS MORENO: Hello. I would like to introduce myself in my traditional language. (Speaking in indigenous language.) Hello, my relatives. I would like to give you a warm, a heartfelt handshake. My name is Endonnis, and I am a young woman. I am 12 years old. I was born in Pine Ridge Reservation, and I live in Rapid City, South Dakota. I was taught by my Auntie Tonia Stands that spiritually is stronger than scientifically. So I would -- so I know for a fact that according to the Fort Laramie treaty of 1851, this is Indian land, and what would the government do if we broke a treaty? Thank you.	Ex. 5 Deliberative Process (DP)	
07462 (Hot Springs hearing)		Individual	Just let me remind you, the 1851 Fort Laramie Treaty, that this is all illegal anyway. So (speaking in indigenous language). Thank you for listening and have a good day.		
07462 (Hot Springs hearing)		Individual	And like it was said earlier, this is Native land, and it is illegal to be here. And it's just -- just frustrating, you know.		
07462 (Hot Springs hearing)		Individual	Technically you don't even have a right to be on this land doing the things you're doing. The things that you've done in the past, you haven't cleaned up or cared for. These things continue to poison these lands and these people.		
07463 (Edgemont hearing)		Individual	DEBRA WHITE PLUME: Okay. What I want to say is that the -- I mentioned the treaty. I want to mention the United Nations Declaration on the Rights of Indigenous People, which says governments must have free and prior informed consent of Native peoples before they bring development in, and we didn't give that.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal context	
			Our Oglala Sioux Tribe said no to uranium mining, no to radioactive waste coming in, and I say that, too, on behalf of my grandchildren, my coming generations, all the animals and the standing silent nations, the plants that we need here. So I ask you to take this home. Take this home to your offices, share your paperwork, share your paperwork and study it. And don't think of this as a science experiment because we live here. So I thank you for coming, and I thank you for listening to me. (Speaking in indigenous language.)		
07463 (Edgemont hearing)	Ex. 6 Personal Privacy (PP)	Individual	After hearing some of the testimony here today, I went home and I went to the internet, and I've given the EPA a copy of this. I believe you still have it. This is from the Congressional Research Service. And it's called: Indian Water Rights Under the Winters Doctrine, An Overview. This is an 11-page review, and I'm going to quote from it. Starting off in the summary, the first paragraph says: Although the federal government has authority to regulate water, it typically defers to the states to allocate water resources within the state. The federal government maintains certain federal water rights, though, which exist separate from state law. I'm going to repeat that: Separate from state law. You as the EPA are the guardians of federal water rights. And this is from the Congressional Review: In particular, Federal reserved water rights often arise in questions of water allocation related to federal lands, including Indian reservations. Indian reserved water rights were first recognized by the U.S. Supreme Court in Winters versus United States in 1908. Under the Winters Doctrine, when Congress reserves land, i.e. for an Indian reservation, Congress also reserves water sufficient to fulfill the purpose of the reservation. And I'm going to skip to page 5, to the heart of the matter here. Paragraph heading, Water Quality: Degradation of water quality would undermine the water's use for reservation purposes. Courts have recognized water quality as another element of Indian reserved water rights. Reserved water rights. Federal courts -- federal courts have ruled that reserved water rights holders can seek legal protection from water quality degradation by other water users.	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal context	
			Specifically, in the United States versus Gila Valley Irrigation District, the Ninth Court approved a District Court's finding that a reserved water right was impaired when other users' actions increased the salinity of water used by a tribe for irrigation of agricultural crops. I spent two and a half years as a Native American journalist for the Confederate, Salish, and Kootenai tribes in Montana. And this I can assure you, that as an EPA, this issue of water rights, water quality, mining, it looks to me like you're going to be facing this over and over and over in your careers. I would urge you to become acquainted with this doctrine. I would urge you to defend and protect water quality rights. And thank you.		
07463 (Edgemont hearing)	Ex. 6 Personal Privacy (PP)	Individual	DOROTHY ROWLAND SUN BEAR: Hello, everyone. My name is Dorothy Rowland Sun Bear. I come from Wounded Knee, South Dakota on the Pine Ridge Indian Reservation. Concentration Camp 344. I oppose this uranium mine. America is built on stolen land. They came and stole our land here, and they are digging holes everywhere. The Black Hills are like cheese now. So full of holes. We need to stop. Recognize our treaties and stop mining in our Black Hills. Stop stealing our natural resources. Leave it in the ground. Thank you. (Speaking in indigenous language.)	Ex. 5 Deliberative Process (DP)	
07463 (Edgemont hearing)		Individual	We have just begun to hear about treaty rights, and I've just begun learning about treaty rights and all the issues that are connected with them. [...] Treaties between nations are the highest laws of the land. Treaties are still in place which ensure that the Black Hills are the lands of the Lakota people. [...] To reiterate, this is Lakota land. The United States government should honor the treaties with them.		
07463 (Edgemont hearing)		Individual	TASINA SMITH: Hi, again. I spoke yesterday. My name is Tasina Sapa Win. That means Black Shawl Woman in Lakota. (Speaking in indigenous language.) Of the Cheyenne River Sioux Reservation which is, you know, running right through -- the Cheyenne River, runs right through this town. This beautiful, beautiful town.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal context	
			So I'm back again to first say this: First and foremost, this is completely illegal. The Black Hills belong to the Lakota. You need to recognize that right now, and foremost, before we can go on with anymore permits. We need to start recognizing our treaty, recognizing our children's future. I mean, we have people who, you know, are so ignorant of the facts here. Really, ultimately, when I hear from locals or from the opposite side, all they can really come up with is money as a pro to this permit being granted. That's really all it is.		
07642 (Hot Springs hearing)	Ex. 6 Personal Privacy (PP)	International Indigenous Youth Council	So what I'm asking one last time, you know, is please respect us. Honor our treaty of 1851, 1868. Honor our indigenous rights as people -- not just as indigenous, but as human people. This is not just as an indigenous problem. This is a human problem, an all-life problem, all of life -- the four-legged, the wind, the water, the plants, the earth. And it's a serious problem. Please start respecting us, or you'll be expecting more of us. Thank you.	Ex. 5 Deliberative Process (DP)	
8050 (10/5 Hot Springs hearing)		Individual	I also came here to speak on behalf of my family. My husband is Ex. 6 Personal Privacy (PP) Ex. 6 Personal Privacy (PP) and he is the great-great-grandson of Chief Big Foot, who was also known as Spotted Tail and preferred to be called Spotted Tail. And he perished at Wounded Knee. And the reason why these things happened to him and to his people, the 300 people that were massacred then, was the fact that -- that they discovered gold in the Hills at the time, in the Black Hills. But there was also a treaty that was made, and he was one of the ones that helped sign the treaty amongst the many others that were there. But one of the things that I do find interesting is that -- is that the treaties are sacred contracts. They are sacred contracts with other countries that we have. By the way, never broken with other countries. And we must not break that now, because it is a sacred contract. It is protected by the United States Government. And we are -- the EPA, the Environmental Protection Agency, which has historically done fairly good work and -- but lately, because of the political situation, nothing has happened lately because they are changing the laws one by one. But one of the laws that are so sacred are that our waters are protected because we can't drink anything else. We can't live. We cannot survive. We cannot grow		

Letter ID	Commenter Name	Commenter Org.	Text	Legal context	
			food because uranium goes into everything. It permeates, scientifically, into everything. They find it in the plants. They find it in the animals. You can't eat a piece of liver because all that uranium dust is in there. And it permeates in our bodies, and it turns into cancer. And we do not want to perish this way again. So, please, respect those treaties and respect the Native American ways. Thank you.		
8050 (10/5 Hot Springs hearing)	Ex. 6 Personal Privacy (PP)	Individual	Good morning, Relatives. Good morning, Your Honor. Delegates of the EPA, we appreciate you coming today to hear our voice. I bring representative of our community, of our family with us today, Riot and Casey Catt. And we're here today to talk about the rule of law. You're holding this hearing because it's the rule of law that you provide this time for community impacted by Powertech's uranium -- proposed uranium mining in the Black Hills. And I'm here today to speak about our right as Americans to exercise our First Amendment rights in all situations. And we are not riot boosters as Governor Noem would like to label those of us who are here to protect our environment and our water. We are not riot boosters. We are law-abiding, legal citizens of this nation, of this country, and we are in Lakota territory. So what I want to say today is that we are going to show up at these uranium mines. We are going to show up on the front lines of the TransCanada pipeline, and we are going to exercise our First Amendment rights lawfully and to the full extent of those rights, regardless of the militarized police that may be put in front of us, regardless of the 10 years, 100 years, 50 years, whatever it is, that they are trying to label us as domestic terrorists. No, we are not. Again, we are law-abiding citizens, and we expect that the EPA recognize the rule of law. Part of that rule of law is to protect our sacred sites in the Black Hills. Part of that rule of law is to acknowledge that the Lakota treaties of 1858 and 1868 are legal and binding to this day. So before we acknowledge water being allocated to Powertech or Cameco or to TransCanada, we need to recognize the rule of law states that this water underneath you is Lakota water, is Lakota water, is Lakota water.	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal context	
			You can send your militarized police. You can send them. We will be there with these children, with our grandparents, with our elders, and with our neighbors. So I'm here today to say that we respect rule of law, but we want you to respect your own laws, your own laws that have been broken over and over again for the sake of foreign companies, for foreign shareholders that don't even live in our community. In the 1980s, my mom and my dad, they stood up here and they talked about these same things, this encroachment of the extraction industry in our Black Hills. And yet here we are again. And we should be encouraged that they chased those 40 mining companies out of the Black Hills at that time, and we're looking to do that again with the rule of law. Thank you, Relatives, for your time.		
8050 (10/5 Hot Springs hearing)	Ex. 6 Personal Privacy (PP)	Individual	But I know that the EPA, which you were my heroes growing up, were not made, were not formed to protect a foreign business and not the sacred lands. And I also know that these -- this water is Lakota water. The Black Hills does belong to the Lakotas. And certainly, by any treaty that the government is supposed to honor as a sacred trust, that this is not proper and none of the protections and real science has been in place. And also the fact that even so many -- there's just such heartbreak over all the different public trusts that have been broken with this.	Ex. 5 Deliberative Process (DP)	
8050 (10/5 Hot Springs hearing)		Individual	(Speaking in indigenous language.) So I said I want to shake you guys' hand with my heart. And today I just want to say that these treaties are very important. Treaty law is the supreme law of the land, and this is something that the United States has never honored. They have never honored a treaty. You know, you're all still living on stolen land, don't you? I think you guys need to start recognizing this because it's starting to happen right before your eyes, whether you want to acknowledge it or not. Native people are standing up all over America. I just want you to think about this. Okay? (Speaking in indigenous language.) Oh, my name is Theresa Black Owl.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal context	
8050 (10/5 Hot Springs hearing)	Ex. 6 Personal Privacy (PP)	Individual	That's a tough speaker to follow, and unfortunately, I have to read what I wrote here. I didn't have to time to print it out. So I will read through the tears in my eyes. And I will send my written comments on the website, because I don't have them printed out. My name is Dr. Andy Johnson. I live in Spearfish, South Dakota. I'm a physics educator. My expertise is in how to teach radiation literacy. I care about the health of Americans, present and future, including those living in the southern Black Hills. And there are people there. I understand that the health of the ecosystem trumps any human interests because the ecosystem is bigger than we are. We are merely members of it, so we are responsible for taking care of it. I'm descended from European immigrants who didn't understand the existing ways of Native Americans. I'm a white man who recognizes that now is the time that we acknowledge that we're sitting, literally sitting on land that belongs to Natives. This is unceded treaty land from the Treaty of 1868. The proposed ISL mine is also part of these tribal lands. Because it has not taken the treaty into account, the EPA's permitting process is in violation of federal law. Thus, the EPA is legally obligated to withdraw its draft permits and restart by negotiating with the Native nations that hold this land.	Ex. 5 Deliberative Process (DP)	
8050 (10/5 Hot Springs hearing)		Individual	Hello. My name is Earl Tall from Manderson, South Dakota. I heard some -- a lot of good words today, especially from our allies who are willing to sacrifice. First of all, I'd like to say that you people are all on stolen treaty lands. (Speaking in indigenous language.) This is our lands. And we're being ignored by your processes. Our culture, everything, you're trying to ignore the Lakota people. [...] Like I said, there's a lot of people talk good today. I come from the -- I'm with the American Indian Movement. And our motto is, Anytime, Anywhere, Anyhow [sic]. We'll always be here. Hau.		
8103	Anonymous	Individual	Radioactive waste [...] particularly should not be allowed in any American Indian treaty areas and water bodies. This proposed project would take place in land included in the Fort Laramie Treaty of 1868, which established the Great Sioux		

Letter ID	Commenter Name	Commenter Org.	Text	Legal context	
			Reservation. Although the federal government failed to honor the treaty that the representatives negotiated, nevertheless in the minds of many Lakota the land included in the treaty still belongs to them.		
8106	Anonymous	Individual	In addition. I am very angry that despite EPA guidelines that call for it to consult on a government-to-government basis" with Native American Tribes, the EPA has not done so and has ignored tribal consultation. All the bands of the Oceti Sakowin, or Seven Council Fires of the Great Sioux Nation, have tribal resolutions in place in opposition to any uranium mining in unceded 1868 Ft. Laramie Treaty territory, which overlaps a five-state area, including the entire Black Hills. I agree with the Tribes that this project would result in water contamination.	Ex. 5 Deliberative Process (DP)	
8114	Anonymous	Individual	There need to be government-to-government consultations with the tribes on the Dewey Burdock Project. All the bands of the Oceti Sakowin, or Seven Council Fires of the Great Sioux Nation, have tribal resolutions in place in opposition to any uranium mining in unceded 1868 Ft. Laramie Treaty territory, which overlaps a five-state area, including the entire Black Hills.		
8123	Ex. 6 Personal Privacy (PP)	Individual	I am descended from European immigrants who didn't understand the existing ways of Native Americans or who didn't care about them. Although I am a white man, I recognize that we are sitting today on unceded tribal land that was designated by the Laramie Treaty of 1868. After this land was granted to indian tribes, it was simply taken over, in violation of the law established by the treaty. The proposed ISL mine site is also part of these tribal lands. Because it hasn't taken the treaty into account, EPA's permitting process is in violation of federal law. Thus the EPA is legally obligated to withdraw its draft permits, and restart by negotiating with the Lakota, Dakota, and Arapaho Nations which are parties to the treaty of 1868.		
8193		Individual	I say NO Uranium Mining! Leave it in the Ground! This proposed ISL uranium mine, which is within the boundaries of the 1868 Ft. Laramie Treaty, now included in the State of South Dakota, is not in our Nation's best interest.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal context	
			The Black Hills, including our creeks and tributaries, like the Cheyenne River, Hot Springs, and our precious aquifers, like the Mnilusa, the Inyan Kaga and the Madison, are within these treaty boundaries. [...] The South Dakota State recognized the treaty; Senate Resolution No. 1 - "Confirming the legitimacy of, and South Dakota's support for, the 1868 Treaty of Fort Laramie." (http://sdlegislature.gov/Legislative_Session/Bills/Bill.aspx?File=SR1P.htm&Session=2018&Version=Printed&B ill=SR1)		
8198	Ex. 6 Personal Privacy (PP)	Individual	The Black Hills belong to the Lakota under the 1868 Ft. Laramie Treaty -- so first nations people should be the rightful authoritative figures who make the decision on whether to grant or deny permits applied for in the Black Hills. no uranium mining ever!!	Ex. 5 Deliberative Process (DP)	
8203		Individual	I write to comment on draft water permits for the proposed Dewey-Burdock uranium mine in the southwestern Black Hills. I am a resident of South Dakota and work with Lakota tribal members. I value every effort my government makes to rectify racist, hegemonic decisions it has made in the past regarding Native lands. Treaties are the “supreme law of the land” according to our own constitution and it matters to me when my government acts against the constitution by brushing aside treaties.		
8247		Individual	I do not support any type of mining on 1868 treaty territory, remember it is the US gov. that broke these treaties between our peoples and that is the supreme law of the land, law must not mean anything to the government since they make them and break them. Did America ever have democracy?		
8250		Individual	The Black Hills belong to the Lakota under the 1868 Ft. Laramie treaty, and because of this fact, it is in the best interest of the people to rightfully relinquish authoritative duties (on matters pertaining to the Black Hills and space outlined		

Letter ID	Commenter Name	Commenter Org.	Text	Legal context	
			under said treaty) to the first nations of these lands. NO URANIUM MINING IN THE BLACK HILLS.		
8254.2	Ex. 6 Personal Privacy (PP)	Standing Rock Sioux Tribe	[Specifically, EPA failed to address our comments relating to] the import of the 1851 and 1868 Fort Laramie Treaties. [...] Our Treaty rights continue to be violated.	Ex. 5 Deliberative Process (DP)	
8268		Individual	The Dewey-Burdock area is part of ancestral Lakota homelands as well as within the boundaries of the 1851 and 1868 Fort Laramie Treaties with the Great Sioux Nation (Oceti Sakowin). In 1980, the US Supreme Court acknowledged that the US government had stolen the Black Hills, in violation of the 1868 Fort Laramie Treaty.		
8275		Individual	Also respect the Treaties with the Native American Tribes.		
8275		Individual	I came to support those speaking about the concern of uranium mining causing long term effects to the waters and land in the Black Hills and its areas surrounding our community. What I did not expect to take away from the hearing was the disregard to the Native American treaty...		
8291		Defenders of the Black Hills	[...] From the above statements in the Cultural Resources portion, it is obvious that Environmental Justice has not been afforded to the Indigenous peoples of the area regarding the protection of burial areas and a sacred site. The sites we have mentioned in this report are located within the proposed mining area and not the additional 20 mile buffer zone. The very fact that the Black Hiils are sacred and have their own area of influence that extends 50 miles past the physical confines of the Black Hills is not even addressed. In addition, the United States passed a federal law, the March 3rd Act of 1871 which states: " That nothing herein contained shall be construed to invalidate or impair the obligation of any treaty heretofore lawfully made and ratified with any such Indian nation or tribe..."		

Letter ID	Commenter Name	Commenter Org.	Text	Legal context	
			[U.S. Statues at Large, 16:566.] The 1868 Fort Laramie Treaty was made and ratified by Congress in 1868, nearly three (3) years prior to the March 3rd Act of 1871. In Section 7.2 of the EPA report, it says that the U.S. Supreme Court stated that the 1877 Act abrogated the 1868 Fort Laramie Treaty. This is a gross error on the part of the Supreme Court as no mention was made of the U.S. government NOT upholding their own law, the 1871 Act, or of upholding the U.S. Constitution, Article VI. Moreover, the Supreme Court based their decision in the Black Hills case on a Fifth Amendment taking from American citizens. The Sioux Nation of Indians were not American citizens at the making of the 1868 Treaty. The 1868 Treaty was made between two separate and distinct nations. The identification and acknowledgment of the 1868 Fort Laramie Treaty as an International Treaty between two distinct nations is upheld in the United Nations in the "Study on treaties, agreements and other constructive arrangements between States and indigenous populations : final report" by Miguel Alfonso Martinez, Special Rapporteur (1999). In accordance with the UN Treaty Study, the 1894 Sioux Nation Treaty Council is continuing to pursue the total enforcement of the 1868 Fort Laramie Treaty. It would behoove the U.S. government and their federal agencies to support these efforts rather than continuing to acknowledge and use the illegal Indian Reorganization Act Tribal governments that they created to "puppet" the wishes of the U.S. rather than the people of the Sioux Nation. Furthermore, we consider the incursion by the United States into the 1868 Treaty Territory to be an illegal occupation of our Territory the same as the Nazi Germany occupation of France and many other European countries during World War II. Although the EPA as a regulatory agency purports to "lack the authority to resolve these disputes" it is still incumbent upon individual American citizens who work for the federal government and take an oath to to uphold the federal laws and Constitution, to do just that: uphold the federal law: March 3rd Act of 1871; and the U.S. Constitution, Article VI which states: '..treaties are the Supreme Law of the land..." This proposed mining area is located within the 1868 Fort Laramie Treaty Territory.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal context	
			In essence, the United States recognizes that Treaties made before March 3rd, 1871, are still valid. The 1868 Fort Laramie Treaty meets that requirement and indeed has been upheld in many federal courts except for the return of the land. Therefore, our position is that the U.S. Environmental Protection Agency does not have the legal authority to make any decisions on land that does not legally belong to the United States. Defenders of the Black Hills has been involved for more than a decade in efforts to protect the environmental and cultural resources of the land area planned for the In Situ Recovery of Uranium by Powertech/ Azarga Corporation. We are an organization of volunteers without racial or tribal boundaries whose mission has been to protect the entire environment of the 1868 Fort Laramie Treaty territory. As a Disclaimer for those of us from the Sioux Nation, our participation in submitting these comments in no way relinquishes our legal right to the upholding and enforcement of the 1868 Fort Laramie Treaty. Respectfully submitted by Ex. 6 Personal Privacy (PP) Coordinator		

4. Concerns about respect to Native Americans (e.g. having a Lakota translator present at the hearings, even proposing the draft permits is an affront).

Letter ID	Commenter Name	Commenter Org.	Text	Legal context	
00106	Ex. 6 Personal Privacy (PP)	Individual	...and to have a Lakota translator/transcriptionist present at all hearings.	Ex. 5 Deliberative Process (DP)	
00108		Individual	...Lakota translator/transcriptionist at hearings.		
00165		Individual	Finally I want Lakota translators/transcriptionists at all hearings.		
00202		Individual	Subject: Azarga Uranium/Black Hills, South Dakota [...]		

Letter ID	Commenter Name	Commenter Org.	Text	Legal context	
			This project will most heavily impact the indigenous peoples on the Pine Ridge Indian Reservation and their health and rights should be an utmost priority in the decision making process. The negative impacts far outweigh any positive ones and clearly highlights the need for this project to be shut down permanently. Please act in favor of protecting of the health of our nation, its people, wildlife and the earth.		
00226	Ex. 6 Personal Privacy (PP)	Individual	Subject: Permits and Exemption Dear Ms. Shea, It is my understanding that the EPA has issued two draft Underground Injection Control (UIC) Area Permits to Powertech (USA) Inc., for injection activities related to a proposed uranium recovery project in the southern Black Hills region in Custer and Fall River Counties of South Dakota. I strongly urge you to reconsider any decision to allow permits to mine any region that impacts Native American lives. We all know how Native Americans are considered second class citizens in this country; how their lands are up for grabs; and how their health is not as important as expanding drilling for oil, uranium, copper and so on. These substances are not for consumption here (not that this would be acceptable) but to enrich the companies that sell them overseas. Please do not continue to perpetuate these injustices and do not approve any draft permits or any aquifer exemption. Thank you.	Ex. 5 Deliberative Process (DP)	
00240		Individual	Subject: Comments on Dewey-Burdock Class III and Class V Injection Well Draft Area Permits [...] Both permits would needlessly expose the Lakota Oyate to the devastation of uranium mining and continue a record of disregarding the health and welfare of native populations.		
00244		Individual	- that there is a Lakota translator/transcriptionist at hearings Thank you very much for your consideration.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal context	
00281	Ex. 6 Personal Privacy (PP)	Individual	Subject: Comments on Dewey-Burdock Proposal For me the most important argument against the proposed permits is that the Lakota community seems nearly unanimously against them. The recent findings of elevated uranium levels in a local reservoir only reinforce lack of trust in any uranium mining operation. I have learned the bitter historical truth that we white Americans stole most of the Lakota land, kidnapped their children, nearly obliterated their culture, almost caused the extinction of the bison, and massacred their people on multiple occasions. I benefit from these actions in part because my house sits on some of the stolen land. The debt of justice we owe is staggering; for the land alone the Supreme Court has placed the price at over one billion dollars (counting interest and inflation). Against that debt, to refrain from more uranium mining seems to me to be a small payment.	Ex. 5 Deliberative Process (DP)	
00285		Individual	Subject: Uranium mining and storage comment We are writing to ask that the EPA DENY permits to Powertech/Azarga Uranium Corporation for uranium mining and storage on Lakota lands. Comment deadline is today. My husband is a retired biologist and I am a 63 yr old schoolteacher from KS. We are done with all the wrongs that we have heaped on the original inhabitants of this country. Particularly by a foreign company. This is blatant environmental racism, it is wrong, and we need to do better.		
00287		Individual	A translator would also be helpful during court.		
00326		Individual	Indigenous people object to the rape of the earth on which they live. This disregard for human voices, let alone those of their ancestors and spirits, is medievally cruel and shameful. Please contact me directly with any further questions.		
00472		Individual	5) LAKOTA TRANSLATORS NEEDED AT HEARINGS		
00494		Individual	We have spoken to people that reside in and around our area who have made comments about their relatives using certain lands for sacred and spiritual activities,		

Letter ID	Commenter Name	Commenter Org.	Text	Legal context	
	Ex. 6 Personal Privacy (PP)		burials etc. that have not **been** respected **and .-e** visibly contaminated by uranium activities. Blatant dsrespect of an indigenous cunure and tislorical abuse! No one should be allowed to do this to any cutture!		
00495		Individual	3) Tribally defined consultation 4) Full tribal approved surveys Lakota translation/transcription	Ex. 5 Deliberative Process (DP)	
07443		Individual	The white men from Europe have already stolen the whole of America from the original Aborigines who lived here and almost committed genocide on their population. Now you want to go and commit more pollution and ravage their land so it's uninhabitable forever. Have you no conscience?? Even considering this proposal is absurd!		
07460 (5/8 Rapid City hearing)		Individual	PAULA ANTOINE: Good afternoon. My name is Paula Antoine, and I'm from Rosebud. I'm a Sicangu Lakota, and I'm part of the Oceti Sakowin. I'd like to thank you for this opportunity to come speak with you. I spoke in Valentine as well, but there was a couple other ideas that I thought were very important. We have several, many Lakota language and Dakota language speakers that come in, and I notice that you use a transcriber. So I was wondering how you transcribe their testimony when they speak in our native language. And I would like to ask you for the opportunity for a translator for that, for the hearing and for the transcribing, and have that approved by language speakers so the translation comes out to the correct meaning that they're intending with their testimony.		
07460 (5/8 Rapid City hearing)		Individual	WANIYA LOCKE: (Speaking in ingidenous language.) My name is Waniya Locke. I'm from Standing Rock. First and foremost, I should be able to address you in my own language since our language was the first language ever spoken here. So I request that the EPA, the next time you come into our homelands, to bring a translator and a transcriber for the Lakota language.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal context	
07462 (Hot Springs hearing)	Ex. 6 Personal Privacy (PP)	Individual	It's like, Well, on religious grounds, you know, this is -- that's illegal, you know. Just on that alone, you can't -- you can't build there, you can't do whatever, you know -- wipe out the people living in this area because you want money or whatever. It's disgusting that anybody would do that, like, let people do that, let people suffer for money, for things you won't even see, you know. It should be denied on the grounds of, you know, just common decency, you know. It's horrible that, you know, someone who will allow this and they see no benefit from it. Just, you know, I was told to so it's okay. I'll just let it go. It's just part of the job, you know. [...] These people have to live here. This is lasting effects. I don't want my kids to have to avoid South Dakota because their life will be shortened by 20 years by drinking a bottle of water from here. It's ugly, you know. These people tell stories of, you know, Oh, my mother brought me out here, you know, I drink from these waters, I learn things, lessons, cultural lessons, religious lessons, you know. Who we are as a people is defined by these lands, and to destroy them is just spitting on us, who we are, who we will be, who are our kids are going to be. Leave something for them to, you know, learn from. Leave something for them to, you know, see. That's, you know, begrudged for time.	Ex. 5 Deliberative Process (DP)	
07462 (Hot Springs hearing)		Individual	MOUNTAIN MAN SCOTT: (Speaking in indigenous language.) I ask forgiveness in advance of the elders and the people of this land. I do not know your language well, and out of respect, I should or at least have a translator here. So in the future, I suggest that happen. Thank you for allowing us this time to speak. I'm a water-protector. I heard it said that you also are a water-protector. I can't think of a higher honor, at least for me. But it goes beyond water. It's all life. I don't get paid financially to be who I am. I am who I am because I was created to be this, and I'm grateful. I had the opportunity not long ago up in Standing Rock to stand with some of the finest men, women, and children that I've had the honor of knowing, to stand up		

Letter ID	Commenter Name	Commenter Org.	Text	Legal context	
			against great atrocities, much like many that have happened well over 500 years and many that happened that were far worse than what we're going through. It shames me to know that these beautiful people from here have to continue to fight the same battle over and over and over and over simply so they can remain here on the lands that they were born on and their ancestors held in great regard and cared for and tended to, to have to protect them so that their children no longer have to be poisoned. This is wrong. Every bit of it is wrong. It disgusts me, and I have no understanding how it could not disgust you. I hope it does. When you go home, please, look in your children's eyes, look in your mother's eyes, look in your grandmother's eyes, look in your dog's eyes, in your cat's eyes, would you like them to be poisoned? Do you think that's fair and proper?		
07463 (Edgemont hearing)	Ex. 6 Personal Privacy (PP)	Individual	Thanks for having this hearing again and an opportunity for us to be here. And I just want to read this. I went out to the George S. Mickelson Trailhead this morning. I looked around down there for any acknowledgement of the people that were here before, and I didn't see anything on the sign. So I looked online to see if there was anything here, and I found a page that wasn't a state page, it wasn't a South Dakota page. It was a user of the trail that apparently built a site. And this person who likes trails, Rails-to-Trails, and he's ridden the trail in its entirety. My wife and I rode part of it, but we got tired by the time we got to the top of that hill outside of Deadwood a few years ago. It said bicycling the length of the George S. Mickelson Trail, it's easy to see why the Black Hills remain sacred land to the Lakota nation. He said Lakota nation, I understand it's really Oceti Sakowin and some others. Consider that. So I wanted to just remind you of that. I looked all over on the state page. And I actually called the state coordinator, and she called back while I was listening to other testimony, so I will find out what she says about that. But I think at least this state is -- irrelevant to this, but at least the State of South Dakota should acknowledge the people that were here before.	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal context	
			Everything that they have starts with Custer and Wild Bill somebody or other, and that's the history. They act as though that's the beginning of time here, and the railroad, of course, is the beginning. Well, I can't introduce myself in my original tongue. I don't even know the creation story, the creation place that I came from. Most of my blood is from Scotland area and what used to be called Britain. I think I'm mostly Brit, not sure because I don't have the history. A couple thousand years ago, Christianity started, and that's what this is here, symbols and icons around here of Christianity. Only 2,000 or so years ago that began. That's an Abrahamic religion. Judaism started about 1,000 years before that possibly, around there. So we really don't have history. I want to speak a little bit to the folks from Caucasia. I say that lightly, the Caucasians here. I want to say that our -- we don't have that history. Perhaps we're a little jealous of that, that we can't go back and find our original place of origin. The people that testified here can. And our job now is to, as descendants of these people, is to do whatever we can -- sorry. I feel strongly about things, and this comes up -- to allow us to protect their stories and their history. And that's -- that's why I'm here. There might be -- somebody told me, a Lakota person actually told me that there might be a good way for -- my wife and I were up at Standing Rock, and we learned a lot. We heard stories of this sort of thing everywhere, I mean everywhere. They are trying to -- I won't talk about those, but everywhere. We've been traveling through the Transwestern pipeline, we've ben traveling the old flat, we've been traveling to the outside of the -- the edge of the Grand Canyon, where they are going to take uranium across the mainland again and again. Put that out there. So I keep hearing stories, so we went to hear and to see them first place -- firsthand. So we can't do it again. We shouldn't step on the rights of other people who have acquired the land, bought from whoever stole it during those broken treaties. We can't do it. We can't do that that way. I say -- when I was in the Air Force, we had -- it was that time of the sexual harassment training that we had to do, and I was part of the conducting of it. We had		

Letter ID	Commenter Name	Commenter Org.	Text	Legal context	
			a saying: No means no. If a person -- if a potential sexual partner says "no," it means no. And there's real wisdom about that. And so I say that if the people that hold this land sacred say "no," "no" means no. "No" means no. "No" means no. (Audience chanting.)		
07463 (Edgemont hearing)	Ex. 6 Personal Privacy (PP)	Individual	TONIA STANDS: Okay. I just want to start with this. And I forgot to give this to you yesterday. And I meant to tell you a history, and I was telling that story yesterday about this water. This water is very sought after water. I have two more. So -- okay. My name is Tonia Stands, and I'm from Oglala, South Dakota, right east of here. And I'm a full-blooded Oglala Lakota woman from Oglala. And I was raised by my grandmas who have direct connection with this land. I was trying to tell you yesterday. And as a child, I was brought into this area for many different reasons throughout the year. My grandparents, they would come in a certain way into the Black Hills, into these doors, and we're supposed to come in like that. And so what I was telling you yesterday was, we weren't citizens of this country even though we're the original people to the Black Hills. If you want to talk about stakeholders, you want to bring that into such an area, I mean, that's just like the audacity, you know, an insult to us that you have more, I guess, privilege over us. And you're using your white privilege to come over us and our religious beliefs in connection to this land and what's under this land. So you want to -- you want to talk about stakeholders, you're insulting us. We were forced out of here. [...] And then come in here and have the audacity to say you're a stakeholder. This land was stolen. This land was taken. And we were forced out to a reservation. And we were disconnected. And we didn't have religious freedom. Look at this church, where we all get to stand in. You want to be respectful? Let's go stand in our church.	Ex. 5 Deliberative Process (DP)	
07463 (Edgemont hearing)		Individual	WANIYA LOCKE: (Speaking in indigenous language.)		

Letter ID	Commenter Name	Commenter Org.	Text	Legal context	
			I grew up on the Missouri River. I am from Standing Rock. I have been a part of this preliminary hearing, and I sat in some of rounds like this before against NAGRPA. I want to reaffirm that you guys are guests within our home territory. We are Lakota-Dakota people, and we should be able to address you in our own language. So I ask respectfully that you bring a Lakota-Dakota translator when you come to our home.		
07642 (Hot Springs hearing)	Ex. 6 Personal Privacy (PP)	Individual	Lakota translators are needed at these hearings. Do we have some?	Ex. 6 Personal Privacy (PP)	
8050 (10/5 Hot Springs hearing)		Individual	(Speaking in indigenous language.) I'm here today to talk about how we as indigenous people, Lakota people of this land have continuously be -- have been dehumanized. The court reporter here is going to put into the transcript that there was native language spoken without any interpretation of our language, and so our voices continue to be silenced, and so we have to speak in our -- in the English tongue. And so because they are not from here, they do not understand that, and so they do not respect us enough to offer that to us, to our elders who spoke as well. I noticed how while he was speaking, no typing was occurring. And so, you know, those are things that are continuously an issue. We are dehumanized through the treaties. We are not afforded those rights. Our inherent sovereignty is not being upheld. The United States Constitution treated as -- as treaties are supreme laws of the land.		
8109		Individual	[...] <u>Scope of the Project</u> The project encompasses 4,282 hectares of predominantly private land approximately 13 miles NW of Edgemont and 46 miles W of the Pine Ridge Reservation. It includes injection, recovery and monitoring wells in 14 wellfields (Class III) and up to 6 wells (Class V) for wastewater disposal. The permit area and one-mile buffer is located within the Great Plains physiographic province on the edge of the Black Hills in Custer and Fall River Counties, SD and contains 10,580 acres of wildlife habitat which		

Letter ID	Commenter Name	Commenter Org.	Text	Legal context	
			supports medium and small-sized mammals as well as avian species. (BA, pp. 2 and 13) **Comment:** The Black Hills area is not only popular for tourism, but more importantly, is a sacred site for Native Americans, and their rights should receive priority consideration when it comes to any possible disturbance to their sacred lands. [...] Finally, it seems hazardous projects like this one have been disproportionately located near Native American lands or poorer areas. This is unjust and is particularly egregious when one considers that Native Americans have always had great respect for the land and the environment. We are at a critical point with our planet due to pollution, environmental damage and global warming and have a limited time to address these issues before some or all of them are not correctable. All of our efforts should be directed at finding and pursuing clean energy sources so that future generations will not have to suffer the consequences of our reckless disregard for our own planet. Sincerely, Georgia Labey		
8202	Ex. 6 Personal Privacy (PP)	Individual	Dear EPA, The Dewey-Burdock uranium mine proposal is on land that has been ruled to have been unlawfully taken from the Sioux Nation of Indians in the U.S. Supreme Court Case United States v. Sioux Nation of Indians, 448 U.S. 371 (1980).	Ex. 5 Deliberative Process (DP)	

5. Concerns about EPA's tribal consultation process, including adequate survey of cultural sites.

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
00015	Ex. 6 Personal Privacy (PP)	Individual	A full survey of cultural and historical sites is needed before mining or deep disposal is allowed. Cultural and historical sites must be protected.	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
00024	Ex. 6 Personal Privacy (PP)	Individual	Subject: Re: Dewey-Burdock templates [...] I urge that a full survey of cultural and historical sites be conducted prior to mining or deep disposal and all efforts to protect cultural and historical sites.	Ex. 5 Deliberative Process (DP)	
00031		Individual	4. Consideration of legal and cultural impacts In addition to the possibility of technology failure, the cultural significance to the area must also be taken into consideration. The Black Hills have been home the The Lakota, or the Sioux tribe, for generations. Because of this, the EPA is required to comply with the National Historic Preservation Act under the EPA's Tribal Policy on Consultation and Coordination with Indian Tribes. These people have been interested in the potential outcomes of the Powertech operation, and as such have requested the EPA provide them with a concise and well researched identification of potential effects of the proposed project. These are historic and sacred lands, and as such the EPA continues to provide the tribe with as much information as possible, however these potential cultural impacts must be weighed against the benefits.		
00036		Individual	Legal precedent - most notably Lyng v. Northwest Indian Cemetery Protective Association - suggests that even in the most extreme circumstances, the religious and cultural significance of a place will not prevent the completion of mining and resource extraction projects, as the significance of the whole (in our case, the Black Hills) is conceived by permit-granting institutions as separate from its part (the Dewey-Burdock project area), and the latter is not seen by the federal government to impose a substantial burden on the exercise of religious or cultural rights. Nonetheless, the EPA has still undertaken enhanced outreach activities, including extensive public participation hearings closer to the Oglala Sioux Tribe and Cheyenne River Sioux Tribe, in order to hear their concerns. To us, this action shows the EPA has some interest in accounting for the		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			impact this project would have on Lakota and other Native peoples. This document thus presents an argument that the historic environmental justice concerns of the Lakota, Dakota, and other tribes must be taken into account more substantially and meaningfully as a condition of this and any future EPA permitting in the Black Hills region.		
00036	Ex. 6 Personal Privacy (PP)	Individual	4. Meaningful involvement and consultation Adequate attention to this history would further require the EPA revisit its existing approach to meaningful involvement and tribal consultation with regard to the proposed Dewey-Burdock project. While the EPA docket detailing the draft Class III and Class V permits for the project contains a draft document detailing plans for compliance with the National Historic Preservation Act (NHPA), including plans for tribal consultation, these plans do not feature as part of the EJ analysis, which we strongly feel they should. In this draft NHPA compliance document, the EPA details its plans to first conduct "inform and educate" sessions with tribes prior to beginning government-to-government consultation. The EPA notes in this document that after meeting with Oglala Sioux Tribal leaders, the EPA "was informed that the Tribe considered these meetings to be "inform and educate" meetings rather than government-to-government consultation." Such a difference in interpretation cannot characterize a legitimate consultation process, and we are left wondering why it is that meetings which the EPA considered to be consultative were instead considered to be informational by the Tribe. At the public comment sessions in Rapid City on May 8-9, Lakota testifiers reminded the EPA that those public hearings do not qualify as meaningful tribal consultation. We urge the EPA to remember this, along with the EPA's own definitions of EJ, articulated in EO 12898 and the EJ 2020 Action Agenda, which state that people, and particularly Indigenous peoples, must participate, be meaningfully involved in, and indeed influence the direction of	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			decision-making processes related to environmental justice - not simply have knowledge of those decision-making processes. We feel that meaningful tribal consultation could result in the EPA adjusting the draft UIC permits in question as well as the EJ analysis itself, perhaps by expanding its 20-mile buffer zone of interest around the proposed project site or, for example, implementing a watershed analysis approach instead. At the hearings in May, Ms. Valois Shea reassured all those present that the EPA permits in question would not be issued until the tribal consultation process was completed. We hope the EPA takes this promise seriously and soon embarks upon a meaningful tribal consultation process which stands up not just to the standards of Lakota and other Native EJ scholars and activists, but indeed the stated standards of the EPA itself.		
00039	Ex. 6 Personal Privacy (PP)	Individual	PowerTech/Azarga must formally consult under Section 106 of NHPA with First Nations of the 1851 and 1868 Fort Laramie Treaties. The Oglala Sioux Tribe currently stands against, in opposition to uranium mining in the Black Hills. Indigenous people know it is not worth the risk!	Ex. 5 Deliberative Process (DP)	
00044		Individual	Other Reasons I object are: The HeSapa, or Black Hills, is Treaty Territory under both the 1851 and 1868 Ft. Laramie and under Law it is mandated to consult with tribal governments as Government to Government Relations. This includes following National Historic Preservation Act rules and regulations with the tribes. However, South Dakota and federal agencies involved in permitting this uranium mining have continuously ignored tribal nations and their expert testimony regarding cultural properties and sacred sites in the target area.		
00103		Individual	A full survey of cultural and historical sites is needed before mining or deep disposal is allowed. Cultural and historical sites must be protected.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
00106	Ex. 6 Personal Privacy (PP)	Individual	…to consult with the Sioux nation before any action, to conduct tribally approved archeological and cultural surveys…	Ex. 5 Deliberative Process (DP)	
00108		Individual	• A full survey of cultural and historical sites is needed before mining or deep disposal is allowed. Cultural and historical sites must be protected. • Tribally defined consultation…		
00136		Individual	A full survey of cultural and historical sites is needed before mining or deep disposal is allowed. Cultural and historical sites must be protected.		
00164		Individual	I also want tribally defined consultation as well as full tribally approved archeological and cultural surveys done.		
00172		Individual	Subject: Permits for Dewey-Burdock Uranium Mine […] A full survey of cultural and historical sites is needed before mining or deep disposal is allowed. Cultural and historical sites must be protected		
00174		Individual	Subject: Opposition to Dewey Burdock Uranium Aquifer Mining […] The National Historic Preservation Act requires tribal consultation. The current administration does not respect America's indigenous people and the agreements we have with them. I have no faith that this administration will adhere to the law, democratic principles, or human decency in their handling of the Tribe's concerns		
00188		Individual	Subject: No Uranium in treaty territory […] 3) The EPA is obligated under the National Historic Preservation Act to consult with the Tribes to identify the potential effects of the project on traditional cultural places, historic, and sacred sites. As		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			you are probably aware, this current administration is openly dismissive and even hostile towards the interests of America's indigenous peoples. We cannot expect there will be a good faith reckoning of the Tribe's concerns. Therefore, for all these concerns, and more, I must register my opposition to the proposal for ISR activities in the area. Please deny the permit.		
00230	Ex. 6 Personal Privacy (PP)	Individual	So I urge you to listen, as many of the speakers at the hearings have already said. Listen to the people here when you make your decisions. Seek the input of the native tribes who occupy and know this area, and truly listen to them. Listen to your own hearts: what matters to you? Does your children's future matter to you, or does money matter to you? Which is going to last longer? Which is something you want to look back on at the end of your life?	Ex. 5 Deliberative Process (DP)	
00244		Individual	- that there is tribally defined consultation [...] - that there are fully tribally approved archeological and cultural surveys		
00262		Individual	This would be the first EPA-led Class 3 UIC permit ever issued for ISL mining. At the start of the Powertech application process, EPA met with Powertech representatives and worked to define key terms of the regulations without any involvement by Native American Tribes nor the public. We feel this was wrong and we ask for the EPA to begin developing a formal and standardized Class 3 UIC permitting process.		
00272		Individual	A full survey of cultural and historical sites is needed before mining or deep disposal is allowed. Cultural and historical sites must be protected.		
00280		Individual	A full survey of cultural and historical sites is needed before mining or deep disposal is allowed. Cultural and historical sites must be		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			protected. The black hills in particular are a site of extreme cultural and historic significance and should not be mined.		
00280	Ex. 6 Personal Privacy (PP)	Individual	A full survey of cultural and historical sites is needed before mining or deep disposal is allowed. Cultural and historical sites must be protected. The black hills in particular are a site of extreme cultural and historic significance and should not be mined.	Ex. 5 Deliberative Process (DP)	
00287		Individual	PLEASE remember to have a tribally defined consultation in addition to FULL tribally approved archeological and cultural surveys !!!		
00290		Individual	A full survey of cultural and historical sites is needed before mining or deep disposal is allowed. Cultural and historical sites must be protected.		
00294		Individual	Direct impacts to cultural resources are a significant topic that should be discussed in the policy. According to the Tribal Energy and Environmental Information Clearinghouse, increases in human access and disturbances can result in unauthorized removal of artifacts around the site (Tribal Energy and Environmental Information Clearinghouse, 2017).		
00300		Individual	Subject: Public Comments at Valentine, NE I was told the reason you scheduled a meeting in Valentine on April 27, 2017 at Niabrara Lodge is so the two reservations in South Dakota would have a place to comment. It isn't going to happen. If you truely want comments from the two reservations, you will have to hold them on the reservations. Contrarely, to public knowledge, the reservations have modern hotels and large public meeting places on the reservations. In fact, Rosebud has a very modern hotel and meeting rooms, just twelve miles north of Valentine at the state line of South Dakota. Because they are not welcome in Valentine, unless they come in the daytime to spend		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			their money. Yes, discrimination is alive and well in the Untied States, before Trump started spewing his hate on us.		
00304	Ex. 6 Personal Privacy (PP)	Individual	If the EPA were to not consult and coordinate with tribes during the public comment period, then they would be in violation of the National Historic Preservation Act and the Tribal Policy on Consultation and Coordination with Indian Tribes; but EPA has been involving the tribes throughout the process (McClain-Vanderpool, 2017).	Ex. 5 Deliberative Process (DP)	
00315		Individual	Subject: Re: Public comment period extended through Monday, June 19 for the proposed EPA actions at the Dewey- Burdock site My name is Michelle Haukaas and I am a student at Sinte Gleska University and a member of the Rosebud Sioux Tribe. Since the Public Comment period was extended, I was wondering, if I can secure a venue, if your team would be willing to come to the Rosebud reservation for more consultations? I feel we can reach more people, especially elders, who have trouble getting around. I also believe that the people who want this mine are using scare tactics, such as shutting down the wifi at the Edgemont Church that is owned by a mine supporter so nobody can go live. I have also been hearing reports that opposers have been harassed and surrounded at one of the consultations, which makes it hard to voice opposition. Thank you for your time and consideration. I contacted you last week about scheduling a consultation on the Rosebud Sioux Indian reservation and since I've gotten no response, I have no option but to address my Tribe about the allegations of scare tactics at certain meetings. I fear for my people and their safety and I beg that you schedule consultations on our reservation.		
00316		Individual	Subject: Urgent Dewey Burdick consultations Dear Miss Shea		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			Will be addressing my Tribe on the allegations of scare tactics used at the Dewey Burdock consultations. Please consider on reservation consultations as I said before, the opportunity for turnout will be greater. Please promptly reply. Thank you.		
00317	Ex. 6 Personal Privacy (PP)	Individual	Subject: Re: Urgent Dewey Burdick consultations Hi Miss Shae its me again. So Ive called around and talked to Russell Eagle Bear at the Rosebud Sioux Tribe Historic preservation office, also with Phil Two Eagle from our Treaty Council, they seem to think that the public comment hearings aren't legitimate Tribal consultations. is this true? They seem to think they have never ending time. What is the process for consultation with Tribes? or is this it. Is June 19th the last day of public comment and Tribal consultation? They seem to think they are getting a special invitation or is that what the last letter was? I'm sorry I'm confused. I'd like to know when the last day for our Tribe to consult with the EPA. Thank you for your time. I appreciate it very much.	Ex. 5 Deliberative Process (DP)	
00328		Individual	This is also Indian land. How do you have consultation when they clearly have said no? I am a Republican. I am all for business but not when there is risk like this.		
00389		Individual	A full survey of cultural and historical sites is needed before any mining or deep disposal is allowed. Cultural and historical sites must be protected. It should also be noted that the proposed mining area falls within the boundary of the Fort Laramie Treaty of 1868. Full engagement over this issue with any tribes who are party to that treaty is essential. The US constitution states that treaties are the supreme law of the land.		
00394		Individual	A full survey of cultural and historical sites is needed before mining or deep disposals allowed. Cultural and historical sites must be protected		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
00459	Ex. 6 Personal Privacy (PP)	Individual	I KNOW THAT THE AGENCY IS LIKELY TO GET SUED, WHETHER IT ISSUES FINAL PERMITS OR NOT, BUT THIS ONE-SIDED CONSIDERATION OF THE SITUATION SIMPLY INCREASES THE PROBABILITY OF EXTENDED LITIGATION -AT TAXPAYERS' EXPENSE. SO DOES THE LACK OF PROPER TRIBAL CONSULATION, WHICH HAS CAUSED THE NRC ENDLESS HEADACHES. YOU CAN'T START TRIBAL CONSULTATION PART WAY THROUGH THE PROCESS. IT NEEDED TO BE COMPLETED YEARS AGO.		
00469		Individual	• A full survey of cultural and historical sites is needed before mining or deep disposal is allowed. Cultural and historical sites must be protected.	Ex. 5 Deliberative Process (DP)	
00470		Individual	Have genuine consultation with the tribes and tribal approved archaeological and cultural surveys!		
00472		Individual	3) GENUINE TRIBAL CONSULTATION SHOULD OCCUR 4) TRIBAL APPROVED & ARCHAEOLOGICAL SURVEYS!		
00486		Individual	Susan safeguards need more dialogue/consultation with tribal nations Troubled times: FBI, EPA funding Delay		
00488		Individual	...as well as a tribal consultation.		
00489		Individual	These [cultural and historical surveys] must be tribal approved!		
00493		Individual	Regarding the identification of traditional cultural properties at the Dewey-Burdock Project site. Formal consultation under Section 106 of NHPA with First Nations of the 1851 and 1868 Fort Laramie Treaties must be completed. See attached documents for listing.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
00495	Ex. 6 Personal Privacy (PP)	Individual	5) Tribally defined consultation Full tribal approved surveys	Ex. 5 Deliberative Process (DP)	
00519		Black Hills Clean Water Alliance	As part of the new process, the EPA should do thorough tribal consultation. The existing documents indicate that this process has barely begun, and yet draft permits have been issued. This makes a mockery of the consultation process, which should be completed well before draft permits are issued, so that the resulting information can be analyzed. The EPA must halt all further action until mutually-satisfactory consultation is completed. All cultural and historical properties must be given adequate protection. [...] 1. The undersigned respectfully request that the EPA stop the permitting processes for the proposed Dewey-Burdock project. At the very least, tribal consultation and a de novo NEPA process are required. At best, the permits and the exemption should be denied.		
00522		Cheyenne & Arapaho Tribes Tribal Historic Preservation Office	On behalf of the Cheyenne and Arapaho Tribes, thank you for the notice of the referenced project. I have reviewed your Consultation request under section 106 of the National Historic Preservation Act regarding the project proposal and commented as follows: At this time, it is determined to be categorized as No Adverse Effect; however, if at any time during the project implementation inadvertent discoveries are made that reflect evidence of human remains, ceremonial or cultural objects, historical sites such as stone rings, burial mounds, village or battlefield artifacts, please cease work in area of discovery and notify the THPO Office within 72 hours. In addition, if inadvertent discoveries are made; pursuant to Title 36 Code of Federal Regulation Part 800.13, as amended; you will also be required to make arrangements for a professional archaeologist to visit the site of discovery and assess the potential		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			significance of any artifacts or features that were unearth. If needed, we will contact the Tribes NAGPRA representatives. Please contact me at (405) 422-7484 or [HYPERLINK "mailto:vrichey@c-a-tribes.org"], if you have any questions or concerns. Alternate contact is Micah Demery; she can be reached directly at (405) 422-7416 or mdemery@c-a-tribes.org. Thank you again for your notification!		
00523	Ex. 6 Personal Privacy (PP)	Cheyenne River Sioux Tribe	**b. The Dewey-Burdock Uranium Mine Poses a Serious Threat to the Tribe's Cultural Resources** The site of the proposed Dewey-Burdock Uranium Mine is within the Tribe's 1851 territory. Specifically it is in the vicinity of the Black Hills, among the most sacred sites to the Lakota people. Our people lived in this area, hunted in this area, and made religious pilgrimages in this area from time immemorial. Our Tribal Historic Preservation Officer advises that the site of the proposed mine has the potential to contain numerous sites of cultural and spiritual significance. While it is our understanding that some efforts have been made to identify cultural resources in the project area, the EPA has not consulted with the Tribe pursuant to the National Historic Preservation Act. **c. The Dewey Burdock Uranium Mine Poses a Serious Threat to the Tribe's Religious Exercise** Water is an essential aspect of the Lakota religion. It figures prominently in our theology as the origin of our creation as Lakota people and as a key aspect of how we became who we are today. In addition, water is a key component of many of our religious ceremonies. While many or our religious sacraments require either water or ritual deprivation thereof, water is an essential component of one of our most important religious sacraments, the *inipi* ceremony or sweat lodge. Importantly, this sacrament requires that we use only water that is both environmentally and ritually pure. As noted above, the Tribe has very limited access to water on the Reservation and relies solely on water drawn from	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			the confluence of the Cheyenne River and the Missouri River at Lake Oahe for its drinking water and which represents reserved water rights of the Tribe. Upstream contamination of these waters in which the Tribe owns reserved water rights has the very serious potential to affect the Tribe's and its members' religious exercise in violation of the Religious Freedom Restoration Act. **2. The EPA must engage in meaningful government-to-government consultation with the Tribe** As described herein, the Underground Injection Control Draft Area Permit and Proposed Aquifer Exemption decision for the Dewey-Burdock Uranium In-Situ Recovery Site poses serious threats to the Tribe's reserved water rights, hunting and fishing rights, cultural and spiritual sites, and religious exercise in ways that implicate federal statutes and treaty rights. As further described herein, as a function of its fiduciary duty to the Tribe and as a matter of federal law, the EPA must engage in meaningful government-to-government consultation with the Tribe on the issues discussed herein and other issues that may arise. On May 12, 2017, officials of the Cheyenne River Sioux Tribe, including myself, attended the public hearing on the Dewey-Burdock Uranium Mine in Rapid City, South Dakota. At that hearing, our representatives and other representatives of the *Oceti Sakowin* (the Great Sioux Nation) provided testimony consistent with the comments herein. Furthermore, at that hearing, the EPA's representative confirmed explicitly that the EPA does not consider any public hearing or written public comments such as these to constitute meaningful government-to-government consultation with the Tribe and that we can expect to have further contact with the EPA. In addition, Cheyenne River Sioux Tribal Historic Preservation Officer Steve Vance received an email from you on May 18, 2017 advising that "the public comment period is different from our Tribal consultation process," and further advising that "[t]he EPA Tribal consultation process is currently in progress for Dewey-Burdock."		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			The Tribe looks forward to such consultation. Your email instructed the Tribe to contact you or EPA Region 8 Tribal Advisor, Patrick Rogers. As such, we have submitted a formal letter under separate cover requesting government-to-government consultation with the EPA on the Dewey-Burdock Mine to both you and Mr. Rogers. As set forth in that letter, the Tribe believes that such consultation must encompass the following *at a minimum:* • Provide the Tribe with all pertinent information concerning the impact on the Tribe's rights before consultation in a timely manner. • Coordinate with the Tribe before consultation begins, especially with development of an agreement on consultation timelines. • Consult only with Tribal representatives who have been authorized to engage in government-to-government consultation by the Tribal government. • Make every effort to conduct Tribal consultation at the seat of Tribal government, Eagle Butte, South Dakota or elsewhere on the Cheyenne River Sioux Reservation. • Ensure that federal participants in Tribal consultation have actual decision-making authority. • Provide written confirmation that the agency has considered tribal comments and concerns and the agency's response, whether positive or negative. • Obtain resolution of approval from the Tribe that the agency has satisfactorily consulted with the Tribe and the Tribe agrees with the agency's response to Tribal concerns in each instance. Finally, the EPA must be aware that consultation required under the National Historic Preservation Act concerning cultural and spiritual resources is not sufficient to meet the United States' obligation to consult about reserved water rights, treaty rights, or other religious freedom issues.		
00523	Ex. 6 Personal Privacy (PP)	Cheyenne River Sioux Tribe	The Cheyenne River Sioux Tribe ("Tribe") formally requests government-to-government consultation with the Environmental	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			Protection Agency ("EPA") leadership on the EPA's Region 8 Underground Injection Control Draft Area Permit and Proposed Aquifer Exemption decision for Dewey-Burdock Uranium In-Situ Recovery Site ("Proposed Permit"). We make this request pursuant to EPA Policy on Consultation and Coordination with Indian Tribes, May 4, 2011 ("EPA Consultation Policy"), and the EPA Policy on Consultation and Coordination with Indian Tribes: Guidance for Discussing Tribal Treaty Rights, February 2016 ("EPA Treaty Guidance"), and the EPA Responses to Comments on EPA Policy for Consultation and Coordination with Indian Tribes: Guidance for Discussing Tribal Treaty Rights ("EPA Treaty Guidance Comments"). Our request is also informed by the conclusions of the U.S. Department of interior, the U.S. Department of the Army, and the U.S. Department of Justice in their report entitled Improving Tribal Consultation and Tribal Involvement in Federal Infrastructure Decisions, January 20, 2017 ("Improving Tribal Consultation"). We have attached copies of these documents for your reference. This request is also made in response to the email from Shea Valois to Cheyenne River Sioux Tribal Historic Preservation Officer Steve Vance on May 18, 2017, advising that "the public comment period is different from our Tribal consultation process," and further advising that "[t]he EPA Tribal consultation process is currently in progress for Dewey-Burdock." The email further instructed the Tribe to contact Shea Valois and EPA Region 8 Tribal Advisor, Patrick Rogers to arrange such consultation. The Cheyenne River Sioux Reservation is located wholly within the exterior boundaries of the State of South Dakota. (A map showing the location of the Tribe's Reservation is enclosed herewith.) However, our rights and trust resources extend beyond our Reservation borders as a matter of federal law. As set forth herein, the Proposed Permit will affect our reserved water rights, our treaty rights, and our historic, spiritual, and cultural resources. For	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			this reason, the EPA must consult with the Tribe on the Proposed Permit. [...] *The United States Must Consult on the Tribe's Rigltts and Has a Duty to Protect Them* The United States and the EPA's trust relationship does not only extend to the affamative obligations to protect tribal rights and trust resources, but the United States must also engage in meaningful pre-decisional consultation on projects that will affect the Tribe's treaty rights and trust resources. Executive Order 13175, Consultation and Coordination with Indian Tribal Govemments (Nov. 6, 2000); EPA Policy for the Administration of Environmental Programs on Indian Reservations (Nov. 8, 1984); EPA Policy on Consultation and Coordination with Indian Tribes: Guidance for Discussing Tribal Treaty Rights (Feb. 2016). "In carrying out its treaty obligations with the Indian tribes, the Government is something more than a mere contracting party." *Seminole Nation v. United States,* 316 U.S. 286, 296-67 (1942). Instead, "it has charged itself with moral obligations of the highest responsibility and trust." *Id.* Pursuant to its trust duty, agencies are required to "consult with Indian tribes in the decision-making process to avoid adverse effects on treaty resources." *Klamath Tribes v. United States,* No. 10-2130, 1996 WL 924509 (D. Or. Oct 2, 1996) (quoting *Lac Courte Oreille Band of Indians v. Wisconsin,* 668 F. Supp. 133, 140 (W.D. Wis. 1987); *Ctr. for Biological Diversity v. Salazar,* No. 10-2130, 2011 WL 60000497, at *11 (D. Ariz. Nov. 30, 2011). It is not a discretionary duty. *Ctr. for Biological Diversity,* at * 11. The duty to consult is binding on an agency when the agency has announced a consultation policy, and the Tribes have come to rely on that policy. *Yankton Sioux Tribe v. Kempthorne,* 442 F. Supp. 2d 774, 784 (D. S.D. 2006); *see also Oglala Sioux Tribe v. Andrus,* 603 F.2d 707 (8th Cir. 1979); *Lower Brule Sioux Tribe v. Deer,* 911 F.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			Supp. 395 (D. S.D. 1995); *Albuquerque Indian Rights v. Lujan,* 930 F.2d 49, 58 (D.C. Cir. 1991); *Indian Educators Fed'n Local 4524 of Am. Fed'n of Teachers, AFL-CIO v. Kempthorne,* 541 F. Supp. 2d 257, 264-65 (D. D.C. 2008). At a minimum, this requires that the agency give fair notice of its intentions, which requires, "telling the truth and keeping promises." *Yankton Sioux Tribe,* 442 F. Supp. 2d at 784 (citing *Lower Brule Tribe,* 91 l F. Supp. at 399). An agency's failure to provide tribes with accurate information necessary to meaningfully consult before a decision is made is agency failure to meet its consulta6on obligation. *Id.* at 785; *see also Cheyenne River Sioux Tribe v. Jewell,* No. 3:15-03072, 2016 WL 4625672 (D. S.D. Sep. 6, 2016). *Reviewing a Tribe's comments submitted in conjunction with an agency's general invitation/or public comme11ts is not sufficient to meet this obligation.* The federal government has further obligations to tribes under the National Historic Preservation Act ("NHP A") and the Religious Freedom Restoration Act ("RFRA"). The NHPA was enacted to preserve historic resources in the midst of modern projects and requires agencies to fully consider the effects of its actions on historic, cultural, and sacred sites. Section 106 of the NHP A requires that p1ior to issuance of any federal funding, permit, or license, agencies must take into consideration the effects of that "undertaking" on historic properties. 54 U.S.C. § 306108; 36 C.F.R. § 800.1. The Section 106 process also requires consultation between agencies and Indian Tribes on federally-funded or authorized "undertakings" that could affect sites that are on, or could be eligible for, listing in the National Register, including sites that are culturally significant to Indian Tribes. 54 U.S.C. § 302706. An agency official must "ensure" that the process provides Tribes with "a reasonable opportunity to identify its concerns about historic properties, advise on the identification and evaluation of historic properties ... articulate its views on the undertaking's effects on such properties, and participate in the resolution of adverse effects." 36 C.F.R. § 800.2(c)(H)(A). This requirement		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			imposes on agencies a "reasonable and good faith effort'' by agencies to consult with Tribes in a "manner respectful of tribal sovereignty." *Id.* 36 C.F.R. § 800.2(c)(2)(ii)(B); *see also id.* § 800.3(-f) (any Tribe that "requests in writing to be a consulting party shall be one"). Under RFRA, the "Government shall not substantially burden a person's exercise of religion" w1less the Government "demonstrates that application of the burden to the person-(!) is in furtherance of a compelling governmental interest; and (2) is the least restrictive means of furthering that compelling governmental interest." 42 U.S.C. § 2000bb-l(b). Tribal religious practices are significantly tied to oral tradition, ancestral lands, and natural resources. Significantly, the EPA along with several other departments of the United States Federal Government, entered into a Memorandum of Understanding on Interagency Coordination and Collaboration for the Protection of Indian Sacred Sites on September 23, 2016. The Memorandum acknowledges that federal agencies hold in trust many culturally important sites held sacred by Indian tribes, and federal agencies are responsible for analyzing the potential effects of agency projects carried out, funded, or permitted on historic properties of traditional cultural and religious importance to Indian tribes including sacred sites. Additionally, international law, treaties, and jurisprudence has repeatedly affirmed the right of Free Prior Informed Consent. *See Declaration on the Rights of Indigenous People,* art. 10, United Nations (Mar. 2008). The purpose of Free Prior Informed Consent is to establish bottom up participation and consultation of an Indigenous population prior to the beginning of a development on ancestral land or using resources within the Indigenous population's territory. *Id.* [...] The Tribe reserves the right to submit supplementary comments after engaging in government-to-government consultation with the EPA. Further, in addition to these comments, a formal request for		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			consultation has been sent to you under separate cover. Please do not hesitate to contact me if you should have any questions.		
00525	Ex. 6 Personal Privacy (PP)	Cheyenne River Sioux Tribe	Therefore, the purpose of these comments is to insist that the EPA must act as a fiduciary by both consulting with the Tribe on any impact to those rightas and by protecting those rights from harm. Please note that these comments do not satisfy the EPA's consultation obligation to the Tribe. Moreover, they should be considered a preliminary sataement of some of the Tribe's concerns regarding the Dewey-Burdock Mine. The Tribe cannot fully assess its concerns until it has had an opportunity to engage in meaningful government-to-government consultation on these issues as described more fully herein. [...] **b. The Dewey-Burdock Uranium Mine Poses a Serious Threat to the Tribe's Cultural Resources** The site of the proposed Dewey-Burdock Uranium Mine is within the Tribe's 1851 territory. Specifically it is in the vicinity of the Black Hills, among the most sacred sites to the Lakota people. Our people lived in this area, hunted in this area, and made religious pilgrimages in this area from time immemorial. Our Tribal Historic Preservation Officer advises that the site of the proposed mine has the potential to contain numerous sites of cultural and spiritual significance. While it is our understanding that some efforts have been made to identify cultural resources in the project area, the EPA has not consulted with the Tribe pursuant to the National Historic Preservation Act. **c. The Dewey Burdock Uranium Mine Poses a Serious Threat to the Tribe's Religious Exercise** Water is an essential aspect of the Lakota religion. It figures prominently in our theology as the origin of our creation as Lakota people and as a key aspect of how we became who we are today. In addition, water is a key component of many of our religious	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			ceremonies. While many or our religious sacraments require either water or ritual deprivation thereof, water is an essential component of one of our most important religious sacraments, the *inipi* ceremony or sweat lodge. Importantly, this sacrament requires that we use only water that is both environmentally and ritually pure. As noted above, the Tribe has very limited access to water on the Reservation and relies solely on water drawn from the confluence of the Cheyenne River and the Missouri River at Lake Oahe for its drinking water and which represents reserved water rights of the Tribe. Upstream contamination of these waters in which the Tribe owns reserved water rights has the very serious potential to affect the Tribe's and its members' religious exercise in violation of the Religious Freedom Restoration Act. **2. The EPA must engage in meaningful government-to-government consultation with the Tribe** As described herein, the Underground Injection Control Draft Area Permit and Proposed Aquifer Exemption decision for the Dewey-Burdock Uranium In-Situ Recovery Site poses serious threats to the Tribe's reserved water rights, hunting and fishing rights, cultural and spiritual sites, and religious exercise in ways that implicate federal statutes and treaty rights. As further described herein, as a function of its fiduciary duty to the Tribe and as a matter of federal law, the EPA must engage in meaningful government-to-government consultation with the Tribe on the issues discussed herein and other issues that may arise. On May 12, 2017, officials of the Cheyenne River Sioux Tribe, including myself, attended the public hearing on the Dewey-Burdock Uranium Mine in Rapid City, South Dakota. At that hearing, our representatives and other representatives of the *Oceti Sakowin* (the Great Sioux Nation) provided testimony consistent with the comments herein. Furthermore, at that hearing, the EPA's representative confirmed explicitly that the EPA does not consider any public hearing or written public comments such as these to constitute meaningful government-to-government consultation		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			with the Tribe and that we can expect to have further contact with the EPA. In addition, Cheyenne River Sioux Tribal Historic Preservation Officer Steve Vance received an email from you on May 18, 2017 advising that "the public comment period is different from our Tribal consultation process," and further advising that "[t]he EPA Tribal consultation process is currently in progress for Dewey-Burdock." The Tribe looks forward to such consultation. Your email instructed the Tribe to contact you or EPA Region 8 Tribal Advisor, Patrick Rogers. As such, we have submitted a formal letter under separate cover requesting government-to-government consultation with the EPA on the Dewey-Burdock Mine to both you and Mr. Rogers. As set forth in that letter, the Tribe believes that such consultation must encompass the following *at a minimum:* • Provide the Tribe with all pertinent information concerning the impact on the Tribe's rights before consultation in a timely manner. • Coordinate with the Tribe before consultation begins, especially with development of an agreement on consultation timelines. • Consult only with Tribal representatives who have been authorized to engage in government-to-government consultation by the Tribal government. • Make every effort to conduct Tribal consultation at the seat of Tribal government, Eagle Butte, South Dakota or elsewhere on the Cheyenne River Sioux Reservation. • Ensure that federal participants in Tribal consultation have actual decision-making authority. • Provide written confirmation that the agency has considered tribal comments and concerns and the agency's response, whether positive or negative. • Obtain resolution of approval from the Tribe that the agency has satisfactorily consulted with the Tribe and the Tribe agrees with the agency's response to Tribal concerns in each instance.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			Finally, the EPA must be aware that consultation required under the National Historic Preservation Act concerning cultural and spiritual resources is not sufficient to meet the United States' obligation to consult about reserved water rights, treaty rights, or other religious freedom issues. [...] The Tribe reserves the right to submit supplementary comments after engaging in government-to-government consultation with the EPA. Further, in addition to these comments, a formal request for consultation has been sent to you under separate cover. Please do not hesitate to contact me if you should have any questions.		
00525	Ex. 6 Personal Privacy (PP)	Cheyenne River Sioux Tribe	*The United States Must Consult on the Tribe's Rights and Has a Duty to Protect Them* The United States and the EPA's trust relationship does not only extend to the affirmative obligations to protect tribal rights and trust resources, but the United States must also engage in meaningful pre-decisional consultation on projects that will affect the Tribe's treaty rights and trust resources. Executive Order 13175, Consultation and Coordination with Indian Tribal Governments (Nov. 6, 2000); EPA Policy for the Administration of Environmental Programs on Indian Reservations (Nov. 8, 1984); EPA Policy on Consultation and Coordination with Indian Tribes: Guidance for Discussing Tribal Treaty Rights (Feb. 2016). "In carrying out its treaty obligations with the Indian tribes, the Government is something more than a mere contracting party." *Seminole Nation v. United States,* 316 U.S. 286, 296-67 (1942). Instead, "it has charged itself with moral obligations of the highest responsibility and trust." *Id.* Pursuant to its trust duty, agencies are required to "consult with Indian tribes in the decision-making process to avoid adverse effects on treaty resources." *Klamath Tribes v. United States,* No. 10-2130, 1996 WL 924509 (D. Or. Oct 2, 1996) (quoting *Lac Courte Oreille Band of Indians v. Wisconsin,* 668 F. Supp. 133, 140 (W.D. Wis. 1987); *Ctr. for Biological Diversity v.*		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			Salazar, No. 10-2130, 2011 WL 60000497, at *11 (D. Ariz. Nov. 30, 2011). It is not a discretionary duty. *Ctr. for Biological Diversity,* at * 11. The duty to consult is binding on an agency when the agency has announced a consultation policy, and the Tribes have come to rely on that policy. *Yankton Sioux Tribe v. Kempthorne,* 442 F. Supp. 2d 774, 784 (D. S.D. 2006); *see also Oglala Sioux Tribe v. Andrus,* 603 F.2d 707 (8th Cir. 1979); *Lower Brule Sioux Tribe v. Deer,* 911 F. Supp. 395 (D. S.D. 1995); *Albuquerque Indian Rights v. Lujan,* 930 F.2d 49, 58 (D.C. Cir. 1991); *Indian Educators Fed'n Local 4524 of Am. Fed'n of Teachers, AFL-CIO v. Kempthorne,* 541 F. Supp. 2d 257, 264-65 (D. D.C. 2008). At a minimum, this requires that the agency give fair notice of its intentions, which requires, "telling the truth and keeping promises." *Yankton Sioux Tribe,* 442 F. Supp. 2d at 784 (citing *Lower Brule Tribe,* 91 l F. Supp. at 399). An agency's failure to provide tribes with accurate information necessary to meaningfully consult before a decision is made is agency failure to meet its consulta6on obligation. *Id.* at 785; *see also Cheyenne River Sioux Tribe v. Jewell,* No. 3:15-03072, 2016 WL 4625672 (D. S.D. Sep. 6, 2016). *Reviewing a Tribe's comments submitted in conjunction with an agency's general invitation/or public comme11ts is not sufficient to meet this obligation.* [...] Significantly, the EPA along with several other departments of the United States Federal Government, entered into a Memorandum of Understanding on Interagency Coordination and Collaboration for the Protection of Indian Sacred Sites on September 23, 2016. The Memorandum acknowledges that federal agencies hold in trust many culturally important sites held sacred by Indian tribes, and federal agencies are responsible for analyzing the potential effects of agency projects carried out, funded, or permitted on historic properties of traditional cultural and religious importance to Indian tribes including sacred sites. Additionally, international law, treaties, and jurisprudence has repeatedly affirmed the right of		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			Free Prior Informed Consent. *See Declaration on the Rights of Indigenous People,* art. 10, United Nations (Mar. 2008). The purpose of Free Prior Informed Consent is to establish bottom up participation and consultation of an Indigenous population prior to the beginning of a development on ancestral land or using resources within the Indigenous population's territory. *Id.*		
00525	Ex. 6 Personal Privacy (PP)	Cheyenne River Sioux Tribe	The federal government has further obligations to tribes under the National Historic Preservation Act ("NHP A") and the Religious Freedom Restoration Act ("RFRA"). The NHPA was enacted to preserve historic resources in the midst of modern projects and requires agencies to fully consider the effects of its actions on historic, cultural, and sacred sites. Section 106 of the NHP A requires that p1ior to issuance of any federal funding, permit, or license, agencies must take into consideration the effects of that "undertaking" on historic properties. 54 U.S.C. § 306108; 36 C.F.R. § 800.1. The Section 106 process also requires consultation between agencies and Indian Tribes on federally-funded or authorized "undertakings" that could affect sites that are on, or could be eligible for, listing in the National Register, including sites that are culturally significant to Indian Tribes. 54 U.S.C. *§* 302706. An agency official must "ensure" that the process provides Tribes with "a reasonable opportunity to identify its concerns about historic properties, advise on the identification and evaluation of historic properties ... articulate its views on the undertaking's effects on such properties, and participate in the resolution of adverse effects." 36 C.F.R. § 800.2(c)(H)(A). This requirement imposes on agencies a "reasonable and good faith effort'' by agencies to consult with Tribes in a "manner respectful of tribal sovereignty." *Id.* 36 C.F.R. § 800.2(c)(2)(ii)(B); *see also id.* § 800.3(-f) (any Tribe that "requests in writing to be a consulting party shall be one"). Under RFRA, the "Government shall not substantially burden a person's exercise of religion" w1less the Government "demonstrates that application of the burden to the person-(!) is in	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			furtherance of a compelling governmental interest; and (2) is the least restrictive means of furthering that compelling governmental interest." 42 U.S.C. § 2000bb-l(b). Tribal religious practices are significantly tied to oral tradition, ancestral lands, and natural resources.		
00527	Ex. 6 Personal Privacy (PP)	Clean Water Alliance	The EPA must also do thorough tribal consultation. The existing documents indicate that this process has barely begun, and yet draft permits have been issued. This makes a mockery of the consultation process, which should be completed well before draft permits are issued, so that the resulting information can be analyzed. The EPA must halt all further action until mutually-satisfactory, government-to-government consultation is completed. All cultural and historical properties must be identified by Lakota experts, who should be paid if they so desire, and given complete protection. [...] Turning to the NHPA document, EPA should not rely on the NRC's section 106 review and consultation. That process is grossly incomplete. A section 106 review should, of course, have been completed before draft permits or a draft aquifer exemption were issued. At this point, the EPA should conduct its own review to insure that different viewpoints are brought to bear on the situation and to insure that thorough work is done by the federal agencies that are involved in the Dewey-Burdock project. The NHPA document also indicates that tribal consultation is in its infancy. Tribal leaders from the two reservations that are most likely to experience impacts from the Dewey-Burdock project, the Oglala Sioux Tribe and the Cheyenne River Sioux Tribe, have not yet started consultation. Yet draft permits and a draft aquifer exemption have already been issued. This is a travesty, and it's difficult to see how the EPA can rectify the situation.	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
00528	Ex. 6 Personal Privacy (PP)	Aligning for Responsible Mining	EPA must delay any permitting action until a fully competent cultural resources survey is conducted and the Tribe and the public has an opportunity to review and comment on the potential impacts to those important resources. Additionally, EPA should reject the PA as inadequate and engage in meaningful and good-faith consultation with the Oglala Sioux Tribe professional staff and Tribal Council in order to ensure that, in coordination with the Tribe, all cultural resources are identified, impacts are assessed and mitigation measures are developed and implemented. [...] **4. COMMENTS ON THE IDENTIFICATION OF TRADITIONAL CULTURAL PROPERTIES AT THE DEWEY-BURDOCK PROJECT SITE AREA OF POTENTIAL EFFECTS** EPA states that: Based on the information we have reviewed to date, and subject to resolving concerns identified in the NRC administrative review process, the EPA believes that the level of work completed under the auspices of the NRC on the Class III Cultural Resources Survey appears thorough and comprehensive for the APE defined by the NRC, provided the PA stipulations are followed concerning the unexpected discovery of additional historical properties. EPA states that its consideration of the extent of cultural resource issues at the Dewey- Burdock site is based on "Section 3.9.3 of the NRC Supplemental Environmental Impact Statement prepared for the Dewey-Burdock Project (SEIS) and summarized in Appendix B of the NRC PA." EPA's characterization of the current status of the NRC Staff's National Environmental Policy Act and National Historic Preservation Act compliance is not consistent with the Nuclear Regulatory Commission's recent ruling.[10] In fact, the result of the Nuclear Regulatory Commission process was an express holding that the Class III archaeological study conducted at the site **failed** to satisfy any of the requirements	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			associated with either the National Environmental Policy Act (NEPA) or the National Historic Preservation Act (NHPA) with respect to cultural resources. Specifically, the NRC affirmed the Atomic Safety Licensing Board's express ruling that: The Board finds that the NRC Staff has not carried its burden of demonstrating that its FSEIS complies with NEPA and with 10 C.F.R. Part 40. The environmental documents do not satisfy the requirements of the NEPA, as they do not adequately address Sioux tribal cultural, historic and religious resources. *In the Matter of Powertech USA, Inc.,* LBP-15-16, 81 NRC 618, 708 (2015). Thus, EPA's reliance on the NRC SEIS is entirely misplaced. There has never been a cultural resources survey conducted on the Dewey-Burdock site that took into account any Sioux cultural resources. **EPA simply cannot rely on the NRC SEIS analysis in any way for such a survey**. Further, the NRC affirmed the Board's ruling that "Meaningful consultation as required by [the NHPA] has not occurred." Id. This ruling was made despite the existence of the Programmatic Agreement, ("PA") which EPA suggests it might sign on to in an effort to fulfill its NHPA obligations. However, EPA appears to be unaware that the PA it references was roundly condemned by every single Sioux tribal government that reviewed it. **Not a single Tribe has agreed to be a signatory on the PA meaning the PA has been literally shoved down the Tribes' collective throats.** The critique of the terms of the PA from the Tribes was severe.[11] In these letters, the Oglala Sioux Tribe identifies specific terms in the PA that fail to provide any detail or specificity as to future analyses of the project area, methodologies proposed for these analyses, or what mitigation measures may be adopted in the future to address the impacts.[12]		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			The Standing Rock Sioux Tribe raised similar concerns, but goes into highly specific detail, offering not only a letter describing their frustration in dealing with the NRC Staff on this issue, but also providing multiple substantive line by line comments, questions, and critiques to the PA.13 Unfortunately, NRC Staff did not provide any specific substantive response to either set of tribal concerns, nor did NRC Staff incorporate the changes proposed by either tribe. Instead, NRC Staff and Powertech pushed to finalize the PA without addressing the tribes' concerns. These failure to comply with NEPA and NHPA are being highly scrutinized by federal courts. See *Standing Rock Sioux Tribe v. U.S. Army Corps of Eng'rs*, (D.C. Cir., slip. op. June 14, 2017).14 In that case, the Court ruled that the agency failed to include a large enough area in its analysis (similar to the comments herein that Buffalo Gap, SD, should be included in the EJ Analysis) and also that an EIS should have been done. These same failures are present in this EPA UIC permit decision. This type of lack of meaningful consultation, in part, is what led to a NRC ruling finding a failure to comply with the NHPA consultation duties. EPA should not compound and exacerbate this failure by endorsing such a deeply flawed PA. Instead, EPA should seek to conduct a consultation effort that complies with the NHPA and meaningfully involves the Tribes in a discussion of the potentially affected cultural resources, the potential impacts to those resources, and possibly mitigation measures that can be implemented to protect those resources. In any case, the existing PA is currently the subject of further discussion and negotiation as part of the NRC's finding that the NRC Staff has failed to comply with either NEPA or the NHPA with respect to identifying and evaluating impacts to Sioux cultural resources at the site. *See* May 31, 2017 letter from Oglala Sioux Tribe Historic Preservation Office; May 19, 2016 and January 31, 2017 Oglala Sioux Tribe/NRC Staff meeting summaries (all		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			specifically identifying changes to the PA as necessary topics of ongoing NHPA consultation). As such, EPA should increase its involvement and either work to develop an agreement with the affected Tribes, including the Oglala Sioux Tribe that properly takes into consideration the Tribes' perspectives. In the alternative, EPA should engage in the ongoing discussions between NRC and the Tribes, including the Oglala Sioux Tribe, and work toward a PA that satisfies all parties. The Oglala Sioux Tribe has a formal ordinance in effect regarding consultation, which requires the involvement of the Oglala Sioux Tribal Council.[15] Notably, the record developed during the NRC hearing process demonstrates that the proposed Dewey-Burdock site contains significant cultural resources that could be impacted by the project. This fact is made clear even though no meaningful cultural resources survey has been conducted on the property. Even the Augustana Class III archaeological survey upon which EPA attempts to rely recognizes that "the sheer volume of sites documented in the area is noteworthy."[16] Despite this acknowledgement, no competent Sioux cultural resources survey has ever been conducted on the site. The NRC hearing record demonstrates that EPA simply cannot rely on the Powertech produced Class III archaeological survey for purposes of identifying impacts to cultural resource so as to satisfy its environmental impact review or NHPA obligations. Powertech candidly admits "that identifying religious or culturally significant properties in a project area is entirely reliant of the Tribes themselves and the special expertise of the Tribal cultural practitioners...." Simply put, entities such as NRC or Powertech are not equipped with the Tribe-specific knowledge and traditions to adequately instruct a specific Tribe using 'proper scientific expertise' on this subject."17 The record and testimony contains no evidence that NRC Staff successfully equipped itself or acquired the necessary		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			resources to meet NRC's NEPA duties involving religious and cultural resources. **The primary reliance by EPA on the Augustana study is not supportable – particularly given the testimony at the NRC hearing.** Dr. Hannus, who lead the Augustana study at the behest of the applicant admitted that his team is not "in any way qualified to be conducting TCP surveys" and further conceded that given the heightened cultural issues of the Sioux Tribes that "there will be sites that will need to be addressed archaeologically"; Dr. Hannus: "And again, that really should clearly, I think, show us that for us to then be able to make some kind of in roads ourselves, being not of Native background, to identification of sites that are traditional cultural properties that have a tie to spirituality and so on, it is not in our purview to do that.").[18] Applicant witness Dr. Luhman reiterated this point, confirming that "a traditional Level 3 survey may, in fact, encounter some resources that would be associated with Native American groups or which they would identify. But, they wouldn't necessarily identify all of the resources primarily because some of the knowledge is not available to those conducting the Level 3 survey. That would be provided by the Native American groups themselves."[19] OST witness Mr. Mesteth: "[w]e're the ones that are the experts, not the archaeologists. They make assumptions and hypotheses about our cultural ways and it's not accurate. Some of the information is not accurate. And that's why we object in certain situations."[20] Dr. Hannus testified that his office has never worked on any projects that considered the cultural resources at a site.[21] Despite this fact, NRC Staff witness Dr. Luhman testified that NRC Staff relied on Augustana to conduct all of the initial and follow up field survey work at the site, with the exception of the three non-Sioux tribes that submitted reports.[22]		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			Upon the Sioux Tribes' request as early as 2011 that cultural resource surveys be conducted at the site, NRC Staff prompted the applicant to bring in Dr. Sabastian and her firm to coordinate this review.[23] However, Dr. Sabastian also testified that she also has never been involved in any kind of "actual physical on-the-ground TCP survey-kind of thing that we're talking about."[24] Lastly, Mr. Fosha testified that he worked with the applicant and Augustana "from the very start of the project, so the bulk of this material is a result of myself reviewing what Augustana College had been doing in the field."[25] Mr. Fosha testified that he met with the applicant and between them discussed methods for identification of sites and the methods and steps to take "throughout the process," but only related to the State of South Dakota permit, and having "nothing to do with the NRC permit or anything like that" – even remarking that "up until the point where Augustana was nearly finished I was the only review agency on this project."[26] Despite Mr. Fosha being the only person giving any direction to Dr. Hannus' Augustana team, Mr. Fosha testified that his experience and focus was solely "the field of archaeology" and not culturally as to the concerns of the Tribes.[27] The only NRC Staff or applicant witness that testified to having any experience in conducting cultural resource field surveys was NRC Staff witness Dr. Luhman. However, as stated, Dr. Luhman admitted to relying exclusively on Augustana for both the initial field work and the follow up field studies, even though Dr. Hannus' testimony had confirmed that Augustana had no culturally relevant experience.[28] Dr. Luhman did testify that "in those projects in which I have been involved [a cultural survey] it is typically that [the Tribes] are working alongside with the archaeological survey team as they are going about doing the survey. It could be in the preliminary stages of doing the generalized recognizance (sic) of the project area. Oftentimes the federal agency and other parties will be along that process so that there can be discussions while out in the field, and		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			these are for sometimes very large projects. But in my experience it typically is at the same time when there is an ongoing consultative and survey process."[29] NRC Staff witness Ms. Yilma admitted that no written cultural resources analysis prepared during any part of the NEPA analysis included any comments or reports from any Sioux Tribes.[30] This is despite testimony from NRC Staff witness Ms. Yilma as to the NRC Staff's recognition of the importance of the area to the Sioux from a cultural perspective from the earliest stages of the application review stage.[31] NRC Staff witness Ms. Yilma also testified as to the importance and focus at least as early as 2011 by both the Sioux Tribes and within NRC Staff on the need for culturally-based field surveys in order to fulfill the NEPA and NHPA requirements.[32] NRC Staff witness Ms. Yilma testified that after meeting in 2011 with the Oglala Sioux, Standing Rock Sioux, Flandreau Santee Sioux, Sisseton Wahpeton (Sioux), Cheyenne River Sioux, and Rosebud Sioux , NRC Staff specifically de 33 liberated about conducting an ethnographic study of the site to ensure incorporation of Sioux cultural and historic perspectives, but "the ultimate decision was instead of an ethnographic study a field survey was necessary, so we focused our attention on the field survey approach."[34] **Despite admitting that it was "necessary" to the analysis, no cultural resources review or field study incorporating any Sioux cultural expertise was ever conducted at the site or incorporated into any NEPA document.**[35] This testimony and evidence establishes NRC Staff's failure to conduct the necessary hard look under NEPA, as by their own admission, despite it being necessary to the analysis, no Sioux comments or reports were incorporated into the cultural resources reviews, and none of the parties that conducted any cultural review of the site, including field surveys, were trained, experienced, or competent to review or survey the area for, let alone determine impacts from the project to, the cultural resources of Sioux origin. Admissions and testimony confirm that NRC Staff		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			deferred to the applicant's unqualified consultants, while rejecting proposals to incorporate Sioux cultural expertise. **As a result of Powertech's and NRC Staff's inability to fulfill their obligations to properly ensure a competent cultural resources survey of the Dewey-Burdock site, EPA cannot rely on the NRC's NEPA documents to assess the cultural resources impacts of the proposed mine.** **Similarly, because NRC Staff has failed to fulfill its government-to-government consultation duties under the NHPA, EPA also cannot rely on the PA or any other NRC Staff consultation to fulfill its own obligations under the NHPA.** [...] **6. Comments on measures to avoid, minimize or mitigate potential adverse effects on historic and traditional cultural properties pursuant to Section 106 of the National Historic Preservation Act and 36 CFR § 800.2(d) and § 800.6(a)(4)** The Environmental Protection Agency National Historic Preservation Act Compliance and Review for the Proposed Dewey-Burdock In-Situ Uranium Recovery Project, which is part of the Administrative Record for the UIC Class III Draft Area Permit, discusses how the EPA intends to comply with Section 106 of the National Historic Preservation Act. To date, the EPA has done nothing meaningful to avoid, minimize or mitigate potential adverse effects on historic and TCPs under Section 106 other than rely on the promises of an insolvent and corrupt organization. Therefore, there has been a complete failure to provide measures required by Section 106 of NHPA and 36 CFR § 800.2(d) and § 800.6(a)(4).		
00537	Ex. 6 Personal Privacy (PP)	Native Research Solutions	Cultural data, including archaeological and burial sites, need to be inventoried in order to ensure sites are protected. Making a decision on the permits and exemption now without the necessary data is unwise and premature. Proceeding with the permits before	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			all the information is available denies the public a meaningful opportunity to participate and be heard. [...] The EPA needs to visit tribal reservations, view the conditions, learn the history, and listen to Indian communities most impacted. Simply consulting the tribes, receiving comments without truly considering the alternative of denying the mine permits, is nothing more than going through the motions and checking off a box. The trust responsibility places additional duties on the federal government to protect places of prayer relied on by Indian communities.		
00546	Ex. 6 Personal Privacy (PP)	Oglala Sioux Tribe	Under section 106 of the National Historic Preservation Act, the EPA must consult with the Oglala Sioux Tribal Historic Preservation Office in the identification, evaluation and determination of potential impacts to historic properties by the proposed DeweyBurdock injection wells. (54 U.S.C. §306108). Under Executive Order 13175, the EPA must also engage in government-to-government consultation with the Oglala Sioux Tribal Council on the proposed UIC permit. (65 Fed. Reg. 67249). The attempt by EPA to combine Section 106 consultation meetings with government-to-government consultation resulted in confusion and lack of compliance with either consultation requirement.	Ex. 5 Deliberative Process (DP)	
00546		Oglala Sioux Tribe	EPA FAILED TO COMPLY WITH THE CONSULTATION REQUIREMENTS OF NHPA SECTION 106 Under Section 106 of the National Historic Preservation Act, "The head of any Federal agency ... prior to the approval of the expenditure of any Federal funds on the undertaking or prior to the issuance of any license, shall take into account the effect of the undertaking on any historic property." (54 U.S.C. §306108). In the administrative record, EPA has acknowledged that the need to comply with this requirement. However, EPA's *National Historic*		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			Preservation Act Draft Compliance and Review Document fails to demonstrate compliance with NHPA Section 106. The draft document purports to demonstrate consultation with the OST THPO by reference to a separate document of the Nuclear Regulatory Commission, captioned *Summary of Meeting with OST Regarding the Dewey-Burdock In Situ Uranium Recovery Project. May 19, 2016*. This meeting does not constitute Section 106 compliance by EPA. The *Summary of Meeting* document states: The purpose of the meeting was twofold: (i) to introduce the NRC's new management team responsible for the consultation process with the Oglala Sioux Tribe and the Tribe's new Tribal Historic Preservation Office staff, and (ii) to start the dialogue, on a Government-to-Government basis, regarding a path forward for consultation with the Oglala Sioux Tribe to address the Atomic Safety and Licensing Board's findings ... ([HYPERLINK "http://www.nrc.gov/docs/ml%201618mll%206182a069.pdf"]). The meeting was about a related action by a separate agency, and not specifically about the identification, evaluation and determination of impacts from the proposed UIC injection wells to be permitted by EPA. It does not constitute compliance by EPA with NHP A Section 106. There were no members of the Oglala Sioux Tribal Council at the meeting. It was not government-to-government consultation in compliance with E.O. 13175. The meeting combined and confused the two separate consultation requirements, and complied with neither requirement. The Table beginning on page 7 of the *National Historic Preservation Act Draft Compliance and Review Document* likewise combines the issues of section 106 consultations and government-to-government meetings. On page 9, the Table lists "April 28, 2016 Consultation meeting with the Oglala Sioux Tribe," described as "In-person		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			meeting at the Oglala Sioux Justice Center." The EPA totally confused the govemmentto-government consultation requirement under E.O. 13175 with the NHPA Section 106 consultation requirement -and complied with neither requirement. The lack of NHP A Section 106 consultation is evidenced by the failure to address the OST THPOs concerns with the Programmatic Agreement, as discussed in the May 19, 2016 meeting between the Tribe and NRC. The lack of government-to-government consultation is evidenced by EPA's failure to comply with OST Ordinance No. 11-10 (*Ordinance Establishing Procedures for Government-to-Government Consultation Between the Oglala Sioux Tribe and the United States).* Ultimately, EPA failed to comply with the consultation requirements of federal law, and the Dewey-Burdock UIC permit applications must be denied accordingly. I further express my support for the related concerns of the consolidated intervenors in this docket, as well as the testimonies of the Tribal Historic Preservation Officers of the *Oceti Sakowin Oyate.* The concerns of the Oglala Sioux Tribe must be fully considered and acted upon by EPA. Approval of the Dewey-Burdock injection well application would violate the 1851 and 1868 Fort Laramie Treaties. Consequently, it violates federal and international law. It poses extreme risk to the waters of the Oglala Sioux Tribe, reserved under the Winters Doctrine. The EPA has given no consideration to these valuable property rights of our Tribe. Important consultation requirements under NHPA Section 106 and E.O. 13175 have been avoided and confused. EPA has failed to comply with these important consultation requirements. Further, the EPA has failed to consider the cumulative impacts of its actions on water quality and impact on the Pine Ridge Indian Reservation. For these reasons and as further described in the attached addendum, the Dewey-Burdock Class V UIC permit application must be denied.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			Additional comments of the Oglala Sioux Tribe providing more detail are attached in the addendum hereto and incorporated herein. […] **ADDENDUM TO OGLALA SIOUX TRIBE COMMENTS** The federal courts have addressed the strict mandates of the National Historic Preservation Act: Under the NHPA, a federal agency must make a reasonable and good faith effort to identify historic properties, 36 C.F.R. § 800.4(b); determine whether identified properties are eligible for listing on the National Register based on criteria in 36 C.F.R. § 60.4; assess the effects of the undertaking on any eligible historic properties found, 36 C.F.R. §§ 800.4(c), 800.5, 800.9(a); determine whether the effect will be adverse, 36 C.F.R. §§ 800.5(c), 800.9(b); and avoid or mitigate any adverse effects, 36 C.F.R. §§ 800.8[c], 800.9(c). The [federal agency] must confer with the State Historic Preservation Officer ("SHPO") and seek the approval of the Advisory Council on Historic Preservation ("Council"). *Muckleshoot Indian Tribe v. U.S. Forest Service*, 177 F.3d 800, 805 (9th Cir. 1999). See also 36 C.F.R. § 800.8(c)(1)(v)(agency must "[d]evelop in consultation with identified consulting parties alternatives and proposed measures that might avoid, minimize or mitigate any adverse effects of the undertaking on historic properties and describe them in the EA."). The Advisory Council on Historic Preservation ("ACHP"), the independent federal agency created by Congress to implement and enforce the NHPA, determines the methods for compliance with the NHPA's requirements. See *National Center for Preservation Law v. Landrieu*, 496 F. Supp. 716, 742 (D.S.C.), *aff'd per curiam,* 635 F.2d 324 (4th Cir. 1980). The ACHP's regulations "govern the implementation of Section 106," not only for the Council itself, but for all other federal agencies. *Id*. See also *National Trust for Historic*		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			Preservation v. U.S. Army Corps of Eng'rs, 552 F. Supp. 784, 790-91 (S.D. Ohio 1982). NHPA § 106 ("Section 106") requires federal agencies, prior to approving any "undertaking," such as the UIC permits for the proposed Dewey-Burdock Project, to "take into account the effect of the undertaking on any district, site, building, structure or object that is included in or eligible for inclusion in the National Register." 16 U.S.C. § 470(f). Section 106 applies to properties already listed in the National Register, as well as those properties that may be eligible for listing. See *Pueblo of Sandia v. United States*, 50 F.3d 856, 859 (10th Cir. 1995). Section 106 provides a mechanism by which governmental agencies may play an important role in "preserving, restoring, and maintaining the historic and cultural foundations of the nation." 16 U.S.C. § 470. If an undertaking is the type that "may affect" an eligible site, the agency must make a reasonable and good faith effort to seek information from consulting parties, other members of the public, and Native American tribes to identify historic properties in the area of potential effect. 36 C.F.R. § 800.4(d)(2). See also *Pueblo of Sandia*, 50 F.3d at 859-863 (agency failed to make reasonable and good faith effort to identify historic properties). The NHPA also requires that federal agencies consult with any "Indian tribe ... that attaches religious and cultural significance" to the sites. 16 U.S.C. § 470(a)(d)(6)(B). Consultation must provide the tribe "a reasonable opportunity to identify its concerns about historic properties, advise on the identification and evaluation of historic properties, including those of traditional religious and cultural importance, articulate its views on the undertaking's effects on such properties, and participate in the resolution of adverse effects." 36 C.F.R. § 800.2(c)(2)(ii). Apart from requiring that an affected tribe be involved in the identification and evaluation of historic properties, the NHPA requires that "[t]he agency official shall ensure that the section 106 process is initiated early in the undertaking's planning, so that a		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			broad range of alternatives may be considered during the planning process for the undertaking." 36 C.F.R. § 800.1(c) (emphasis added). The ACHP has published guidance specifically on this point, reiterating in multiple places that consultation must begin at the earliest possible time in an agency's consideration of an undertaking, even framing such early engagement with the Tribe as an issue of respect for tribal sovereignty. ACHP, Consultation with Indian Tribes in the Section 106 Review Process: A Handbook (November 2008), at 3, 7, 12, and 29. Regarding respect for tribal sovereignty, the NHPA requires that consultation with Indian tribes "recognize the government-to-government relationship between the Federal Government and Indian tribes." 36 C.F.R. § 800.2(c)(2)(ii)(C). See also Presidential Executive Memorandum entitled "Government-to-Government Relations with Native American Tribal Governments" (April 29, 1994), 59 Fed. Reg. 22951, and Presidential Executive Order 13007, "Indian Sacred Sites" (May 24, 1996), 61 Fed. Reg. 26771. The federal courts echo this principle in mandating all federal agencies to fully implement the federal government's trust responsibility. See *Nance v. EPA*, 645 F.2d 701, 711 (9th Cir. 1981) ("any Federal Government action is subject to the United States' fiduciary responsibilities toward the Indian tribes"). Whenever there is ambiguity interpreting or applying NHPA, or other laws, the federal agency staff is not entitled to "deference to an agency interpretation of an ambiguous statutory provision involving Indian affairs. In the usual circumstance, '[t]he governing canon of construction requires that 'statutes are to be construed liberally in favor of the Indians, with ambiguous provisions interpreted to their benefit.' This departure from the [normal deference to agencies] arises from the fact that the rule of liberally construing statutes to the benefit of the Indians arises not from the ordinary exegesis, but 'from principles of equitable obligations and normative rules of behavior,' applicable to the trust relationship between the United States and the Native American people."		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			California Valley Miwok Tribe v. United States, 515 F.3d 1262 (D.C. Cir. 2008) *quoting Albuquerque Indian Rights v. Lujan*, 930 F.2d 49, 59 (D.C. Cir. 1991); *Cobell v. Norton*, 240 F.3d 1081, 1101 (D.C. Cir. 2001) (*quoting Montana v. Blackfeet Tribe of Indians*, 471 U.S. 759, 766, (1985)). EPA states that: Based on the information we have reviewed to date, and subject to resolving concerns identified in the NRC administrative review process, the EPA believes that the level of work completed under the auspices of the NRC on the Class III Cultural Resources Survey appears thorough and comprehensive for the APE defined by the NRC, provided the PA stipulations are followed concerning the unexpected discovery of additional historical properties. EPA states that its consideration of the extent of cultural resource issues at the Dewey-Burdock site is based on "Section 3.9.3 of the NRC Supplemental Environmental Impact Statement prepared for the Dewey-Burdock Project (SEIS) and summarized in Appendix B of the NRC PA." EPA's characterization of the current status of the NRC Staff's National Environmental Policy Act and National Historic Preservation Act compliance is not consistent with the Nuclear Regulatory Commission's recent ruling. See CLI-16-20 (https://www.nrc.gov/docs/ML1635/ML16358A434.pdf). In fact, the result of the Nuclear Regulatory Commission process was an express holding that the Class III archaeological study conducted at the site failed to satisfy any of the requirements associated with either the National Environmental Policy Act (NEPA) or the National Historic Preservation Act (NHPA) with respect to cultural resources. Specifically, the NRC affirmed the Atomic Safety Licensing Board's express ruling that: The Board finds that the NRC Staff has not carried its burden of demonstrating that its FSEIS complies with NEPA and with 10 C.F.R. Part 40. The environmental documents do not satisfy the		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			requirements of the NEPA, as they do not adequately address Sioux tribal cultural, historic and religious resources. *In the Matter of Powertech USA, Inc.,* LBP-15-16, 81 NRC 618, 708 (2015). Thus, EPA's reliance on the NRC SEIS is entirely misplaced. Indeed, there has never been a cultural resources survey conducted on the Dewey-Burdock site that took into account any Sioux cultural resources. Moreover, NRC has divided its project approval into segments rendering the scope of NRC's consultation inapplicable to EPA's UIC analysis and approvals. As such, EPA simply cannot rely on the NRC SEIS analysis in any way for such a survey. Further, the NRC affirmed the Board's ruling that "Meaningful consultation as required by [the NHPA] has not occurred." Id. This ruling was made despite the existence of the Programmatic Agreement, which EPA suggests it might sign on to in an effort to fulfill its NHPA obligations. However, EPA appears to be unaware that the PA it references was roundly condemned by every single Sioux tribal government that reviewed it. Indeed, not a single Tribe has agreed to be a signatory on the PA. The critique of the terms of the PA from the Tribes was severe. See attached February 5, 2014 Letter from Oglala Sioux Tribe President Bryan Brewer to NRC Staff; February 20, 2014 email from Standing Rock Sioux Tribe Historic Preservation Officer to NRC Staff (marked Exhibit NRC-016). In these letters, the Oglala Sioux Tribe identifies specific terms in the Agreement that fail to provide any detail or specificity as to future analyses of the project area, methodologies proposed for these analyses, or what mitigation measures may be adopted in the future to address the impacts. Id. at 2. The Standing Rock Sioux Tribe raises similar concerns, but goes into highly specific detail, offering not only a letter describing their frustration in dealing with the NRC Staff on this issue, but also providing multiple substantive line by line comments, questions, and critiques to the Agreement. Id. at 7-20. Unfortunately, NRC Staff did not provide any specific substantive response to either set of tribal concerns, nor did NRC		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			Staff incorporate the changes proposed by either tribe. Instead, NRC Staff and Powertech pushed to finalize the PA without addressing the tribes' concerns. This type of lack of meaningful consultation, in part, is what led to a NRC ruling finding a failure to comply with the NHPA consultation duties. EPA should not compound and exacerbate this failure by endorsing such a deeply flawed PA. Instead, EPA should seek to conduct a consultation effort that complies with the NHPA and meaningfully involves the Tribes in a discussion of the potentially affected cultural resources, the potential impacts to those resources, and possibly mitigation measures that can be implemented to protect those resources. In any case, the existing PA is currently the subject of further discussion and negotiation as part of the NRC's finding that the NRC Staff has failed to comply with either NEPA or the NHPA with respect to identifying and evaluating impacts to Sioux cultural resources at the site. *See* attached May 31, 2017 letter from Oglala Sioux Tribe Historic Preservation Office; May 19, 2016 and January 31, 2017 Oglala Sioux Tribe/NRC Staff meeting summaries (all specifically identifying changes to the PA as necessary topics of ongoing NHPA consultation). As such, EPA should increase its involvement and either work to develop an agreement with the affected Tribes, including the Oglala Sioux Tribe, that properly takes into consideration the Tribes' perspectives. In the alternative, EPA should engage in the ongoing discussions between NRC and the Tribes, including the Oglala Sioux Tribe, and work toward a PA that satisfies all parties. The Oglala Sioux Tribe has a formal ordinance in effect regarding consultation, which requires the involvement of the Oglala Sioux Tribal Council. See Ordinance No. 11-10 of the Oglala Sioux Tribal Council of the Oglala Sioux Tribe. Notably, the record developed during the NRC hearing process demonstrates that the proposed Dewey-Burdock site contains significant cultural resources that could be impacted by the project. This fact is made clear even though no meaningful cultural		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			resources survey has been conducted on the property. Even the Augustana Class III archaeological survey upon which EPA attempts to rely recognizes that "the sheer volume of sites documented in the area is noteworthy." Report at page 7.8. Despite this acknowledgement, no competent Sioux cultural resources survey has ever been conducted on the site. The NRC hearing record demonstrates that EPA simply cannot rely on the Powertech-produced Class III archaeological survey for purposes of identifying impacts to cultural resource so as to satisfy its environmental impact review or NHPA obligations. Powertech candidly admits "that identifying religious or culturally significant properties in a project area is entirely reliant of the Tribes themselves and the special expertise of the Tribal cultural practitioners…. Simply put, entities such as NRC or Powertech are not equipped with the Tribe-specific knowledge and traditions to adequately instruct a specific Tribe using 'proper scientific expertise' on this subject." See attached Powertech Opening Statement at 34. The record and testimony contains no evidence that NRC Staff successfully equipped itself or acquired the necessary resources to meet NRC's NEPA duties involving religious and cultural resources. The primary reliance by EPA on the Augustana study is not supportable – particularly given the testimony at the NRC hearing. Dr. Hannus, who lead the Augustana study at the behest of the applicant admitted that his team is not "in any way qualified to be conducting TCP surveys" and further conceded that given the heightened cultural issues of the Sioux Tribes that "there will be sites that will need to be addressed archaeologically and there will be probably sites that need to be addressed as traditional cultural properties." See attached August 19, 2014 Transcript at p. 858, lines 4-8; 12-20. See also August 19, 2014 Transcript at p. 859, lines 18-24 (Dr. Hannus) ("And again, that really should clearly, I think, show us that for us to then be able to make some kind of in roads ourselves, being not of Native background, to identification of sites that are traditional cultural		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			properties that have a tie to spirituality and so on, it is not in our purview to do that.”). Applicant witness Dr. Luhman reiterated this point, confirming that “a traditional Level 3 survey may, in fact, encounter some resources that would be associated with Native American groups or which they would identify. But, they wouldn’t necessarily identify all of the resources primarily because some of the knowledge is not available to those conducting the Level 3 survey. That would be provided by the Native American groups themselves.” August 19, 2014 Transcript at p. 762, line 24 to p.763, line 6. See also, August 19, 2014 Transcript at p. 764, lines 14-18 (OST witness Mr. Mesteth) (“[w]e’re the ones that are the experts, not the archaeologists. They make assumptions and hypotheses about our cultural ways and it’s not accurate. Some of the information is not accurate. And that’s why we object in certain situations.”); p. 765, line 25 to p. 766, line 9 (Mr. Mesteth). Indeed, Dr. Hannus testified that his office has never worked on any projects that considered the cultural resources at a site. August 19, 2014 Transcript at p. 843, lines 4-7. Despite this fact, NRC Staff witness Dr. Luhman testified that NRC Staff relied on Augustana to conduct all of the initial and follow up field survey work at the site, with the exception of the three non-Sioux tribes that submitted reports. August 19, 2014 Transcript at p. 818, lines19-22. Upon the Sioux Tribes’ request as early as 2011 that cultural resource surveys be conducted at the site, NRC Staff prompted the applicant to bring in Dr. Sabastian and her firm to coordinate this review. August 19, 2014 Transcript at p. 784, lines 20-25 (Dr. Sabastian). However, Dr. Sabastian also testified that she also has never been involved in any kind of “actual physical on-the-ground TCP survey-kind of thing that we’re talking about.” August 19, 2014 Transcript at p. 846, lines 9-21. Lastly, Mr. Fosha testified that he worked with the applicant and Augustana “from the very start of the project, so the bulk of this material is a result of myself reviewing what Augustana College had		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			been doing in the field." August 19, 2014 Transcript at p. 865, lines 3-6. Mr. Fosha testified that he met with the applicant and between them discussed methods for identification of sites and the methods and steps to take "throughout the process," but only related to the State of South Dakota permit, and having "nothing to do with the NRC permit or anything like that" – even remarking that "up until the point where Augustana was nearly finished I was the only review agency on this project." August 19, 2014 Transcript at p. 865, line 23 to p. 866, line 5. Despite Mr. Fosha being the only person giving any direction to Dr. Hannus' Augustana team, Mr. Fosha testified that his experience and focus was solely "the field of archaeology" and not culturally as to the concerns of the Tribes. August 19, 2014 Transcript at p. 867, lines 14-20. The only NRC Staff or applicant witness that testified to having any experience in conducting cultural resource field surveys was NRC Staff witness Dr. Luhman. However, as stated, Dr. Luhman admitted to relying exclusively on Augustana for both the initial field work and the follow up field studies, even though Dr. Hannus' testimony had confirmed that Augustana had no culturally relevant experience. August 19, 2014 Transcript at p. 818, lines19-22 (Dr. Luhman). Dr. Luhman did testify that "in those projects in which I have been involved [a cultural survey] it is typically that [the Tribes] are working alongside with the archaeological survey team as they are going about doing the survey. It could be in the preliminary stages of doing the generalized recognizance (sic) of the project area. Oftentimes the federal agency and other parties will be along that process so that there can be discussions while out in the field, and these are for sometimes very large projects. But in my experience it typically is at the same time when there is an ongoing consultative and survey process." August 19, 2014 Transcript at p. 836, line 18 to p. 837, line 2. Consistent with the admitted lack of any culturally relevant experience or focus by any of the prior analysts in reviewing sites for cultural resource impacts, at the live hearing NRC Staff witness		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			Ms. Yilma admitted that no written cultural resources analysis prepared during any part of the NEPA analysis included any comments or reports from any Sioux Tribes. August 19, 2014 Transcript at p. 821, lines 3-7; *id.* at p. 875, lines 6-11. This is despite testimony from NRC Staff witness Ms. Yilma as to the Staff's recognition of the importance of the area to the Sioux from a cultural perspective from the earliest stages of the application review stage. August 19, 2014 Transcript at p. 774, line 21 to p. 775, line 1. See also, August 19, 2014 Transcript at p. 771, lines 1-7 (Ms. Yilma). NRC Staff witness Ms. Yilma also testified as to the importance and focus at least as early as 2011 by both the Sioux Tribes and within NRC Staff on the need for culturally-based field surveys in order to fulfill the NEPA and NHPA requirements. August 19, 2014 Transcript at p. 776, line 22 to p. 777, line 3; p. 790, lines 1-17. Indeed, NRC Staff witness Ms. Yilma testified that after meeting in 2011 with the Oglala Sioux, Standing Rock Sioux, Flandreau Santee Sioux, Sisseton Wahpeton (Sioux), Cheyenne River Sioux, and Rosebud Sioux (see August 19, 2014 Transcript at p. 810, lines 16-22), NRC Staff specifically deliberated about conducting an ethnographic study of the site to ensure incorporation of Sioux cultural and historic perspectives, but "the ultimate decision was instead of an ethnographic study a field survey was necessary, so we focused our attention on the field survey approach." August 19, 2014 Transcript at p. 846 line 22 to 847, lines 8. Despite admitting that it was "necessary" to the analysis, no cultural resources review or field study incorporating any Sioux cultural expertise was ever conducted at the site or incorporated into any NEPA document. August 19, 2014 Transcript at p. 821, lines 3-7 (Ms. Yilma); id. at p. 875, lines 6-11 (Ms. Yilma). Taken together, this testimony and evidence establishes NRC Staff's failure to conduct the necessary hard look under NEPA, as by their own admission, despite it being necessary to the analysis, no Sioux comments or reports were incorporated into the cultural resources reviews, and none of the parties that conducted any		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			cultural review of the site, including field surveys, were trained, experienced, or competent to review or survey the area for, let alone determine impacts from the project to, the cultural resources of Sioux origin. In answering a follow-up question by Chairman Froehlich to Dr. Hannus asking whether, as Dr. Sabastian had testified, did Dr. Hannus believe that identification of Sioux traditional sites "depends on the knowledge and traditional culture practitioners," Dr. Hannus responded: "Yes, I mean, I absolutely would have to, because there isn't any other way the framework that I work within functions." August 19, 2014 Transcript at p. 860, lines 1-8. In short, admissions and testimony confirm that NRC Staff deferred to the applicant's unqualified consultants, while rejecting proposals to incorporate Sioux cultural expertise. As a result of Powertech's and NRC Staff's coordinated inability to fulfill their obligations to properly ensure a competent cultural resources survey of the Dewey-Burdock site before approvals are given and the aquifers are impacted, EPA cannot rely on the NRC's NEPA documents to assess the cultural resources impacts of the proposed mine. Instead, the scope of EPA's consultation must match the scope of the UIC duties, which apply to the full life of the proposed mine, not the initial set of NRC-approved segments. Similarly, because NRC Staff has failed to fulfill its government-to-government consultation duties under the NHPA, EPA also cannot rely on the PA or any other NRC Staff consultation to fulfill its own obligations under the NHPA. Rather, EPA must delay any permitting action until a fully competent cultural resources survey is conducted and the Tribe and the public has an opportunity to review and comment on the potential impacts to those important resources. Additionally, EPA should reject the PA as inadequate and engage in meaningful and good-faith consultation with the Oglala Sioux Tribe professional staff and Tribal Council in order to ensure that, in coordination with the Tribe, all cultural resources are identified, impacts are assessed and mitigation measures are developed and implemented.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
00548	Rhonda J. Two Eagle	Oglala Sioux Tribe	ORDINANCE OF THE OGLALA SIOUX TRIBAL COUNCIL ESTABLISHING PROCEDURES FOR GOVERNMENT-TO-GOVERNMENT CONSULTATION BETWEEN THE OGLALA SIOUX TRIBE AND THE UNITED STATES GOVERNMENT, AND OTHER GOVERNMENTS. WHEREAS, the Government-to-Government relationship between the Oglala Sioux Tribe was established in the United States Constitution, Article 6 (Supremacy Clause); the Treaty of July 2, 1825, United States-Oglala Band of Sioux Nation, 7 Stat. 252; Rev. Stat. § 2116, 25 U.S.C. § 177 *(codifying* section 12 of the Trade and Intercourse Act of June 30, 1834, ch. 161, 4 Stat. 730); the Treaty of September 17, 1851, United States-Teton Division of Sioux Nation, et *al.,* 11 Stat. 749; the Treaty of April 29, 1868, United States-Sioux Nation,15 Stat. 635; Rev. Stat. § 2079, 25 U.S.C. § 71 *(codifying* the Act of March 3, 1871, ch. 120, § 1, 16 Stat. 566), the Indian Reorganization Act of June 18, 1934, ch. 476, 48 Stat. 984, 25 U.S.C. § 461 et *seq.,* the Indian Self-Determination and Education Assistance Act of January 4, 1975, P.L. 93-638, 88 Stat. 2203, 25 U.S.C. § 450, et *seq.,* and other Congressional enactments, and WHEREAS, the 1851 Treaty recognized title in the Oglala Band to 60 million acres of territory currently in the States of North Dakota, South Dakota, Nebraska, Montana and Wyoming for the Oglala Sioux Tribe and other Sioux tribes, and WHEREAS, a permanent homeland was established within the 1851 Treaty territory for the "absolute and undisturbed use and occupation,, of the Oglala Sioux Band and other Sioux bands, which homeland has been referred to as the "Great Sioux Reservation" and comprises substantially all of present day South Dakota west of the east bank of the Missouri River, and WHEREAS, the Indian Claims Commission also found that the Oglala Band and other Sioux bands held aboriginal (non-treaty) title to 14 million acres east of the Missouri River in the States of North Dakota and South Dakota, and WHEREAS, uncontested encroachments on the 1851 Treaty territory by the United States and its citizens resulted in the	Tribal consultation	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			Powder River War of 1866-1868 between the United States and the Oglala band and other bands of Sioux Indians. as a result of which, peace was concluded between the United States and the Oglala Band and other Sioux bands by treaty on April 29, 1868, 15 Stat. 635 ("1868 Fort Laramie Treaty," which treaty was duly ratified by the United States on February 16, 1869 and proclaimed by the President on February 24, 1869, and WHEREAS, the 1868 Treaty provided for a mutual demobilization of the United States and Oglala Band and other Sioux bands without terms of surrender on either side, and as a result thereof, the Oglala Band and other Sioux bands were never militarily conquered by the United States, and the Oglala Band has abided by the 1868 Treaty and resided on its reservation in accordance of the terms of the treaty since 1868, except for incidences in Montana in 1876 where the Oglala Band and other Sioux bands were legally exercising its 1868 Treaty, Article 11, hunting rights and yet had to defend themselves from attack by the United States Cavalry in violation of Articles 1 and 11 of the 1868 Treaty, and WHEREAS, subsequent to ratification of the 1868 Treaty, no aboriginal or treaty territory of the Oglala Band was ever acquired by the United States in accordance with 25 U.S.C. § 177 or Article 12 of the 1868 Treaty, and all acquisitions of Oglala Band's territory was either confiscated by the United States or acquired with the requisite consent of the Band, and WHEREAS, the "Oglala Band" reorganized in 1936 as the "Oglala Sioux Tribe of the Pine Ridge Indian Reservation" under Section 16 of the 1934 Indian Reorganization Act of June 18, 1934, ch. 576, 48 Stat. 987, 25 U.S.C. § 476, by adopting a constitution and bylaws approved by the Secretary of the Interior, and presently enjoys all of the rights and privileges guaranteed under its existing treaties with the United States in accordance with 25 U.S.C. § 478b WHEREAS, as a result of its unique government-to-government relationship with the United States, and because the Oglala Band (now Oglala Sioux Tribe) is one of the few militarily unconquered		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			Sioux tribes in the United States and all of its territory now in the possession of the United States was acquired without its consent, the Oglala Sioux Tribe still possesses very strong aboriginal rights within all the territory that comprised its aboriginal homeland, and as a result thereof, the Tribe has both a domestic and international rights to government-to-government consultations with the United States on the formulation of federal policies, or on all federal actions or undertakings that adversely affect its aboriginal and treaty territories, and WHEREAS, the Executive Branch of the united States Government has recognized the right of government-to-government consultations with Indian Tribes in: a. President Clinton's Memorandum of April 29, 1994, which, among other things, directed agencies to: (i) "ensure that the department or agency operates within a government-to-government relationship with Federally-recognized Trial government," (ii) "consult, to the greatest extent practicable ad to the extent permitted by law with Tribal governments prior to taking actions that affect Federally recognized tribes, to be open and candid so that all interested parties may evaluate for themselves the potential impact of relevant proposals," and (iii) "assess the impacts of Federal government plans, projects, programs, and activities on tribal trust resources to assure that Tribal government rights and concerns are considered during the development of such plans, projects, and activities." b. President Clinton's Executive Order No. 13084 of May 19, 1998, which directed federal agencies to respect tribal self-government and sovereignty, tribal rights, and tribal responsibilities whenever they develop policies "significantly affecting Indian tribal governments," c. President Clinton's Executive Order No. 13175 of November 6, 2000, which directed all federal agencies to establish consultation		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			and collaboration with tribal officials in the development of federal policies that have tribal implications, and d. President Barak Obama Memorandum of November 5, 2009, to the heads of the Executive Department and federal agencies to submit plans of actions that the agencies will take to implement the policies and directives of President Clinton's Executive Order 13175, and WHEREAS, Congress has also mandated government-to-government consultation with Indian tribes, which have been implemented in statutes, orders, regulations, rules, policies, manuals, protocols and guidance, most of which are described in a document issued by the White House-Indian Affairs Executive Working Group (WH-IAEWG), dated January, 2009, and entitled "List of Federal Tribal Consultation Statutes, Orders, Regulations, rules, Policies, Manuals, protocols and guidance," and WHEREAS, the Oglala Sioux Tribe has never enacted legislation (ordinances) establishing procedures for government-to-government consul tat ion between the Tribe and the United States, and believes that such procedures are necessary to establish a clear process for documenting the nature and results of consultations between the Tribe and the United States and its agencies, now THEREFORE BE IT ORDAINED, that the following sections relating to government-to-government consultations are hereby adopted for the Oglala Sioux Tribe. **Section 1. Title.** This ordinance shall be known and referred to as the Oglala Sioux Tribe Consultation and Coordination Ordinance of 2001. **Section 2. Definitions.** The following words and phrases used in this Election Code shall have the following meanings: "Consultation" and/or "government-to-government" consultation shall mean the formal process of cooperation, negotiation, and		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			mutual decision making between the Oglala Sioux Tribe and the United States Government, and other governments. It is the process through which sovereign governments develop a common understanding of technical and legal issues and use this understanding to formulate mutually agreeable decisions. **Section 3. Scope.** This ordinance is intended to extend to: a. All of the aboriginal homeland of the Oglala Sioux Tribe, including, the 60 million acre territory Sioux territory described in Article 5 of the 1851 Ft. Laramie Treaty; the territory and the expanded hunting rights territory described in Articles 2, 11 and 16 of the 1868 Ft. Laramie Treaty; b. All of the aboriginal title (non-treaty) Sioux territory comprising 14 million acres located east of the Missouri River in the present states of North Dakota and South Dakota; and c. All undertakings and actions that adversely affect the Oglala Sioux Tribe's aboriginal, treaty or statutorily recognized rights and interests within its aboriginal and treaty recognized territories. **Section 4. Purpose.** The primary purpose and intent of this ordinance is to: a. Establish a clear process for documenting the nature and results of government-to-government consultations between the Oglala Sioux Tribe and Federal Government and its agencies; b. Provide a consistent, orderly process to government-togovernment consultation to make and ensure that government-to-government consultations are meaningful and effective, and c. Be applicable, to the fullest extent possible, for documenting the nature and results of government-togovernment consultations between the Oglala Sioux Tribe and other Indian tribes, inter-tribal organizations and state governments and agencies. **Section 5. Authority.** This ordinance is adopted pursuant to the Oglala Sioux Tribe's inherent sovereignty and Article IV, Section 1 (a) of the Amended Constitution of the Oglala Sioux Tribe, which		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			empowers the Tribal Council "(a) To negotiate with the Federal, State, and local governments, on behalf of the tribe, and to advise and consult with representatives of the Interior Department on all activities of the Department that may affect the Pine Ridge Indian Reservation." **Section 6. Principles and guidelines.** All government-to-government consultations between the Oglala Sioux Tribe and the Federal Government, and State or other tribal governments, shall be conducted with the Oglala Sioux Tribe under the following principles and guidelines: a. The Oglala Sioux Tribe is a sovereign government with attendant powers; b. All treaties between the Oglala Sioux Tribe and the United States must be honored and enforced to the fullest extent possible; c. The Oglala Sioux Tribe has never been militarily conquered by the United States, and has existed in a peaceful relationship with the United States since 1868, pursuant to Article I of the 1868 Ft. Laramie Treaty; and d. The Oglala Sioux Tribe and its territories are not possessions of the United States. **Section 7. Procedures.** All consultation between the Oglala Sioux Tribe and the Federal Government, and State or other tribal governments, must: **WHEN CONSULTATION IS REQEUSTED BY THE FEDERAL GOVERNMENT OR OTHER GOVERNMENTS** a. Occur through a formal meeting with the Oglala Sioux Tribal Council. Neither the Executive Committee nor any Executive Committee member or staff member of the Tribe shall be authorized to engage in government-to-government consultations with any government or governmental agency; b. Accomplish the goals and objectives described in Section 8.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			c. Be initiated by serving a formal written request for government-to-government consultation with the Secretary of the Oglala Sioux Tribe. The request for consultation should describe the impending, proposed project or activity that may or may not affect the Oglala Sioux Tribe's interests in its aboriginal or treaty territory and/or rights or interests therein. This include the Tribes aboriginal and treaty territory both within and outside the exterior boundaries of the Pine Ridge Indian Reservation; d. It shall be the duty of the Tribal Secretary to immediately notify all members of the Executive Committee and Tribal Council of each request for consultation; e. Upon receipt of a request for consultation, the Tribal President, or council members under established procedures, shall call a special council meeting for the purpose of responding to the request for consul tat ion. The Tribal Council shall: (i) Request by resolution a policy-level meeting, initiating government-to-government consultations; (ii) Authorize the Tribe's technical staff (and when appropriate the Tribe's attorneys) to meet with the responding government's technical staff to discern and define the issues that are subject to the request for consultation including how the proposed governmental undertaking or activity affects the tribe's aboriginal, treaty, statutory or other interests; (iii) Schedule a special council meeting in which the Tribe's technical staff (and when appropriate the Tribe's attorneys) can fully brief the Tribal council on the issues that are subject to consultation, with recommendations and opinions; (iv) Schedule a follow-up special council meeting in which the Tribe through the Tribal council shall engage in formal government-to-government consultation based on the recommendations and opinions of its staff (and attorneys); and		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			(v) Pass a resolution fully articulating the Tribe's formal decision, which decision shall be consistent with the provisions of this ordinance. **WHEN CONSULTATION IS REQEUSTED BY THE OGLALA SIOUX TRIBE** a. Be initiated by passing a tribal council resolution requesting government -to-government consultation, which resolution shall be executed and sent by the Tribal President to appropriate official of the Federal Government or tribal or state government with which consultation is desired; b. Follow the procedure described in Subsections 7. e. (i) through (v) above; and c. Accomplish the same objectives described in Section 8. **Section 8. Objectives.** All government-to-government consultations should ensure the following results: a. Tribal officers and officials proceed in a dignified, orderly manner, keeping in mind that the Oglala Sioux Tribe is engaging in the consultations as a sovereign government that maintains government-to-government relations with the United States Government and other governments. Tribal officials engaging in consultation should dress in appropriate attire during the consultation proceedings, and conduct themselves in a professional, dignified, and diplomatic manner; b. Tribal officers and officials fully understand the issues to be discussed prior to engaging in and consul tat ion proceeding; this includes an understanding of tribal history, federal treaties and federal statutes, regulations and rules, that will be discussed at each consultation; c. Ensure that the Tribe's interest are fully protected, including interests in all tracts of land located within the Tribe's aboriginal		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			and treaty territories, and interests therein, as well as tribal cultural resources, human remains, and any other tribal patrimony; d. Ensure compliance with federal treaties, statutes, regulations and rules and tribal policies (e.g., policy that the Black Hills Are Not For Sale and tribal land claims must include restoration of federally held lands to the Tribe); **Section 9. Documentation.** Following any governmental-to-government consul tat ion between the Oglala Sioux Tribe and the Federal government, or other governments, the Tribal Council shall: a. Achieve a bi-lateral decision between the Tribe and the United States, or other government; b. Adopt a resolution documenting the nature and results of the consultation and bilateral decision; c. Direct the Tribal Secretary to file a copy of the resolution and all backup documentation with the Tribal Records Department. **Section 10. Representations.** Neither the Federal Government nor any agency thereof, nor any other government, shall legitimately represent to any other government or governmental entity, nor to any third party, that they have consulted with the Oglala Sioux Tribe unless they fully comply with the terms and conditions of this ordinance. **Section 11. Effective Date.** This ordinance shall become effective immediately. **Section 12. Repeal of inconsistent ordinances.** All previously enacted ordinances are hereby repealed to the extent that they are inconsistent with this ordinance. C-E-R-T-I-F-I-C-A-T-I-0-N I, as undersigned Secretary of the Oglala Sioux Tribal Council of the Oglala Sioux Tribe, hereby certify that this Ordinance was adopted by a vote of: 13 For; l Against; 0 Abstain; and O Not Voting, during a SPECIAL SESSION held on the 7th day of JUNE, 2011.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
00552	Ex. 6 Personal Privacy (PP)	Santee Sioux Nation	WHEREAS, THE URANIUM MINING PROJECTS INCLUDING DEWEY BURDOCK HAVE NOT LEGALLY CONSULTATED WITH TRIBES IN MEANINGFUL WAYS TO MOVE THE PROJECT FORWARD SAFELY AND WITH THE PERMISSION OF TRIBES IN THE GREAT PLAINS REGION.	Ex. 5 Deliberative Process (DP)	
00555		Standing Rock Sioux Tribe	(2) The Nuclear Regulatory Commission failed to conduct a good faith identification of traditional cultural properties in the project area, in violation of National Historic Preservation Act section 106 and 36 CFR §800.2(C)(2)(ii); and		
00555		Standing Rock Sioux Tribe	2. The Nuclear Regulatory Commission Failed to Properly Identify Traditional Cultural Properties Section 106 of the National Historic Preservation Act establishes requirements for the identification of the impacts of a federal undertaking on cultural resources. Section 106 requires that: The head of any Federal agency ... prior to the approval of the expenditure of any Federal funds on the undertaking or prior to the issuance of any license, shall take into account the effect of the undertaking on any historic property. (54 U.S.C. §306108). The identification efforts of historic properties under section 106 must include identification of traditional cultural properties of Indian Tribes in the area of potential effects. Under section I01(d)(6) of the act, Native American traditional cultural properties are eligible for inclusion on the National Registry: Property of traditional religious and cultural importance to an Indian Tribe or Native Hawaiian organization may be determined to be eligible for inclusion on the National Register (of Historic Places). (54 U.S.C. §302706(a)). The section 106 regulations prescribe the process for identifying historic properties and traditional cultural properties; evaluating their eligibility for the National Register; determining whether		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			there are adverse impacts and resolving or mitigating those impacts. (36 CFR Part 800). The statute requires consultation with Indian Tribes on the identification of the traditional cultural properties which may be impacted by a federal undertaking: ... a Federal agency shall consult with any Indian tribe or Native Hawaiian organization that attaches religious and cultural significance to property (54 U.S.C. §302706(a)). The regulations explain: Section 10l(d)(6)(B) of the act requires the agency official to consult with any Indian tribe or Native Hawaiian organization that attaches religious and cultural significance to historic properties that may be affected by an undertaking.... The agency official shall ensure that consultation in the section 106 process provides the Indian tribe or Native Hawaiian organization a reasonable opportunity to identify its concerns about historic properties, advise on the identification and evaluation of historic properties, including those of traditional, religious and cultural importance, articulate its views on the undertaking's effects on such properties, and participate in the resolution of adverse effects. 36 CFR §800.2(c)(ii). The role of Tribes is further delineated for the identification of traditional cultural properties in section 4 of the regulations: In consultation with the SHPO/THPO, the agency official shall: (d)etermine and document the area of potential effects ... (and) Gather information from any Indian tribe or Native Hawaiian organization ... to assist in identifying properties, including those located off tribal lands, which may be of religious and cultural significance to them. 36 CFR §800.4(a).		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			The consultation and identification efforts must be reasonable and in good faith: ... in consultation with the ... THPO, and any Indian tribe or Native Hawaiian organization that might attach religious and cultural significance to properties within the area of potential effects, the agency official shall take the steps necessary to identify historic properties within the area of potential effects. The agency official shall make a reasonable and good faith effort to carry out appropriate identification efforts, (to include) ... consultation. 36 CFR §800.4(b). The EPA administrative record does not demonstrate compliance with these requirements. To the contrary, the NRC, as lead agency, in cooperation with PowerTech, refused to consult in good faith with the Tribes as required by the section 106 regulations. 36 CFR §800.3(f)(2). Early discussions about Tribal participation in the identification of traditional cultural properties went nowhere. NRC and PowerTech refused to establish a meaningful area of potential effects (APE) in consultation with the Tribes. They were uncooperative and unresponsive in the limited discussions on a scope of work and funding for Tribal traditional cultural properties surveys. As a result, the NRC failed to properly identify traditional cultural properties that are directly or indirectly impacted by the proposed Dewey Burdock UIC wells in the APE, in violation ofNHPA section I0l(d)(6)(B), and 36 CFR §§800.2(c)(ii) & 800.4(a) & (b). The Standing Rock Sioux Tribe THPO documented our Tribe's fruitless efforts for the requisite section 106 consultation and Tribal role in the survey of traditional cultural properties in the sacred Black Hills. The Standing Rock Sioux Tribal Historic Preservation Office sent correspondence dated February 4, 2014 to provide comments on a draft Programmatic Agreement. None of the comments were incorporated into the Final PA, and the stated concerns with the section 106 process were totally ignored.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			Correspondence from our THPO dated November 5, 2012 and August 30, 2011 likewise received no response. There was no consultation on the identification of TCPs. As stated above, the Black Hills are sacred Treaty lands of the Standing Rock Sioux Tribe under the 1868 Fort Laramie Treaty. The NRC actually attempted to rely on consultations with the Three Affiliated Tribes of Fort Berthold and Turtle Mountain Band of Chippewa Indians for the consultation on TCPs of the Oceti Sakowin Oyate. The consultation requirement applies to "any Indian tribe that attaches religious and cultural significance to historic properties" (36 CFR §800.2(c)(2)(ii)) or "located on ancestral, (or) aboriginal. .. lands." (36 CFR §800.2(c)(2)(ii)). For the Black Hills, that applies to the Oceti Sakowin Oyate and Northern Cheyenne Nation. The NRC cannot simply select any Indian Tribe willing to consult on its project. That is what occurred with Dewey Burdock. The Final Programmatic Agreement acknowledges but mis-portrays and attempts to minimize the significance of the lack of good faith efforts in identifying TCPs. It states on page 3: ... the parties were unable to reach agreement on the scope and the cost of the Tribal survey. That does not obviate the need for compliance with the section 106 regulations. Nevertheless, the NRC refused to engage in the good faith consultation and identification efforts that are required. Ultimately, the NRC failed to adequately consult with the Standing Rock Sioux Tribe THPO in the identification and evaluation of Traditional Cultural Properties in the Dewey Burdock project area. Consequently, the EPA must deny the PowerTech UIC permit application.		
00565	Ex. 6 Personal Privacy (PP)	Thunder Valley Community Development Corporation	Along the same line, the importance of the Black Hills to Lakota people is mentioned, but not analyzed. Instead, it is mentioned and then ignored. Also, the Black Hills are considered in a historic context, rather than in a modern context that recognizes their	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			continuing importance to the Lakota people. Cultural resources are mentioned, but no analysis is done. A thorough cultural analysis should be part of any consideration of an area that is of critical spiritual significance to the Lakota. These omissions are glaring and thoroughly undermine the Environmental Justice section.		
00565	Ex. 6 Personal Privacy (PP)	Thunder Valley Community Development Corporation	As mentioned above, the analysis of cultural and historical resources must not ignore the current cultural importance of those resources and their modern uses. The Black Hills are sacred to the Lakota, much like Jerusalem is to the Jews or the Vatican is to Catholics. Sacred cultural and historical resources must be fully protected, and doing this relies on the involvement of knowledgeable Lakota people, plenty of time, adequate finances, and the willingness to put the sacred above the dollar. Some places should not be subjected to uranium mining. Lakota people who are sharing their ancient knowledge, which they have spent a lifetime learning, should be offered compensation for their efforts and given credit for resulting information.	Ex. 5 Deliberative Process (DP)	
00565		Thunder Valley Community Development Corporation	It also appears that tribal consultation has barely begun, yet the EPA has issued draft permits. This is putting the cart before the horse. Tribal consultation must be thorough and done on a government-to-government basis, including the inclusion of representatives of the United States and representatives of native nations that are of the same status. In other words, if the EPA wants someone at a consultation with the status of a Cabinet member from a tribal government, it should also expect to have someone of Cabinet status present from the United States government. Tribal officials should not be expected to interact with underlings from the U.S. government. This is part of the government-to-government negotiations between equals that consultation policy envisions. Full tribal consultation should be completed before a draft permit is issued. As that did not happen, it should very clearly be completed before the EPA takes further action.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
07454	Ex. 6 Personal Privacy (PP)	Ponca Tribe of Nebraska	I contacted my Tribal Chairman and he would like to engage in Tribal Consultation. We are working on the date for a Tribal Council meeting that would work best for us.	Ex. 5 Deliberative Process (DP)	
07459 (Valentine hearing)		Individual	The organizations involved here did not come to the Oglala Sioux Tribe on a government-to-government relationship to meet with us, to explain to us, and to allow us to do what we are doing here today, to tell you how important the Black Hills is to us. [...] By allowing this permit, you're going to desecrate what was there before. We have burial grounds. We have ceremonial sites. We have campsites. And our people still trek to the Black Hills to pray, even today. There we follow the constellations. We follow the moon, the sun, when they are shining on our sacred ceremonial sites. We go to the Black Hills to pray. These are all ancestral ways that have been here long before. So to issue that permit would be detrimental to the Oglala Sioux tribal people because that water flows toward Pine Ridge. So I ask you today to reject that permit and require them to come and consult with the Oceti Sakowin. Not just the Oglala Sioux Tribe, but the Oceti Sakowin as a whole. And I thank you today for allowing us to come here to voice our opinions. (Speaking in indigenous language.)		
07459 (Valentine hearing)		Individual	MICHELLE HAUKAAS: (Speaking in indigenous language.) My name is Michelle Haukaas. I am Sicangu from the Lakota Oyate of the Oceti Sakowin, indigenous people of Turtle Island. On behalf of my tiyospaye and tiwahe, family and extended family, I am here today to stand in opposition and resistance to the Dewey-Burdock in-situ uranium mining and waste disposal application in the Black Hills.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			The proposed mine, if developed, will cause irreparable damage to our ancestral homelands and aquifers. It will destroy cultural and historical sites, ancestral graves, and prayer sites. [...] Even now, without the United States's commitment to the U.N.'s Declaration on the Rights of Indigenous Peoples, I wonder how meaningful these consultations really are.		
07459 (Valentine hearing)	Ex. 6 Personal Privacy (PP)	Individual	Regarding the identification of traditional cultural properties at the Dewey-Burdock project site, formal consultation under Section 106 of the National Historic Preservation with First Nations must be completed.	Ex. 5 Deliberative Process (DP)	
07459 (Valentine hearing)		Individual	And the Lakota Nation -- the importance of the Black Hills to the Lakota Nation, that is our birthplace, that is our creation story, that is where we come from. And destroying and -- not only the water that's in that area, but also the culturally and spiritually significant areas that are in that area. So I am asking that you provide us with meaningful consultations with the local tribes, including not only the Lakota Tribes, but in the surrounding states, Wyoming as well. And I'd also like to ask that there be a full cultural and historical survey of the area to determine any culturally significant or spiritually significant sites to our tribe and other local tribes. And I would also like that that tribal consultation be defined by the local tribal -- tribal people, not defined by the laws and regulations that are set out for a tribal consultation. And I'd also like to ask that the EPA comply with the Section 106 of the National Historic Preservation law, which is the NHPA law, which also defines and clearly states that there must be formal consultation with local tribes. [...]		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			And to please recognize our right as a sovereign nation and to conduct those meaningful consultations.		
07459 (Valentine hearing)	Ex. 6 Personal Privacy (PP)	Individual	You know, the He Sapa are sacred to us. We go there annually to pray. It has significant cultural to us. One of the things that I really, really, really ask as a Standing Rock Sioux tribal member, to have a meaningful consultation, truly have meaningful consultation, to not just sit there and to listen and do away with our -- do away with our testimonies.	Ex. 5 Deliberative Process (DP)	
07460 (5/8 Rapid City hearing)		Individual	Secondly, there is -- the entire area of the Black Hills is very, very important, and it's very -- it's a very sacred place. And in that area there's sacred sites, traditional Lakota burial sites as well as different parts of, you know, where you would find historical petroglyphs and different sacred sites like that.		
07460 (5/8 Rapid City hearing)		Individual	I also ask that you give meaningful tribal consultation because this is treaty land that we're talking about. So thank you.		
07460 (5/8 Rapid City hearing)		Individual	Also I would like to say that we would like a tribally approved consultation, defined by the tribes. And I think my last point would be tribal consultation, no -- I had four points that I wanted to make, but I think that was the most important one, is no mine, no expansion. Thank you.		
07460 (5/8 Rapid City hearing)		Individual	I thought it was funny that it was brought up that they said they were consulting with the tribes. I honestly just think that sounds like you're listening to us tell you no, and then you're going, Oh, well, thanks for your input, and then, you know, just going to move on from there.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
07460 (5/8 Rapid City hearing)	Ex. 6 Personal Privacy (PP)	Individual	We are also requesting, as someone from Standing Rock, to have true and meaningful consultation with tribes, not to just sit there and listen, but to have true, meaningful consultation with tribally approved archaeologists and tribally approved surveyors, because (Speaking in indigenous language), the Black Hills belong to us. They are historical, they are spiritually significant to our people, and we stand in opposition of the uranium mine. Mni Wiconi. Water is life.	Ex. 5 Deliberative Process (DP)	
07461 (5/9 Rapid City hearing)		Individual	And one final comment, please consult the tribes. They know this land better than anyone. Thank you.		
07461 (5/9 Rapid City hearing)		Individual	BERNITA IN THE WOODS: Thank you. Good evening. I'm from the Cheyenne River Sioux Tribe, and again, this is not consultation. And I do serve on the Tribal Council, but my brother did come yesterday as well, and he's more of the eloquent speaker. It just seems like we have these hearings all the time, and you hear all of this over and over and over, that it seems like you do this on purpose to become callous. And it's frustrating for the tribes, especially because the water is life for us, and we depend on that for our future of our children, and not just our Native American population, but all races in our nation. And it just seems like -- it's like we're constantly having to fight over and over and over just to live, and it's frustrating. So I believe that you failed on providing meaningful consultation from the tribes, and that still needs to happen. So I'm requesting that that happen, that meaningful consultation does happen with the people. I mean, it affects all of us, I know, but we see it coming close to our reservation, especially to some of our sacred lands where a lot of our medicine, our traditional medicines and ceremonial practices, where those all take place, and it's near that part.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			So we are going to fight. We are going to fight, and we will continue to fight at this until we can't anymore. But it's never going to be over. So, I'm not very good at speaking in public, but I just want to let you know that we're never going to stop this fight. And Mni Wiconi. And we will always be here. You'll never get rid of us. Even though this is probably one tactic that may be affecting our future of our people, but we'll stop it. We will. We'll stop it. But that meaningful tribal consultation has to happen. And please, please -- it just seems like -- don't become callous because, you know what, it's your kids, too, and your grandkids and their grandkids. And everyone is going to be affected by it. So that's all I wanted to say. Thank you.		
07461 (5/9 Rapid City hearing)	Ex. 6 Personal Privacy (PP)	Individual	That said, again, Chairman Frazier brought up the issue of the United States government breaking the law in this process by not holding true consultation hearings with the governance of the Lakota tribes in this area. And that is the law. That's on the rule books. And like he said, if we don't follow the law, we go to jail. We get punished for not following the U.S. Constitution. But even though this process is a nice way to show, maybe, a dog and pony show, we know that in this process, our words are often put on the congressional record just for archives for, you know, later on, some historical data about, oh, the Indians didn't really like that, but they did it anyways.	Ex. 5 Deliberative Process (DP)	
07461 (5/9 Rapid City hearing)		Individual	This is a comment period. Where is the tribal consultation? Come to our tribes and talk to us. Let us talk to you from the heart instead of on a piece of paper. You know, that's how we operate. We put too many rules and regulations in front. You know, I probably heard 50 rules and regulations you just cited before we even started. Is that to -- is that just the way the government works? Is that how we're	n,	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			supposed to be stopped not to go on and tell you from our hearts what's going on?		
07461 (5/9 Rapid City hearing)	Ex. 6 Personal Privacy (PP)	Individual	My name is Ex. 6 Personal Privacy (PP), and I am a resident of Rapid City here. I've been living here for many, many years. I am an enrolled member of the Cheyenne River Sioux Tribe; however, this is not tribal consultation. I just want to make that clear. [...] The other reason is that the He Sapa, or the Black Hills, is treaty territory. Under the 1851/1868 Fort Laramie Treaty and under law, it is mandated to consult with the tribal governments as government-to-government relations. This includes following the National Historical Preservation Act rules and regulations with the tribes. However, South Dakota and federal agencies involved in permitting this uranium mining have continuously ignored tribal nations and their expert testimony regarding cultural properties and sacred sites.	Ex. 5 Deliberative Process (DP)	
07461 (5/9 Rapid City hearing)		Individual	I find the EPA's acknowledgement of the cultural importance of the Black Hills to, quote, "many Native American tribes" and associated consultation processes inadequate and disappointing, as many people have noted today. In the -- from the National Historic Preservation Act document that was offered on the website, the -- the -- it was noted that the Oglala Sioux Tribe considered government-to-government consultation attempts to be inform-and-educate meetings. So when you have one side considering meetings to be government-to-government consultation and another side seeing those meetings as being inform-and-educate from one side, that's a problem.		
07461		Individual	And next I would like to talk about the -- this National Environmental Protection Act, the NEPA process, and that you are supposed to have consulted with the tribe all along in determining		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
(5/9 Rapid City hearing)			any kind of development within our territorial homelands, and you have not done that, and that's illegal. And so I would like to have another silent vote from the audience to raise your hands that you support that the EPA and any corporations that come here have to undergo and respect the NEPA process with respect to the tribes whose land they are on.		
07461 (5/9 Rapid City hearing)	Ex. 6 Personal Privacy (PP)	Individual	So I join with the other voices from today to urge you to listen, as many of the speakers have already said. Listen to the people here when you make your decisions. Seek the input of the tribes and truly listen to them. Listen to your own hearts, what matters to you. Does your children's future matter to you, or does money matter to you? Which is going to last longer? Which one is something that you'll want to look back on at the end of your life? Thank you.	Ex. 5 Deliberative Process (DP)	
07461 (5/9 Rapid City hearing)		Individual	So does the lack of proper tribal consultation, which has caused the NRC endless headaches. You can't start tribal consultation partway through the process. It needed to be completed years ago.		
07461 (5/9 Rapid City hearing)		Individual	I'm listening to the dialogue today, it was -- and yesterday. It was very powerful to me. I thought it was really very passionate. And I do think that what did come out was that there really needs to be more consultation with all the tribal units. And if that doesn't happen, that's -- that will be a real mistake.		
07461 (5/9 Rapid City hearing)		Individual	One thing that bothers me is that the tribes haven't been consultated and -- consulted, and it bothers me because in the presentations that you give, you give us the appearance like it has. You're withholding information, and I don't really feel like you're being completely honest, and I don't feel like you ever will be. [...]		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			See, you guys have a false perception of what that is, and I really wish that you would value life over money. Because I come from a poor nation. You do not have the right to tell me that I can't afford to have clean drinking water, and that my children don't have a right to live. What happens when it becomes your water? What happens when you step away from the reservation and it's in your city or where you're from? You know, we've been standing for our water for a long time. I feel like our people are being attacked. We're not being respected. We're not being listened to, and our life value doesn't amount to yours because we're indigenous, we're poor, we're on a reservation, we don't -- it's like you're -- it's like you're not respecting. See, it all boils down to respect. Would you feed your children the same water that you're trying to feed us? Every time you take a drink of that bottled water, where do you think that came from? It's probably stolen from indigenous lands. Every time you drink that coffee, it's made with the water, you know? What's happening there? I was in Standing Rock. You guys folded. [...] You know, we think we have control. You don't know what control is. That's -- that's false. It's not real. It's something that you tell us. See, we come in, and you guys are this civilized entity that's going to teach us savages how to behave, but it seems like you're the savages. You come in here and rape the land, pollute the water. But do you really listen to anything that's being said? Like I said, I'm 36 years old. My mom and dad stood for this exact same thing in the '80s. Never once did you listen then. Don't come here to pacify us. Come to truly listen. Participate. You know, a lot of people were right, your guys' decision basically has already been made. Because if it wasn't, the tribes would have been involved in the beginning. See, Cheyenne River, you guys are		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			trying to border our land. Do you know that we have pipelines trying to go through our land? They are trying to bury nuclear waste on my reservation?		
07461 (5/9 Rapid City hearing)	Ex. 6 Personal Privacy (PP)	Individual	HAROLD FRAZIER: Thank you. One of the things I've noticed is, there's no schedule for tribal consultation. And I do -- and you're aware under NEPA you are required government- -- government-to-government consultation with tribes, and I see no schedule for that. And I don't even know if anything has been done in the area of consultation. So my question to you, are you going to issue these permits before tribal consultation is completed or not?	Ex. 5 Deliberative Process (DP)	
07461 (5/9 Rapid City hearing)		Individual	Today, like we said, you know, the chairman before me, he said the NEPA, NHPA, all the federal laws that your government is supposed to protect for the people is not happening. So today, for the record, and your record, I'm going to say that there was never no true meaningful consultation on these issues. And stand up for and with the people and everybody that's here. I oppose it. And I'm sure that everybody that got up here is opposing it. And I hope you're counting each person that comes up here and makes a statement, that they are in opposition to this. I, too, feel like everything that you guys put on the earth, the video that we all saw, I feel like it's all a done deal again. And it has been. And I served, since 1990 on -- I mean, 2000 on Tribal Council. And there was never no true meaningful consultation for our tribes. The federal government comes in, they have all this planned. And they sit there and they listen, and they say this is a consultation. Whether we agree or disagree, it happens anyway. When it's all -- it's all pre-done. Everything is done already. And then it's given to the people like it's happening right here today. [...] So just -- this afternoon or this evening, you know, I, too, come here, and I oppose it. And as a part of the Oglala Sioux Tribe, we		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			opposed it by resolution, and we're going to continue opposing it. And for your record, there was no true meaningful consultation on this issue.		
07461 (5/9 Rapid City hearing)	Ex. 6 Personal Privacy (PP)	Individual	These lands all around here, these lands are sacred. There are burial sites for these beautiful people's families. Throughout history, their history, their ancestors have lived for many years in peace and harmony with these lands. And then for many -- about 500 years, if not more, a great deal of conflict and pain. But they're still here. They're still here and they're strong. And it's an honor to be here amongst them, and it's an honor to have been called here. I thank you for allowing me to speak today.		
07462 (Hot Springs hearing)		Individual	But what we haven't talked about is white supremacy, and white supremacy allows that for 500 years us, as tribal people, kept saying no, and it doesn't matter. We said no to the project up in Standing Rock. And what did you guys do? They brought up guns and tanks. So we can say no. We've been saying no. Your consultation process is rigged for the industry, and all of this is really rigged for the industry.	Ex. 5 Deliberative Process (DP)	
07462 (Hot Springs hearing)		Individual	The cultural resources that you were wondering about and stuff like that, as a rancher, when I want to put a pipeline and I'm several miles away from where you're going to put this site, I have to do this study. And the reason why is because pre-historic Indians were in the area. Well, then you just follow the trail, and it goes up to Craven Canyon, where the petroglyphs are. And anyway, that's relatively close to where the mining is. So I'm quite sure all the Natives that have spoken here really know that, you know, this is a sacred ground to them.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
07462 (Hot Springs hearing)	Ex. 6 Personal Privacy (PP)	Individual	Very honored to see the youth here today, expressing themselves from their heart. The contamination that they fear is going to happen. But quickly, I want to mention a few things. We've met before, Valois, Mr. Minter. We've met here in Hot Springs, we've met in Bismarck, we've met again in Rapid City covering these same things. And there were some issues that came up then that date back several years. Number one is we need to conduct independent cultural surveys on the Dewey-Burdock area. [...] And you're putting the cart before the horse again by issuing a draft permit while all of these safety regulations haven't been met. So you're putting the cart before the horse. If you remember, the ASLB required you to do consultation again, do adequate consultation with the tribes. And you'll find that all of these tribes are opposed. I'll stop there. Thank you very much for your time tonight.	Ex. 5 Deliberative Process (DP)	
07462 (Hot Springs hearing)		Individual	MIENGUN PAMP: Hi. Bonjour. (Speaking in indigenous language.) My name is Miengun Pamp. I'm from Lansing, Michigan. My clan is Wolf. I just figured if everybody is introducing themselves in the proper way, I probably should. The thing that I missed last time was, I wanted to say that what I saw at Standing Rock was nobody -- nobody looked over on the lands. Nobody respected what was there, you know. I want proper geographic surveys of the land that you guys are going to be putting whatever holes in. Probably shouldn't do that anyways. I'd say no to that, just for the record. But I mean, like one of the most horrible things I've ever seen is when, you know, these people were allowed to make this pipeline		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			path or whatever, people watched bones being pushed up out of the ground. I don't know how many people heard about it or saw pictures of it, but you could see it when that ground was, you know, pulled up. There were bones sticking out of it. That was people's ancestors, family members, grandparents, mother, fathers, children. It's a horrible thing, you know, that was allowed to happen. So you know, it has to be voiced that that should be, you know, looked at, and it should definitely be looked at while under supervision of tribal members or something. Because from the sounds of it, from earlier testimonies, even if there are, you know, things found, Oh, let's just sweep it under the rug and pretend it wasn't there, you know. Oh, it's just meaningless.		
07463 (Edgemont hearing)	Ex. 6 Personal Privacy (PP)	Individual	EARL TALL: I heard a lot of good things from these young people today, our future generations. I spoke a couple days ago in Rapid City, and I talked about the Bible. And we all know that this land is stolen land. This land belongs to Lakota people. And we need to be consulted if anything is going to happen on this -- in these Black Hills.	Ex. 5 Deliberative Process (DP)	
07463 (Edgemont hearing)		Individual	They [the Lakota people] should be consulted, and they are the ones to approve the cultural, archaeological, and religious surveys that take place, and they should have the final say about what goes on here. [...] This project should not go forward at all unless and until the old mines have been cleaned and tribal-approved cultural, religious, and archaeological surveys take place, and true, genuine consultation with the tribes happens.		
07463 (Edgemont hearing)		Individual	And you can't take it and say, Oh, this area is sacred, this area is sacred, this area is sacred. Well, I'm going to go and mine here and here where it's not sacred. You know, they did that at Crow Butte.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			Oh, we know it's sacred, we know that. And they didn't consult with us. Again, they went to the state, the state preservation officer of Nebraska. And don't detach yourself on that. That is the Environmental Protection Agency. Again, we keep reiterating that.		
07463 (Edgemont hearing)	Ex. 6 Personal Privacy (PP)	Individual	I ask that you stand here with us and have an honest, open ear because there's only 2.5 percent drinkable water. I ask again that you have tribally approved archaeologists, tribally approved surveyors, and understand that we are fighting for the future, and we should not be going up against our own government agencies to protect our future.	Ex. 5 Deliberative Process (DP)	
07464 (mass mailer text)		N/A	A full survey of cultural and historical sites is needed before mining or deep disposal is allowed. Cultural and historical sites must be protected.		
07642 (Hot Springs hearing)		Individual	Genuine tribal consultation should occur. Tribal-approved cultural and archaeological surveys should occur. [...] The tribal sovereignty and cultural issues have not been genuinely addressed.		
8050 (10/5 Hot Springs hearing)		Individual	And even saying that the cultural protections have been served, I've heard tell that all the examination of the cultural site was done under a great deal of snow and couldn't have possibly been done.		
8050 (10/5 Hot Springs hearing)		Individual	As a rancher, I have to have a cultural resource study done so that I can do work on my property. So I see no reason why a foreign company should be exempt from this cultural resource study.		
8050 (10/5 Hot Springs hearing)		Individual	My name is Karen Ellison. The EPA wants to disregard the cultural impact of the proposed Dewey-Burdock uranium mining project and evaluate impacts from only a technical and scientific perspective. The dictionary defines		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			"culture" as the customs, art, history, and intellectual achievements of a people or nation. Disregarding indigenous culture in your evaluation is just a perfect reflection of what our American culture has become. Putting the almighty dollar, or yuan or ruble in this case since Azarga is mostly a Chinese and Russian company, ahead of what really matters, what is right, what is safe, and good for all. Disregarding indigenous culture in your evaluation shows just how little you know about indigenous culture. Culture is so much more than arrowheads in a field somewhere or an ancient burial site. I'm no expert on it, but I've learned this: Native Americans know, respect the land. Disrespect the land, and eventually it could disrespect you, us. That's more than an intellectual achievement of their culture. It's a basic principle of the people and one that ironically and sadly seems to be so very lacking from American culture. You are overlooking so much more than you know by disregarding it. The EPA is responsible for its own cultural and scientific analysis, and you can't rely on the NRC's flawed, inadequate, and still-tied-up-in-court record on cultural impact of this project. The EPA cannot prove that this project is safe and makes no effort to respect indigenous culture and the Earth, so it should deny the permits.		
8050 (10/5 Hot Springs hearing)	Ex. 6 Personal Privacy (PP)	Individual	[...] Because our concern is, to drill and pull water from these aquifers, the Madison, Minnelusa, and then inject the wastewater into the Inyan Kara, that's insane. Anything that is a contaminant should not be brought out or put back into the ground. As a water administrator for the Water Resource Department, I have deep concerns because we're right downstream from the aquifers and the surface waters. All this mining and all this -- you	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			know, all the pipelines, everything that's going on now is just -- it's just destroying our planet, destroying our Unci Maka. So my concern today is with these draft water permits. I know the State of South Dakota Water Management Board is waiting on you guys' decision, but I would like to see you look at our concerns from the environment. Because I know the Environmental Protection Agency, you're supposed to have a source water protection program, and I would like to see that implemented in these decisions. And you've got different parties involved in this. You've got the State of South Dakota, the federal. But what about our tribal input? That needs to be part of the decision-making process. So what our concerns are today, I would like to have considered and acted upon in this decision of these draft water permits. That's just my concern. And I know that our tribe is going to be looking with EPA for future consultation, too, so that's going to be scheduled. But just -- I just have concerns that our culture, our livelihood, our survival is in our water because water is sacred to us. Thank you.		
8050 (10/5 Hot Springs hearing)	Ex. 6 Personal Privacy (PP)	Individual Ex. 5 Deliberative Process (DP)	My name is Julie Santella. I have a bunch of things to say because I have a lot of concerns about the hundreds of pages of these draft permits. One important thing to say is that the EPA's requesting information on traditional cultural properties, on potential adverse effects to traditional cultural properties, per Section 106 of the National Historic Preservation Act. If that is true, then these draft permits should not have been issued prior to meaningful tribal consultation taking place, period. Period. So I can't believe that you're actually concerned about that because -- because that's the case. The second thing that is really concerning is that in these documents, you say that the Nuclear Regulatory Commission's	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
		Ex. 5 Deliberative Process (DP)	review of cultural resources appears sufficient. The Atomic Safety Licensing Board disagrees with you. The D.C. District Court of Appeals disagrees with you. The NRC's analysis of cultural resources has been deemed illegal, and so it doesn't give me a lot of confidence in the EPA that your documentation doesn't reflect that. The third thing that I wanted to bring is that the EPA can't just consider impacts to underground sources of drinking water or effects to human health from a scientific perspective or from a legal perspective. You also ask for feedback on your environmental justice analysis, which I have a lot to say about, and I'll be providing written comments. But one of the things that I have concerns about is that the EPA is trying to say that treaties -- that we acknowledge that treaties exist, and that we acknowledge the Black Hills is a sacred site, but that those issues are separate from the scientific considerations of threats to underground sources of drinking water. There's a lot of things to say about that, but one thing is that that's illegal, that the EPA can't separate those things out. And there -- that's by your own law. So the last thing I want to do is just read out to you a few regulations under your own system of law that requires you to consider issues of treaty and issues related to culture and spiritual significance. The National Historic Preservation Act, Section 101(d)(6)(B) requires any federal agency, that includes the EPA, to consult with any Indian tribe or Native Hawaiian organization that attaches religious and cultural significance to historic properties that may be affected by an undertaking. That is this project. Executive Orders 13007 and 13175 require the federal government to honor treaty rights and avoid any action that may adversely affect access to, ceremonial use of, or the physical integrity of		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			sacred sites. That also applies to this project, and the EPA is bound by those orders. Article Six of the U.S. Constitution says that treaties remain the supreme law of the land. The Supreme Court in 1980 ruled that the U.S. Government indeed violated the 1851 and 1868 Fort Laramie treaties and stole this land. I don't think any of those laws have asterisks behind them that say, you know, these apply, but if an agency decides that they don't want to abide by them, then they don't have to. That's not true of any of these. National Historic Preservation Act, executive orders, the U.S. Constitution, Supreme Court law, the NRC's decision, the D.C. Court of Appeals, these -- you can't -- the EPA is not allowed to ignore -- this is your own system of law that holds you to these things. So I wanted to remind you today that you all have obligations and that if you continue to fail to fulfill those obligations, then we will be here to remind you of them.		
8050 (10/5 Hot Springs hearing)	Ex. 6 Personal Privacy (PP)	Individual	My name is Dr. Lilias Jarding. I am, among other things, a Ph.D. in environmental policy, and I also come to you today as president of Clean Water Alliance. You will have full written comments from me before the December deadline. PRESIDING OFFICER HALL: Thank you. LILIAS JARDING: First things first: Cultural resources must be protected. EPA's attempts to remove consideration of cultural and spiritual issues is illegal. You also should not piggyback on an insufficient Nuclear Regulatory Commission process that's been declared insufficient via federal appeals court. Second, the treaty has been talked -- treaties have been talked about in detail, and I will not add any details except to say that the treaties must be respected. Full tribal consultation you have scheduled is my understanding; however, it should have been done before the 2017 draft permits.	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			And it should be respected and put into action. It should come first. You may or may not be aware that in -- after 1874, there was a minerals rush in the Black Hills as a result of General Custer coming into the area. We are experiencing this again in the Black Hills, and we are on guard.		
8050 (10/5 Hot Springs hearing)	Ex. 6 Personal Privacy (PP)	Individual	I'm Oglala Lakota, and we have ordinances in place for this consultation to occur. And it seems to me that the EPA is following suit with the NRC of putting the cart before the horse, issuing these permits without any real consultation with any of the tribes. And so that's -- that's the issue. Checking a box to say that they have come and they consulted, they are going to issue their permits, and then they'll come back and say, oh, well, we've consulted with the tribes. And so, you know, the process is flawed. The Government Accountability Office issued that report on that same issue on tribal consultation. So, you know, they really need to take a look and understand their place in the government structure. They are the ones who need to come to us as the holders, as the rightful heirs to our lands, to ask permission because that's the way the Supreme Court ruled. These treaties were made by our ancestors' understanding, the way that they understood them at the time that they were written. So by ignoring our consultation, we continue to be dehumanized by the government. The -- the D.C. District Court put that in their ruling with the -- with the NRC, that the information concerning the water isn't ready to be litigated because the NEPA process hasn't been fully completed by -- by the NRC staff. And so with that piece of information missing, they're, again, putting the cart before the horse by not taking a full look at the entire EIS as it was finalized.	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			And so that's one of my comments to the EPA, is follow -- follow the Constitution, follow your ordinance -- your policies the way that it should be, and that you wait and hold off until everything is settled with the NRC, because this is just beginning. We've been here ten-plus years on this fight. It'll continue. We have a lot of good lawyers who are on the side of the tribes and our communities here, and so we'll continue to fight. This fight will go on for decades. So we ask for you to wait your turn. We are -- we'll be getting to you soon enough. My time expired. So I thank you for listening to me. PRESIDING OFFICER HALL: Can you state your name for the record? KYLE WHITE: Tasunke Wambli. My government name is on this green card.		
8149	Ex. 6 Personal Privacy (PP)	Individual	In its revised draft permits, the EPA acknowledges that the Lakota and other indigenous nations have important cultural, spiritual, and legal ties to the Black Hills. But then the EPA says it won't consider these issues in making its decisions. This is a clear violation of the requirement that these types of issues must be considered during the permitting process. [...] The current plan to identify and protect cultural resources is totally inadequate. It allows unqualified Powertech employees to self-monitor and determine the locations of cultural sites when they think they encounter one using heavy equipment. This creates a situation in which cultural resources are very likely to be destroyed. A thorough, tribally-designed process for	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			cultural resources identification and protection should be undertaken and completed before any permit is issued or any earth is moved.		
8158	Anonymous	Individual	Draft permits should not have been issued until meaningful Tribal consultation was completed. The EPA has jumped the gun, and now the damage has been done, as the results of Tribal consultation were not included in the draft permits. This means the public cannot consider and comment on the issues raised by the Tribes as part of the review process. [...] In its revised draft permits, the EPA acknowledges that the Lakota and other indigenous nations have important cultural, spiritual, and legal ties to the Black Hills. But then the EPA says it won't consider these issues in making its decisions. This is a clear violation of the requirement that these types of issues must be considered during the permitting process. [...] The current plan to identify and protect cultural resources is totally inadequate. It allows unqualified Powertech employees to self-monitor and determine the locations of cultural sites when they think they encounter one using heavy equipment. This creates a situation in which cultural resources are very likely to be destroyed. A thorough, tribally-designed process for cultural resources identification and protection should be undertaken and completed before any permit is issued or any earth is moved.	Ex. 5 Deliberative Process (DP)	
8175	Anonymous	Individual	Finally, this project should be stopped, simply on the basis of the illegitimacy of its legal process and failure to address mandatory tribal consultation. It follows the two century-long pattern of complete dismissal of native sovereignty, which on top of reflecting institutional discrimination, is an affront to the very democratic principles on which this country claims to be founded.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
8181	Ex. 6 Personal Privacy (PP)	Individual	[It's hard to believe that] after substitute teaching for over twenty years on Pine Ridge Reservation, have to demand that an Agency of my government obey the legal requirement that it respect the culture of a people who lived on American soil long before our white government even existed. [...] After World War II, and on past my seven-year-old self, I remember, too, that, when we took in refugees, we were respectful of their cultures. As an ethical practice, this was very formative for me and has stayed with me all my years. It was a way, I felt, for me to help fulfill the promise that the world be a better place. For me, it is imperative that government regulatory entities and private mining companies take part in fulfilling this promise by making the utmost ethical effort to respect the culture of the Native American people who have always lived here and to whom the Black Hills legally belong. Please throw out your draft permits based on incomplete cultural information and start over now, with proper and meaningful Tribal consultation. Do a thorough, respectful and tribally-designed process for identification and protection of Native American cultural resources. It's the right thing to do and it's the law. Protecting the integrity of indigenous watereverybody's wateris also the law, and is the right thing to do.	Ex. 5 Deliberative Process (DP)	
8184	Anonymous	Individual	Also EPA cannot ignore Article 6 of the U.S. Constitution which says treaties are the "supreme law of the land." For instance, while EPA said that the NRC's review of cultural resources "appears sufficient," actually, their review was ruled "not sufficient" by a federal court. Therefore, EPA must perform a cultural resource review that follows federal law and no draft permits should be issued until meaningful consultation with the Tribes takes place. EPA must consider potential negative impacts to human health from a cultural perspective, as well as from a technical/scientific perspective.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
8186	Ex. 6 Personal Privacy (PP)	Individual	These draft water permits for the proposed mine should be questioned and denied for many reasons. Important to me are lack of meaningful tribal consultation. THis should be done before any permits can be issued.	Ex. 5 Deliberative Process (DP)	
8190		Individual	Hello, my name is Karen Ellison and I live in Rapid City in the Black Hills of South Dakota. I testified at the EPA hearing October 5 2019 (my chosen birthday activity) against the proposed mining in the southern hills / Dewey Burdock site. The draft permits the EPA issued should not have been issued until complete and meaningful Tribal consultation was completed. The consensus is that the EPA jumped the gun, and since Tribal consultation was not included in the draft permits, it means we the public cannot consider and comment on the issues raised by the Tribes as part of the review process		
8193		Individual	Therefore, Draft permits should not have been issued until meaningful Tribal consultation was completed. The EPA has jumped the gun, and now, as the result, Tribal consultations were not included in the draft permits. This means the public cannot consider and comment on the issues raised by the Tribes as part of the review process.		
8199		Individual	My comments are regarding the Dewey-Burdock project proposed by Powertech/Azarga Uranium before the EPA. I object to approval of the draft plan. First, It is completely inappropriate that the tribes have not been consulted prior to formulation of the draft plan. I would be in support of their concerns for this project in their unceded homeland of the Black Hills. There are many resources of environmental and cultural importance that must be protected for their benefit as sovereign nations.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
8200	Anonymous	Individual	I would like to now draw attention to the disregard for Native lands and Tribes of the land. Not consulted or included in processing of these permits.	Ex. 5 Deliberative Process (DP)	
8203	Ex. 6 Personal Privacy (PP)	Individual	Proper and meaningful Tribal consultation should have preceded these draft permits and did not occur.		
8232		Dakota Rural Action	Additionally, no permits should be issued without a full cultural and historic survey of the site by teams assembled by affected area tribes. Because the EPA issued draft permits without these surveys, and without necessary tribal consultation, issues raised by the tribes were not considered in the process. This is a serious violation of treaty rights, as well as a violation of Section 106 of the National Historic Preservation Act. This process cannot move forward without consultation with and surveying by the indigenous peoples whose homelands these are, and whose future generations would be most affected by the contamination and destruction this project represents.		
8254.2		Standing Rock Sioux Tribe	I am requesting a government-to-government meeting with EPA to articulate our concerns with ther evised draft permits, environmental justice report, and National Historic Preservation Act section 106 compliance. We are concerned with the extent that in inssuing the revised permits, the EPA ignored our Tribe's comments to the 2017 drafts. [...] I understand that this letter and future Tribal correspondence relating to the Dewey Burdock UIC permits will be part of the public record for this EPA Region 8 docket. Please contact Standing Rock Department of Water Resources Director Doug Crow Ghost at [HYPERLINK "mailto:dcrowghost@standingrock.org"]. (701)		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			854-8534, or Environmental Protection Agency/Department of Environmental Regulation Program Director Allyson Two Bears at [HYPERLINK "mailto:atwobears@standingrock.org"]. (701) 854-3823 to arrange a government-to-government meeting with the Standing Rock Sioux Tribe on this important issue. Thank you for your attention to this matter. Sincerely, Mike Faith, Jr, Chairman Standing Rock Sioux Tribe		
8254.2	Ex. 6 Personal Privacy (PP)	Standing Rock Sioux Tribe	I am requesting a government-to-government meeting with EPA to articulate our concerns with ther evised draft permits, environmental justice report, and National Historic Preservation Act section 106 compliance. We are concerned with the extent that in inssuing the revised permits, the EPA ignored our Tribe's comments to the 2017 drafts. [...] I understand that this letter and future Tribal correspondence relating to the Dewey Burdock UIC permits will be part of the public record for this EPA Region 8 docket. Please contact Standing Rock Department of Water Resources Director Doug Crow Ghost at [HYPERLINK "mailto:dcrowghost@standingrock.org"]. (701) 854-8534, or Environmental Protection Agency/Department of Environmental Regulation Program Director Allyson Two Bears at [HYPERLINK "mailto:atwobears@standingrock.org"]. (701) 854-3823 to arrange a government-to-government meeting with the Standing Rock Sioux Tribe on this important issue. Thank you for your attention to this matter. Sincerely, Mike Faith, Jr, Chairman Standing Rock Sioux Tribe	Ex. 5 Deliberative Process (DP)	
8263		Individual	The Dewey Burdock Project is located in 1868 Ft. Laramie Treaty territory, an area reserved by Constitutional law for the Oceti Sakowin, or Seven Council Fires of the Great Sioux Nation. This area		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			is sacred ground to them, and the Oglala Sioux Tribe has been in federal court and administrative appeals over the project for years, arguing for protection of water and cultural resources threatened by what would be the first-ever mining of uranium in the aquifers of the state of South Dakota. Proper consultation was not done; there is NO Indigenous consent for the project -- and rightly so.	Ex. 5 Deliberative Process (DP)	
8265	Ex. 6 Personal Privacy (PP)	Individual	I see that the discussed decisions were not taken in the proper way and legal procedures were grossly violated. For example, the draft permits were issued before proper and necessary Tribal consultations were even started.		
8267	Anonymous	Oglala Sioux Tribe	EPA DEWEY-BURDOCK Uranium Cumulative Impacts Report Magpie Buffalo, 7 Sacred Rites, Maka San, and Aquifer Teachings First, the Nuclear Regulatory Commission process for the proposed Dewey-Burdock project thus far has not allowed for tribal members, on and off reservations, to provide meaningful input on the cultural and spiritual significance of the proposed Dewey-Burdock site, which is an ancient winter camp area for Lakota people, and the potential for the project to desecrate, demolish, and destroy this important and sacred area. The US Court of Appeals for the District of Columbia ruled in 2018 that the NRC staff has failed to comply with the National Environmental Policy Act. The legal challenges raised by Oglala Sioux Tribe in this matter (Docket No. 40-9075-MLA) remain unresolved to date. The longer history of this region involves its designation by the US government as part of a “national sacrifice area.”Honeywell Corporation’s attempts in the late 1980s to establish a weapons testing range in Hell’s Canyon are part of this legacy, attempts which were thwarted by grassroots organizing by Lakota spiritual leaders/practitioners and the Cowboy and Indian Alliance. Land in this Hell’s Canyon area was thereafter returned to the Oglala Sioux Tribe. The history of this winter camp area, which includes the proposed Dewey-Burdock site, is much older, however. Part of this history is		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			detailed in the attached affidavits, used as testimony in the aforementioned unresolved case between the Oglala Sioux Tribe and the Nuclear Regulatory Commission. The Lakota elder testimony contained within these affidavits represents just a small percentage of the cultural and spiritual knowledge and wisdom held by Lakota people, with great relevance for the proposed Dewey-Burdock project. Relevant US legislation/Executive Orders to this matter include: Antiquities Act (1906) National Park Service Organic Act (1916) Historic Sites Act (1935) Wilderness Act (1964) National Historic Preservation Act (1966) National Environmental Policy Act (1970) Protection and Enhancement of the Cultural Environment: Executive Order 11593 (1971) Endangered Species Act (1973) Archaeological Resources Protection Act (1979) Abandoned Shipwreck Act (1987) National Register Bulletin 38: Guidelines for Evaluating and Documenting Traditional Cultural Properties (1990) Native American Graves and Repatriation Act (1990) Indian Sacred Sites: Executive Order 13007 (1996) Relevant treaties/case law to this matter include: Johnson v. McIntosh (1823) Treaty of July 5, 1825 with the Sioune and Oglala Tribes (1825) Fort Laramie Treaty (1851) Fort Laramie Treaty (1868) Antarctica Treaty (1959) (Demonstrating colonial/imperial theft.) United States v. Sioux Nation of Indians (1980) (Docket 74, proving the theft/illegal taking of the Black Hills in violation of the 1868 Fort Laramie Treaty)		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			City of Albuquerque v. Browner (1993) (Isleta Pueblo win against the City of Albuquerque, affirming that Isleta residents have the right to clean river water for the purposes of farming and religious ceremony.) Washington State Department of Licensing v. Cougar Den, Inc. (2019) (Affirming that the 1855 treaty between the United States and the Yakama Nation forbids the State of Washington to impose a fuel tax on Yakama Nation members.) Herrera v. Wyoming (2019) (Affirming that the Crow Tribe's hunting rights, as established in the 1868 treaty between the United States and the Crow Tribe, in exchange for lands comprising most of what is currently Montana and Wyoming, did not expire upon the establishment of the State of Wyoming.) Despite the colonial system's efforts at appropriation, including through Western disciplines such as anthropology, archaeology, and paleontology, sacred site wisdom tied to star knowledge and ongoing spiritual practice intellectually, culturally, and spiritually belongs to the Lakota people. Lakota people have ancient connections to the Black Hills, including the DeweyBurdock winter camp area: sacred sites above and below ground, caves, fault lines, and ancient migration sites. Elders and spiritual practitioners have vast knowledge far beyond the comprehension of the Western education system, and this knowledge cannot be appropriated, diminished, or dismissed. [ATTACHMENTS: (1) Images from Lakota Star Knowledge: Studies in Lakota Stellar Theology, (2) Table summarizing relevant experience, (3) Testimonies regarding Oglala cultural resources]		
8268	Ex. 6 Personal Privacy (PP)	Individual	Dear Ms. Valois Robinson: I am writing to submit comments on the proposed Dewey-Burdock project in southwestern South Dakota, Docket ID: EPA-R08-OW-2019-0512.	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			First, required engagement with Tribal Nations, in the form of govt-to-govt consultation per Executive Order 13175 and in compliance with Section 106 of the National Historic Preservation Act, has barely begun. **These draft permits should not have been issued before proper and meaningful Tribal consultation takes place**, especially given that the EPA is explicitly seeking comments on "the identification of traditional cultural properties at the Dewey-Burdock Project Site." [...] If the EPA is interested in the cultural significance of the Dewey-Burdock area, it must meaningfully consult with Indigenous peoples who have been the caretakers of these lands since time immemorial. Next, **the EPA's reliance upon the Nuclear Regulatory Commission's cultural resources analysis is wholly inappropriate**, given that the NRC process remains tied up in ongoing and unresolved litigation brought by Oglala Sioux Tribe. In 2015, the Atomic Safety and Licensing Board ruled that the NRC staff had failed to comply with the National Historic Preservation Act in this matter. In 2018, the US Court of Appeals for the District of Columbia upheld that decision, ruling again that the NRC staff had failed to properly identify and consider impacts to cultural resources related to the proposed Dewey-Burdock project. Therefore, when the EPA notes in its draft National Historic Preservation Act Compliance document that the NRC's review of cultural resources "appears sufficient," they are contradicting both the ASLB and the DC Court of Appeals. The NRC Programmatic Agreement, referenced in the National Historic Preservation Act Compliance document, is not valid, because one of the conditions of the PA, that a cultural resources survey be conducted, has not yet happened. From my reading, **the EPA's Cumulative Effects document does not reference cultural matters**, which, to serve as functionally equivalent to NEPA compliance, it must.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
8275	Ex. 6 Personal Privacy (PP)	Individual	The draft permits should not have been issued before proper and meaningful Tribal Consultation takes place.	Ex. 5 Deliberative Process (DP)	
8275		Individual	Issuing a "draft" water permit before consultation with tribes is despicable. Respect the sovereign nations of this place – let them decide whether to issue a permit or not.		
8275		Individual	Your agency wants to disregard the cultural impact of the proposed Dewey-Burdock uranium mining project and evaluate impacts from only a technical and scientific perspective. The dictionary defines culture as the customs, arts, history and intellectual achievement of a people or nation. Disregarding indigenous culture in hour evaluation is just a perfect reflection of what our American culture has become – putting the almighty dollar, or yan or ruble in this case since Azarge		
8279		Individual	Consultation with tribal government MUST take place. Ex. 6 Personal Privacy (PP)		
8286		Individual	I submit the following comments regarding the proposed Dewey-Burdock ISL uranium mine and deep disposal wells in South Dakota along the southwest edge of the sacred Black Hills. 1. The EPA has acknowledged that the Lakota and other indigenous nations have important cultural. spiritual, and legal ties to the Black Hills. Draft permits should not have been issued until meaningful Tribal consultation was completed pursuant to the National Historic Preservation Act, so that the public can consider and comment on the issues raised by the Tribes as part of this review process. The current plan to identify and protect cultural resources is totally inadequate. It allows unqualified Powertech employees to self-monitor and determine the locations of cultural sites during mining activities. This creates a situation in which cultural resources are very likely to be destroyed. A thorough, tribally-designed process for cultural resources identification and protection must be		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			undertaken prior to the issuance of any permit or any earth moving activities.		
8252	Ex. 6 Personal Privacy (PP)	Clean Water Alliance	Dear Ms. Robinson: Thank you for your consideration of these comments on Docket Number EPA-R08-OW-2019-0512, the proposed Dewey-Burdock project in the Black Hills of South Dakota. While there are some major problems in the changes the EPA made between the issuance of the draft water permits for this project in 2017 and the issuance of the revised draft permits this year, the EPA did move in the right direction on at least one point. This was the agency's decision to acknowledge the cultural, spiritual, and legal ties that the Lakota and other indigenous nations have to the Black Hills. We also appreciate your decision to include the entire Black Hills in some of your discussion of the impacts of the proposed Dewey-Burdock project. Unfortunately, these steps in the right direction are followed by EPA's complete dismissal of indigenous cultural and spiritual issues as outside your scope, or as the EPA put it: The Black Hills is a sacred site to many Tribal Nations and Tribal members. Tribal Nations and Tribal members describe impact by historic and present-day mining activities in the Black Hills not only with regard to environmental and other impacts to physical resources, but also based their interests in the preservation of the area for spiritual, religious and cultural purposes. While recognizing these interests, the EPA's authorities to address potential impacts from its SDWA actions are limited to the protection of underground sources of drinking water. After all that, your failure to consider these issues is in clear disdain of the National Historic Preservation Act, the environmental review process, and the many comments that you have received. It should be clear to you that water is a spiritual issue, a cultural issue, and a	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			treaty issue. You cannot separate water from spirituality or water from culture or water from treaties and say that you will only consider one or the other. We urge you to look at these matters in more depth and to give full consideration to Tribal concerns, followed by appropriate action – the denial of these permits. Related topics that should be studied – but that are not covered in the current documents – include: • The large number of Tribal members who live in the Black Hills. • The socioeconomic status of Lakota residents of the Black Hills as an impacted population based on income, health, life expectancy, housing, and other measures. • The socioemotional impacts on indigenous people, many of whom are deeply impacted by Powertech's proposal to destroy land and water. • Specific measures to protect publicly-known cultural, historical, and sacred sites. • A process other than allowing non-qualified Powertech staff to self-monitor on cultural issues, determine the importance of sites as they're encountered by heavy equipment, and then perhaps have time to arrange for the protection of cultural and/or sacred sites. This is a recipe for destruction of cultural sites. Some of us have friends who are heavy equipment operators or have been heavy equipment operators, and we know the industry standard. • Protection of landscape-scale cultural and spiritual sites. As for tribal consultation more generally, first, the original draft permits should not have been issued until proper and meaningful Tribal consultation had taken place. Second, tacking on consultation late in the process does not give Tribal issues sufficient consideration. And third, holding meaningless consultation when you have already said you'll ignore issues that are likely to be raised during that consultation is disingenuous and violates the spirit and the letter of the law.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			Piggybacking on the failed NRC cultural resources process would not fulfill the EPA's responsibilities in this matter any more than it has fulfilled the NRC's responsibilities. Speaking of piggybacking, the EPA revised draft permit documents still put far too much faith in the opinions of Powertech and of other agencies. The EPA must develop its own research and information in this process. In particular, as discussed at length in earlier comments, it must not use the applicant as its source for information that forms the basis of the discussion of the problems that will arise during this project. [...]		
8291	Ex. 6 Personal Privacy (PP)	Defenders of the Black Hills	In their Request for Determination of Special, Exceptional, Critical or Unique Lands and Intent to Operate on Aug. 20, 2008, to the SD Department of Environment and Natural Resources regarding Cultural Resources in the land area where they wish to conduct their ISR mining operation, Powertech/Azarga, on page 10 stated that a Level III Cultural Resources Evaluation was conducted by the Archaeology Laboratory, Augustana College, Sioux Falls, SD. The report from Archaeology Laboratory states: "The small number of Euroamerican sites documented was not unanticipated given the peripheral nature of the project area in relation to the Black Hills proper. The disparity existing between the number of historic [since 1874 - Author's note] and prehistoric sites [non-Euroamerican - Author's note] observed in 'the project area is also not unexpected; however, **the sheer volume of sites documented in the area is noteworthy**. [Author's emphasis] The land evaluated as part of the Level III cultural resources evaluation has an average site density of approximately 1 site per 8.1 acres. Even greater site densities were reported in 2000 during the investigation of immediately adjacent land parcels for the Dacotah Cement/land exchange (Winham et al., 2001). This indicates that the permit area is not unique, in regards to the number of documented sites, and is typical of the periphery of the Black Hills."	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			The Cultural Resources that are not Euroamerican and considered prehistoric in the planned mining area belong to Indigenous peoples including members of the Sioux nation. This planned mining area was an ancient burial ground not recorded by Euroamericans but passed down through the generations in oral traditions. These cultural resources would also include teepee rings, fire circles and sweat lodge areas. The Indigenous families or clans traveled to this area to bury the remains of their deceased, or place them in trees, depending on the peoples' traditions. During this process, they would also need to stay in the area a few days.; hence the teepee rings and fire circles. Ceremonies were also held in certain places and our organization discovered a sacred site that is located within the mapped mining area. However, this information has not been made public due to the protection of this site from exploitation. Although our organization submitted photographs of gravesites in this planned mining area to both the Nuclear Regulatory Commission and the SD Minerals and Environment with our recommendation that the land area must not be disturbed, our recommendation was totally ignored. In addition, this author was with a group from the SD Department of Environment and Natural Resources when cultural resources were driven over by vehicles, and people walked right over cultural resources without noticing them and their locations. There is a large number of prehistoric cultural resources in this proposed mining area that must be protected as they must not be disturbed nor can they be mitigated. Many other places in the world prize their areas of ancient treasures that are irreplaceable, and those countries protect and preserve such areas to the best of their ability. This proposed mining area is a part of just such a rare treasure and must be protected and preserved.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			Recommendation: An extensive cutural survey needs to be completed by members of the Sioux Nation who know and practice our old traditions and can show exactly where these cultural resources are located if they are permitted to do so.		

6. Native American narratives (historic, present day, etc.).

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
00103	Ex. 6 Personal Privacy (PP)	Individual	SUBJECT: HAZARDOUS WASTE MATERIAL. I am a resident of Oglala, SD and I lived here most of my life. I grew up drinking water from Makizita Wakpa (White River) that runs through the western end of the Pine Ridge Indian Reservation. The water was naturally drinkable at that time, today it is contaminated with sewage, chemicals, medical waste, pesticides, herbicides, oil, trash, etc. and unsafe for drinking today and causes cancer. I am a cancer patient, I may have contracted the disease from working at Igloo, SD moving houses to the Pine Ridge Indian Reservation. There are 37 test holes at Slim Buttes, SD north of Chadron, NB. In 1981, there was a sudden breakout of SIDS and took the lives of many new born Indian children. Doctors at the IHS Indian hospital did report that it was caused from something in the air, perhaps radium – radon from the open test holes, so authorities transferred out the doctors. At that time, it was not clear if those test holes were capped, they sure did have lids. Capping is when cement is used to seal off each layer of sediment (rock, oil, natural gas, uranium etc.) When I was small Hoksila (boy) my parents told me that someday we will be asked if we are Christians. If you say yes then you will be punished or killed. Native Americans had their own spiritual beliefs like the cannunpa that a spirit woman brought to the Lakota Dakota Nakota people, 500 years before Christians came to turtle island, an anti-Christ followed them here, like another church called free mason, and 13 colonies formed a united constitution and declared themselves an independent government. Every U.S. president	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			since has been a mason, native Americans were neither Christian nor mason, with the power of the $$$$ they ruled turtle island by their application of federal laws on everything, then they said we are citizens, but we are Ikce wicasa (natural people) and we have right to live this way because we have our own laws, spiritual or otherwise. (...) What is underground in the underworld must remain forever. Pro Dewey/burdock people believe that it is perfectly safe for hazardous mining waste deposition in the Mniluzahan aquifer. A speaker at Edgemont E.P.A. hearing quoted a story, "Bible creation story tells of Eve take an apple from forbidden tree and gave it to Adam. They were driven away from the garden, in shame Adam took the apple and buried it in the ground to remain forever. The apple represents the underworld where the oil, the uranium, and other evil things are. They are not to bring these up to the upper world or it would destroy all life."		
00268	Ex. 6 Personal Privacy (PP)	Individual	The Indigenous peoples (also known as Native Americans or Indians) creations stories come from Mother Earth. The instructions, to protect Mother Earth were giving to us since the beginning of time. I live with oil and gas and witnessed the environmental and health impacts. We're in the next wave of assimilation, our land has been mortgaged out to those who don't know its value or how important it is to our people. We have left our future, our children's futures, and the question of a healthy environment in your hands and what do we have left? We have continuously been forced to assimilate to live how their society thinks is the only way. Everything has been taken repeatedly, every promise broken. And we have to accept it. Our lands have been taken, mined, and extracted of resources that will never be available again because of white man's GREED. It's destroying us. White people in the capitol, who don't live anywhere near the devastation that we have to deal with on a daily basis, are making decisions that don't affect them. Yet they profit from selling out	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			the people they claim to represent. We were forced to relocate here, and it is the only lands that we have left that ties us to our ancestors. The intruders can leave whenever they want, we don't have that option. We will have to deal with the aftermath of the irreparable environmental destruction. These white people are only here to profit off our oil, which is another flood of the same invaders who came to our lands centuries ago. These people have no ties to this community, their roots aren't here. They came from Europe and settled here. They have no respect for our Mother Earth. They don't know any better because their history proves their trail of destruction. They blinded our people with lies and greed. They told us how safe it is to extract oil and to build their pipelines. We do not know if our water is safe to drink, if the air is safe to breathe, if our land is healthy to sustain life. We are surrounded by flares while our people die in the winter. We live next to the 2 encroachers on our lands. We see pipelines running through the lands as if they are veins of our Mother Earth. The poison isn't going to end. "A review of the ethnographic literature demonstrates that the Black Hills was a sacred area for several Tribes, and that it has been encoded as an important landmark in tribal narratives." According to the National Park Service, many tribes have potential cultural affiliation with Black Hills. Traditional ceremonial activities which demonstrate the sacred nature of Black Hills to tribes include: Personal Rituals: Prayer offerings (bundles and cloths), sweatlodge ceremonies, vision quests, funerals. Group Rituals: Sun Dance. Sacred Narratives: Origin legends, legends of culture heros, and legends of the origins of ceremonies and sacred objects. Today we are seeking to: (1) continue our religious practice as we have traditionally (2) maintain the land that has ancestral significance and provides deep ties to our culture that has been severely affected by colonization and American expansion, (3) preserve the land in its natural state and maintaining its deep, religious connections, and finally, (4) protect and preserve the soil – it is the foundation of healthy land and water.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
00281	Ex. 6 Personal Privacy (PP)	Individual	I have learned the bitter historical truth that we white Americans stole most of the Lakota land, kidnapped their children, nearly obliterated their culture, almost caused the extinction of the bison, and massacred their people on multiple occasions. I benefit from these actions in part because my house sits on some of the stolen land.	Ex. 5 Deliberative Process (DP)	
00470		Individual	No uranium dumping in our area or anywhere in the mid-west. We have to take care of Mother Earth for use by generations to come. The Lakota medicine wheel has four parts. They are each a different color and represent a race of people and their purpose. The east is yellow, representing Asian and/or Oriental people who are responsible for spirituality. The south is white, representing Caucasian people who are responsible for the physical self or going inward to find self. The west is black for African Americans who are responsible for the emotional or psychological and the water. The north is the color red, for Native Americans who are responsible for the land and the mental aspect of life. Caring for Mother Earth.		
00515		Individual	We all used world wide resources that our Earth has provided for her two-legged children for centuries. Out of her lover for use we are still here today! It is out of that love & nurture, that I pray for your spirits that have become stagnant which has occurred overtime of ignoring our history. We should utilize our past to stop burning ourselves in the same fire! This representing the choices we make to destroy our Grandmother Earth, expecting different results to make what was once created perfect for us a supposedly “better place.” For our brothers & sisters that have been led astray from their bond with Grandmother Earth by greed, let them be made aware it is a hunger that shall never be fulfilled! The emotion your spirit yearns for is the connection every child should have with their mother.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			The biggest band wagon to self-destruction is greed! A conception that the more currency you have will fill the emptiness that only mother earth can make whole. Let your spiritual roots grow, spiritual connection with Grandmother Earth is true happiness & we will not allow this to happen to our communities any longer. Do not mistake our kindness as an Indigenous people as a weakness among a misunderstood nation I obviously the last protectors of a wisdom that can heal our world. We will not be easily pushed aside time after time. I stand before our today, not only for the people standing strong behind me, but for your children you have sold out for what? Through my humbled spirit instilled within me through my connection with the Earth, I pray persistently for everyone among us that we may remove the veil from our spiritual consciousness & that our Grandmother Earth forgive our naïve curiosity derived from the discerning spread of greed. The ways of our Ancestors that flourished contently without depleting our precious resources are either chosen to be forgotten or stomped on. What is happening now here with the mine is just one of the many events of a bigger picture that will be an inevitable expression of cause & effect. We will soon no longer exist if we do nothing! If we fail to compromise the entity that plagues our lands, chaos will spread. Where a hose men hiding? In their planning rooms? They send out their minions that are programmed with paper printed with the faces of the people that have deceived all people...For that is the afflicted by any decisions made by the Government, Mankind?		
07459 (Valentine hearing)	Ex. 6 Personal Privacy (PP)	Individual	DARLA BLACK: (Speaking in indigenous language.) First of all, I want to greet you. I'm from the Oglala Sioux Tribe. I am the vice president of the Oglala Sioux Tribe. I'm an elected official. However, I also want to point out that as a member of the Oglala Sioux Tribe, in our traditional ways and our traditional beliefs, we also believe that water is sacred to us.	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			As a woman, 90 percent of your body is water. When you carry a child, that child lives in water before they are born. There is major spiritual significance we are talking about here. Historical. It's our way of life and our belief system.		
07459 (Valentine hearing)	Ex. 6 Personal Privacy (PP)	Individual	LYNNE COLOMBE: Good evening. My name is Lynne Colombe, and I was born and raised on the Rosebud Sioux Indian Reservation, just about 40 miles from here, I suppose. I just wanted to speak a little bit on behalf of my own children, especially Johnny and Jocelyn Jones, who are now nine and ten years old. And they were with me throughout the movement up at Standing Rock. They spent a lot of time just kind of seeing what was going on. And they were there with me a couple of days before the Oceti Sakowin Camp was closed. And one thing that my nine-year-old asked was, "So, Mom, if they are going to put that pipe in that water, does that mean that they don't care about the children? Does that mean that they don't care about our future?" And I couldn't answer them that day. It was too intense, everything else that was going on around us. And, you know, then on the way over here today, my ten-year-old, who has autism -- she's very high-functioning, and she really tends to see the world in black-and-white. We were on our way over here, and she said, "Mom, why doesn't God help us?" And I said, "What do you mean?" And she said, "Why doesn't God help us to save the water? Why does he let these people come and just ruin our water?" So I had to tell her, well, we're all here with free will, you know, and we -- even though it's our job to be good stewards of the earth, and it's our job to protect the land and the water, and I explained to her about how everything in nature was a gift to us from God. And that we were the people, all of us here, that are charged with the stewardness of the land and the air and the water.	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
07459 (Valentine hearing)	Ex. 6 Personal Privacy (PP)	Individual	We need -- we work -- as a Lakota people, in spirituality, we are connected to the land, that everything is alive -- the rocks, the trees, the vegetation, the animals. Everything is effective. When you hear the term "mitakuye oyasin," it means "all my relations." It means all the elements in the universe. And I ask them to come pay attention, to call for their attention to this center. There's something we call a hocoka. It is where we center, where the voice -- where we call our voice from. And the Black Hills is our hocoka. It is the center of the universe.	Ex. 5 Deliberative Process (DP)	
07459 (Valentine hearing)		Individual	ROWEN and SEQUOIA BLANCHFLOWER: (Singing in indigenous language.)		
07459 (Valentine hearing)		Individual	SAM HIGH CRANE: Good evening to you, ladies, and good evening to you all. My name is Sam High Crane. I come from the Rosebud Lakota Reservation, same place where Lynne and some of the others that are here. And I think -- I have nothing written to present to you, but from the top of my head, I guess, I'll try to go. Way back when I was a young -- young boy, little boy, I had a great-grandmother who was the daughter of the well-known Chief Hollow Horn Bear. And she used to tell us stories, talk about the past a lot, and she also talked about the future. She said the world that we live in today is the second world that we are living in. The first one was demolished, and we surfaced to the earth from the Black Hills. And she said how the people got greedy, how they became liars and cheaters and Iktomi. Iktomi is a story that has many tales about wisdom, cheating, lying, stealing, all these things. And she said in the future, there's going to be a third world coming, and when that third world comes, it's going to be a major catastrophe. She said the weather is going to change, and the		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			world is going to tip over to one side. And I thought all this time these were only stories, until one day I was in California. I just pulled into California, Sacramento, and they had that earthquake in the ocean in Japan. And that tsunami was coming towards the West Coast, and everyone was all excited. They didn't know where to go. They didn't know where to go hide. And eventually, about three or four days I believe it was, later, it hit Portland, Oregon. And the rain came, and it washed away all kinds of mountainsides. And look what the weather is like today. When I was a little kid, again, we were able to drink from the river back in Spring Creek, from the springs. They call it Spring Creek because almost every little valley, there's a spring that comes out from somewheres, and it becomes into Little White River. But anymore, we can't drink that water. We have to rely on well water, and even that is questionable. Because within the last 20 years, I believe, the cancer rate right there in Rosebud and surrounding has gone quite high. And it just -- I was sitting there thinking of how -- what do we have to do to get our message across that some of us -- we say money gives life. In Lakota we say Unci Maka gives us life -- the water, the plants, the animals. And so who do we talk to about our resistance? Because people that don't even live here, they come and they put uranium mines right in our backyard, as this one lady spoke about. Or they put oil lines, and we resist it and resist it, and they just said, "Well, put it in." That tells me we have -- our lives are ending. So I guess my stop sign popped up, so -- so anyway, thank you all for listening, and I'm sorry that we only have five minutes. I could have gone another hour. Thank you.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
07459 (Valentine hearing)	Ex. 6 Personal Privacy (PP)	Individual	And you remember this, you know, Christians, they have Jerusalem, their mecca. You know, the Black Hills is our mecca. That is the center of the universe. That's where everything started. We know that because our -- our history -- we were, we raised that. We grow our kids like that. We don't forget that ever. And that's been our philosophy. Don't you ever forget that. You come out of Wind Cave. So you know what, if we could ever get down there and look at it, which we can't, given though that's our home -- can you imagine that, never, ever going back in your home? Yeah. And you want to go in there and -- it's just really overwhelming. You know, because we swim, we fish, we just -- we're not in -- and that's our home. That's where we come out of. Go to Wind Cave, and they'll tell you that, too. And those aquifers down there, there's caves where we lived. And that -- those petroglyphs, those are all ours, and you take that away from us.	Ex. 5 Deliberative Process (DP)	
07460 (5/8 Rapid City hearing)		Individual	I just want to read a little bit about Chief Seattle's poem that he wrote to Washington when they wanted to take their land. "The President in Washington sends word that he wishes to buy our land. But how can you buy or sell the sky or the land? The idea is strange to us. If we do not own the freshness of the air and the sparkle of the water, how can you sell it then? "Every part of this earth is sacred to my people. Every shining pine needle, every humming insect, all are holy in the memory and experience of my people." And he goes on to say: "If we sell you our land, remember that the air is precious to us, that the air shares its spirit with all the life it supports. The wind that gave our grandfather his first breath also receives his last sigh. The wind also gives our children the spirit of life. So if we sell you our land, you must keep it apart and sacred as a place where man can go to taste the wind that is sweetened by the meadow flowers.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			"This we know: The earth does not belong to man, man belongs to the earth. All things are connected like the blood that unites us all. Man did not weave the web of life, he is merely a strand of it. Whatever he does to the web, he does to himself." [...] We cannot deny the effects that this project will have long-term for not only ourselves, but also for our children, our grandchildren. And it is of the Native belief that we need to keep in mind the lives of our grandchildren when we make decisions today, that seventh generation principle, and we can't forget that. So keep these words in mind and the prayers of the people and the life of this earth when you are making your decision. Thank you.		
07460 (5/8 Rapid City hearing)	Ex. 6 Personal Privacy (PP)	Individual	There's a prophecy, the Black Elk's prophecy saying that the seventh generation will come back and save this world and make changes to it. And as part of the seventh generation, it is our duty to -- my duty to protect our water, protect our way of life, and protect all living things. No matter how small or how big they may be, we will always protect them. Thank you.	Ex. 5 Deliberative Process (DP)	
07460 (5/8 Rapid City hearing)		Individual	We come through a long time of historic trauma, and we survived so far from near extermination. We stood up in opposition to the Dakota Access Pipeline. We had over 500 nations come, over 600 flags. The value of water and life drove these people to come and stand with us. And for us to have to do it again over and over, to open the eyes and the ears of the world, if we have to do it over and over to make it happen, we will. But this is something that even you that sit here listening to us have got to fight for also. You have children. You have relatives. They are going to depend on the water. Now, we don't need no corporation or political people that live hundreds of miles away making decisions on our		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			land, and so I come here hoping, praying that you will listen to the people. We already have made a lot of contamination in our water already from the Homestake gold mine, the Cheyenne River. A lot of my relatives back home on the Cheyenne River Reservation have cancer, diabetes, a lot of illnesses due to the water that we're drinking. And it's going to be even more so. I come from a family, White Buffalo Calf Pipe. Our first keeper lived to be 450 years old, and today, because of all the contamination in our world, it's between 35 to 75 years old. And it will get even less and less if we allow these here contaminations to happen. You're going to have a lot of birth defects in young people with no compassion for life. And so we have to do something for the future generations. My ancestors were fighters. Both my grandpas, you know, Crazy Horse and Sitting Bull, and they fought for their people. It's an honor to die for your people, for something worthy, for life. And so I hope that nothing happens here. This is our sacred lands here. This is our creation story that started. Our people came from Wind Cave. And this is where life began for us. We came on top of the world with the buffalo. The man and the buffalo came from Wind Cave. We had a great race around these Black Hills and the two-legged won. So here we are. Maybe if the buffalo won, we wouldn't have poisoned water or poisoned land. But we won. So now we have to keep this land in balance and harmony. So whatever we do today, the decisions we make, affects the future. And so I hope everybody in this world, in this room puts out the word. We can do the right thing here for the people, for the future. Because if we don't do that, this world will be lost. Our grandfathers prophesied that the seventh generation is a turning point, and we're at that turning point today. So either		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			bring back the balance to the world or lose it. These are messages that our grandfathers gave us. And so I know that all the people that have a heart for the future generations will stand up and fight, because this is something that we all want. And it's not up to the very few political people, the billionaires that are in charge, corporations to destroy our world. It's our hope that we can all find it in our heart to reject and oppose this uranium mining and everything that is contaminating our world. So again, a'ho. Thank you for listening to me. Wopila.		
07460 (5/8 Rapid City hearing)	Ex. 6 Personal Privacy (PP)	Individual	I listened to one of my other uncles talk -- or two of my other uncles talk to you about creation and what creation means to us and what the Black Hills mean to us and then about what water means to us. My friend was talking earlier, and she was nervous about what should she say, and I was teasing her, giving her all kinds of things to say that would probably get her thrown out of here, and she was wise not to listen to me. But I wanted to -- I was thinking about something all while everyone was talking, and I really appreciate all the scientific words and testimony that was given today because I appreciate that. I appreciate all the people that have come and talked about the morality of this issue that we're facing. And I'm -- I'm from here. I'm born from this soil. And when I -- my spirit leaves, my body will be placed back to the soil. I have two children and two granddaughters, and I was thinking about them, like maybe I should say something on their behalf because nobody else is. I mean, we're in here, we're all speaking for our children and our grandchildren and our grandchildren that haven't even come here yet. And so we're trying to talk about what this means to us and to them and the reality of why we're even here talking about this.	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			And it's not even -- it's important to us, but it seems like in this whole world of corporate rule, that it's not even important to that part of the world. And then I wonder, like, you know, and you guys probably know about this, that last year for a really long time, there was an encampment that was in North Dakota, right? And people gathered, and they protested, and we defined water-protectors. And so a lot of people here are water-protectors. We come here to protect our water. And so I wanted to share with you that if you could think about some time ago, it was a pretty long time ago, that the story is, like, told to me from my grandmothers and my grandfathers and from many of my relatives that they probably heard it the same way. But a long time ago, there was a time before everything, and in that time, there was nothing but darkness and Inyan. And Inyan is the one that made creation. And Inyan made Unci Maka. And in order for her to survive, he had to sacrifice his own life, and he did, and he gave her water so that she could live. And so that story is important to us, as all our creation stories are important to us. And so when you think about what does that mean, do we have value? Is there a value in our story? Because water is life.		
07461 (5/9 Rapid City hearing)	Ex. 6 Personal Privacy (PP)	Individual	I am a mother and a grandmother, and I am deeply concerned about what the future -- what future we are leaving for the next generation, the future generations. As Lakota people, we say seven generations we have to think of, and each generation thinks of seven generations. So it keeps going on. [...] So each one of us must protect Mother Earth and her life blood, which is water. When we say Mni Wiconi, "Mni" is water, "Wiconi" is life. That's why Mni Wiconi.		
07461		Individual	I would like to say also that when the Anglos first came into this country, they came with a black book. They called it a Bible. And		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
(5/9 Rapid City hearing)			when they came again -- when they came to the Lakota people, they gave us that Bible, told us to read it. Some of the things that was in there was, "Thou shalt not steal," and then they stole our land, all our minerals, everything you see. Another -- another one was, "Thou shalt not kill." They killed our women and children in Wounded Knee. Other places, they were massacred after they were disarmed. Today we have a Bible. Everything else is gone. But we still claim this. It still belongs to us. And the Supreme Court decision on the Black Hills proved it, told everybody this land was stolen. And they try to offer us money for it. Today that money is still sitting there, wherever, in the Treasury with maybe several billion dollars with interest now. We still didn't touch it. That's what this -- that's what this land means to us, the Lakota people. We'll never sell it. And so we've just got -- I just want to say it's time to get ready for what's the next plan because, like was said, it seems like it's a done deal already. Permits are probably being issued again, so we need to start thinking about this, our next step here. (Speaking in indigenous language.)		
07461 (5/9 Rapid City hearing)	Ex. 6 Personal Privacy (PP)	Individual	IRMINA REDDOVE: I want to apologize because I'm Lakota, and I was raised with my grandparents and my parents together, and I'm a descendent of the Chief American Horse. I used to live on American Horse Creek in Kyle, south of Kyle. But I wanted to speak earlier, but everybody was facing this direction, and I was taught not to get up and speak in front of your people with your back turned to your people because that is an insult. And I didn't want to insult anybody in this room, so I chose to speak this way. And I listened. I came yesterday and I listened. I learned a lot. And this morning I went to Grey Eagle Society meeting because I'm a member of that group, and so I made a report as far as what I heard yesterday.	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			And then I came back after lunch with them and came up here to listen to what else was being said so I can go back and report, make a complete report to the Grey Eagle Society members. We're an elderly advisory group to our people. We come from each district on our reservation in Pine Ridge, and we talk about what kinds of things we need to tell our leaders and to assist them in any way we can. With our knowledge and with what they know, it's sort of -- we work with the youth, too, and we're trying intergenerational communication so that we can all come from one place. And I really had a concern when I found out about the uranium mining, because I'm 74 years old, and I have great-grandchildren, and now I am expecting a great-great-grandchild very soon. So I'm really happy that I've lived this long to see that. But now I'm concerned with my leaving, what am I leaving behind for these children. And so I thought it's time to get -- stand up and speak out because I want to save whatever we can of Unci Maka for the future of our children that are coming, the seven generations that are coming for me. And so I -- I told my family, my extended family, our tiyospaye, that we need to start getting involved because we do things together as a tiyospaye, and so it's time to not only stand up and speak out. I have great-great-grandchildren coming, and so we all need to watch out for them. I know if I'm not around that they will be the ones to take care of them because we have no orphans as such. We are extended family. We take care of all our children together in our tiyospaye. And so I wanted to share that with you, my concern for the future of our children. And I wanted to really commend these young people, the indigenous peoples that stand up and work together with the non-Indians. And that's -- I've really learned to appreciate that, working together, and maybe completing our circles as we go along.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			Because in my life, everything is a circle. And I've learned that. And I teach -- I'm a retired teacher administrator, and I worked with children in our schools, and I teach -- within that circle teaching Black Elks. I read somewhere that everything is a circle. We need to be strong and happy again. Our hoop was broken, but we're on the mend, and so we need to widen our circles and be more inclusive to save our Mother Earth. I call her Mother because now I'm Unci, great-great-grandmother. And I appreciate every day of my life. Every morning when I wake up, I hear the birds, and then in the evening I sit outside and watch the stars because I know where I come from. And I want my grandchildren and my great-great-grandchildren to know where they come from and who they are. So I've been teaching the Lakota language and culture in the schools, and I'm becoming even more aware since I've been teaching the circles that we use in life that we have learned to see in nature. And I'm trying to teach these little kids. I love them so much. After the classes, they come around to me and hug me, and they'll say, "Unci, Unci, I need a hug." And so I give them a hug. I said, "Everybody needs hugs. I do, too." And so I try to give them a little love and some teachings that I know through stories and through the traditional teaching ways with the circle. So I'm developing a curriculum with certain teaching within the circle. And the beginning of that, as my elders told me, was that always begin with nurturing the spirit of the child, and that way they'll be strong and they'll be happy. And so that's the first thing we do is, they all know the medicine wheel. Most people know the medicine wheel, most people know the medicine wheel. But also Fools Crow taught me that within that medicine wheel, too, the colors stand for the peoples and each direction, the different races. The white [sic] was African-American, the red is indigenous peoples, the yellow is the		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			Asian/Orientals, and the south was the Europeans. And we all belong in that circle as human beings. And so he said keep that in your heart. Everything should come from the heart. And then when this comes into play, it will be guided in the right direction. So that's what I wanted to say because I really feel somehow that we're -- we feel -- I feel threatened by this uranium mining, and we must -- must prevent it from happening for the future of all children. We all belong in that sacred circle. So that's just what I wanted to mention. Thank you.		
07461 (5/9 Rapid City hearing)	Ex. 6 Personal Privacy (PP)	Individual	SOPHIA BLACK CLOUD: Hello. And thank you for calling my name again. I am a mother first and foremost, so that's why I wasn't here, I guess, when you called my name the first couple of times. So thank you. Again, my name is Sophia Black Cloud, and I am a descendent of Sitting Bull's tribe. My father is full Lakota Hunkpapa Sioux, and my mother is Aztec. And with that being said, I was born in Mobridge, South Dakota. And, quickly, two of my mother's family from Santa Barbara, California was taken off of the reservation for reasons of my mother's family's doings. So I was raised in Santa Barbara, California where as a child I was raised on the beach and in the mountains and had a father who was not around physically, but very much so in my ear and in my heart, and we wrote and spoke quite often. And being raised in California gave me the opportunity to see the drilling offshore and the drilling in our mountains. And as a child, swam amongst pipelines in our ocean that leaked just horrible toxins into the water we were literally swimming in. So I started to question that as a very young child. And then in elementary school, my first recollection of being introduced to knowledge of the Sioux Indians, as my elementary schoolbooks wrote, was horrific. And so I remember as a young child being turned off altogether to the white man's way of learning.	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			It didn't explain who I was at all. It was just incredible the things that were written in my elementary schoolbook. And so anyway, so growing up in California, again, was able to see those things. And then became a woman and started having children and -- sorry, that clock is -- then started having children of my own and wanting to teach them who I was and where I came from. And after my father showing up on my doorstep after 20-some-odd years and reminding who I was after I had had children and that I wasn't teaching them truths and things that he had been teaching me my whole life, he then brought me back home to the Standing Rock Reservation, Fort Yates, North Dakota. And I fell in love. I fell in love with everything about who I was, who my family was. But then I started to take a good look around at what was really going on, and to who I was, and started reading and teaching myself what the school systems had failed to teach me about water and things like the Fort Laramie Treaty. [...] And so now looking into things and trying to get my children -- I now am a resident here in Rapid City, all the way from California, and trying to get to my hometown in North Dakota. And then seeing what's going on there, I just feel like -- it's like the blind leading the blind. You just don't know what you are doing. My great-great-grandfather fought for me to have these Black Hills. They are in our name, my last name. We belong to those Black Hills. You guys belong to the Black Hills. And the fact that you're willing to jeopardize that -- my three-year-old daughter was here. She is a water-protector. She knows how important water and those Black Hills mean to our family. You know, we go there to touch the ground and the water. And to think that I heard the lady yesterday say that those waters are dirty and contaminated, it just -- because you take a dump, you just don't not wipe again. Do you know what I mean?		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			You just -- you don't keep contaminating things. You clean up the messes you guys have already created, and you help us protect these rights that you guys gave us, that we allowed you to give us. So I can see my time is up, and that's all I've been able to concentrate -- I could go on forever and a day. But I'm here fighting for my great-great-grandfather who fought for me to be here and to protect those Black Hills, and that's exactly what I'm going to do. I'm going to protect these free rights, and my children are going to do the same. So, my father fought in 1981 that uranium, and they won. And that's what we intend to do today.		
07461 (5/9 Rapid City hearing)	Ex. 6 Personal Privacy (PP)	Individual	WANKINYA HO WASTE: (Speaking in indigenous language.) As I stand here today, I'm standing with 500 years of resistance. I'm speaking in a 500-year-old voice that's still speaking resistance. When I speak up here, I'm speaking for the water, the earth, the sky, the land we walk upon. I'm speaking for your God that you settlers killed a long time ago. I'm speaking for your Jesus that you settlers hung on the cross and that still hangs there today. When you are here, I want to remind you whose land you're on. It's not mine and its none of these people. It's Mother Earth's. I'm only here for opposing something that is very detrimental for the environment. Or in deeper terms, you're trying to kill our mother. You can make all the plans that you want about how safe it is, but why not let us make plans. I want you to tell that foreign country to take their asses back to their own lands and fix their own air and water. I know -- everybody knows damn well Japan can't breathe their own air. [...] And by -- if the settlers learned from us, we would still be drinking out of the rivers that flow today.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			But yet we are still looking for gasses that still support our cars that we drive. We still look for ways to destroy the land without even knowing it. But I want you to realize that Mother Earth is a human being, not the way we see human, but she is a living, well entity. And if you keep throwing your cancer at her, she will throw an antibiotic right back, and she will wipe the human being out, which is us. I'm not trying to blame anybody for anything, but I want them to wake up and realize that this is all we have. We have nowhere else to go. Find it in your heart. Remind yourself why. Why kill lands for money? And even you coming here today, I want you to realize you've been programmed to work in the society. You've been programmed all your life to find this American Dream. Your jobs that you get paid for is all programmed real reality is outside of your homes with the land. And the water we drink is our -- should be our reality right now. We should be building the relationship to this earth rather than to economic systems and government systems. And I know for sure that you don't want to be traveling. I know that you don't have to be here, but you could be traveling. But you've been paid to be here. You've been paid to hear crying voices that's been crying for 500 years, and I want you -- I want to get you -- I want to remind you why we are here, and it's for Mother Earth.		
07462 (Hot Springs hearing)	Ex. 6 Personal Privacy (PP)	Individual	ANGELINA ROJAS: (Speaking in indigenous language.) Hi. My name is Angelina Rojas. I am 15, and I am a young woman. I live in Rapid City, South Dakota. And I'm from Pierre, South Dakota. I was born in Pierre. And I have a quote from Evo Morales, he was a man, part of a movement for a social-political sovereignty people. And he said, "Sooner or later, we will have to recognize that the Earth has rights, too, to live without pollution. What mankind must know is	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			that human beings cannot live without Mother Earth, but the planet can live without humans." My people are here spiritually. Our ancestors watch over us. If you heard the creation story, you will learn. We need to respect our Mother Earth. To think that the future generation and our children will have to grow up in a world where we cannot respect our Mother Earth and only think of theirselves and their profits. To my point, would you like your children, your grandchildren, the future generation to live in an environment that could have been protected if nothing at this point is done? Thank you. (Speaking in indigenous language.)		
07462 (Hot Springs hearing)	Ex. 6 Personal Privacy (PP)	Individual	At the very beginning -- yesterday I was at Rapid City, two days of that comments, talking, and I kind of felt bad. I felt bad because what these two ladies are going through. And all these people in our council, in our traditional ways, the men discuss what's best for the tribe. And they always consider the women the backbone of that nation. So there's a different government, different structure. (Speaking in indigenous language.) I can't see those at all. I said I heard a lot of what the women went through, and I felt bad. But (speaking in indigenous language) that's how you -- the White America is. It's always been that way that. A lot of our ancestors have told us about how it has been. And we are a very spiritual nation. We are a warrior nation, but spiritually. In our language, there is no cuss words. There is nothing bad. It's all humor. When something bad happens to somebody and I should get mad, they make it into -- they all start laughing. A lot of what I heard here is not compromising. It's all power. Somebody wants this done. And I know -- it cannot be done because of what it represents.	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			(Speaking in indigenous language.) When something like this is taking place when life are concerned, think about it. Think about it. (Speaking in indigenous language.) The people, we think about it. [...] And I personally can say this: Mni Wiconi. This word means a lot. Mni Wiconi. Life. Water is life. There's four elements that we use in our spiritual ceremonies -- water, air, fire, and Grandmother Earth. Grandmother Earth makes an altar for us. It's universal. The whole world is the altar. Why would somebody come and start poisoning the water? It's not good. Not good for our coming generation, the seventh generation. The seventh generation is a very important generation for us.		
07462 (Hot Springs hearing)	Ex. 6 Personal Privacy (PP)	Individual	DANIELLE ROSE: My name is Danielle Rose. I live in Hot Springs and Eagle Butte. (Speaking in indigenous language.) My Lakota greeting was I greet each of you from this side of the room all the way around to here with a warm heart and a hearty handshake. My Lakota name is First Cloud. I was named after Chief White Swan's -- one of his three daughters, First Cloud. I'm a tribal member of Cheyenne River, and I grew up near Green Grass. Today I want to express my disagreement with the permits by using the medicine wheel. Most of you know, that's divided into four quadrants with the colors yellow, white, black, and red. Well, those colors represent the races. Yellow is for Asian or Oriental, and they're responsible for spirituality. White is for Caucasians, and they are responsible for the physical and introspection, going inside of self.	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			The black, of course, is African-Americans, and they are responsible for the water. And red, of course, is us Native Americans, and we're responsible for the land, or Mother Earth. I beg you to listen to the learned speakers that have presented today. I'm -- I've learned so much. And I'd like to ask that you in your position -- and I know you have a lot of responsibility, especially in this current administration. It must be very difficult. But I ask you to look inside yourself, look at your heart, and have the courage to do what's right and protect the water and protect Mother Earth. (Speaking in indigenous language.)		
07462 (Hot Springs hearing)	Ex. 6 Personal Privacy (PP)	Individual	JEREMIAH MORENO: (Speaking in indigenous language.) I just introduced myself in my sovereign nation's traditional language. My name is Jeremiah. My grandmother's name is Margaret Red Shirt. My dad's name is Francisco Moreno. My mom's name is Gracie Red Shirt, and my daughter, who was just up here a little while ago, Endonnis. And we all have Lakota names. And I introduced myself to all of you and to you up here in our traditional way. That makes us relatives now. So a lot of -- just wanted to express some stuff. My students -- I brought some of my students with me. I work in Rapid City, South Dakota, and I work with the youth. And I work in West Middle School and Southwest Middle School, and we have an after-school program called Ateyapi. And there, you know, we have a good time, and my students, you know, I express a lot of knowledge to my students, and they express a lot to me. One of the things that they expressed to me is that they wanted to be here today, so I brought them. And they are not my students, really. They are my nieces and nephews. That's what I call them. I wanted to tell you a little bit about what they did today. On their own, they walked down to the little arbor, and they got some	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			water. They tasted it, and they put some in a bottle, and they started drinking it on their walk over here from over there. And it warmed my heart up to see that, to see them sitting over here wanting to get up and do something and make a stand for what they believe in. I just wanted to let you guys know that you're sitting here on Indian land, and I would like to deny this uranium mine.		
07462 (Hot Springs hearing)	Ex. 6 Personal Privacy (PP)	Individual	ROBERT WHITE MOUNTAIN: Feels like I'm walking up on a talent show or something. (Speaking in indigenous language.) My name is Robert White Mountain. I'm a Hunkpapa Lakota. On my mother's side, I come from Sitting Bull, his tiyospaye. On my father's side, I come from Rain in the Face. And this lady that talked before me, I didn't quite get her name, but she brought up a thing that -- before I talk about that, I just want you to -- I think everybody is going to raise their hand if you're -- who drinks water? So everybody who drinks water, raise your hand. I think that's everybody. So I had another question. Who all loves water and would like to protect it? All right. So my grandfather told me one time, he said, "What is a Lakota?" And so he told me what a Lakota is. Now, I'm a Hunkpapa Lakota. That's what they call me. He said, "What is a Lakota?" A Lakota, he explained to me, is someone that claims to be an ally to the spirit of all that is. And water is part of all that is. Water is part of all creation. So if we love water, we want to protect water, we're all Lakota, and we're all related. We all breathe. We all drink. We all sleep. We all have red blood. We're all related. Even though we may be different colors, whatever it is, but we're all related. And 36 years ago, I was a young man, and I was at Craven Canyon, and they have some petroglyphs there they were trying to destroy	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			for uranium mining. And these petroglyphs tell history from the beginning to the end on how we are all related, how we all come from the same place. But that's a long story. I won't get into that. But anyway, it just explains -- to me, just told me, you know, that through these petroglyphs -- we studied those for a long time. We also were put under siege for being there 36 years ago. And three -- two years ago, I was telling the story to some young kids around a fire over here in a cabin in the Black Hills here. And I was telling about how we were praying. All we did was pray for the water. We prayed for the land, and we got completely surrounded by cops. We got completely surrounded by vigilantes on horseback. Had 250 cops and vigilantes surrounding us because we wanted to pray for the land. End result was -- end result of that whole thing was that I was able to stop the uranium mining right there at Craven Canyon, and we have saved that sacred site. But now it's under fire again because of what's going on here today, and I really -- I really -- you know, I went up on the hill and I fasted and I prayed several times, a couple times. And I went up in the Badlands. And after this last time I went up there and I fasted and prayed for four days and four nights, I come to realize, you know, though that -- what that teacher was telling me that, you know, some day throughout your spiritual life or your life, you'll realize that someday you are going to look at people and you're not going to see the color, that you're going to see that we're all related. So after this last time I went up on the hill, I fasted and prayed. After that, I came down, and it was a whole different meaning for me. So it was -- it was to a point where I could not see color. I can look at that guy not as a white guy or black guy, I look at him because he's a human being, and we all are human beings and we all need water. I'm sorry. You know, but the basic thing is we all -- we have so much alternative things that we can do besides destroy ourselves,		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			besides destroy man. You know, I heard a gentleman talking, and he said, you know, the wind -- wind is bad because it kills birds. Solar is bad because you still have to use natural materials to make the panels, costs too much. But I never heard anything about magnetic. [...] ROBERT WHITE MOUNTAIN: I never heard anything about geothermal. Those are all renewable energies. They don't stop, they are not expensive, and they don't cost -- you know, if you use -- and they are all renewable. We don't have to kill ourselves over it. So I just -- you know, to conclude here, you know, that this land was all taken illegally. That's all going to be settled eventually, but that's not for us to say right now because it was all taken illegally. We all know that. But I won't talk about that here, so -- but the thing is, what we're talking about right now is that we're all human. We are all of the human family. We all have to live, and we all want to live together as one family. Thank you.		
07462 (Hot Springs hearing)	Ex. 6 Personal Privacy (PP)	Individual	TONIA STANDS: Hello again. Hello again. I'm Tonia Stands. (Speaking in indigenous language.) That's my Lakota name, first Lakota name. So I hold that with all my heart because my grandma gave that to me. I really honor that. And the reason I'm going to tell you about my grandma and my Lakota name is there's a huge ancient connection through me that is, I guess, intellectual property. I'm not a scientist. I'm not -- I don't have no American degree. But through me -- time has passed through me, and I know things about this place and about this water. And you know, I look at you, and I think I would love for you to understand what this place means to them, the whole nation of people that speak Lakota, Dakota, and Nakota language. We're all one nation.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			And we don't -- and we come out of the ground. We come out of Wind Cave. You can go to Wind Cave, and there's a nice little sign that points at a hole in the ground, and it tells that story. And you can't take that away from us, and you can't deny that. And we -- we -- they made this country on a religious freedom, you know. It's the constitutional right we have, religious freedom. And you know, it -- and I'm -- I'm -- I was born in 1978. And in that year, in 1978, as old as I am, that is as long as we've had religious freedom. We can't go access these sacred sites because now they are in -- not on our property. All I can tell you is this is the mecca, this is the center of the universe. We have -- everything is a relative. We have a Lakota, Dakota, Nakota name for each element that science hasn't even caught up with. We have cultures that are like polar opposites. And the reality is the President is the center of everything, but in our way of life, it's the inner circle. That -- that's who we -- that's who leads us -- our children, our elders, never, ever, ever a man. And we're led -- and our people are led by the women. We're natural multitaskers. We can just have this all figured out and food on the table, everything done, and smiling. So -- and we honor that. And you guys come from a culture that's, again, the polar opposites. And you look at that, and you don't even have -- you couldn't even vote. You couldn't even vote. That's how -- that's how in that little amount of time that you've come, but yet we lived that since the beginning of time. So anyway, I come from Oglala, which is about, you know, as the bird flies, right over here. Well, through my family that comes from there, our territorial homeland guardians, we go south, my grandmas that raised me. So they brought me into this area and, you know what, I grew up off the land. I didn't have running water, electricity. I lived in a house that my grandpa built, my great-grandpa. And my great-		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			grandpa, we lived here, and we were pushed back to a reservation, and we couldn't come back out here without a pass. So my grandmas come through Hot Springs, and they used to tell the story, and they used to cry. We don't go through Main, we go right up here. There was an old road through there. And they told the story how when they would come, everybody would come out of their houses and stare at them and throw stuff at them, and it was sad. They took that connection away.		
07463 (Edgemont hearing)	Ex. 6 Personal Privacy (PP)	Individual	This is a public comment period, not a time for scientists and experts to come up here and impress each other with their big words. This is time for everyday people like me to come and speak to you government officials. I'm a mother, I'm a grandmother, I'm going to be a great-grandmother in November, the first time I'm going to be a great-grandmother. I want my takoja tiwahe's baby to come into a world where there's clean water. I want her to stand here someday as a great-grandmother, welcoming her great-grandchild into a world where there's clean water. I'm going to tell you, to the Lakota people, water is our first medicine. We know it's finite. It came here from the Star Nation. The water that's here is the water that was here when the dinosaurs came. There is no more water, people. I ask you to look at your papers when you go home and think about the Minnelusa. That's a Lakota word. It means swift water, the Lakota aquifer. That's another Lakota word. These waters are named by our people because we were here since time immemorial, and we want to be here far into the future.	Ex. 5 Deliberative Process (DP)	
07463 (Edgemont hearing)		Individual	DON MATT: Thank you. One young man here said we need some smiles. So I'm going to share something that a tribal elder shared at a tribal interpolicy meeting. He said, They tell me that they called us Indians because Columbus was looking for India. He said, I'm just really thankful that Columbus was not looking for Turkey.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
07463 (Edgemont hearing)	Ex. 6 Personal Privacy (PP)	Individual	EDWARD STARR: (Speaking in indigenous language.) I welcome everybody here that's here for the EPA hearing. My name is Edward Starr. I live in Oglala, and my grandfather has been here for ages and ages. My grandfather, in that time they had no need for any kind of money. Then 500 years ago, three boats came, and they brought some people. Along with that, they brought Christians, and what followed them Christians was a person, an anti-Christ. You know what an anti-Christ is. They are the ones that killed a man named Jesus Christ. [...] I went to boarding school, and they told me I was going to be an intelligent, civilized citizen. But I resisted all the way through. I ran away several times from school because I grew up traditionally. I preferred to stay in my -- in that way. But I realize today we are in a spiritual war that started 500 years ago for us. Our Lakota, Dakota, Nakota people and all the Native Americans on Turtle Island that we are standing on are in a spiritual war.	Ex. 5 Deliberative Process (DP)	
07463 (Edgemont hearing)		Individual	You know, our Lakota people and our indigenous people, we have records that go back millions of years. Millions. Not thousands, not hundreds, billions. We understand this land for billions and billions of years since we were put here, since we came here. So it's not something that we are not familiar with. We are -- we've been here, we always will be, and that's just the way it is. And now we see that, you know, since the last 500 years, our guests have come over here. You know, I think there's a lot of disrespect from our guests. Because you would think you would come over here and you own this land, but you don't. Because if you really look at it, the government has been in a position where nobody ever owns the land. As long as you keep paying your taxes, you can live on it.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			But you never will own it because it's under a parliamentary system. So then we go back to all that. Anyway, that's a long story. So basically, nobody will ever own this land because of the way it's set up. So if you say, I have these 140 acres. If you don't pay the taxes on that 140 acres, it's not yours. It goes to the next guy. That's just the way it is. So we all have to live here. I look at all of this, you know. It was -- I look at this town, you know. I was driving around this town, and I heard a gentleman say there was uranium mining here for 29 years. And, you know, I was like, Okay. I look around, you know. Mining towns, they're usually -- you know, when there's a mining town, it grows. I mean, a town will grow and grow and grow until finally it busts. The mine will close down, and slowly it dies out. That's just the record of everything -- all over, all over, all over the land here. You know, so -- you know, it's like you had 29 years of mining here, but this town is so tiny. There's nothing here. Why -- where is the growth? So where is the -- where is the lucrative point in mining? So then you think back through the basics of human beings, who are we? We are all human beings. I'm a Hunkpapa Lakota, but I'm still the same as you. I still have the same red -- same blood. I still have lungs and a heart and everything else as you. I'm no different. But I look out for my kids. I look out. I'm a father, I'm a grandfather, I'm a great-grandfather. I have great-grandkids. I look out for these kids because I also -- you know, I don't really care for what happened in the last 500 years. But it's the relatives that -- you guys are all here. And you guys aren't going to go. You should go home, but you ain't going. So we've got to leave here, you know. We have to live together. But we can't live together if we're poisoning each other. [...]		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			You know, I look at the Bible, and I see this thing called the forbidden fruit. And it says that Adam went over there, and he grabbed that fruit, and he ate it. It could be anything. To me, the forbidden fruit is what's underneath the ground. [...] ROBERT WHITE MOUNTAIN: You can't touch it. It's all good. I knew you'd cut me off. So the forbidden fruit is what we have underneath the ground. There's two worlds here. We have the underworld and we have the above world. We have two worlds that we live in. We live in both. Maybe some of you guys don't know how you live in both, but we do. But we do. And so we have to protect that underneath as much as we can because it's going to affect above, too. Thank you.		
07463 (Edgemont hearing)	Ex. 6 Personal Privacy (PP)	Individual	And I was here 36 years ago over here. I kind of noticed, I went out -- we got surrounded over here when we were trying to defend our sacred site from what they did here, what they mined here. We defended over there 36 years ago. That was in Craven Canyon, to defend some great sacred writings here. I noticed that there was a couple guys around here. Because we got surrounded. You know, they surrounded us and it was under siege. I remember that. All we were doing was trying to protect. That's all.	Ex. 5 Deliberative Process (DP)	
07463 (Edgemont hearing)		Individual	ROWAN, ISLA, TAMARACH, SEA USIA BLANCHFLOWER: (Singing in indigenous language.)		
07463 (Edgemont hearing)		Individual	So I'd like to give you the turtle with the sage in it. And then I'm going to read. It's called, "A Gathering of Sioux in Honor of Chief Sitting Bull." Sitting Bull said: "We must teach the children to read and write so the white men cannot cheat us, and we must hold onto our land		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			until the young folks can speak English and look out for our own interests." A gathering of Sioux in honor of Chief Sitting Bull, 1890, December 15th. Hunkpapa Lakota Sioux and other tribal police conspired with the U.S. Cavalry to attack Chief Sitting Bull and those who fought to defend him. On that day, our most honored of all chiefs was held and killed by Sioux warriors. This was the day respect also died for our people. It is our way to mourn for one year when one of our relatives enters the spirit world. Tradition is to wear black while mourning our lost one. Tradition is not to be happy, not to sing and dance, and enjoy life's beauty during mourning time. Tradition is to suffer with the remembering of our lost one and to give away much of what we own and to cut our own hair short. But Sitting -- but Chief Sitting Bull was much more than a relation to just one family. He represented an entire people, our freedom, our way of life, all that we are. And for 127 years, we as a people have mourned our great leader. We have followed tradition in our mourning. We have not been happy. We have not enjoyed life's beauty. We have not danced or sung as a proud nation. We have suffered remembering our great Chief and have given away -- given away much of what was ours. And tens of thousands of Lakota Sioux have worn they hair short for 127 years and blackness has been around us for 127 years. During this time, the heartbeat of our people has been weak, and our lifestyle has deteriorated to a devastating degree. Our people now suffer from the highest rates of unemployment, poverty, alcoholism, drug addiction, and suicide in the country. We as a people are to blame for this loss of respect within our own nation and for the continuing destruction of our own people. Our only excuse: Ignorance. Sitting Bull foresaw our stupidity, but we would not listen. Sitting Bull said what would become of our people, and it has. If we are		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			to deal with these problems, we must look into their origin, our present-day leadership. The new tribal government system has failed to reveal our nation, has failed to protect our people. It is a disgrace to all past Lakota leaders. But the response -- [...] SOPHIA BLACK CLOUD: -- for the destruction -- [...] SOPHIA BLACK CLOUD: -- of our people's lives must be shared with our second form of leadership, our traditionals -- chiefs, medicine men, pipe carriers. These traditional leaders must accept the fact that they too have not represented their position as they should be represented. The people, the men, and children have been paying the price for inadequate leadership since the death of Chief Sitting Bull. This is the kind of leadership that our people can no longer tolerate, and I'm going to finish up. Are we to continue to die? Are we to continue to watch our children suffer without realizing what must be done without standing together as one force to protect our children's lives? Have we as a people given up? Simply, no, for a whole new generation is born to carry out our great Chief's instructions. We are the new generation, and we will make a change. We will lead ourselves. We will rebuild our nation's respect, and the great Lakota nation will rise again.		
07463 (Edgemont hearing)	Ex. 6 Personal Privacy (PP)	Individual	SOPHIA BLACKCLOUD: Hello, again. I'm just going to finish off where I left off before I was stopped, so. Okay. So again, I was reading out of literature that I thought was important to my people and for the people of this town to hear. So it is time for -- it is time for us to begin. It is time for our tired nation to stop right where we are and look back, see where we came from and where we are now and where we are going on.	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			It is time to remember Sitting Bull and all that he was and is to our people and to our way of life. And it is time to talk with respect within our nation. We must demand it without compromise. Compromise comes once respect is obtained. In 1990 December 15th -- or, I'm sorry, in 2017, December 15th will be exactly 127 years since the murder of Chief Sitting Bull. On that day the mourning of our Chief must come to an end. December 15, 2017 let us gather together as one people, as one nation, a nation the Great Spirit chose out of all other Indian nations to send us, his messenger, the sacred White Buffalo Calf Pipe Woman, to bring us the sacred pipe to worship him and to share with all other nations. On December 15th, let 100 drums gather. It must be a time of celebration, of living, of rebuilding and moving on. Our warriors will sing a new song, a song of a new beginning, a song of victory. Let our warriors sing clear and loud, so the heartbeat of our people will be heard by Sitting Bull and all of our ancestors in a spirit world. And our two worlds will become one again. We are a whole new generation fully educated and very capable of assuming control over our own affairs, capable of doing business with the U.S. and other countries with far greater effect than what is being done now. We are a new generation capable of rebuilding our nation. And this is the direction we must move in and move together as one. The direction we will move in is that of a modern high-tech world, but in that world there is nothing that we are not capable of understanding. In our new generation we now have people educated in almost every kind of job skill that exists. We must learn to use our education towards rebuilding our nation and securing a better future for our children. We now have the knowledge of two ways of life. And we can balance them equally.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			Knowledge with wisdom, high-tech machinery, with tradition, Indian businessmen listening to their chiefs, and chiefs listening to Indian businessmen. Chief Sitting Bull lives in the spirit world. We know this is true. We know also that he would want us to live and rebuild so our children can have good, happy lives and the old people restful last years. Many times Sitting Bull would ride around camp and sing messages to the people. Let us send to our great Chief a new song to sing when he rides around the people in the spirit world. Look at our children, they are going to live again. They are going to live again, Sitting Bull says as he rides. On December 15th, let us gather as one nation to honor Chief Sitting Bull and the warriors who stand by him. Let us together -- let us come together to honor his dreams, his words of wisdom, his strength, his leadership. Let us gather to celebrate his memory with pride, commitment, and a new beginning and a new direction. Let us come together as one and then move together as one. We are the Great Teton Lakota Nation. Let the spirit of Sitting Bull leap with joy that his people have been awakened. Written by Warrior Who Comes Home Alone. And so that's all that I wanted to read and I'm done. I've gotten a chance. Thank you. But then I had a couple of other things that I wanted to bring up aside from speaking with my people.		
07463 (Edgemont hearing)	Ex. 6 Personal Privacy (PP)	Individual	You know, they named Harney Peak after William K. Harney because the Standing -- Chief Standing Rock went over there to hunt, and he left his family there, women and children. And, you know, General Harney came in and slaughtered that whole camp, so they named our sacred site after him. And that's Inyan Kara, under all -- from that top of this peak, the highest point, that's connected to the bottom of this. And you can't take us away from that because we were born -- and you	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			guys, go to Wind Cave. There's a nice little sign there that says we came out of there. And you'll acknowledge that. [...] This is our church, this whole Black Hills area, from the top to the bottom. And the reason I know this is because my grandmas, we come from Oglala, and we gather -- we gather our plants and fruits and vegetables, and everything is provided for us here. That's our agreement with this land and the entities, the elements of this land. Those are our relatives. We come out of -- we come out of Wind Cave, and -- and you want to take that apart and discombobulate that and misconstrue it. But we are the original people to this land. This is the center of the universe, the whole world. The whole universe started right here, and we have those in our language. We have those connections still. And we have an oath and a duty to protect the sacred because they don't have a voice. They are considered animals, and no, those are our relatives. They have moms and dads, and they drink out of these creeks. And this whole area is our -- is our home. We're the real stakeholders here. And I come from Oglala, and we still make our trek here and gather our fruits and our vegetables, our food and our medicines. And you know what? Whew. I -- I have a friend that lives in this area, and I gathered some tipsila, which is our fruit. They are all deformed. They are all sick. So we can't come here and gather our food there. They destroyed it, and they want to keep destroying it. [...] So what I'm going to say is this: Our Oglala people came here, and you're detaching us from that. We can't ever come back here. Here we go, she cut me off. But I want to offer my water to you, and tell you this: That we got this water over here in Hot Springs. They call it kidney water, and it comes right from this aquifer, Inyan Kara, and this is sought-after water. It's healing water. And		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			this is the same water these guys here want to contaminate and claim.		
07463 (Edgemont hearing)	Ex. 6 Personal Privacy (PP)	Individual	-- you know, yesterday in Hot Springs I got to speak and I got cut off and -- but what I want to state is this, is you know, our spirituality, you know, when you think about the reality of our -- of our -- of our genocide and surviving that in many various forms that have -- that we have endured, you know, you think about smallpox blankets, you think about tuberculosis, you know, the Spanish flu, you know, these are real, real close to my heart because my grandmas passed this collective knowledge, intellectual knowledge, intellectual property, you know, and that comes through us. You know, and we collect this knowledge. And what's in me is my grandmas and my grandpas. We come from Oglala into Oelrichs, and Oglala into Smithwick. Those are natural tracks for us to gather our plants, our berries, our tipsila. There's so many out there. And when you think about, again, water is life and how it puts back into those natural elements. And we don't have that right. And we'll keep talking about religious freedom. You know, 1978, we don't -- we don't have access to our religious freedom. They are -- they are governed by national parks, and we can't just go and pray and, you know, and do the things that we used to do here. We can't do that. And right here where the proposed site is, I mean, we don't want expose too much, but it's not a checkerboard. You remember that. It is not a checkerboard. [...] And my grandmas, they used to come and camp here in the park. That was our campsite. They detached us from that and sent us to the reservations. And then when we -- we got a pass to get off the reservation, we come back here to our home, we can't come back here.	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			They -- they have this land, land steal in the Black Hills. So these guys, you know, immigrants came in here, and all they had to do was get a tool, a mining tool, strike it on the ground, and there's a whole land area that became theirs. That's how easy this land grab in the Black Hills became. You stole it. Our treaties, they confined us to the reservations, took our rights. And they were -- when we were off our reservation area, you know, we had to get a pass. And they would hunt us down. And each town, they have a hang site where, if they caught an Indian, they would take them up there and hang them. Rapid City has a hangman's cliff. And this is the reality. We can't come here, you know. You're supposed to protect the environment, you know. You have this in-situ leach mining program, and it destroys our aquifers.		
07463 (Edgemont hearing)	Ex. 6 Personal Privacy (PP)	Individual	TONIA STANDS: Yeah, I think everything that I'm talking about is relevant. And I'm Tonia Stands, and I'm from Oglala, South Dakota again. What I want to say is, you know, we have -- we have this origin story amongst our people, and it goes back, way, way back when this land was all red. So, you see the strip that goes around the Black Hills, we're tied to this land and we lived in a time when all the nations, every single animal, nation, had -- we all talked the same language. We had this magical communication between each other. And then we came to this time where we were going to -- we were going to lose that. So they all came amongst each other, you know. It wasn't one that was on top of the other, or there wasn't a chain of command. They were all equal. Now, when they came together, they had this great race around the Black Hills. And whoever would win this race was going to be the chosen nation that was going to be the voice.	Ex. 6 Personal Privacy (PP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			Because we were going to come into this time exactly right now, when these -- there's every single creature -- you know, you have these crazy words for them. But we don't have those words. Those are our relatives. And we have direct relationships with them still. [...] We have names for these rivers, and they are our relatives that we treat them on human status. They are just like us, and they have families, and we honor that. And we -- and we respect that. Well, going back to this origin story of the red earth, when the earth was red. Well, you know, they did that great race around the Black Hills and, you know, ever since I was born, ever since I was a baby, my dad took me on that great race. Every year we run around the Black Hills. It's called the Sacred Hoop 500-mile run. And I've been running that for as long as I can remember. And they -- they keep that. We have to keep that alive. And we have to be -- we owe that oath and we owe that duty to these silent nations that can't talk, that's in those waters. And we hunt. I can't even hunt no more. You cut them up, and they are all, like, deformed, and there's white spots all over them. And down here, my dad lives, you know, we go on that river. We can't even go get our boats and go down the river like we want to. We can't do that on White River, either. And you know, our tribe monitors these water tests, so I have water tests from our tribe. And in the spring, when the run-offs come down in this community of Red Shirt, it floods all the way over to where my family lives. And I have to go tell them, Don't go by the river. Leave the river alone. Go, you know. And these people in this community, I go down each house, each house like that, and I -- I'm not lying, every one of my relatives in their house has cancer. And my auntie that lives at the corner house, she survived three cancers.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			I can't bring them here to tell their story, so I'm here for them. And I'm here for the silent nations that we owe. We owe that oath and that duty to them to speak up for them. And I never -- I never ever wanted to, like -- I humble myself and I'm not -- you know, I'm not -- I don't want to over-exert myself, but you know what, ever since we've been on this journey to stand against uranium, these animals, animals, you know, our relatives, have shown themselves to us. We've gone to Wind Cave, and we don't -- we don't -- we don't -- we know the buffaloes are powerful. Those are our people. Those are our relatives. We know that so they -- they come to us and it's like they are -- they are sharing their pain and they are sharing their stories with us. And you know today, we were just standing out here, we didn't ask for this little turtle to come across. And you know, he went across, and so we took him off the road because we didn't want him to get hit. Well, when we picked him up and looked at him, his whole beak, his whole little mouth is deformed. I'm like why, why, do they keep showing themselves to us? You know, we have a duty, and we're fulfilling that duty. And there's no -- they don't -- they don't speak about that. And that is old. That is old. As old as that red dirt is, that is as long as we have to protect this. And it's a prophesy, and that's what we're fulfilling. They are encroaching and they won't stop. And you know, over here on the winding side, just like full of uranium. They are coming. They are coming. And our aquifers are going to get destroyed. It's all going down around us, and this is our, kind of the last, you know, refuge from what's going on around us. And we always live on this, we were raised on this. The Black Hills were never for sale. With the U.S. government, they have a big bank account. They want us to take that money because they know they stole it. They know that. They have that money. And they want us to take that		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			money, oh, it's like the feel bad money, the guilt money, the blood money, you know, the resource money. Nothing. We just want it back. We just want to go pray like we always did. We want to have that freedom. And for me, because I've always come here with my grandmas, I want to continue that and keep that alive for them. You know, and I want to see the relatives. And I'll end on this note. This morning we were leaving. And I really don't believe in these animals coming up to me. I feel like Snow White. But they keep coming. And this morning in Red Shirt, my boyfriend, he said something, and he, "hagh." He said that. And this bird came out of nowhere and it was eating, and it was, "hagh, hagh" and it was looking down upon us in this tree. And I said, Look at him, he's saying -- he's laughing at you because you said that. You know, because we were arguing about packing and what to take and what not to take. And then, "hagh," and you know. See, you're supposed to listen to me. See, we were having this little discussion. Well, this bird was just standing there. And they never show themselves to us. And I'm telling you, this is a spiritual connection. And it's older. We can go back through billions of years, not thousands and centuries, billions. And we can name how the earth, how this universe began. So please remember that. Okay? Thank you.		
07463 (Edgemont hearing)	Ex. 6 Personal Privacy (PP)	Individual	WILL LEIGH: (Speaking in indigenous language.) Hello, everybody. My name is Will Leigh, and I'd like to read a letter from my Oyate. We all use worldwide resources that our earth has provided for her two-legged children for centuries. Out of her love for us, we are still here today. It is out of that love and nature that I pray for your spirit to not become stagnant, which has occurred over time of ignoring history, our history.	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			We should utilize our past to stop burning ourselves in the same fire, this representing the choices we make to destroy our Grandmother Earth, expecting different results to make what was once created perfect for us a supposedly better place. For our brothers and sisters that have been led astray from their bond with Grandmother Earth by greed, let them be made aware of -- that that is a huge hunger that shall never be fulfilled. The emotion your spirit yearns for is the connection every child should have with their mother. The biggest bandwagon to self-destruction is greed, a conception that the more currency you have will fill the emptiness that only Mother Earth can make whole. Let your spiritual roots grow. Spiritual connection with Grandmother Earth is true happiness, and we will not allow this to happen to our communities any longer. Do not mistake our kindness as indigenous people as a weakness among a misunderstood nation. We will not be easily pushed aside time after time. I stand before you today not only for the people standing along beside me, but for your children, for what you have sold out for. Through my -- though my humble spirit instilled in me through my connection with the earth, I pray persistently for every one among us that we may remove the veil from our spiritual consciousness and that Grandmother Earth forgive our naive curiosity derived from the discerning spread of greed. The ways of our ancestors to forage consistently without depleting our precious resources are either chosen to be forgotten or stomped out. What is happening now here with the mine is just one of the many events of a bigger picture that will be another little expression of cause and effects. We will soon no longer exist if we do nothing. If we fail to compromise, the entity that plagues our lands with chaos will spread. Where are the men hiding, in their planning rooms? They send out others, others that are programmed with paper printed, and the faces of people that are derived from all people. For that		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			is afflicted by any decision that is made by the government for mankind. That's from my Oyate. (Speaking in indigenous language.)		
07642 (Hot Springs hearing)	Ex. 6 Personal Privacy (PP)	Individual	And so with that being said, I just want to quote my -- our great head, Sitting Bull, by just reading a few of his quotes: Let us put our minds together and see what life we can make for our children. And another one: The white man knows how to make everything, but he does not know how to distribute it. Thank you.	Ex. 5 Deliberative Process (DP)	
07642 (Hot Springs hearing)		International Indigenous Youth Council	TASINA SAPA WIN: (Speaking in indigenous language.) My name is Black Shawl Woman. I am from the Cheyenne River Sioux Tribe from a little community called Swift Bird. I live right by the Missouri River. I'm also here to talk on behalf of the International Indigenous Youth Council. And what we are is a grassroots organization that started in Standing Rock that empowers youth in their comm- -- or to become leaders in their indigenous communities through activism that primarily circulates around social and environmental justice, treaty recognition, and tribal sovereignty. I'm -- I could come up here and give you a huge speech. I could give you a bunch of statistics. I could tell you pretty much everything that you've already heard from these fine people in this crowd. But instead, I'd rather tell you exactly what comes from my heart. And I'm looking at you right now in your eyes, and I'm going to plead with you to make the right decision here. I'm also a young mother of a beautiful five-year-old boy. He will be six here in a couple weeks, and he changed my life at a young age. And I made him a promise when he was born, and that was to protect him at all costs. And by protecting him, that's why I'm standing up here, not just him, but for all children of our future.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			Where I come from, Cheyenne River deals with a lot of addictions that are like alcoholism, meth addiction, gambling. The list goes on. Addiction has enablers. These companies and this government are addicted to nonrenewable energy. And just like all addictions, they have enablers. The EPA is being an enabler to addicts. Addictions to what? The cruel profit of indigenous resources -- money, power, and greed. Just like all addictions, they need -- they need help, and I'm begging that the EPA help this country. These companies are foreign. How could you let foreign companies come into this country and drill toxic, lethal chemicals out of the earth and then not clean up after themselves? That jeopardizes our health, my son's future, clean aquifers everywhere. I saw your presentation yesterday, and I seen a point that you made saying that the aqu- -- the water that you found underneath is undrinkable. Yeah, maybe undrinkable to humans, but it's not undrinkable to the earth. It's not undrinkable to the soil. It's not undrinkable to the plants or the rivers that it will be flowing into. We need water. I mean, Standing Rock and the indigenous people of this land have shook the world, opened the eyes of the public, and now we are saying to stop. Please stop. We don't want to be sick anymore. We don't want cancer rates skyrocketing, diseases going unexplained.		
07642 (Hot Springs hearing)	Ex. 6 Personal Privacy (PP)	Individual	THEODORE EBERT: My name is Theodore Adolph Philip Ebert. I've been going at this with these deals for -- since the beginning. I'm one of the original opponents that filed suit against Powertech to stop this in federal court. So I've been in this from the beginning. I appreciate all of you being here. Even you, Mark. Good to see you again. I say that because, Mitakuye Oyasin, I believe this, we are all related. We're all here on this planet, and we're all here for a reason. Tunkasila didn't put each other, all of us in each other's life for no reason. We're all here because this is where exactly	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			we're meant to be right now. Everyone here is meant to be here, all right here. We have to choose what we are going to do. I can't believe the pressures that you guys are under. You know, your director of the EPA just got terminated or he quit or whatever because of the pressures that were being put on him. So I can understand that you guys are under those same pressures. But if you make the wrong decision and it's not politically correct, I won't be seeing you guys again. And I would not want that on you. Because you have families. I respect that. I'm a soldier. I was a soldier. I fought for this country. I faced the enemy. I had bullets going by my head, men dying near me. I was lucky. I came through those things unscathed. Those guys are all my heroes. They are all my heroes. There was a time that I lost sight of who I was and why I was there. I lost sight. I became just a machine. I no longer saw a wounded man or cared. I no longer saw an enemy before me, just an object, meant nothing to me. My commander noticed that, and he sent me home for a brief time. He said, Go see your family. So I was at home. I sat there for a long time. I said nothing to anyone. One of my aunt's children came up to me and sat there with me. And it took me a while, but I realized that I regained who I was. I became okay with being a soldier again because I realized why I was there. I wasn't there for me. I was there for everyone here in this room that never would have to do what I had to do so that they would not have to face those things. I was there for my children, for your children, for your grandchildren, for your great-grandchildren, so they'd have a place to live on this great planet. [...] So he knows, that man knows I'm not his enemy. From my heart to his, he knows that. He knows that as a member of this		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			community, in the event that all this falls through -- and he's on the verge of losing everything he has. He knows that us as a community will come together to help him in any manner we can to see to it that he makes it through that. We know that, and he knows that. I told him that before, too. So anyway, you guys, I wish you the best in your decision-making process, and I'm sure happy that I'm not in your shoes. Sometimes you just gotta do what's -- just because it has to be done. I've lost many jobs. I've got court-martialed a few times, and I paid the price for things that I just refused to do and I said this isn't going to happen, not on my watch. So bless you guys. Thank you.		
8050 (10/5 Hot Springs hearing)	Ex. 6 Personal Privacy (PP)	Individual	[...] And with you listening to our side of the story, maybe things will change. We have to, because there's a prophecy. When the gold and silver snake came to this country and took over everything, and everything that they built, all the way to the West Coast, one day, the gold snake would come from the west and absorb everything that the silver snake had set up. Now, these are symbolic. The silver snake represents the white people. The gold snake represents the yellow people. When they come here, they will begin absorbing everything that the silver snake had set up. I collect financial magazines wherever I can find them, and see on there how are they going to do it. They've already invested billions of dollars in this country buying up land. They own ranches. The only thing they didn't come to -- they are coming to our land in a way where they are control- -- they are controlling the companies. Okay? That's why I said I'd file a suit against the Department of Interior, United States Department of Interior, because they are using us. They are using our people to do this. And that's why I say they are	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			committing treason, by working on behalf of those countries, by using -- they are using you to -- our laws so that they benefit. 150 families moved into Galveston, 2012. All the people were all happy. Create homes for them, had a big party. So I said, What's in Galveston? The oil wells off the shore. And then they -- when they absorbed different places, they created day care centers where people -- so when you go to work, you leave your children there. That one group, they learn Chinese. They encouraged the parents to come in and learn Chinese. My grandson went to a charter school in Las Cruces. I was there. And I told them, I said, you're half Cuban. Why don't you ask them if you could learn Spanish? And the man said no. He was teaching them Chinese. My grandson is fluent in Chinese. That's good. Some day we are going to need you. Get back to learning. He lives in Detroit now. He's going back to school. I said, one day we're going to need a translator. Thank you.		
(10/5 Hot Springs, hearing)	Ex. 6 Personal Privacy (PP)	Individual	I think I met you. Yeah, I think -- I think we did this before. I think that I was here before. And I had a word for it. It was -- in our language it's gnayeciya. Gnayeciya. Gnaye, is like you've been deceived. English word, you can use a couple English words. It's kind of like a moment of deceit. I think I used the word "insanity." That's what you're trying to do with these two permits that you want to allow for Dewey and Burdock. I kind of question the formula. It's flawed. Scientifically, I think the best persons that I rely on are usually whistleblowers. But you have guys that are scientific guys, you know, really highly intellectual, high-status knowledge, you know. And they -- some of them are atheists. But I believe in this old elder guy that said he was born again. And he is a big, tall Caucasian guy, and he said he was born again. He basically told about the scientific, proven things. And that -- that's	Ex. 6 Personal Privacy (PP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			how the Caucasian race is, always trying to scientifically prove something, which they do, too. But when it comes down to extractive and injection, what they've been doing with the fracking and all these things, you know, that's been coming through for -- how long has it been? Early '70s. And especially uranium. And I think they consider when us Lakotas come up and we say things about our connection between the stars, and especially here, they consider that spiritual connection low-status knowledge. You have high-status knowledge and low-status. But today, I believe the low-status knowledge should be dominating now because, like I say, especially with the last four years, from the signs from above, like Hanhepi Wi, the moon, even Anpetu Wi, the sun, the alignment -- the alignment of the planets and the sun and the moon and those things that happen, you know, like two years ago. And they were visible to the naked eye. And those signs are telling us that we need to igluwiyeya. Igluwiyeya means a preparation, to prepare. And even birds tell us that, you know. And the stars and the sun and the moon is connected to these sacred hills. All of this area is sacred. And the desecration needs to stop now. And I just heard that it's probably 100 percent of us now that are opposing it today, you know. So I believe that should be a driving factor in you initiating the permit, both these permits. Because injection itself is -- it's scientifically flawed, and it's -- it's insane. So if you really hear the experts, which I know you're going to -- and thank you for extending the comment period. And I -- also, again, for consultation purposes that you will be here. You will be here in our headquarters in Eagle Butte, and you'll be meeting with the tribal council. And then also, we have four bands that will have representation there to also talk to you. And we'll also have expert witnesses there to tell you about this connection, these things that I'm telling you now, about these signs from above that are going to affect us here.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
(10/5 Hot Springs, hearing)	Ex. 6 Personal Privacy (PP)	Individual	(Singing:) When I was a young woman, we would travel from Denver to Pine Ridge for ceremonies. We drove through Hot Springs where the water was flowing from warm springs provided by our Unci. On one of these journeys, we were waylaid to Cold Brook Lake where we spent the day. The green pines grew out of the red hills surrounding the clean, clear blue water where we played and played. Oh, Grandma, won't you take me down to Fall River County, down by the clean water where paradise lay? Well, I'm sorry, my boy, but you're too late in asking, Mr. Azarga's yellowcake trucks done hauled it away.	Ex. 5 Deliberative Process (DP)	
(10/5 Hot Springs, hearing)		Individual	Good morning. My name is Jean Roach. I'm from the Cheyenne River Sioux Tribe. I lived in Rapid City for most of my life. I'm just real concerned because I feel that we've always been ignored, like Theresa and everybody has been talking about our treaties, that we have. And if anybody wants to, you know, start a conversation with the Lakota nation, this would be a great place to do a good faith gesture and honor us. We're tired of being abused, stereotyped, treated as if our words don't mean nothing. But we are here. And a lot of us, we don't speak our language no more. Like I have, I've been -- my grandparents had been through the boarding schools, beaten, and all kinds of terrible things because of our language. But one thing that I do know that we've kept in our hearts is that we have respect for our Earth and our water. And I just hope that -- well, one thing, one question is how only a couple people can make a decision for so many people and you don't even live here. So if our water gets contaminated, you don't have to think about it or drink the water.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			And if you took a shower here, I wouldn't even think about that. Because it is -- it's been contaminated since the first uranium spill. And it's proven it hasn't changed much. It's still very toxic. And our water has been ignored. And it's a living being or entity. Our water has life. So that when you take water in to nourish your body, we'd like to have clean, pure stuff for our grandchildren and their grandchildren. We survived this far. You know, our people have been massacred, you know, belittled, whatever. But I just hope that the rumors about the EPA being controlled by, you know, the 1 percent billionaires is not true. Because they don't care, and they will sell us the water later anyway, and you might have to buy it, too. Thank you. (Speaking in indigenous language.)		
8050 (10/5 Hot Springs hearing)	Ex. 6 Personal Privacy (PP)	Individual	First of all, I would like to address my people who are here. (Speaking in indigenous language.) I just told them that, in my language my Lakota name is the Last One to Return, and that was given to me by my grandmother because my father was in the U.S. military. And out of five brothers, he was the last one who came home from the military. And he -- he died later on. He was in the U.S. Army. And my -- that was my given Lakota name. My English name is Dar Red Hawk. And I'm also Lakota from Pine Ridge, South Dakota, on the reservation. And on my grandmother and my great-grandmother's side, I'm also Northern Cheyenne, and I'm the great-great-great-granddaughter of Crazy Horse. And, you know, I just wanted to say that all this poisoning thing that is going on on all lands, especially Native land, they are trying to get rid of us, but we're still here. And we are the -- and our ancestors still live within us. And I'm really proud of that because I'm also -- I've also been educated in a white man's world. And there are a lot of us out there, Natives, who have degrees, who teach, and who pass our knowledge on to the younger ones.	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			And I'm really proud of Mr. Andrew Catt for bringing his grandkids because they are the next generation who are going to learn about what's been going on on our Native lands, as well as -- as well as that land that doesn't exist on the reservation. And I -- I do a lot of medicinal herbs, like a botanist, but I brought some plants and herbs here that I study. And through my great-grandfather and some uncles of mine, they taught me the study of plant life. I have five plants here that grow within the Black Hills and the reservation lands. And one time out of every year, we go to harvest these. This is -- it's called -- you call it kinnikinnick. It's the bark and the inner layer of the chokecherry tree that we dry and we smoke in our pipes. It's nonchemical. There's no chemicals in it. It's natural. And my grandfather used to say when you smoke that, you smoke it with reverence and respect to Mother Earth. And there's actually healing properties in all these plants. And he says, the kinnikinnick, if you smoke it without the medicinal -- without the chemicals in it, it has a healing power for your lungs and your upper gastric system. And I also have sage. And a lot of you do use sage, I know, a lot of cooking. For us, we make tea out of it, and that's also good for your upper gastric and your gastrointestinal. And those of you who don't understand, that means your esophagus that goes down to your stomach. We smudge. I don't know if any of you know what smudge is. What we do is when we get up in the mornings, we pray with it for -- for good, for our health, for the health of the people. And that helps -- we believe, that takes away the bad spirits and help us be more focused. But it's in the belief system. It's in our belief system that this works for us. Another one is cedar. And cedar also works the same as sage. We burn it. We can make tea of it. And I used to live in southern Illinois where it's really humid. And with my plants -- with my		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			study of plants and herbs, I got to know a lot of plants and herbs everywhere I went. And I -- I suffer with a lot of allergies now to the environment, to the Earth, just different things that -- the poisonous things that's put into our Earth comes up in the water, whatever you eat, the animals, the food, the vegetation life. Well, I came home one time -- and I used to really abuse Benadryl. Benadryl is good for allergies, for hives, whatever, in the white man's world. I'm sorry I have to use that term, but -- so I went to a ceremony, and my uncle gave me this herb. He said, Use this. He said, I'll show you how to use it and when to use it. And this herb, when you burn it, you let it burn until it fizzles out, and then you inhale the smoke a little, hold it, and breathe it back out, just a couple of seconds. And it's good for allergies, it clears my head. I have sinusitis. I don't know if you can tell by my voice. But it really helps. And I've never gone to the -- I go to the hospital, but I haven't gone to the hospital for any allergy pills because of this. And we use it sparingly. All the plants and plant life that we use, we use it sparingly. It works for us. If you allow this injection or the pollution of our land to continue, you will make our plants sick also. And with that, it won't work for us because plants are our powerful medicine. You have to believe in it, and that's where the pharmaceutical people get their knowledge from, is our plants. You know, and I hate to say it, but even pharmaceutical companies abuse our land. They add chemicals to things that would make this even more powerful. But they give it to you in milligrams, in drops, whereas the real thing works a lot better because it's -- it's not powered up, it's not powered down. It's just natural the way it is, you know. And I just wanted to bring this to your attention because if you kill the planet, if you kill our water, this also goes. And you'll lose your pharmaceutical stuff. None of the plants and herbs are going to work for even people out there who need it.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			And incidentally, the aquifers, seven states rely on this aquifer. And if you kill these aquifers, you're going to kill plant life, even the food you eat. Nebraska, Kansas, Missouri, they are all fully agricultural places. They grow the corn, the wheat. What about the beef? I know a lot of us are beef-eaters, and some of us are vegetarians or want to be or whatever. But just think, if you kill the water, you kill everything, yourself eventually. Like the gentleman who was up here, he said he got sick because of tailings. I know you guys probably sit up there in D.C., high and mighty because you don't know what our life is like downstream, you know. I just want to bring that to your attention because with the study of plant life, medicinal herbs, there's a lot of us who still live this way. And I'm proud to say that I am one of them. And we have elderly at home, young children we teach. We're teaching our language back to the children. Thank you for our elderly who are here who can do that for us before everything is lost -- plant life, the cattle, the food we eat. [...] I will. Well, I just wanted to bring this to everybody's attention because this is my concern also, is our medicinal herbs. Thank you for listening to me.		
8050 (10/5 Hot Springs hearing)	Ex. 6 Personal Privacy (PP)	Individual	My name is Regina Brave. I'm from Oglala on the Pine Ridge Reservation. I too experienced Catholic boarding school and the system, but I'm here on account of -- from what I've learned. My great-grandfather's name is Ohitika. He knew -- my great-grandfather's name is Ohitika. He negotiated the treaty of 1868 at Fort Laramie on April 29th on behalf of Mahpiua Luta, Red Cloud. The Fort Laramie Treaty of 1868 is a nation-to-nation peace treaty. Yet in 1876, the United States sent the Seventh Cavalry after our	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			people in violation of that treaty that was ratified on February 16, 1869, and proclaimed on February 24th, 1869. This marks the 150th anniversary of a treaty that we are sovereign. Our people are sovereign within this treaty territory, which starts from the mouth of the Missouri River, crosses part of Wyoming. All the rivers are within treaty territory. They went to the south of the Platte River in Nebraska all the way to what is now known as Omaha and Council Bluffs and went back up on the east bank of the Missouri River, all the way back to the mouth of the Missouri. And then Mahpiua Luta declared war against the United States because people were coming across from the east going west. And when he stood on a ridge, which is at a place called Story in Wyoming -- I was there, I seen that butte where he stood with his people and watched the wagon trains going west, but none were going back east. So he knew at that point that these people who were going in that direction, there had to be more coming from the east. That's when he declared war. That's when he laid out his treaty territory. And he won it, a nation-to-nation treaty. He wanted us to have our own country so that we would have exclusive use of it. And there's other things in the treaty. And yet when this treaty was taken back to Washington, D.C., the people who came, the commissioners who came, stopped in Chicago, Illinois, and doctored it. One of the articles in that treaty is Red Cloud would allow the United States to come and get gold out of the Black Hills since it was important to the non-Indian people. And he said, on one condition, that half of the gold that was taken out of the Black Hills would be placed in special appropriations for our seventh generation. And yet seven years later, on June 26, 1876, the United States violated that so-called peace treaty. The Fort Laramie Treaty says		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			it's a peace treaty that our nation and your nation would never go to war. So they violated that. When our people beat Custer, Reno, Benteen, and Crook at Little Bighorn, when they returned to their homelands where they were in charge of protecting treaty territory, soldiers were waiting. We became prisoners of war. So for 143 years, our people have been prisoners of war on these places you call reservations. Those are prison camps. When that treaty was ratified on February 20th -- on February 16th and proclaimed on February 24th, 1869, which marked the 150th anniversary, it was a time for our people to take back that sovereignty, take back that treaty territory. This is our land. And all of you people who live within it are innocent of your own history that the United States chose not to put in your books, so you're getting this history. And what I'm here about is all the people that live within our treaty territory are affected. You are part of our people and who we are. You the farmers and ranchers who put the food on the table that the people eat, just wasted on the grocery shelves across this country. And when you work, you work 24/7. You don't get paid by the hour. Cows don't have their calves between 8:00 and 5:00. My dad was a rancher. We know that. And you farmers and ranchers know that. You're out there late at night, farming your crops, putting those crops to the processing plants which exist in Colorado. Like Darlene said, this aquifer feeds eight states in this country, called the Ogallala Aquifer. The Black Hills itself has five groups under the Inyan Kara -- call it "Inyan Kara" -- and it affects all the people within this area. And I'm glad we're here in Hot Springs because at one time, Igloo was known as the leukemia capital of the world. So many of the children there were dying of leukemia. And you don't hear about it anymore. That's another piece of history that is not in the books.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			But we know about it because our people worked in Igloo. And 20 -- 15, 20 years later, our people started getting cancer, dying of uterine cancer, liver cancer, you name it. Women and men worked there, and they passed this on, the cancer. Young women were losing their children because if something was wrong with you, your natural -- your body would naturally reject the body -- I mean the baby. So something was wrong with these children that were aborted, self-aborted. That's nature taking care of its own. And we still suffer from the effects of all this contamination. And they came here before. And they get into that aquifer, what they are going to do is pump that water back in. They say that it's going through some kind of system where they are going to change it back. Nobody can change it back to its original form. So when people out there, outside of treaty territory, when their food starts disappearing off the shelves, when the food prices go up and we're facing a major food shortage, it's because our waters are being poisoned. Our people, our animals, our children, we will all starve, watching things die. Water is sacred. I went to a water -- water summit in Rapid City at the Ramkota. And I was really, really proud of the young people, young Native people, young indigenous people who put it on to tell the people that water is sacred. And this is what we were protecting here. This is what we were protecting at Standing Rock. And this is what we were born for -- PRESIDING OFFICER HALL: Ms. Brave, I have to ask you -- REGINA BRAVE: -- to always remember -- UNIDENTIFIED AUDIENCE MEMBER: Can I give her my time, please. REGINA BRAVE: -- that the seventh generation is who we are protecting it for, and for your seventh generation. For all the people who live in the Black Hills area on reservations and who are teachers and whoever you are are innocent of this treaty.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			Now you know that what I am going to do is file a suit against the United States of America and its entities. And I have a little -- I can't draw. But the head is the United States. The body is the Department of Interior, which was the Department of War, changed to the Department of Interior. And the people you see here are truly innocent because they weren't told any of this either about the treaties. But there's eight entities which are the legs of this spider, which are the United States -- the U.S. Army Corps of Engineers, the U.S. Environmental Protection Agency, Department of Environmental and Natural Resources, U.S. Nuclear Resource Agency, the Bureau of Indian Affairs, U.S. Department -- U.S. Forest Service, U.S. National Park Service, Bureau of Land Management. And I'm charging them with treason against their own country for working with foreign entities and representing them. They're corroborating with our enemy. They are working for a foreign country using the United States laws and violating our treaties. I'm working on getting my United States passport. No laws here can affect us. Colonial laws are colonial laws. We are a nation here, sovereign nation here. And these people are sitting here attempting to get more resources out of our land. Today, on behalf of the people who live within treaty territory, I am saying no. It cannot happen. It will not happen. So after this, I'm getting ready to put this all together, go to Geneva, and file in court. Because this is not a colonial issue, this is not a federal issue. This is a nation issue. Philamayaye.		
8050 (10/5 Hot Springs hearing)	Ex. 6 Personal Privacy (PP)	Individual	My name is Margaret King. I'm here primarily today as a grandmother of seven people ranging in age from 20 to 5. I'm also here as a friend of the Lakota people with whom I have been very closely associated most of my life. A cousin of one of my best childhood friends, Steve Little Thunder, spoke here earlier, Karen Little Thunder. Thank you, Karen.	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			I am also here as an attorney. I am licensed to practice law in the state of Iowa and on Pine Ridge Indian Reservation. I'm also admitted into several federal courts, including the United States Supreme Court. I have been to Geneva to fight for indigenous rights before the human rights commission. I will go again. Next time, I plan to go to fight for the rights of protestors. I have been protesting nonviolently in the streets since 1968. I have protested here, along with my Lakota relatives, against DAPL and against this law that was to take the rights away, the First Amendment rights away from all of us who wish to defend the water. I'm not going to stop now even if I have to be pushed to the sites in a wheelchair. The case that was referred to earlier, the United States Supreme Court case which declared that the Black Hills were illegally taken from the Lakota people, is the United States versus the Sioux Nation of Indians. The cite for that case is 448 U.S. 371, decided in 1980. They also ruled that the Sioux Nation should have reparation and interest from the year of 1877. However, that money is being held in trust. Not one penny of it has been accepted because the Black Hills are not for sale. So one of the most important things I have learned from my Lakota relatives is the concept of mitakuye oyasin, meaning we are all related. It doesn't mean that we are all related as two-legged entities on the Earth. We are also all related to the four-leggeds, the winged creatures in the sky, the fish in the rivers and the lakes. We are all related to the trees in the forest and the grass on the prairies and the medicinal plants that will be destroyed if the water is destroyed. The water is the source of all of our life, the water and our Mother Earth. So I guess that's really all I have to say. I do have another little note here that South Dakota became a state in 1889, so that		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			means our Lakota brothers and sisters were placed in prisoner of war camps before South Dakota was a state. I believe the number for Pine Ridge is 344 POW camp -- does anybody know? I maybe have the number wrong. But they have all numbers, and they are all prisoner of war camps. Oh, I did think of something more to say. When I go to various events on Pine Ridge, I make it a point to listen more than I talk. And at the funeral of a young suicide victim, I learned from one of his older relatives that in the Dewey-Burdock area -- which, by the way, is part of the land that has been ruled by the United States Supreme Court as being unlawfully taken. I learned from her that in the '50s or '60s, a person went exploring in this area, a white person went exploring in this area and came upon some places where Lakota people had camped after the genocide tactic of smallpox in the blankets had been employed against them, and this person disturbed a burial site and came down with smallpox. But it's a hidden history. There's probably not a record of it anywhere, but the people know. And so if you poison the water that goes onto the reservations, which are actually prisoner of war camps, that would be a continuation of genocide, and I hope you decide against that.		
8050 (10/5 Hot Springs hearing)	Ex. 6 Personal Privacy (PP)	Individual	Bark box. That's what it says on this box here, so I guess we're barking up here. I'll start howling then. No. Environmental Protection Agency. You know, the Lakota people, for centuries untold, believed that we as a human being are reflective of a healthy environment. This is a very important job that the Environmental Protection Agency has seen for itself. It came on the heels of a -- where industry taught us how we can set water on fire, rivers on fire in this country because of unregulated commercial interests and corporate interests. So as we must, as a people, as a two-legged being -- I'm not going to say it's Lakota or German or English or whatever the case may be.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			As a human being, a two-legged being on one world, that should be reflecting a beautiful life that we should all enjoy, that means pure water, pure air, pure thoughts. This is the thing that is the challenge that is in front of us. A lot of times the United States Government always say, These are aspirations, these are goals. But for whom? Our grandchildren? Their grandchildren? This is the question that we must always ask in these type of culturally significant endeavors that we are undertaking as a group of people. People in the United States should see the U.S. as home, not a commodity, not something that can be sold, traded, or bartered. But we should see it as home. See the soul of this land. See the spirit that is in this land. I know that the agency, federal agencies take it upon themselves to do something called a separation of church and government, of state and government. These are the things that are used to confuse people, especially people who believe that there is a greater being that is taking care of us as a human being, that we have a responsibility to all those things that make up this beautiful Earth that we live on. We don't have it, not for ourselves, but for the future generations that are coming. This is what's most important. If you are going to have children, make sure they have fresh water. If you are going to celebrate your grandchildren, make sure they have fresh air. These things will lead to a healthy life, healthy thinking. This is what we're talking about. And we do something, we always say, we do it in the eyes of the seventh generation. This is the most important. Because if we didn't think that our great-great-great-great-great- grandfathers thought that way, then we wouldn't be here today. We decided to stand with Mother Earth. We decided to pray with Mother Earth. We don't see ourselves as cutting hair of our grandmother. We don't take her liver. We don't take her soul. We don't take her -- the beautiful things that she brought to us in this life.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			We see ourselves as the most humblest part of the creation. Because as a human being, we are totally dependent on everything being right in Mother Nature. If we cannot have these beautiful things that Mother Earth has provided for us, then all is lost. The human being cannot live without Mother Earth. Mother Earth can live without us. We are just a gift, and we must treat that gift in a very special, sacred way. And this is the reason why we are so adamant. And I will second that thought, what that young man said: Respect us or expect us. This is what we are saying. And we're going to do it not because we do it for ourselves, but for the future generations. If you're going to have your children respect what you're saying and doing today, treat them right now. Now. Do away with your draft permitting process. We have the in-situ mining in Crow Butte and out there in Crawford, Nebraska, operating without a permit for 35 years now. And also think about that: Why do we need uranium? It is one of the most destructive things ever produced. Ask the Japanese people what happened to them. Ask the young lady that was here with Chernobyl. These are the kinds of things that we have to think about because there is nothing good about uranium. It's polluting for generational, and it's deadly. Thank you. PRESIDING OFFICER HALL: Can you state your name. Please state your name for the record. ROBERT MILO YELLOWHAIR: My name is Milo Yellowhair. I'm a member of the Oglala Lakota people. And I'm a proud member of the American Indian Movement.		
8050 (10/5 Hot Springs hearing)	Ex. 6 Personal Privacy (PP)	Individual	Good afternoon. I'm from the Oglala Lakota nation. My name is Leola One Feather. My Lakocaje (speaking in indigenous language).	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			My granddaughter [redacted]s with me today. And she's going to be our new scientist, so she's coming to hearings. I am here today because I am testifying on my behalf that I'm a uranium-poisoned victim. How I got poisoning was where I live in Wounded Knee. Our water had become extremely contaminated from the water, our well where it sat and the dump and our broken lagoon. Because we were declared an independent nation in 1973, the Department of Interior has never helped our community to build anything. We live on a massacre site that shows that the numbers on interpretation are deadly wrong. There are 424 people who died as a result of a policy that the United States made against us. General Sherman said -- and I testified to this two years ago, three years ago in the same building. General Sherman made a policy against us, and that was to kill the women and the children, too. And the people they were at war with at that time in the 1800s were the Lakota, Arapaho, and Cheyenne women. So we are the only women in this country, besides to the west of us, that actually have a war policy that has not -- to this day, I have not seen that executive order from the military removed. So I questioned that because of several years ago when I got the toxicity. It was a discovery from a well on our reservation. And I had 26 elements in my body. I had everything -- barium, cadmium, I was off the page on aluminum, mercury, and -- cadmium. As I researched this, I began to find my own answers. And through my dear friend who is in the audience today, Michelle, we got a grant through our college and tested our wells, and found 22 of these wells were contaminated with heavy metals that had migrated into our aquifer. And at that time when I got sick, I have a 12-year-old grandson, I have a 15-year-old granddaughter that had to have open heart		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			surgery. She has Down syndrome. We kept her on bottled water and -- because I was sick and I could not work, I could not afford bottled water. When we drank this water delivered to her, she ended with a hole in her heart and in her lungs. So my little granddaughter had to go under a knife and have her rib cage broken open to tear her heart out to stitch it, and her lungs. I wrote a story on it. You can look for it. The story is called, "Just One Stitch." My next grandson was born; he weighed 1 pound and 9 ounces. The same water. And I wrote a story about him, "1.9 Ounces" [sic]. He's 15 years old today. Anna May is 16. The following year, the children that are 12, 13 years old, 13, 68 babies were born at Pine Ridge Indian Hospital C-section because the placenta had gone atrophic. It was dead, and it was dying. Just like our dams and our reservoirs, when heavy metal gets to the bottom of it, it starts to deliver very heavy metal that we drink. So I am a very, very upset grandmother that this was allowed to happen to my grandchildren. And I'm very angry, so I did something about it. I worked on a water project to bring a plumbing system into our community. And as of today, we still have a broken lagoon. We still have a dump that is not thoroughly cleaned, and we're still drinking Missouri River Water when we have perfectly fine water on our reservation and close to it because the aquifer is that close to the surface. Why did that happen? Because our water is being reserved for farmers and ranchers so that they can have a good quality of life. And cows are better taken care of than our own Indian children. 66,000 head of cows that we're going to nurture. You know, our children study science. They know how much methane gas is escaping into environment, how much of that would be going into our water in the form of E. coli. My mother died of E. coli. My grandmother died up here in the Veterans Administration.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			When the Japanese bombed Pearl Harbor, my grandma joined the Army, and she served this country. She became one of the first women drill sergeants in this country. And I'm very proud of her. She made me strong. And when she was done, she joined the Air Force so she could help people, poor people in the Appalachian Mountains, places where the government forgot people. Delivered medicine to them because they were poor. She didn't see that they were white. She seen that they were human. And that's what we are. We must look at this country and what it has done. And today we're fighting for this community because we have a treaty. And if all the people in this part of the country honor our treaty and come under it, I'm sure we can protect you a lot better than what this country has been doing for you. We fought for this land. Not -- down the road right here just a few miles by Warbonnet, when the -- they opened up this mining to come here and let the soldiers invade and let those poor people who wanted to have life, they didn't know that this was our land. They said, Go ahead, take it. Kill them on the way. So there was a battle here close by. And our 9/11 is 9/11/1876 when the Black Hills commissioner set up their town in Deadwood, South Dakota, to rob us of our gold and our silver. But the side effects are devastating. All the people who used mercury, cyanide, and arsenic? Where did they go? Did they have children? I'm sure they didn't. And that's what we're talking about. So in the future, my little granddaughter here, I want to assure her that I will have great-grandchildren. We are being studied now by people in Russia to look at the structure of our womb to see if in the future we will give birth. We can look at all of these things. And especially because I'm a surveyor, I'm an astronomer, with the Dewey-Burdock area, they never allow us to go in there. I was a surveyor when General -- Governor -- call him a general, whatever -- Janklow and Kevin		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			Schieffer privatized South Dakota transportation money to revamp a new railroad. And thank God there's people like Bruce Murdock and Mark Kammerer, Lilias Jarding that understand what we're talking about, cultural landscaping -- PRESIDING OFFICER HALL: Ms. -- LEOLA ONE FEATHER: -- that you can't destroy one site to save another. So this is my testimony, that we have never been given all of that so we can survey. And our time does not say that we did not see the Black Hills until the 1700s, which NRC is using. We have been here for way more than a million years. PRESIDING OFFICER HALL: Ms. One Feather -- LEOLA ONE FEATHER: So I'd like to thank you today for listening to me and that my grandchildren are getting better. I have taken Indian medicine, and I know that the Creator gave me time on Earth so that I could share this with you, and so that we can fix it before it gets too wrong. So thank you very much and mitakuye oyasin.		
8050 (10/5 Hot Springs hearing)	Ex. 6 Personal Privacy (PP)	Individual	Good afternoon. I'm not up here to try to be a speechmaker of any kind, so just bear with me a moment because I just felt like I, as a human being, need to get up here and be a human being first of all. And what I was taught is the first thing... (pause.) And my brother, Milo Yellowhair, I think said it best, the whole thing what I was thinking anyway when I was sitting there listening all day. And you gave the opportunity for us to come up there and speak like -- like people are supposed to, speak out, whatever. You give us opportunity to come up here and express what needs to be expressed.	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			The things that come across my mind are, the questions are: Have you ever heard about the 1868 treaty? Do you know it? Why hasn't the government ever honored that treaty with us after they found the gold in our hills? And why did they end up killing all our people over it? And never was there consultation of them opening to colonization in this territory for us. It was the Great Sioux Reservation in 1868. It was. It stood. And everybody knew that in America. It was our land, and you left us alone for a brief minute until you found the gold. And then you came and ravaged our land and killed our people almost extinct with the buffalo. Remember the one that became the national symbol recently? There's so much hypocrisy with this government. They've never lived up to the treaties, never. They treat us -- we're the second-rate citizens in this country. We should be like the Saudis. That gold came out of our hills. Do you know the creation -- our creation stories? Have you heard of our creation stories? We came out of the Black Hills. We came out of Wind Cave. That's what they've told us all our whole lives. That's our -- where we came from. We've always been around here. What they call South Dakota, North Dakota, all this region, we've always been here. That's why they made all these reservations around here, around the Great Sioux Reservation. All those prisoners of war camps are all in our -- what they gave us after they found the gold and before colonization. They never honored that. They just killed us, and then put us on -- into prisoner of war camps. But we always spoke up, and we've always resisted. And we became radicals, or whatever they want to call it, for people that want to stand up and save their lives and their people. You know that's true. There's nothing that's changed. It's not -- the history books say that, and they still say that. And we're		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			saying that we made it to now. We're resilient. We made it. Look at us. We can speak our language, sing our songs still. We're here dancing. And we're still around after what was done to us and is being done to us with our water. We've always protected our water. That's what we were about. We were the natural people. That's what we were about. That wasn't -- we didn't give that up; that was taken away. That was taken from us. And so we're trying to reclaim it. And we are because we're here, and you're trying to listen to us and ask us. But you know as human beings, you know as human beings -- you're a mother, sister, grandmother. I am. So I'm appealing to that part of you because we're talking about the future. We're talking about the future of the planet. We're talking about the future of our -- all people. We happen to be the first people, the first nation here. So we get to say. You get to hear us. Yay. I hope you do. I think you do. I feel your heart connected to mine personally. I just said that because I met you two out in the hallway, and I'm thinking of you. I hope you're thinking of my people. I just hope you are. I hope you both, all of you are, all the EPA or whatever. Anyway, Tina Baldomaro, Standing Rock Sioux Tribe, American Indian Movement.		
8050 (10/5 Hot Springs hearing)	Ex. 5 Deliberative Process (DP)	Individual	Hello, ladies. Hello, people. Misty Plenty Wolf here, my daughter, and my niece representing the Oglala Lakota future warriors up here. So, appreciate all our people for coming out and speaking up, voicing what the rest of the people won't say. And so with that, we heard about the creation story. I don't know if anyone come up to speak on the creation story or if it's recorded in your books or anything. But because everything has been said, that's what I want to go back to, the beginning of the time.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			I want to read the creation story. I've heard it a bunch of times, but I've never got to speak on it. So before today, there was another world before this one. But the people in that world did not behave themselves, just like today. Displeased, the Great Spirit set out to make a new world. He sang several songs to bring rain, and he poured stronger with each song. He sang the fourth song, the Earth split apart and water gushed up through the many cracks, causing a flood. By the time the rain stopped, all the people and nearly all the animals had drowned. Only Kangi, the crow, survived. And Kangi pleaded with the Great Spirit to make him a new place to rest. So the Great Spirit decided the time had come to make his new world. From his huge pipe bag, which contained all types of animals and birds, the Great Spirit selected only four, four known animals that had the ability to remain underwater for a long time. He sent each in turn to retrieve a lump of mud from beneath the floodwaters. The first was the loon dove -- the loon, he dove deep into the dark waters, but it was unable to reach the bottom. Ptan, the otter, even with his strong webbed feet also failed. Next the capa, beaver, used its large flat tail to propel itself deep under the water, but it too brought nothing back. Finally, the Great Spirit took keya, the turtle, from his pipe bag and urged it to bring back some mud. And the turtle, the keya, stayed under the water for so long that everyone was sure that it drowned. Then all of a sudden, a splash came, and the turtle broke through the water, through the water surface with mud filled in his feet and claws and in the cracks between its upper and lower shells. Singing, the Great Spirit shaped the mud in his hands and spread it on the water where it was just big enough for himself and the crow. He then shook two long eagle wings over the mud until Earth spread wide and varied, overcoming the waters.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			Feeling sadness for the dry land, the Great Spirit cried tears that became oceans, streams, and lakes. He named the new land Turtle Island on behalf of keya, the turtle. So in honor of the turtle, which provided the mud that formed the land, the Great Spirit then took many animals and birds from his great pipe bag and spread them across the land. The Great Spirit took many -- took the four -- He -- then, from the red, white, black, and yellow Earth, he made men and women. The Great Spirit gave the people his sacred pipe bag and told them to live by it, and we warned them about the fate of the people who came before them. He promised all would be well if all living things learned to live in harmony, but the world would be destroyed again if they made it bad and ugly. And so with that, he gave each man the responsibility, the red, yellow, white and black man. He gave the black man the waters to keep clean. He gave the yellow man the air to keep clean. He gave white people -- wait. He gave the red man the Earth to protect, to keep clean. And then that leaves you guys, the fire. But white people, they forget real easily where they come from and who they are. And so getting bored and mundane feelings, not realizing that they are sacred beings, they start abusing it. We all know what the white man did with the fire, turned around and made bombs and destructed everything -- destroyed everything, caused mass destruction. To this day, we see it no matter where we look. And we know the airs are polluted. The yellow man got all the massive plants and all that pollution in the air out there. They can't even breathe their air out there in those countries, China and whatnot. And then you see our waters all being destroyed because, you know, no one likes to stand up for what's right anymore. They		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			don't like to take responsibility, and they like to try to push it off on someone else. Now, I don't know who gave you guys the right to sit behind that and take our comments and hear what we have to say. But to all your bosses, whoever made them bosses, you guys ain't no boss. You guys don't control us, and you guys don't control the land. You guys don't protect it. You guys don't even honor yourselves. You bring us out here to our lands, where we come from. Wind Cave out there, that's where we come from. These lands are our lands. There was a Great Race around this, the heart of Turtle Island, because of this very thing, the destruction, the disrespect. And so it was up to the animal nation to go have this Great Race for the sake of human beings, whether we were -- had the right to even live, to speak, to breathe, to eat. And so that Great Race happened. And all the great animals that thought they had -- they had it in them to win ended up giving out. There was only one because he took his time to honor who he was. He knew he wasn't fast or -- he could be, but he knew he would get burned out. That was the magpie, the black and white. So it was up to the magpie to decide whether we had even a chance to even be alive. They should have just took us out. PRESIDING OFFICER HALL: You need to start wrapping up your comments, please. MISTY PLENTY WOLF: Well, that magpie didn't give up. And so he said yeah because they have a heart. They have compassion in there somewhere. As evil as their minds could be, their heart is good because they come from the Earth. They come from the heart of creation. Now, I don't know what to tell you guys or what you could tell to your bosses, or you sitting over there with your papers and all the people you guys sit under.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			I don't know how much money it would take for you guys to do what's right, you know. We can't pay you off. But we can give you some clean drinking water to take home. We can make sure of that. You know, we can give you advice, say go grow some plants. Hemp is a better alternative than all this. We can build. We can create. We can do a lot than what this uranium does for us. You guys know this. What are you doing? You got uranium in your bottle there? PRESIDING OFFICER HALL: So you're out of time. You're far over time. I'm going to have to ask you to conclude your remarks. MISTY PLENTY WOLF: Well, I'm on borrowed time. I got their time, they got mine. I'm here because of them, they're here because of us. Seven generations back, seven generations forward. You know, there's universal laws, star laws, spiritual laws that all these -- this paperwork and this microphone won't ever count up or live up to. So with all the love in my heart and all the time that I'm borrowing on, I hope you guys do what's right. Get through to your boss's boss's boss's boss and tell them to do something bad with themselves instead of doing something bad to our water. Tell them we don't need uranium. We don't need the fossil fuels. We don't need all this destruction. And we don't need you if you don't need us or any of what's valuable in this life. PRESIDING OFFICER HALL: Thank you for your comments. MISTY PLENTY WOLF: Uh-huh. Mitakuye oyasin.		
8050 (10/5 Hot Springs hearing)	Ex. 6 Personal Privacy (PP)	Individual	Okay. My name is Tonia Stands, and I am from Oglala, South Dakota. And I could say that I grew up in this area in Hot Springs. And ever since I was a little girl, my grandmothers and my grandfathers brought me here to pray. And at a young age I started running a -- we call it the Sacred Hoop Run around the Black Hills to honor our spiritual obligation to	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			protect the waters and to protect the silent nations. And the silent nations are the animals that don't have a voice. And they are not animals. They are -- you know, that's the -- they're our relatives. And when they -- earlier they were talking about the Great Race. And when we ran it, we were all in the same language. We could all share the same language and communicate with each other. And the reason I want to, you know, talk about that, because we have that. We are those people that won that Great Race around the Black Hills. And the reason that, you know, we have this obligation is that, you know, we're in that time. We're in that time where the relatives don't have a voice to come here and talk to you personally. You sitting there, you have no kind of sense or logic that they are talking to you. They are just -- just a -- you have that eminent domain in your head that they're not -- they're not important. You sitting there, you have that disrespect towards them. And we're here. We're the people that have to remind you of that, that have to teach you about that. What we live in is a machine, money and progress. That's what you call it, progress. You're progressing into a nuclear state. You're progressing us into something that we can't even manage. We didn't even know Superfunds existed until the EPA -- the EPA started taking a look at it a long time ago. And now we're here, and it's going to be 2020. And again, you know, that was -- that was my idea that, you know, we have an EPA, they're going to protect the environment. You're not going to protect the environment. We all know your agency is in bed -- in bed with the system that's going to manipulate this progress, this so-called progress. You know, we went to the State of South Dakota's -- South Dakota legislation to change this culture of irrelevance to our sacred sites off the reservation. And that's another manipulated system. You		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			contain us to the reservation. But under those, our Black Hills are not for sale, you know. The genius minds and our spirituality, how our ancestors, they foresaw that, you know, you all would come and destroy the headwaters. That's why in those treaties it says "headwaters." We give no consent to that. Those headwaters that are below us, we lived down there. We came out of Wind Cave. Those aquifers that you're mining in, those are ours. They are in Lakota. We came out of that cave. And like it's something, you know, inferior to say you come out of a cave. Huh. You look at us and look how superior we are. Who in their right mind would go destroy headwater aquifers for the rest of these -- uranium, the radioactiveness. I don't care what kind of degree or experience you have. You just need common sense to understand that uranium is radioactive for billions of years. Put that in your vocab. Put that across your forehead. Billions of years. You're going to be long gone. We're going to destroy this Earth? Not me. But we come from here. We have the say. We have the right. And we're saying no, no to deep injection well. That's disgusting to think of that process. And that's our mother. Let's go put a bunch of waste in your stomach and see how well you do. Let's go inject some waste in your liver, in your brain, and let's see how well you do. These people don't have a choice. You're not giving them a choice. And we're not weaponizing our cultures, weaponizing anything. Our culture is peace. We come with wowachanoa, and that means peace. Go in your history books. It said that peace pipe. That's why we're here. We're in peace. Here's my five-minute mark. And I wish I could continue, but I -- I -- this is minimal. But again, think about that. Go home and put that on your forehead, billions of years. That's how -- what you're causing here.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
8050 (10/5 Hot Springs hearing)	Ex. 6 Personal Privacy (PP)	Individual	(Speaking in indigenous language.) First of all, I want to explain myself, as a spiritual leader and for spiritual leaders on Pine Ridge Reservation, how important these elements are for us, the connections we make. First of all, the fire; tate, the wind; and the water; and Unci Maka, Grandmother Earth. How she provided everything. She's the only one in our belief system that's woman. She provides everything for us. Skyscrapers, everything you see in the world, Grandmother Earth. And today, these corporations, this monopoly, this -- and as a head man of the Warrior Society, Black Hills Treaty Council, I came here before, I talked here before to different people. Not the same. I know they are not the same. (Speaking in indigenous language.) Everything that's on Earth, we are related to it all, the whole people. When we make a prayer, that's a universal prayer. It's not just for a certain group. No, it's universal. (Speaking in indigenous language.) Everything, I believe. America, it's so much dollar signs in their eyes. My grandpa talked about the eyes, you know, on the dollar bill. And he said something that he'd really -- and I believe him. (Speaking in indigenous language.) And today everything, money, money, money, money. People are given jobs to do something, and corporations get money. And (speaking in indigenous language). And they're going to ruin it for themself. And it's happening. It's happening today. (Speaking in indigenous language). You sit there wondering what I'm saying, what I -- what I like to see happen. (Speaking in indigenous language.) Corporations are out there doing this project over here. I wish they'd come to our reservation and talk to us spiritual -- talk to the people out there, not this here.	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			To me, this environment, come in here and talk and, (speaking in indigenous language). I don't have faith in you. I don't. Something's in the way. Something. I -- I don't know what it is. (Speaking in indigenous language.) Wish you would come down there and talk to the people. Why else are we here? Because there's a lot of concerned Lakotas over there. There's a lot of concerned Lakotas over there that are afraid to come here and talk. So when you say (Speaking in indigenous language). I'll tell you that much. And I wish you would look into that. We need for you and the corporations that are doing all the project out here to come out there and talk. Set it up. Make headline news so we will know. (Speaking in indigenous language.) That's all I just want to say.		
			The Lakota prophesy tells us that someday the Earth will weep. And if you do not help her, she will die. And you will die, too. This is what compels us as Lakota Oyate and Cheyenne people to come here and share our voice with you. I know you're not the decision-makers. They are someplace else. I know Powertech is probably in this room, wanting to contaminate our sacred lives. Your laws create regulations that can approve or deny permits. Do not choose to regulate us into extinction. Deny the permits.		
8050 (10/5 Hot Springs hearing)	Ex. 6 Personal Privacy (PP)	Individual	I can think of stories from my own culture, you know, from the 1800s how they would talk about going to the Badlands and finding this yellow dirt, and the stories conveying how the yellow dirt is not to be disturbed, even saying -- giving it a personality and saying it's a thing that likes to stay deep in the ground with probably the goal of having people not mess with it because, even back then, it would make people sick.	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			And supposedly with all the science and the expertise, it seems like people would know that. But I don't think the problem really is that they don't know it. I think it's entirely known.		
8193	Ex. 6 Personal Privacy (PP)	Individual	The Black Hills or the HeSapa are very sacred for us as they tell of our creation, our traditional teachings, it holds spaces for our spiritual ceremonies, and it provides our natural foods and plant medicines. It is also home to wildlife. This land is our "Church" and where we put our prayer altars -- it is known to us as "The Heart of Everything That Is." The HeSapa holds eons of memory in our DNA and Water is our main entity - Mni Wicozani; Water is Life. Water is Alive. Water is Sacred. Says so in the Christian Bible, too.	Ex. 5 Deliberative Process (DP)	

7. Concerns about general environmental impacts.

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
00124	Ex. 6 Personal Privacy (PP)	Individual	Fifth: In 5.0 it states that "potential environmental impacts will be minimized". There are two problems with this statement: a) It admits that environmental impacts will occur and b) it accepts the fact that they have no intention or do not have the ability to actually remediate these impacts just minimize them. This is not in the public interest and indeed violates state law regarding non-contamination of public waters. Of interest is 6.3.4.2 where it states that P/T will provide "95% confidence that the ...units"... will..." meet the cleanup guidelines or action levels". Minimum? 95% confidence? 95% of the cleanup guidelines is unacceptable and if that is the best they can do, then the permit needs to be denied. Indeed, P/T makes no offer to do anymore than what they decide is reasonable. Additionally, in 5.5, "Solid wastes such as pond sludge; soils contaminated by leaks; spills of loaded or spent IX resin; filter sand...parts; equipment...will be disposed of at an NRC... facility". This a very general statement which lacks specifics as to the method of gathering up all this radioactive contamination which will have drained into the soil in and outside of the permit area. The fact that they know about the leaks, (such as the dozens of leaks at Crowe Butte in Nebraska,) but cannot or will not prevent them must be cause for alarm. The public needs more assurance than this. 5.3.9.2 states only that erosion of disturbed areas will be minimized. There are three problems with this assurance. a) P/Ts admittance of the disturbed areas in the first place, b) they will not try to prevent any erosion outside	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			of the disturbed areas only minimize the erosion inside the disturbed areas and c) they admit that they will not even attempt to repair the erosion to its original state. Public health is not served by this cavalier attitude towards runoff prevention. In 5.3.4.4 it admits that " all grades will provide for natural runoff" which as we have seen only further guarantees the flowing of contamination into the creeks and rivers. In 5.4.2.2, In reference to hazardous waste and "used oil"? " it is likely that this project will be classified as a conditionally exempt small quantity generator". CESQG This classification allows for up to 1000kg of hazardous waste a month or 12000 kg a year. What if it isn't so classified? Well, then, P/T simply assumes that they will obtain "the appropriate approvals or permits". This expectation of creating hazardous waste that needs yet another permit or approval due to its dangerous qualities should cast additional doubt as to the viability of this company to properly handle the responsibilities of this kind of operation. Another concern is in 5.5.1.2.3, where it states that excursions must be reported within 24 hours but the permit allows for a delay in correction of the excursion up to 30 days. 30 days!!! This is not a minimization of contamination. With the DENR no longer authorized to monitor and inspect the mining operation due to SB158, the danger of failure to correct and the allowance of the problem to continue is very real. […] There are several situations that require the Mining Board to deny a permit of this kind (((They are 1-40-27: (1) (a) If the permittee has intentionally misrepresented a fact If the permittee has had any permit revoked (denied)under the environmental laws of any state. (Colorado comes to mind.) (2)The applicant substantially duplicates an application within the past 5 years that has been denied, the denial having not been reversed by a court of competent jurisdiction))) 45-6B-32: (6) The proposed mining operation and reclamation cannot be carried out in conformance with the requirements of 45-6B-35 (grading, disposal of refuse, removal and handling of topsoil, disturbance to hydrologic balance, slides-subsidence or damage protection-fencing, and reclamation)(-38 states will not pollute surface or ground water!!!)(-41 Disturbance to hydrologic balance. Any disturbance to the prevailing hydrologic balance of the affected land and of the surrounding area and to the quality and quantity of water in		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			surface and groundwater systems both during and after the mining operation and during reclamation shall be minimized.)		
00202	Ex. 6 Personal Privacy (PP)	Individual	The transportation of uranium is a whole other security issue that must be addressed, as are the chemicals used in the extraction process. Also, the EPA should evaluate the cleanup plans Azarga has in case of any spill, leak and/or contamination.	Ex. 6 Personal Privacy (PP)	
00261		Individual	8. Regarding the surface-application alternative. The proposal is to fence the area where contaminated water will be applied to keep out livestock and people. How will you assure that deer and pronghorn do not enter this area and consume grass with high levels of arsenic and radioactive elements, which can then enter the human food chain via hunting and consumption of these animals? Ex. 6 Personal Privacy (PP)		
00500, 00501		Individual	With regard to the ISR mining operation, many people might be concerned that sedimentation ponds will leak and contaminate ground water {which they have in other ISR locations), migratory birds will land in these ponds, insects will obtain water from them to become food for birds, West Nile virus will become more prevalent because of the breeding opportunities for mosquitoes among other things.		
00546		Oglala Sioux Tribe	The same problems exist where the EPA analysis lacks sufficient detail and simply requires plans to be submitted in the future to address other impacts, including air impacts, land disposal of radioactive waste, wildlife protections, and BMPs for storm water control. As discussed, for the most part, these mitigation measures are simply plans to make plans at some point in the future – outside of the public process and shielded from public review or comment. Such assurances, without any details as to the mitigation to be proposed and without evaluation of how effective these restorations efforts are expected to be, do not satisfy EPA's obligations.		
8268		Individual	Throughout these documents, the EPA appears to be relying heavily on the NRC and SD Department of Environment and Natural Resources draft permits/analyses. The DENR permits have not been issued, and while the NRC license is technically issued, it's tied up		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			in litigation. **The EPA is legally required to conduct its own environmental analysis**, not just rely on other agencies.		

8. Concerns for contamination of surface water and the Cheyenne River.

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
00116	Ex. 6 Personal Privacy (PP)	Individual	The continued pollution of the Cheyenne River will continue to impact the Wild Horse Sanctuary and other lands that border the Cheyenne River as well as the town of Edgemont.	Ex. 5 Deliberative Process (DP)	
00124		Individual	First: 5.6.2.1 of the application states that the slope of the permit area is 2 to 6 degrees to the SW. Due to the location of Pass Creek and Beaver Creek, this slope will force any drainage from leaks and spills and land applications of contaminants plus precipitation to flow SW into these creeks and thus to the Cheyenne River and to Angostora, the Pine Ridge and the Missouri River. This is especially true during heavy downpours such as we experienced this summer which created a 4 foot wall of water that derailed dozens of RR cars and the damaging flooding in the Boulder area which released gallons and gallons of contaminants. These floods will happen again. When they do, there will be precious little to prevent damage to the mining area, not to mention a flooding of the contaminants on the ground. As indicated in 3.39 of the application, and I quote, " the hazard for wind and water erosion... varies from negligible to extreme" "to extreme"! This obviously should be of "grave concern" to quote the Rapid CIty Council. And if the rainfall from our own downpours can cause a train derailment then it can cause other erosion as well. This indicates that the promises of safe containment should be considered questionable. [...] Third: Figures 3.4-17 and 3.4-20 show the open pit mines, the number of well holes and the down gradient and how the ore bodies on the east will flow directly into Pass Creek, and thence to Beaver Creek while the ore bodies on the west side will flow directly into Beaver Creek. In 34.5.3.9 P/Ts plans will account only for a 100 year flood. This plan does not take in account global warming, mega storms, floods, tornadoes, droughts etc. and plan to stop the flooding with a few well placed hay bales and ditches and berms. A 4 foot wall of water will not be controlled by these meagre		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			efforts. In 5.4.2.3.2 PT simply states that the runoff will be managed with no indication of how they will actually do it beyond the attempts mentioned. [...] There are several situations that require the Mining Board to deny a permit of this kind: [...] (2) Substantial disposition of sediment in stream or lake beds ,landslides or water pollution cannot be feasibly prevented THIS HAS BEEN ADMITTED AND APPLIES. THE PERMIT SHOULD BE DENIED		
00527	Ex. 6 Personal Privacy (PP)	Clean Water Alliance	Next, the various types of ponds should not be built where there are old drillholes. Best practices should be followed for all ponds to avoid leakage either through the bottom or through flooding. This includes at least the following: thick, high-quality double liners, clay liners, leak detection systems, procedures for frequent checking of leak detection systems, and the maintenance of substantial empty space in the ponds to accommodate flood events. It is not wise to build ponds in the 500-year floodplain, especially given the increase in flooding incidents in the area, and this practice should be proscribed. Similarly, the design of sediment control structures should protect from events larger than a 5-year, 24-hour precipitation event – especially because the mine and the ponds will be present for up to twenty years. This is a set-up for four spills from the ponds! This also goes to the EPA's finding that surface water impacts "should be minimal." They will not be minimal if a flood washes out sediment structures or over-tops a pond containing hazardous materials even once.	Ex. 6 Personal Privacy (PP)	
00532		Individual	**Artesian water** **(Exhibits TRT44, ELT4)** Artesian water is water that flows under pressure exerted by connected waters at higher elevations. The presence of artesian water in the licensed area clearly demonstrates such connections, and that there is communication of water between the aquifers on site and offsite. Artesian flow allows the rapid transfer of water along the subsurface conduits through which it flows, and greatly increases the likelihood of large amounts of highly contaminated subsurface water reaching the surface and		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			contaminating it. In my expert opinion, artesian flow demonstrates a lack of containment at the site and poses a significant risk of unexpected, serious contamination of the Cheyenne River and its tributaries.		
00546	Ex. 6 Personal Privacy (PP)	Oglala Sioux Tribe	This actual risk posed to water quality in the Cheyenne River watershed is likewise discounted in EPA's *Draft Cumulative Effects Analysis.* The analysis fails to calculate the cornbined impact of the risk posed by the Dewey-Burdock wells with the impoundment of the Cheyenne River at the Bureau of Reclamation Angostura Unit. Angostura Dam dirp_inishes the water flows of the Cheyenne River on the Pine Ridge Indian Reservation. It interrupts the high spring flows needed for cottonwood regeneration, diminishing the abµndance of important plant species µsed by the Lakota people in ceremonies. Operation of the dam also degrades wildlife habitat on the Pine Ridge Indian Reservation. The return flows from irrigation contain pesticides, heavy metals, and sodium.	Ex. 5 Deliberative Process (DP)	
00546		Oglala Sioux Tribe	According to the South Dakota Department of Environment and Natural Resources: The Cheyenne River water quality continues to be generally poor, due to both natural and agricultural sources ... During normal or lower flow periods, the upper Cheyenne often exceeds irrigation water quality standards for specific conductance and sodium absorption ratio. (SD DENR, 2016 Integrated Report for Surface Water Quality, p. 89). Dewey-Burdock imposes additional risk to an already-impaired Cheyenne River watershed. The cumulative impact of the risk posed by the injection of waste from in situ Uranium extraction with the degradation caused by the Angostura Unit is necessary. However, the EPA *Draft Cumulative Effects Analysis* fails to do so. Moreover, the accumulation of heavy metals and radionuclides at Angostura must be taken into account by EPA. According to Sharma, et al: Delta sediments of Angostura Reservoir were markedly enriched in V, Zn, and U. Uranium was also elevated from the mine spoil and drainages at near U mines sampled near Dewey ... Generally, elevated heavy metal concentration existed in both the upper and lower reaches of the Cheyenne River catchment, with higher concentration in the upper reaches indicative of rapid sedimentation processes.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			Rohit Sharma, et al, *Stream Sediment Geochemistry of the Upper Cheyenne River Watershed within the Abandoned Uranium Mining Region of the Southern Black Hills, South Dakota, USA,* ENVIRON. EARTH. SCI. (2016) 75:823. Thus, researchers from the S.D. School of Mines and Technology have uncovered that uranium and mining waste have contaminated the upper Cheyenne River. Contaminants have migrated to Angostura Reservoir, and the active transportation process threatens the Pine Ridge Indian Reservation downstream. The EPA fails to give adequate consideration to the combined risk posed by this pollution with the proposed injection of mining waste at Dewey-Burdock. As a result, the *Draft Cumulative Effects Analysis* fails to accurately describe the risk posed to the Oglala Sioux Tribe. Ultimately, the proposed Dewey-Burdock injection wells pose a risk of potential migration of injectate, through faults and secondary porosity in areas connecting with artesian springs. As a result, the proposed waste injection project directly jeopardizes the waters of the Oglala Sioux Tribe. EPA must deny the Dewey-Burdock permit.		
00555	Ex. 6 Personal Privacy (PP)	Standing Rock Sioux Tribe	The EPA acknowledges that there is downward flow from the Minnelusa formation into the Madison formation, but discounts the potential for migration upward. (EPA, Dewey-Burdock Class V Draft Area Permit Fact Sheet, p. 30). The Madison aquifer is the source for artesian springs in this area. Contamination of the Madison formation potentially impacts surface water through artesian springs. According to USGS, Aquifer interactions can occur at artesian springs, which discharge about one-half of average recharge to the Madison and Minnelusa aquifers in the Black Hills area. Various investigators have hypothesized that the Madison aquifer is the primary source for many artesian springs. (Naus et al, Geochemistry of the Madison and Minnelusa Aquifers in the Black Hills Area, South Dakota, Water Resources Investigations Report 01-4129, 2001, p. 2).	Ex. 5 Deliberative Process (DP)	
00565		Thunder Valley Community Development Corporation	The old uranium mines to the northwest - in the immediate area where Powertech wants to re-start mining - leach contaminants into the Cheyenne River, which crosses the corner of our reservation. The Cheyenne River was the scene of a 1962 accident. One hundred square meters of uranium mill tailings ended up in the River at that time, and the old mines steadily leach into the River. Recent studies by a South Dakota School of Mines professor and others found that uranium levels are elevated at the mouth of Angostura Reservoir (between the old mines and the reservation). So we		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			have reasons not to trust uranium companies when they say that modern technology and corporate responsibility will protect us.		

9. Concerns about impacts to aquifers & contamination of drinking water (including future need for water due to effects of climate change).

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
00015	Ex. 6 Personal Privacy (PP)	Individual	The history of uranium mining indicates that uranium mining cannot be done without creating and leaving contamination. Groundwater has never been returned to its original condition at any In-Situ leach uranium mine in the U.S. These permits should not be issued until it can be demonstrated that groundwater resources will be protected. DISGUSTED VOTER	Ex. 5 Deliberative Process (DP)	
00024		Individual	Subject: Re: Dewey-Burdock templates This letter is in reference to the Underground Injection Control Program's Draft Permits for the Proposed Dewey-Burdock Uranium Mine and Deep Disposal Wells. History tells us that uranium mining cannot be done without creating and leaving contamination. In the past, groundwater has never been returned to its original condition at any In-Situ leach uranium mine in the U.S. [...] Considering these issues, it would be impossible to contain mining fluids and waste liquids. The likelihood of contamination of groundwater is extremely high. Additionally, liquid wastes pumped into the Minnelusa Formation through the proposed deep disposal wells is highly likely to be insufficient; again this raises the probability of groundwater contamination.		
00134		Individual	Your presentation gave me the impression that the EPAthinks that the Minnelusa aquifer is not used for drinking water. As I mentioned in my spoken testimony in Rapid City, the Minnelusa aquifer is a drinking water source for many people according to our state Department of Environment and Natural Resources. I recall hearing one member of the public standing at the podium and saying that said her grandson is drinking Minnelusa water.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			It is appalling to realize that EPAstaff members are unaware of the indisputable fact that the Minnelusa aquifer is indeed a drinking water source for many South Dakotans.		
00160	Ex. 6 Personal Privacy (PP)	Individual	There are issues that arise when evaluating the safety and potential consequences of tampering with uranium, especially within/close to these aquifers. One major concern is that these deep injection wells are supposed to place this wastewater into the Minnelusa Formation where it will hopefully continue to remain and prevent any harm, but the threat is still there (EPAa, 2016). The water isn't guaranteed to stay within the Minnelusa Formation as the USGS has identified that, "Fracturing from folding and brecciation near the outcrop may have increased the permeability of the lower part of the Minnelusa a considerable, but unknown, amount" (Kyllonen, D. P., & Peter, K. D., 1987). This is obviously concerning to know that this wastewater may not remain within the Minnelusa Formation and permeate through, especially considering how many other aquifers are in the surrounding areas. It even states on EPA's UIC website that, "This disposal can pose a threat to ground water quality if not managed properly," and "The different types of Class V wells pose various threats" (EPAa, 2016). While precautionary measures can be taken, there is absolutely no guarantee that Powertech will be able to properly manage and avoid potential accidents/threats from occurring.	Ex. 5 Deliberative Process (DP)	
00166		Individual	I haul my family's drinking water from a minnelusa well. (see attached well log data from Ferguson well adjacent to Belitz 320 ft well. Belitz well log is missing) (note flowing cave in Ferguson well). These proposed mining activities pose a risk to my Inyan Kara water by undetected or late detected excursions as I am down gradient from the mining activity. UIC Class V area Permit for deep injection wells that would be used to dispose of in situ mining waste fluids into the Minnelusa Formation. The Minnelusa aquifer is a high quality and well utilized aquifer in the southern black hills. In addition to the domestic Minnelusa well that we haul drinking water from, this aquifer sits approximately 1000 ft below my property making it a potential drinking water source for my family and livestock for generations to come. According to "Atlas of Water Resources of the Black Hills", the Minnelusa Aquifer flows from the proposed ISL site to		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			my property. The contaminates injected are likely to pollute this potential drinking water source sometime in the future. When I spoke with 4 Hydrologists at the USGS on March 29 th 2017, I learned the following. Yes, the flow model (Fig. 114, pg.103 Atlas of Water Resources of the Black Hills) does indicate the Minnelusa flowing from Dewey / Burdock to the south east. However, you can not just look at this model. The water in these aquifers, can be really hard to track their flow. In cave environments such as the Minnelusa , underground water almost flows like a river. There are local and regional impacts on the flow systems that are not indicated on Fig. 114. According to a National Water Data Base, there are a minimum of 125 wells drilled into the Minnelusa Aquifer in Fall River County. I believe there are more. My Families Well was drilled approximately 20 years ago and there is no record of it in the current State DENR Well log data site. Speaking with a DENR employee May 9 th ,2017, I was told that many well logs were not submitted especially those during or before the 1980's. We know that the Minnelusa and the Madison (a highly utilized and extremely important aquifer) mix. The USGS Atlas of Water Resources of the Black Hills, Pg 109 Table 13 indicates Cascade Springs is mostly Madison with dissolved Minnelusa minerals. Cascade Springs is also a utilized drinking water source, Cascade falls is a highly visited swimming area attraction, and the 1880 irrigation system from this source provides water for over 1000 acres of hay, fruit and vegetable production and livestock watering ponds for area land owners including my own pond, hay fields, and apple orchard. The Minnelusa Formation is overlain by the Opeche Shale, which separates the Minnelusa aquifer from the Minnekahta aquifer. The Minnelusa aquifer often is hydraulically separated from the underlying Madison aquifer by shales in the lower portion of the Minnelusa Formation. However, in many areas the Minnelusa aquifer is in hydraulic connection with the Madison aquifer. (https://pubs.usgs.gov/ha/ha745c/ha745cIntro.html Potentiometric Surface of the Minnelusa Aquifer in the Black Hills Area, South Dakota By Michael L. Strobel and Joel M. Galloway, U.S. Geological Survey; and Ghaith R. Hamade and Gregory J. Jarrell, South Dakota School of Mines and Technology U.S. GEOLOGICAL SURVEY Hydrologic Investigations Atlas HA-745-C		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			Prepared in cooperation with the South Dakota Department of Environment and Natural Resources and the West Dakota Water Development District) Information on Deep Well injection in North Dakota State geologist Ed Murphy says injection wells are required to be drilled into the Dakota Group zone, a layer about 5,000 feet down where the Inyan Kara sandstone formation provides a porous container for the liquid. (LAUREN DONOVAN Bismarck Tribune Mar 31, 2016) Other requirements for the permitting process: ● SWD's over shallow aquifers require a geotechnical analysis by a qualified, independent contractor before a proposed location will be considered. This is to determine the suitability of the shallow subsurface geology to protect the shallow aquifer. ● Injection must be into a formation with an upper and lower confining zone to prevent migration of fluids into other formations or fresh water zones. In North Dakota, the disposal zone is typically one half mile to one mile below the surface, into the Dakota Group. (https://www.dmr.nd.gov/oilgas/undergroundfaq.asp#mr10) Because of this scientific data, I believe the EPA should not even consider permitting a UIC Class V area Permit for deep injection wells that would be used to dispose of in situ mining waste fluids into the Minnelusa Formation. The Minnelusa is too shallow, it is unconfined, it is known to mix with a very important aquifer, and is itself is an important and currently used aquifer. Thank you for protecting our water,		
00262	Ex. 6 Personal Privacy (PP)	Individual	If the the Class 3 permit is approved, the EPA should include a detailed analysis of current leaking abandoned mine impacts on groundwater, as well as locating and proper reclamation of all the open boreholes to repair the previously damaged confining layers, as the NRC has done. • There is no description of the kind of wastes that might be injected in the Class 5 injection wells, nor toxic metals, so that correct monitoring for potential contamination of downstream private wells could be done. Currently, no documentation is required for incoming wastes, from other areas or countries, destined for the deep injection wells. This needs to be done as all of Powertech's wastewater will contain heavy metals, including unrecoverable organified uranium and other unrecoverable and un-filterable toxic and heavy metals, along with radioactive metals.	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			Powertech's waste water does not qualify as non-hazardous. If it could be considered non-hazardous, then it would most certainly be used for agriculture or other purposes in this semi-arid climate (where clean water is always in demand). The “airing out” of radon from the waste water via evaporation ponds should not qualify as a corrective treatment for Class 1 radioactive and heavy metal waste into Class 5 deep injection wells. The lack of information in the Powertech application, with so many blanks to be filled in later, says to oversight regulatory agencies “Just give us the permit and we will fill in the blanks later”, which was also advised by the corrupt DENR, of whom, who many are stock holders in Powertech. EPA should be where this buck stops. • Additionally, Powertech did its measurement of groundwater flow from East to West (from Dewey-Burdock to Dewey-Burdock Terrace on the Wyoming side of the Black Hills) while the water, according to USGS maps, actually flows from West to East. Powertech and the state of South Dakota seem to entirely disagree with hydrological flows in the application area. EPA should require Powertech to do the correct water flow analysis, from West to East as the correct direction of water flow, and to monitor plumes from the Class 5 wells. [HYPERLINK "https://pubs.usgs.gov/wri/wri024094/pdf/wri024094.pdf"] [...] The 4,000 foot Madison well at Igloo is already showing increased levels of arsenic, radioactivity and other heavy metals. Since the U.S. Army insists that the Black Hills Army Depot was not a nuclear or atomic site, I feel that the increased levels of heavy radioactive metals and arsenic are from the older uranium mines in the area from the 1950s has begun to enter the aquifer. • If we disturb the area with injection wells, bore holes etc., and force toxic sludge under pressure into the underground areas riddled with the massive Wind Cave structure, we will get the BHAD contaminants moving in the plume. These are soluble in oil and water. Deep injection wells will unleash a catastrophic moving lethal torrent underground that will kill everything it touches, borne by oil and water wells. That plume will flow directly towards the city of Hot Springs, poisoning the local Minnelusa wells, of which 22 on the west side are now. The state of SD only began keeping records of wells in the recent past, so there are many undocumented domestic wells where people do not even know what aquifer their wells are in or how deep they are. They will not know that they are drinking hazardous waste until their cattle all die and they get cancer. Poisoning a whole city and county should be fresh on the minds of the EPA from the Flint, Michigan fiasco, my home town. • The 22 domestic wells recently tested all showed very low uranium levels and low to very treatable TDS, and all families	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			but one were drinking the water, with only one using a softener and several just a sediment filter. Nobody was using an RO. • If the TDS elevates, the water will not be treatable and will contain high levels of organified uranium from the wastewater plume, an obvious tracer to the deep injection wells, since a baseline has now been established. Powertech/Azarga and the EPA will be the targets of a massive lawsuit, with the mining co undoubtedly filing bankruptcy, as they are known to do, and leaving EPA holding the bag for monetary claims. • The wastewater from Dewey Burdock mines will undoubtedly contain an even higher level of organified and unrecoverable uranium than that already documented from other ISL mine sites, because of the open boreholes contaminating the aquifers with micro organisms that are known to organify metals. Other organified toxic metals will also be elevated, increasing the toxicity of such by increased bioavailability and biochemistry in the living body. In Conclusion No ISL mines have ever have proven to be safe and free of excursions, or been able to be properly decommissioned with the mined aquifer restored to baseline chemistry levels, so that the water is drinkable and safely usable.		
00448	Ex. 6 Personal Privacy (PP)	Individual	Dear EPA Region 8 representative, I am writing to strongly urge you to deny the UIC Program Class V Area permits to construct and operate up to eight (8) deep injection wells within the Dewey-Burdock Project Boundary to be used for the disposal of treated uranium ISR process wastewater into the Minnelusa and Deadwood Formations. My husband and I recently purchased property in Hot Springs & relocated here for the natural beauty, peace, clean air & water afforded to a less populated part of the country. This is intended to be our place of retirement. I am deeply concerned about the prospect of our final residence being degraded and devalued by the potential contamination of our water supply. Our property, located at 2244 Minnekahta Ave, has a well in the Minnelusa Aquifer. The water is great and we currently use it extensively to grow organic vegetables, feed our animals as well as many other uses as needed outdoors. Since our property is 2 acres, it is large enough to sub-divide in the future if we so choose. Any additional structure we may build on our property could be tap into our well for potential household use. That is of course unless you approve this permit. These proposed permits for deep injection wells that would be used to dispose of ISR process waste fluids into the Minnelusa Formation is a real threat to our family, home &	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			community. For numerous reasons including; 1) The mining industries recurrent inability to properly manage these materials safely, 2) The Black Hills geology is not static and the sheer movement of earth allows for the materials to flow into our aquifers, 3) Uranium is known to cause harm to human health & 4) The potential of increased seismic activity could result in our town losing it's greatest resource, our water		
00464	Ex. 6 Personal Privacy (PP)	Individual	The USGS clarifies that there are no ISL operations that have ever cleaned or remediated or treated returned the mining back to baseline or original condition, none that have not contaminated the mining area and none that have not left ruined aquifers and other waters. The Dewey/Burdock area will not be cleaned. It may never be safe.	Ex. 5 Deliberative Process (DP)	
00471		Individual	Uranium mining pollutes groundwater. While the water in a uranium deposit may have high levels of uranium, the surrounding groundwater may be good quality. In fact, six dozen wells are found directly in the aquifer a company wants to mine in the southern Black Hills --and within 1-1 /4 miles of the planned mine site. Many of these wells are used for livestock and for homes, and they need protection. .		
00486		Individual	We are protesting the use of the minnelusa aquifer for dumping of haz waste ... and we are questioning the ability of Powertech/azarga to be able to detoxify the radioactive metals of vanadium, thorium, strontium, uranium, thallium and lead (which has radioactive forms) down to the levels of purity of stormwater that is required to be injected into a class 5 well that sits between and in two drinking water aquifers. (the Minnelusa is used for good quality drinking water in the area and the Madison). No such plan has been demonstrated by Powertecch/Azarga. And if such was even possible, that water would be worth gold in a high dry area of the country, and used for irrigation of crops and farm animal use, and treated with conventional water softener and RO at the sink for household drinking water, as the minnelusa is now in that area for TDS. It is the radioactive metals that are of concern. If that water was going to be so pure, then it would not have to be disposed of in a deep injection well int h e first place. [...]		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
		Ex. 5 Deliberative Process (DP)	**Poisoning the Well: How the Feds Let Industry Pollute the Nation's Underground Water Supply** "What they don't often consider is whether that waste will flow outside that zone of influence over time, and there is no doubt that it will," said Mike Wireman, a senior hydrologist with the EPA who has worked with the World Bank on global water supply issues. "Over decades, that water could discharge into a stream. It could seep into a well. If you are a rancher out there and you want to put a well in, it's difficult to find out if there is an exempted aquifer underneath your property." The biggest problem now, experts say, is that the EPA's criteria for evaluating applications are outdated. The rules - last revised nearly three decades ago - haven't adapted to improving water treatment technology and don't reflect the changing value and scarcity of fresh **water.**		

10. Other climate change-related comments.

Letter ID	Commenter Name	Commenter Org.	Text	
8286	Ex. 6 Personal Privacy (PP)	Individual	The climate change discussion in the EPA's documents ignores the greenhouse gases emitted during mining operations and throughout the uranium enrichment process, from transportation of the raw uranium for processing to fuel rod installation in nuclear reactors, as well as the eventual transport of spent fuel rods for permanent disposal. These emissions are significant and should be identified at each stage of the production, power generation and disposal chain and included in the discussion on the cumulative impacts of this project. Aquifer depletions and water quality impacts from ISL mining and climate change impacts should be discussed together. Floods are becoming more destructive in this area with climate change. Adjustments should be made to the "100-year flood" scenario that account for the increased severity and frequency of flooding events. Additional protections should be put in place for radioactive settling ponds, deep disposal wells, and mining structures.	

Letter ID	Commenter Name	Commenter Org.	Text	
			Thank you, Ex. 6 Personal Privacy (PP)	

11. Concerns about seismic activity related to injection activity.

Letter ID	Commenter Name	Commenter Org.	Text	
00261	Ex. 6 Personal Privacy (PP)	Individual Ex. 6 Personal Privacy (PP)	3. The application does not address the possibility of induced earthquakes from the waste-disposal wells needed in the proposed uranium extraction process, nor does it address the likelihood of eventual hydraulic fracturing to extract oil and gas in western Fall River County. According to USGS studies, deep wells used to dispose of wastewater from fracking can cause earthquakes as far as 10 miles from the location of an injection well: "Earthquakes can be induced at distances of 10 miles or more away from the injection point and at significantly greater depths than the injection point." Note that the Dewey Fault is only two miles from the proposed well sites. (USGS website, accessed 5/22/2017.) http://rapidcityjournal.com/news/local/seismic-crews-want-to-test-up-to-acres-northwestof/article_2d670e86-f90b-5db4-8bd6-19075034e04e.html What is the reason for assuming that neither natural nor induced earthquakes can happen in or near the project area and create disruption of confining strata and mixing of underground water bodies? 4. Further, the USGS studies demonstrate that injection wells can cause such earthquakes even without the presence of high-pressure injection. "In operations where engineers pour fluid down the well without added pressure at the wellhead still increase the fluid pressure within the formation and thus can induce earthquakes." (USGS website, accessed 5/22/2017.) Please explain why it is assumed here that the proposed wells cannot induce earthquakes, given the presence of relatively soft rock strata and geologic faults within and adjacent to the project area. 5. The USGS has developed methods to estimate the risk of such wells causing earthquakes. These methods have not been applied here. (USGS website, accessed 5/22/2017.) 3 Please clarify whether earthquake risk evaluation methods have been applied here and state the results of such evaluations. [...] 7. I also notice that the permit application makes no mention of a fault lying within the project area, which is described in Stratigraphic and Structural Controls of Uranium Deposits on Long Mountain, South Dakota, by William A. Braddock, US Geological Survey Bulletin 1063-A, 1957, page 51. Why was the presence of this fault omitted from the application?	

Letter ID	Commenter Name	Commenter Org.	Text	
00527	Ex. 6 Personal Privacy (PP)	Clean Water Alliance Ex. 5 Deliberative Process (DP)	The EPA also omits information in its discussion of seismic factors in the Class V Fact Sheet. It states that it is "not aware" of a seismic event causing an injection well to contaminate a USDW or of studies done to determine whether such contamination has occurred (p. 54). It then lists states that have been studied on this issue. The list omits states with injection wells that have been linked – at least in the media -- to seismic incidents, including Oklahoma, North Dakota, and Pennsylvania. The EPA may be "not aware" of some of the research, but it should be held to a higher standard and required to do the relevant research before omitting important information. We also searched the Class V Fact Sheet looking for a thorough discussion of the seismic characteristics of the proposed mining and injection area. The presence of faults in the immediate area is mentioned (pp. 22-23), but their potential impacts are never analyzed. Similarly in the Class III Fact Sheet, the mechanisms by which Fall River formation water comes up through the Dewey fault is never analyzed (p. 45).	

12. Concerns about hydraulic fracturing.

Letter ID	Commenter Name	Commenter Org.	Text	
00489	Ex. 6 Personal Privacy (PP)	Individual	Water is life – no fracking.	
07443		Individual	Subject: No TO FRACKING FOR URANIUM OR ANYTHING ELSE!!! from Geralynn Barner Sir or Madam, **USGS FINALLY ADMITS THAT FRACKING CAUSES EARTHQUAKES** Posted by Aaron Kesel | Mar 2, 2017 | NO, I SAY A THOUSAND TIMES NO! NO FRACKING TYPE ACTIVITY! PERIOD! Underground Injection Control **USGS FINALLY ADMITS THAT FRACKING CAUSES EARTHQUAKES**	
07460 (5/8 Rapid City hearing)		Individual	KRISTOPHER JAMES: Ya'at'eeh abini. My name is Kristopher James. I am Dine from the Dine -- from the Navajo nation down in Arizona. My -- I come from the Yoo'o Dine'e Todich'ii'nii. I was born for Kinyaa'aanii. And I came here to speak on behalf of my people.	

Letter ID	Commenter Name	Commenter Org.	Text	
			A lot of us are lost in the fracking minings down that way from the coal mines and the uranium spillage that is spilling into our waterways that is now water waste. And so, pretty much, our water source is -- is just straight jacked.	
07461 (5/9 Rapid City hearing)	Ex. 6 Personal Privacy (PP)	Individual	The sulfuric acid, whenever you put hydrochloric acid into the ground to cause a fracture, and that's what causes it, along with radon and all these other things. That's what they use to make sure the fracture. When it comes back up, it has so much sulfuric acid in it. You are talking about you got a problem with sulfur. You're about to put sulfur in sulfur. You're going to have a big problem. You cannot get rid of it.	
8050 (10/5 Hot Springs hearing)		Individual	One of the concerns -- and the res- -- People For Responsible Mining is, if you are pumping into rock layers, to pump water in, that is basically a fracking operation. And we have holes, and a fracking operation generates fissures, new areas that can cause problems. And we don't know where this pressure is going to be or where it's going to result. Now, you like to feel like you're in control of everything and regulating everything, but these radioactive wastes, some of them can generate up to 10,000 years. That goes back to the Ice Age and there -- if you put it back to the Ice Age, you still have radioactive things today.	

13. Concerns about the presence of faults, fractures, breccia pipes, historical exploration boreholes or any other breaches in confining zones.

Letter ID	Commenter Name	Commenter Org.	Text

14. Concerns about the proposed aquifer exemption.

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
00531	Ex. 6 Personal Privacy (PP)	Individual Ex. 5 Deliberative Process (DP)	**§146.4 Criteria for exempted aquifers.** The attached water test shows TDS and U levels below the secondary maximum contaminant levels established by EPA for potable drinking water. Based on these standards, the Minnelusa Aquifer sampled in this case is a valid source of drinking water, and, given that the USGS document cited earlier does not recognized barriers to	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			water flow within the aquifer, the Minnelusa Aquifer is ineligible for an aquifer exemption, and this residents potable water supply may be jeopardized by uncontained injected waste. [ATTACHMENT: test results from Midcontinent Testing Laboratories, Inc.]		
00553	Ex. 6 Personal Privacy (PP)	South Dakota DENR	Comments on the Aquifer Exemption Draft Record of Decision 13. Page 9, Option 2 - DENR recommends EPA select Option 2, plugging and abandonment of well 16. This is DEN R's preferred option because it eliminates the possibility of well 16 being used as a drinking water well in the future. 14. Page 12, Flow Rates Used in the Capture Zone Equation - In the first paragraph of this section replace "South Dakota State Engineer's Office" with "South Dakota Department of Environment and Natural Resources". 15. Page 14, Flow Rates Used in the Capture Zone Equation - in the third paragraph on this page replace "State Engineer" with "South Dakota Department of Environment and Natural Resources". 16. Page 18 - 19, Demonstration that the Injection Zone Fluids Will Remain within the Exempted Portion - DENR recommends EPA include a bullet describing the Class III Area Permit mechanical integrity requirements as an additional factor supporting EPA's conclusion that adjacent USDWs will not be impacted.	Ex. 5 Deliberative Process (DP)	
07461 (5/9 Rapid City hearing)		Individual	As recorded in this memorandum, EPA and Powertech work cooperatively to manipulate the status of the current drinking water use of water from targeted portions in the Inyan Kara group in order to eliminate the current use protection from exemption under the current 40 146.4 criteria, and then intend to eliminate the "or future source of drinking water" criteria by simply not considering future source of drinking water with this aquifer exemption proposal. If this proposed aquifer exemption were allowed to go through, future source of drinking water protection will be eliminated by this precedent-setting aquifer exemption. Currently by this study there are multiple wells drawn from the targeted portion of the Inyan Kara group aquifers that were historically and currently used for both human and livestock consumption. Many of these residences are currently abandoned, and therefore, EPA and Azarga/Powertech can say they are not currently using the water for drinking.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			But at least one residence continues to use the well water, Well 16, from the targeted portion of the aquifer. To create a no-current-use status from which the EPA and Azarga/Powertech are trying to base this aquifer exemption proposal, Powertech promised to permanently provide the resident with bottled water for drinking if they agreed to let Powertech sever and seal off the waterline from the well to their home. Well, 16 continues to be used for this resident's livestock, which under South Dakota laws is still considered the same as water used for human consumption, a fact that EPA in November 2016 was willing to ignore. Their conclusion for that memorandum was based on CZA calculations, the EPA has concluded that the portions of the Inyan Kara aquifers proposed for exemption do not currently serve as a source of drinking water. Since the November '16 memorandum, in March of 2017 they tried to get around this -- the concern they realized they faced with the Well 16 by removing the two fields associated with Well 16 from being mined, as if the contamination that results from all the other fields all around the two fields removed, will not migrate into the well that feeds 16, and also does not address the wells that are simply currently not being used that feed from all the other parts of the Inyan Kara aquifer. [...] KATHLEEN BAILEY: Certainly. I wish to add two more facts. What the EPA won't tell you is that uranium in-situ recovery mining has consistently resulted in contamination. And per the USGS, to date there had been no successful mitigation of the contamination resulting from in-situ recovery mining, so your current status of future source of drinking water will be permanently lost if this exemption is approved.		

15. Concerns specifically about uranium ISR.

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
00445	Ex. 6 Personal Privacy (PP)	Individual	*7.)* The claim that Powertech/ Azarga is going to treat the wastewater first to "purify" it to classify for the Class 5 deep injection regulations, does not include the inability to	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
		Ex. 5 Deliberative Process (DP)	extract radioactive organified metals that are now found in wastewater by ISL in several studies, notably uranium. By regulation, Class 5 waste waters can only be as toxic as storm sewer waters. This wastewater is hardly that. Radioactive organified metals and metallic salts in this wastewater make this waste water unusable for even agricultural purposes, as it would be in this dry uplift area where water is "blue gold", if it were as "pure" as the company says it is. Better technology today shows us the flaws of obsolete testing and regulations today, and why we see such horrid toxicities in Nature at mining sites. The company has not shown any technology that could be effective in processing this wastewater to be safe for a Class 5 well.		
00528	Ex. 6 Personal Privacy (PP)	Aligning for Responsible Mining	I. **All metals/minerals have a relationship to each other in Nature.** The EPA documents fail to consider or analyze the relationship between and among heavy metals and relationship to animals, and human bodies. Heavy metals generated from mining are many, and will compromise many essential minerals for health. When one mineral or metal is too high, it will exert a repressive effect upon its counterpart metal or mineral, causing a deficiency or imbalance. Since minerals are known to fuel enzyme systems in the body, and the living body is dependent upon enzymes for life itself, compromise of any enzyme system can cause severe health consequences and even death. The toxic heavy metals generated in ISL mining are shown in an overlay to accurately depict the interference of those toxins on the natural system and their impact to all living things, even plants. Inorganic salts of metals most prominent in aquifers, also have different toxicities, and any monitoring of aquifers should include speciations of these different forms so that proper toxicity evaluation can be done. Simply giving the absolute levels of a metal does not tell the whole story. All metallic “salts” are not equal. They can have different solubilities, different melting points, different Ph, different conductivity affecting the central nervous system that relies on electrical signals, and totally different chemistry within the living body. Further, any discussion to the general lay public needs to distinguish between a chemical metallic salt and ordinary table salt, that the public is led to believe will be created as “salt” in a mined aquifer. There are many species/chemical forms that a metal can take upon exposure to oxidation/reduction reactions typical within an ISL mining aquifer. Typically, speciation testing, even if monitored by the mining company, is not made available to the public. Selenium is the example, but all metals do this.	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			J. **The difference between inorganic and organic compounds.** EPA documents fail to describe, consider or analyze the difference between inorganic and organic forms of the same compounds. Organic compounds always contain carbon, while most inorganic compounds do not contain carbon. Also, almost all organic compounds contain carbonhydrogen or C-H bonds. Organic chemistry is "The Chemistry of Life". Metals in an inorganic form have significantly different chemistry in the living body from organically bound minerals Organic forms of uranium as well as other toxic metals have also been shown to exist in mining areas and they are not known to be recoverable by the ion exchange method of ISL recovery, since it is already bound organically and will not bind to the organic synthetic resins. Organic forms of any heavy metal are known to be much more toxic and much more bioavailable, so that they are able to penetrate the lining of the digestive tract much easier than ionic and inorganic salts that are blocked by their electrical charges. Organic metals have their electrical charges spread over the organic ligand they are bound to, so that they act as a "chelate", something that the health industry does to minerals to significantly improve absorption of essential minerals, and also make them much more able to enter into direct biochemical reactions in the living body. Organically bound metals under this circumstance, and there is plenty of organic carbon naturally existing with ISL min- ing sites to make this a complication, will continue to increase in the waste water of the ISL mine as they are **not recoverable, adding to the metal burden of the wastewater and also the toxicity of such beyond what would be it the metals remained in an in- organic and ionic form.** Reference: **Problems with Ion Exchange in Water Purification** "Ion exchange is another method used successfully in the industry for the removal of heavy metals from effluent. An ion exchanger is a solid capable of exchanging either cations or anions from the surrounding materials. **Commonly used matrices for ion exchange are synthetic organic ion exchange resins. The disadvantage of this method is that it cannot handle concentrated metal solution as the matrix gets easily fouled by organics and other solids in the wastewater.** Moreover ion exchange is nonselective and is highly sensitive to the pH of the **solution." (Kurniawan et al., 2006).**		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
00537	Ex. 6 Personal Privacy (PP)	Native Research Solutions	**I. The Class III and Class V UIC Permits Should Be Denied Because Contamination from ISL Mining Operations is Certain and Irreversible.** While touted by the uranium industry as "advanced"[1] technology, ISL mining has been used in the U.S. and around the world since the 1960s.[2] The process of ISL mobilizes uranium that would otherwise be locked in place and releases it into the groundwater. Through this process, the ISL method purposefully contaminates groundwater by mobilizing uranium into the groundwater that would otherwise have been held captive in the bedrock.[3] Meanwhile, contamination from the mines and impacts on the underlying aquifers would last long after the Dewey-Burdock mining operations ended. Communities in the area are concerned that impacts to their groundwater source may be irreversible, as has been the case in other places that have experienced ISL mining. Texas has the greatest number of *in-situ leach* uranium mines in the U.S.4 Uranium Resources, Inc. owns the Kingsville Dome uranium mine in Texas where contamination from an ISL mine has spread throughout the aquifer to nearby drinking wells.[5] According to a USGS study that studied the effectiveness of groundwater restoration at ISL sites in Texas, more than half of the uranium production areas surveyed had higher levels of uranium in groundwater after mining and reclamation, than before mining began.[6] Equally important, all of the studied sites had received "amended restoration goals for at least one element after operators have expended a reasonable degree of effort to restore groundwater."[7] Amended restoration goals occur when a party is unable to restore the groundwater to the previously agreed-upon water standards. The experience in Texas confirms community concerns that restoring groundwater to a usable condition after mining is unlikely. The NRC itself has conceded that restoring an aquifer to a pre-mining condition after ISL mining has ended is "virtually impossible".[8] The EPA has also stated, "Based on EPA's experience with other in-situ mining projects, EPA believes there is a high likelihood that, following mining activities, residual waste from mining activities will not remain in the exempted area" and waste will travel throughout the aquifer.9 These statements confirm community fears that certain and irreversible contamination will occur in the overlying and underlying aquifers which residents rely on.	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
00546	Ex. 6 Personal Privacy (PP)	Oglala Sioux Tribe	Historic evidence demonstrates that ISL uranium mines have a very poor record of restoring ground water aquifers – in fact, none have ever actually restored an aquifer used to conduct ISL uranium mining. See J.K. Otton, S. Hall, "In-situ recovery uranium mining in the United States: Overview of production and remediation issues," U.S. Geological Survey, 2009 (IAEA-CN-175/87), Hall, S. "Groundwater Restoration at Uranium In-Situ Recovery Mines, South Texas Coastal Plain," USGS Open File Report 2009-1143 (2009), Darling, B., "Report on Findings Related to the Restoration of In-Situ Uranium Mines in South Texas," Southwest Groundwater Consulting, LLC (2008). The EPA cannot provide information to the public concerning unmitigated impacts where groundwater mitigation plans have not been developed or analyzed for effectiveness.	Ex. 5 Deliberative Process (DP)	
07460 (5/8 Rapid City hearing)		Individual	The United States Geological Survey, also known as USGS, has found that no ISL uranium mining operation has been able to return water quality to pre-mining cleanliness. The USNRC has been quoted saying that, "The restoration of an ISL-mined aquifer to pre-mining water quality is...an impossibility." [...] Is it fair to the unborn to allow ISL uranium mining to start when we know that the USGS has found that water quality has never been returned to baseline after ISL uranium mining? Who will protect the unborn if we adults fail to do so?		
07642 (Hot Springs hearing)		Individual	Now I want to speak about some studies done by a hydrogeologist, Dr. Roseanna Neupauer from the University of Colorado. She studied groundwater flow at an ISL mine in Christensen Ranch, Wyoming. And she found that contaminated -- contaminants, excuse me, will remain in the aquifer after all effects of restoration and will migrate through the aquifer into the future. She noted that a comprehensive modeling exercise was impossible because of insufficient data of the spatial distribution of various chemical perimeters or on the chemistry of the injection solution used by the industry. Dr. Neupauer noted that diffusion of chemicals out of the immobile region can occur over many years or decades. Thus, even if the water in the mobile zone appears clean, it may become contaminated over time by this diffusive process. It would further increase the concentration of lixiviant in the past -- in the post-restoration aquifer. Dr. Neupauer reported that her report is consistent with that of experts of USGS and other geological scientific communities. Groundwater has never been restored at ISL		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			operations -- the NRC acknowledges that -- and some 40 percent of measured constituents could not be restored to the baseline conditions. [...] ISL uranium mining is a poor choice to contaminate scarce western groundwater and harm the environment. Truthfully, only a small number of short-term jobs will be provided with this project with an inherent environmental risk. Thank you.		

16. Against uranium mining in general.

Letter ID	Commenter Name	Commenter Org.	Text

17. Against uranium mining because of problems with nuclear power generation and nuclear weapons.

Letter ID	Commenter Name	Commenter Org.	Text

18. Concerns about the price of uranium, future demand for uranium and future viability of nuclear energy.

Letter ID	Commenter Name	Commenter Org.	Text
8196.1	Ex. 6 Personal Privacy (PP)	Oglala Sioux Tribe	Dear Ms. Shea: This letter provides comments from the Oglala Sioux Tribe (OST) on the EPA's revised draft Underground Injection Control (UIC) permits and the aquifer exemption... ISSUE OF ECONOMIC VIABLILITY One of the key questions raised by the public during the hearings was: "Is this proposed ISL uranium mining operation even economically viable?" Unfortunately, it is not answered in the EPA documents. At least 15 ISL mines in the US are either officially in "standby" mode or are currently not producing. Mining occurred here extensively in the 1950s to the 1970s. Is there enough uranium left to mine in the project area? So before the project goes any further, the Permittee should be required to prove that there is actually the amount of ore present that it claims. They should be required to provide this information under close supervision by a knowledgeable regulator selected by the EPA. And it should occur before any final permit is issued. If the Permittee refuses to answer this question, it should be inferred that they are not committed to the project as designed, that they know there is less uranium present than

Letter ID	Commenter Name	Commenter Org.	Text
			claimed, and/or that they expect the expenses of this activity actually makes the project unprofitable.

19. Concerns about effects of past uranium mining.

Letter ID	Commenter Name	Commenter Org.	Text
00234	Ex. 6 Personal Privacy (PP)	Individual	Subject: Azarga Dear Ms. Valois: I am writing to urge the EPA not to grant Azarga permission to mine uranium in South Dakota's Black Hills. First, the area currently needs cleanup from previous mining.
00469		Individual	Dear EPA, Region 8: Here are my comments on the Underground Injection Control Program's Draft Permits for the Proposed Dewey-Burdock Uranium Mine and Deep Disposal Wells: • Old uranium mines in the Dewey-Burdock area should be fully reclaimed before new mining is permitted.

20. Concerns about Azarga (e.g. integrity of investors, integrity of company itself, solvency, experience in the ISR industry, etc.).

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
00032	Ex. 6 Personal Privacy (PP)	Individual	Who is this company? Where will the uranium be going? Will it go to countries that are not friendly to the United States?		
00039		Individual	Why would we trust them to clean up future operations? Why would we want to poison our homelands?		
00071		Individual	As a side note, please consider that this is a foreign corporation making this request to mine our uranium and highly likely to pollute our water. They can make grandiose claims that their process is safe and their practices are sound, however this company has never performed in situ mining. I'm very skeptical of their true intentions and personally expect them to sell the entire operation once all the required permits are obtained. The Russians have already obtained ownership of 20 percent of this country's uranium. I would hate to see any more		

			of our uranium fall into foreign hands. Additionally, too many companies grab what they want of our resources, then leave a polluted mess, which falls on the tax payers to finance the cleanup, if it is even possible. Respectfully,		
00071	Ex. 6 Personal Privacy (PP)	Individual	It would be a travesty for an outside agency to determine that it is alright for a foreign corporation to not only have access to a huge amount of our water for free but also be able to inject their waste stream back into our potable water.		
00072		Individual	The company has never even performed this kind of mining. I expect them to sell the entire operation once all the permits are obtained. The Russians already own 20% of this country's uranium. I would hate to see more of it fall into foreign hands. Too many companies grab our resources, then leave a mess for tax payers to try and clean up. If you agree, tell the EPA to deny water permits for Azarga Uranium Corp. by June 19 at [HYPERLINK "mailto:shea.valois@epa.gov"]		
00077		Sylvan Rocks Climbing	Furthermore, permitting a foreign company a permit to ship in and inject waste material from other places is totally unacceptable. Later in my career with the Forest Service part of my duties were to survey and catalog the many abandon mines around the area. It is obvious that mining companies care little about what they pollute and what they leave behind.		
00083		Individual	Furthermore the NRC ordered Powertec Azarga company to plug the more than 7600 test drilling bore holes in Fall River and Custer counties. This was ordered two years ago and not one hole has been filled.		
00086		Individual	I do not want our land and water contaminated by anyone, much less a foreign company which absolutely cannot guarantee that this will not happen.		
00089		Individual	Subject: NO to Uranium MINE Please, please consider NOT ALLOWING a Chinese owned company to come into our state , mine out the uranium, take it to China to perhaps use against the Americans, and then contaminate our water in South Dakota. Can't imagine what you are thinking to even consider this. I was raised in South Dakota and I love this state. Don't give it to a foreign government!!!!!!!!!!!!!!!. Our people are worth more than money. Hopefully this isn't about some corruption. Vote NO to uranium mining by a foreign owner. Only look to what happened to the gold		

			mining near Lead S.D. A Canadian company defaulted and left the people of S.D. to pay for clean-up. Please think smart. Thank you.		
00098	Ex. 6 Personal Privacy (PP)	Individual	Assurances that their mining and pumping processes are safe are totally based on the word of company officials with sparse scientific data. On the other hand, the history of uranium mining here in South Dakota indicates that uranium mining cannot be done without creating and leaving contamination. Cancer rates in areas where uranium was mined are alarmingly high. A poorlyfinanced company without a proven track record, Azarga cannot guarantee that it will be responsible for costly safety measures, for accidents, and for prompt and thorough cleanup. Azarga/Powertech's record at the Dewey-Burdock site is poor even as they know they must prove to the public that they are a good corporate citizen.		
00099		Individual	Powertech, is a multinational corporation and division of Azarga Uranium Corporation of Canada, a foreign corporation. Why should the U.S. take the radioactive tailings and deposit them in the Inyan Kara system of underground aquifers? What part of NO does a Canadian corporation not understand? Keep the U.S. out of your equation of ridding your operations of radioactive materials. NO. NO. No.		
00123		Individual	The fact that Platinum Partners, which is Azarga's largest share-holder, is being charged with a variety of misdeeds which if convicted could provide prisoin terms for the guilty, should be a wake-up call to the EPA as the kind of people who are running the show for Azarga. With the company based in China, overseeing a Canadian company with offices in Colorado, one can easily guess how Azarga feels about the long term health of the citizens in this area when compared to the greed for profit.		
00124		Individual	Ninth: One of the serious problems I see with this operation is the lack of mining experience of the people in charge. For example, the company has yet to mine uranium. The Project Manager has never been a project manager on any other ISL and in fact has done very little "engineering" of any kind for many years The executives have experience in the nuclear industry and in administration but not in managing and mining an ISL uranium mine. At least not according to the CVs. This is a very complicated and potentially dangerous and very expensive proposition. One of P/T spokespersons is a former Professor at the School of Mines. He has not mined any uranium at an ISL mine The CEO has not mined any		

			uranium at an ISL mine. They have not developed yellow cake, they have never remediated an ISL area. What they have accomplished is to file a permit application. And that after many corrections from the NRC and the DENR. I have to believe that this has to be their first filing for an ISL mining permit. So...this will be a trial run for P/T personnel, a first time operation. I am sorry but I have no faith in a lack of experience. I need to see years of experience in the ISL industry with a record of clean remediation and contamination containment. Based on their inability to produce a clean permit application without DENR and NRC assistance and their lack of experience and their public admissions that there will be leaks and spills and runoff and contamination of the soils, there is no reason to expect P/T to be able to keep the public safe from this contamination or remediate the operation to even a minimum standard. Indeed, their stock price would not be pennies a share if investors had any faith in this management and this operation. ARSD 74:29:07 clearly states that "The individual who develops the reclamation plan must be competent in the management and planning of the specific type or types of reclamation selected." With no prior experience in reclamation, P/T clearly fails this test.		
00125	Ex. 6 Personal Privacy (PP)	Individual	The proponents suggest tyhat the opposers lack intelligence, lack scientific standing and approach this issues with an over abundance of emotion. This is misdirection at it's best. Professor Stone of the SDSM &T is a scientist and teacher of impecable credentials has studied this area extensively is quite clear as to the possible dangers of this mining operation. Professor LaGarry from Chadron State College has studied this area as well and has the same conclusions. Ms. Linsey McLean is a highly qualified chemist who has testified before you and her background, studies and knowlege of chemistry and chemical effects of mining Uranium is an expert witness and is well known in many areas of the country. These scientists are not on a payroll and answer only to scientific truth rather than a paycheck or a promise of future gains. PowrTech representatives on the other hand, have little to no experience in ISL mining, have used intimidation techniques and physical threats to browbeat mining opponents. They have continuously erred in filing the permit applications due to their ignorance of the mining process and have had to be hand led through the process.		
00158		Individual	I am also aware that the Russians through Uranium One and the Chinese through the Azarga connections to Hong Kong own a substantial part of Azarga Uranium Corp. Neither of these nations are considered allies of the United States.		

			[...] Uranium One has a financial interest in Azarga's Dewey Burdock Project, which is least 30%. The Russian mining company, Uranium One which is owned by Vladimir Putin, now has at least 20% and some say 50% of the uranium mining leases in the United States. Thus, if permitted, Azarga will be in a legal position to mine uranium in the United States, and ship it to its trading partners, including Iran, Syria, and a host of other bad actors. China has been trading heavily with North Korea, which has stated its desire to build nuclear weapons, capable of attacking US-Asian allies, and the United States. THE ACTUAL OWNERSHIP OF POWERTECH/AZARGA IS INIMICAL AND SHOULD PRECLUDE THIS COMPANY FROM BEING GIVEN ANY PERMITS AT ALL BY THE UNITED STATES GOVERNMENT. I trust you will consider this letter carefully and deny all permit requests. Please call me at Ex. 6 Personal Privacy (PP) if you have further questions. Sincerely, Ex. 6 Personal Privacy (PP) US Navy (Ret)		
00174	Ex. 6 Personal Privacy (PP)	Individual	For years, the industry has demonstrated that they will not be proactive and will require monitoring		
00202		Individual	The fact that Azaga Uranium company is heavily financed by a Chinese investment fund under investigation by the Chinese government should red flag the EPA to also investigate the company itself.		
00231		Individual	Subject: Uanium etraction project in western South Dakota. [...] We strongly urge the EPA to NOT GRANT any of this drilling and water injection to proceed. This company does not have the monetary resources to remedy any of the possible detrimental effects to our environment and peoples health. We in the Black Hills daily confront the disastrous effects of the abandoned Gilt Edge Mining project. Now a superfund site.		
00253		Individual	Subject: Re: Thank you for your comments Though I am concerned about drinking water, my main concern is who is owning the uranium mining rights. There has been some articles online about a		

			possibility that PowerTech is connected to Uranium One, the company rights sold to Russia while Hillary Clinton was in the State Department.		
00256	Ex. 6 Personal Privacy (PP)	Individual	Why should we allow a Canadian company with ties to Russia to extract uranium in the U.S., thereby poisoning everything for billions of years inducing suffering our citizens and the environment? That the uranium is going to be sold to foreign markets adds further insult to injury. This proposal is absolutely ignorant and short-sighted. Millions of Americans -- Indigenous and otherwise, depend on clean water for LIFE. WE THE PEOPLE have had enough of the mega-corporations polluting our skies, rivers, seascapes and oceans. So stop this nonsense and do your job on behalf of the Americans you are supposed to be serving... ! !!!		
00262		Individual	General History of the Powertech Company and Current Status of Their Mining Permit from NRC. In the 1970's and 1980's, the Dewey Burdock area was, yet again, thoroughly investigated for potentially mineable uranium deposits, after the open pit mining of the roll front was completed in the 1960's. Uranium yellowcake was then going for $100 / lb and in high demand. The Tennessee Valley Authority was hired by the US DOE to locate geological sources for uranium. TVA then drilled over 7650 test site Ex. 6 Personal Privacy (PP) Ex. 6 Personal Privacy (PP) 2 boreholes in Edgemont, in two investigative sessions, to locate more recoverable uranium during/for the Cold War. A test mining tunnel was even attempted, but caved in due to the extensive and volatile cave structures in the area. They even lost an excavator, it sunk right into the ground while parked in what they thought was a safe place, in the open air. The TVA abandoned the site altogether, twice, concluding that there was not enough recoverable uranium to warrant a mining project. Powertech tried to mislead the public by including focus on uranium levels tested in alluvial wells - instead of limiting tests to the proposed affected aquifers. The alluvial wells actually showed higher levels of uranium than the intended mined aquifers, which actually confirms the TVA's conclusion that the roll front uranium deposits were gone. Powertech was falsely trying to claim the alluvial deposit concentrations as part of the deposits they would be mining. Alluvial wells are not mineable as they cannot be confined, composed mostly of surface water. Like many mining companies in Canada, where the laws are lax, Powertech was formed by a hedge fund in Vancouver about 1990, that has absolutely no experience or history in mining of any kind. They intended Powertech as an investment vehicle. The ten people who had shares in Powertech began to manipulate the reports about the company in order to raise the stock share	Ex. 5 Deliberative Process (DP)	

			price. They first operated out of Colorado, attempting to start a uranium mining operation there. They drilled some test holes and damaged local water supplies. They were immediately sued by angry local home owners. The lawsuits ended up at the supreme court level of Colorado, where they lost. The governor of Colorado and the legislature passed some restrictive mining laws and virtually forced Powertech out of Colorado. For this history, please consult powertechexposed.com. Powertech then showed up in South Dakota, where they induced the legislature to pass SB 158 in 2011, which negated all of the uranium mining controls that we had in South Dakota at the time. A substantial number of legislators, state officials, Fall River County officials, and prominent people in South Dakota were induced to buy the stock at $20 per share, with promises that the stock would be expected to go to $600. per share. Over the years, 420 million shares of stock were issued and $68 million were run through this small company, sold worldwide on the Toronto Stock Exchange. Sole revenues for Powertech were and still are, stock sales, with promising sounding "forward looking" press reports, while attempting to get various mining permits. They were granted a conditional NRC permit, but have never been able to use it because they have never complied with the conditions for use. Currently that permit is on hold indefinitely from NRC. There are two more permits needed from the state of South Dakota, requiring a mining permit public hearing and a water use permit public hearing, that are tabled pending the NRC and the EPA rulings. Ex. 6 Personal Privacy (PP) n 3 The TVA documents attached show that the Fuson shale is a leaky aquitard and the main reason that ISL mining was not considered at Dewey Burdock, causing the TVA to abandon the site after 10 years and 2 explorations. This was never a viable site to mine uranium from the beginning. This company is inexperienced in mining, grossly underfunded, and nearly bankrupt, with stock prices currently in the 2 cents per share range. Historical investors have all lost their money. The Science Against Injection Wells in this Proposed Area (Dr. LaGarry and Dr. Moran) Testimony of Dr. Hannan LaGarry, geologist stratigrapher, to NRC and ASLB 2014, shows that there are extensive fractures, fissures, sinkholes and breccia pipes in the area that dramatically increase permeability within confinement layers. These geological features go unrecognized by Powertech. Powertech was "cherrypicking data" (selecting a non-representative sample to incorrectly represent the whole) from the first TVA exploration in the 1950's and 60's, carefully selecting only the data that supported their project. They were not even in possession of the latest exploration TVA data from the 1970's and 80's		

			when they submitted their permit requests. Powertech just obtained those documents in May of 2014. In the discovery of that data in the NRC/ASLB hearing of 2014, Dr LaGarry found that the drillers logs, notes and hydrological pump tests "did not provide a scientifically recognized analysis that can support any hydrogeological conclusion about the project area". He also concluded that "The NRC 'spot check' of 37 random data points does not provide a statistically reliable testimony or basis for any conclusions regarding confinement or hydrology." Dr. LaGarry also added "NRC Staff presents no basis for its so-called "random" selection. Without such information, professionals in my field cannot accept such assertions where it is possible that the limited data set resulted in poor methodology that is the hallmark of modern junk science. Having examined only 37 data points out of thousands available, NRC would have failed my Math 123 Introduction to Statistics class. None of my student researchers would be allowed to publish or present their research findings had they made such a fundamental error." Dr. Robert Moran's, hydrologist, testimony before NRC/ASLB thoroughly established that, "Dewey-Burdock uranium ore zones are not hydraulically - isolated from other geologic units, other aquifers, or zones outside the project area." He provides many Ex. 6 Personal Privacy (PP) Ex. 6 Personal Privacy (PP) 4 examples of what he refers to as, "NRC Staff disregarding the conclusions of numerous hydrogeologic experts (both Powertech-funded and independent). The Quantity of Injection Wells Requested for Waste is Ridiculous Powertech/Azarga is asking for 4 Class 5 UIC deep injection wells for hazardous waste deposition, into the Minnelusa aquifer, with a reserve request for 4 more of the same "in case they find the they need them". They say they need 2 of these "right away". Powertech/Azarga will operate 14 well fields total. The Minnelusa aquifer is a major drinking water aquifer in the Black Hills. To say that it is not, is not correct. For comparison, Crow Butte ISL uranium mine in Crawford, Nebraska, operated 11 well fields for 20 yrs using a single UIC hazardous waste deep injection well for deposition of their toxic wastes. Dewey Burdock originally requested a total of 8 UIC hazardous waste deep injection wells, but EPA is only permitting 4, still too many for a non functional, no profit mine, two of which are requested to be drilled right away. (Really? What do they need them all for? No work has been done to find and properly close any of the old borehole sites that is required by NRC, followed by adequate pump testing to make sure that the aquifer is contained prior to actively mining. EPA is not requiring borehole closure for the injection wells. This spells certain "disaster"		

			even more.) It is estimated that this work will take approx. 3 years before any mining can take place. By the numbers: Smith Ranch in WY :10 well fields, one deep injection well Crow Butte, Ne : 11 well fields, one deep injection well for 20 yrs. Willow Creek, composed of two sites, Christensen Ranch and Irigary- 2 injection wells. Powertech/Azarga has also applied for Class 3 injection wells for 14 well fields. This will be an additional 84 injection wells that will be receiving rock dissolving chemicals/lixivients for production. Normally a well field contains one production well for extraction surrounded by 6 injection wells. Further, the 14 production well fields are not on a uranium rich roll front, as per TVA documents. (uranium ISL mines are typically situated on a uranium rich roll front so that extraction is efficient and the mine is profitable. Remember, the roll front was found by TVA to be mined out prior by surface mining) Where did the increased number of wells come from up to 4,000? The 4 hazardous waste deep injection wells in the area are destined for the Minnelusa aquifer, a drinking water aquifer in the Black Hills. Normally, UIC hazardous waste deep injection wells are drilled "below" aquifers, not "in" them. The hazardous waste injected into the aquifer will travel hundreds and even thousands of Ex. 6 Personal Privacy (PP) Ex. 6 Personal Privacy (PP) 5 miles and contaminate other aquifers that are connected, and ultimately the huge Ogallala Aquifer that services the entire central US. In addition, these hazardous waste wells will legally be able to take in the water of the hazardous wastes, containing radioactives, with toxic and heavy metals from other mining sites, to make our aquifers a toxic waste dump, and ruin the water we have there. Since the wastewater will contain radioactives and toxic heavy metals, the ultimate destination as to which class of deposition well is required, is determined by the proximity of the drinking water aquifer near it, above or below. Powertech /Azarga has played a semantics game with the determination of the class of disposal well required, however the toxicity of the ultimate wastewater is still the same. Nowhere can I find where Class 1 waste waters were ultimately dumped into a class 5 injection well. The claim that Powertech/Azarga is going to treat the wastewater first to "purify" it to classify for the Class 5 deep injection regulations, does not include the inability to extract radioactive organified metals that are now found in wastewater by ISL in several studies, notably uranium. By regulation, Class 5 waste waters can only be as toxic as storm sewer waters. This wastewater is hardly that. Radioactive organified metals and metallic salts in this wastewater make this waste water unusable for even agricultural purposes, as it would be in this dry uplift area where water is "blue gold", if it were as "pure" as		

			the company says it is. Better technology today shows us the flaws of obsolete testing and regulations today, and why we see such horrid toxicities in Nature at mining sites. The company has not shown any technology that could be effective in processing this wastewater to be safe for a Class 5 well. And the extra great expense of this processing will cost the profitability of the project dearly. They already cannot pay their mining land leases and are essentially bankrupt going in to this project.		
00292	Ex. 6 Personal Privacy (PP)	Individual	Also, the company applying for these permits has been shown to have questionable integrity. The Canadian government has challenged them in court charging that they provided misleading information to their stockholders. Our area has had problems with companies not completing clean up after mining, and these early concerns could indicate problems in the future. Water is our most precious resource. The Lakota truism, Water is Life, could not be more applicable. Please deny these permits.		
00328		Individual	Powertech seems to have a sloppy drill/borehole history and human and mechanical failure is a given. Please in the name of god do not do this. I am begging.		
00366		Individual	Most of all, there is the question of trust towards Power Tech, not to long in the past, some of these same people who would like to mine uranium on their land also wanted a soil farm just outside of Edgemont, without the consent of the residents. That is a fact and it a public record. I know this is a toally different project, but it is about disrespect, and dishonesty. So if you are going to be thoughtful, take all these facts into consideration please. [ATTACHMENT: “2014.07.15 LaGarry expert opinion_ML14197A377.pdf”; “2014.07.15 Lagarry testimony 2.pdf”; “lagarrysupplementaltestimonyfinal_1-2015 (1).pdf”; “lagarrysupplementaltestimonyfinal_1-2015.pdf”; “1998-07-InSituLeach-UMining.pdf”]		
00410		Individual	IV: Suitability of Azarga Uranium Company: A huge number of mineral leases including those for uranium were acquired over time by a company called Energy Metals Corporation. Vladimir Putin through a company he formed in the United States called Uranium One was allowed by		

			Hillary Clinton when she was Secretary of State to begin mining extensively for uranium in the American West. Uranium ultimately bought Energy Metals Corporation and thus acquired at least 20% of uranium mining leases in the United States. At least 30% of the minerals in the Dewey Burdock Project were owned by Energy Metals Corporation and are now owned by Uranium One, a wholly owned Russian Company. The Russians also own leases in the surrounding area. Powertech has issued at least 420,000,000 shares of stock and garnered over $68,000,000 from stock sales. It has never earned any money from mining or other legitimate endeavors. Instead it has spent the shareholder money. Many SD investors paid $10 to $20 per share. The stock is now about 35 cents when it trades. The hedge fund founders have paid themselves huge amounts. Many shareholders have lost large investments. For years the Powertech stock was sold by the Toronto, Canada exchange or those in Germany. No filings were made with the US Securities and Exchange Commission nor the SD Securities Commission. For years there were no audited financial reports, merely "shareholder communications" which had the effect of encouraging more stock sales. Powertech also entered into lease agreements with landowners near or abutting the Project Site. Landowners were to be paid $50,000 per year for 10 years for the uranium leases on their land. In many cases, the lease amounts were more than the land would sell for. Some lease holders bragged that they already knew that there was no recoverable uranium on their land but they signed up anyway. The lease agreements prohibited the leaseholders from objecting to the Powertech Project. Many thought that Powertech would provide Madison Water at no charge and of good quality to their lands after the project was over. About two years, Powertech/Azarga abruptly stopped paying the leases. The fact that they do not live up to their lease arrangements should be a red flag for rejecting this proposal…		
00445	Ex. 6 Personal Privacy (PP)	Individual	**Background of Powertech/ Azarga:** **The Issue of the 12 Requested Hazardous Deep Injection Wells by Powertech/Azarga at Edgemont, vs the 4 That Would be Permitted** **COMPANY HISTORY** *1)* Powertech/Azarga is a Chinese based -foreign owned company that is essentially bankrupt. The partners took over a bankrupt refrigerator		

			manufacturing company shell and then declared themselves a uranium mining company, though to date, this company has never mined anything anywhere. As a foreign owned company, they are free to mine and then bankrupt the company when mining reserves are gone, leaving the hazardous and radioactive mess for the taxpayers to clean up. This is the most common scenario with foreign owned mining companies in the U.S. [...] And the extra great expense of this processing will cost the profitability of the project dearly. They already cannot pay their mining land leases and are essentially bankrupt going in to this project. See the toxicology testimony by Linsey McLean, expert witness for Consolidated Intervenors, to the Nuclear Regulatory Commission and Atomic Safety and Licensing Board on the birth deformities found in wildlife and domestic farm animals studied in ISL mining sites contaminated by toxic waste water and radioactive metals. https:Uwww,nrc,gov/docs/ML1513/ML15132AS07,pdf { {[HYPERLINK "https://www.nrc.gov/docs/ML1513/ML15132A507.pdf"]} {[HYPERLINK "https://www.nrc.gov/docs/ML1513/ML15132A506.pdf"]} {[HYPERLINK "https://www.nrc.gov/docs/ML1513/ML15132A506.pdf"]} The business model for this Chinese based company in Dewey-Burdock is very likely to never start uranium mining to begin with, as by their own admission, the price of uranium is far too low for profitability. They intend to use these injection wells for importing hazardous toxic mining wastes from other sites for profit, making the Black Hills an everlasting toxic waste dump. They state that they need two deep injection wells for hazardous wastes *right away.*		
00447	Ex. 6 Personal Privacy (PP)	Individual	And Azarga are crooks to boot! Their stock is worth pennies, and Platinum Partners, which owns 30 % of Azarga stock, is under an indictment that basically describes Platinum Partners as a Ponzi scheme, according to the Rapid City Journal and other sources. So even IF Azarga intended to use the most advanced monitoring and cleanup methods on the Dewey-Burdock site, they wouldn't be able to afford it. The people of Custer and Fall River counties will be left with toxic water and the bill to pay for it! Pay for it with the health of their children, their stock, and their livelihoods.		
00451		Individual	They claim there is no connectivity between the aquifers, and their project is completely contained. Spelunkers thought they reached the end of the third		

			largest cave in the world, Jewel Cave, which is north of the project. The spelunkers were thrilled when they squeezed through that tight space and found yet more huge caverns. We are not confident with Powertech Azarga's claims of knowing what lies beneath. The transportation and disposal of all related waste is an issue with far-reaching compromises to the environment, and contains its own very long list of concerns. They have found radioactive tracking socks discarded in North Dakota illegally. Is there any wonder we are skeptical of another extractive business? You have heard already, from other testimony that we can not trust this company. Powertech Azarga's lobbyist wrote legislation and got it passed, whether by ignorance or corruption, that has made this project a self-monitored operation. This was intentionally introduced to make it easier for them to Self-Monitor. This was an underhanded and arrogant thing to do to South Dakotans. How can we ever trust Powertech Azarga when they have this kind of dishonest intentions? Why, if the process is, to quote Mr Hollenbeck, "safe and benign", would we need to change the rules to make it easier for a company to destroy an area and then walk away without paying the consequences.		
00464	Ex. 6 Personal Privacy (PP)	Individual	• Why allow a company that has no ISL experience to risk all four aquifers? [...] Finally, how can this board approve these permits when it would appear that this company does not have the financing to even start construction, that the personnel responsible for the operation do not have the necessary experience or the competence or the ability to operate the system, that this company has left unanswered how it plans to assure the safety of the public from the disposal of truly dangerous chemicals and compounds, that has yet to find the one management position that will oversee the mining itself, that failed to produce a completed application on time, that has made incorrect, misleading and confusing statements, that cannot guarantee what it has to guarantee, that will abuse and possibly ruin three aquifers, while threatening the fourth? Simply put, it cannot. [...] *All numerical numbers refer to the NRC application filed **by Powertech/AZARGA**.	•	•

00464	Ex. 6 Personal Privacy (PP)	Individual	6.0 Should it concern this board that the reclamation plan is produced by WWC Engineering, which is on the PT payroll, and VPs Blubaugh and Mays who have no experience in ISL mining operations when ARSD 74:29:07:18 requires that "The individual who develops the reclamation plan must be competent in the management and planning of the specific type or types of reclamation selected."? NRC states that"The primary goal of ground water restoration is to protect present or potential future sources of drinking water ..... " "However, restoration to pre-mining may not be practicable or feasible .... " Is this really in the public interest? 6.3 Decontamination and decommissioning. PT has said that radiation can simply be hosed off with high pressure water or steam cleaning. If, indeed, it is even possible , there is no mention of what to do with the now contaminated water that is the result. PT says it can decontaminate the soil. NRC indicates that that cannot be done. Are these contradictions not of concern? PT gives it's"95% confidence that the ... units ... meet the clean up guidelines or action levels." Would the public interest find 95% lacking?	Ex. 5 Deliberative Process (DP)	
00465		Individual	• The fact that Platinum Partners, which is Azarga's largest share-holder, is being charged with a variety of misdeeds which if convicted could provide prison terms for the guilty, should be a wake-up call to the EPA as to the kind of ethics embraced by Azarga. With the company based in China, overseeing a Canadian company with offices in Colorado, one can easily guess how Azarga feels about the long term health of the citizens in this area when compared to the drive for profit at all costs.		•
00470		Individual	• Is Powertech and their owner able to afford cleanup costs" Need guarantee! Am very concerned about water migration from the Minnelusa to the Madison,. How does Powertech plan to remove all particulates and chemicals, heavy metals, etc.? The drilling presentation charts from Powertech (?) do not show the severe faulting of the aquifers. Although Powertech is based in Canada, the main stockholders are Chinese-based.		
00470		Individual	• Who is Powertech? Who makes procedures?		

00470	Dan Bishop	Individual	• There needs to be a cleanup plan for each drilling.	Ex. 5 Deliberative Process (DP)	
00470	Ex. 6 Personal Privacy (PP)	Individual	• DO NOT allow Powertech to mine or dispose of waste. There is no company that will keep our water safe. This company in particular has no experience and **no** history of performance.		
00470		Individual	• An international company should not come before the wishes of U.S. residents.		•
00471		Individual	• Arzaga (formerly Powertech}, is an international uranium company and this permit would benefit a foreign corporation at the expense of South Dakota residents. A mistake was previously made to allow uranium mining in our state. We do not want this to happen again. This company is on very shaky financial footing. Do we want this company to dictate the rules for doing business in South Dakota? Will the federal government pay for the cost of cleaning up the areas that will most likely be affected? We do not want to take that chance.		•
00483		Individual	• I am also appalled at the underlying greed behind all of this. No one in this area will get rich, except maybe Azarga, who will then spend their profits in paying fines for violations and clean-up. Or try to get away with it! Lawyers!		•
00484		Individual	Only way to prevent this is to not let it happen in the 1st place. And this is our government. Powertech AKA Azarga is China owned. [ATTACHMENT: "Tunnel collapses at Hanford nuclear waste site in Washington state"]		
00527		Clean Water Alliance	One of the questions that is raised by the public that is not answered in the EPA documents is whether there is any uranium left to mine in the project area, which was mined extensively in the 1950s – 1970s. Before the project goes any further, the company should be required to prove that there is the amount of ore present that it claims by providing information under close supervision by a knowledgeable regulator selected by the EPA. As stated above, this should occur before any final permit is issued. If the company balks at this requirement, it should be inferred that it is not committed to the project as designed, that it knows there is less uranium present than it has claimed, and/or that it expects the expenses of this activity to make the project unprofitable.	Ex. 5 Deliberative Process (DP)	

00528	Ex. 6 Personal Privacy (PP)	Aligning for Responsible Mining	The undersigned, David Frankel, an individual, residing at 101 Walnut Street, Buffalo Gap, SD 57722, and the organization Aligning for Responsible Mining, at the same address, hereby provide the following written comments to the above-referenced draft permits and documents related to Powertech Dewey Burdock. 1. GENERAL COMMENTS APPLICABLE TO ENTIRE PROPOSED PROJECT. A. The Applicant, Powertech, which is now known as 'Azarga', is an insolvent and corrupt organization. The EPA has failed to consider Applicant's insolvency and inability to continue to pay its expenses in all of the project documents. This failure has led to many wrongful assumptions related to Applicant's obligations under the Class III and Class V permits that Applicant has the financial resources to perform the EPA requirements thereunder. These false assumptions need to be revisited in light of Applicant's current insolvent status. After almost 15 years, and spending over $75 million of public shareholder monies, Powertech still doesn't know enough about the project area to be allowed to pursue this project. Notably, as of December 2014, Powertech's technical expert Hal Demuth stated to EPA officials that "there are "some unknowns" regarding what the data show to support UIC permitting." These 1 unknowns have not, to date, been resolved. Powertech misleads public officials and the public by providing conflicting information to different parties. It has informed the industry[2] that there is 4 million pounds recoverable uranium which can be mined over 11 years and it has informed the EPA that between 8.5 and 9.5 million pounds of recoverable uranium deposits have been identified at Dewey-Burdock and that Powertech expects to conduct mining operations for 20 years.3 Which is it? And such assumptions concerning recoverable uranium assumes that it is all of the type that is recoverable - which has been cast into doubt by the recent research set forth in Bhattacharyya, A. *et al*. Biogenic non-crystalline U(IV) revealed as major component in uranium ore deposits. *Nat. Commun.* **8**, 15538 doi: 10.1038/ncomms15538 (2017). Powertech/Azarga has as its largest (29.6%) shareholder, the criminal enterprise known as 'Platinum Partners'. Platinum Partners has been found to be an illegal 'Ponzi' scheme and its principals were arrested and are under criminal charges. Platinum Partners acquired the shares after Blumont Group Ltd defaulted on its loan and Platinum Partners foreclosed on the shares in Azarga/Powertech. It is a very bad sign when the largest shareholder of the Applicant would rather give up	Ex. 5 Deliberative Process (DP)	

			its stock than pay its debts.[4] Platinum Partners executives were charged in a $1 Billion fraud in December 2016.[5] As a result of the seizure of the assets of Platinum Partners by the US Attorney's Office in the Eastern District of New York, it is possible that another branch of the US federal government, namely the US Department of Justice, is the decisionmaker with regard to the 29.6% of Powertech/Azarga, which poses a conflict of interest for the EPA in this matter. All such conflict of interest should be resolved publicly before any permit is issued. Powertech's financial statements tell a sad story. The 6 stock price of Powertech/Azarga (TSX: AZZ) is CDN $0.285 per share as of June 16, 2017. As of May 12, 2017, Powertech/ Azarga had 75,336,943 outstanding, giving it a market capitalization equal to CDN $21,471,028.76 which equals US $16,249,703.98. As of March 31, 2017, Powertech/Azarga had financial assets equal to CDN $607,823, which equals US $ 460,012.60 and total financial liabilities equal to CDN $3,997,580 which equals US $3,025,448.50. This means that Powertech/Azarga is financially insolvent having debts greater than its assets equal to US $2,565,435.90. It is $2.5mm underwater. Powertech/Azarga has current trade payables equal to CDN $1,327,373, which is US $1,004,582.43 and current cash equal to CDN $471,286, which is equal to US $356,678.67. **This means that Powertech/Azarga does not have sufficient cash resources to pay its current trade payables making it legally insolvent.** During the first three months of 2017, through March 31, 2017, Powertech/Azarga spent CDN $243,354, which is equal to US $184,175.17. **This means that even if it doesn't pay any of its trade payables, Powertech will run out of funds in six months, or by December 31, 2017.** Over the past 10 years, the stock price of Powertech/Azarga has crashed from CDN $23.33 to CDN $0.285. That is a 10,000% decrease in stock value, highly disappointing its investors and raising the specter of stock fraud. **Meanwhile, over that period of time, Powertech/Azarga has raised over US$75,000,000 and has wasted all of it.** [...] **The EPA documents fail to consider the foregoing 'real-world' economic disincentives to continuing with this project.** While typically the concern of its management and not the licensing agency, Powertech/ Azarga's insolvency, bears directly on EPA's consideration of these		

			permits. The mining phases most likely to be impacted by Powertech/Azarga's demonstrated inability to manage it's financial resources are invariably restoration and remediation in addition to borehole plugging/ abandonment, well drilling, monitoring, testing, modeling and analysis. Powertech/Azarga's failure, after the extraction of whatever recoverable uranium may be at the Dewey Burdock site, if any, will leave EPA and the American People the task of restoring the toxic mess they are sure to leave behind. [...] Since Powertech lacks the financial resources to pay its trade payables or current expenses, there is no reason to believe that it will be able to design or operate an adequate treatment plan. [...] Powertech has ZERO real world experience operating an ISL mine and wants to practice on our communities in the Black Hills. The fact that they have chosen an area in which is difficult to control mining fluids makes it very likely that catastrophic environmental harm will occur. The fact that Powertech lacks the financial resources to pay even its current trade payables indicates that it will not be able to attract and retain competent technical staff required to handle this difficult job making it even more likely for catastrophic impacts to result from the proposed mining. None of these factors have been considered by EPA to date.		
00546	Ex. 6 Personal Privacy (PP)	Oglala Sioux Tribe	The EPA lacks adequate data to support a finding of no migration pathways for contaminants that may be released from the injection wells. The proposed permit relies upon future test results and findings by PowerTech Inc. But EPA has already determined that data provided by PowerTech is unreliable. The *Dewey Burdock Class V Draft Area Permit Fact Sheet* indicates that PowerTech overstated the critical pressure calculations for injectate into the valuable Madison aquifer by 400-500 percent. (EPA, *Dewey Burdock Class V Draft Area Permit Fact Sheet,* p. 26). Yet the proposed permit relies upon data from PowerTech to determine thickness and interconnection of aquifer formations, test results, and corrective action. The reliance upon PowerTech to provide reliable data to determine the impacts of underground injection is a fatal flaw for the protection of public health and the environment.	Ex. 5 Deliberative Process (DP)	

07458	Ex. 6 Personal Privacy (PP)	Individual	WHAT IS AZARGA/POWERTECH? Azarga Resources Limited, is a Canada-based, China-led company that has never mined uranium. After owning part of Powertech since 2013, it is now merged with Powertech to form a new company named Azarga Uranium. The new ownership controls Powertech's operations in South Dakota, as well as uranium interests in Colorado. Azarga's largest stockholder is Platinum Partners, a hedge fund that Is based in the Cayman Islands. Seven members of Platinum Partner's leadership team, including its founder, Mark Nordlicht, have been charged in federal court in New York for a $1 billion fraud and for running what the media has called a "ponzi scheme." This makes the status of Azarga uncertain. The former investment banker who heads Azarga Resources is Alexander Molyneux, who was born in Australia. Molyneux left investment banking and entered the mining industry with the help of Robert Friedland, a dual citizen of the United States and Canada who lives in Singapore. Friedland is known by some as "Toxic Bob," partly for his role in the disaster at the Summitville gold-silver mine in Colorado. The Summitville mine was run by a subsidiary of Friedland's company, Galactic Resources. It is now a Superfund site that discharged acid drainage and cyanide, arsenic, cadmium, copper, lead, mercury, and other heavy metals into the Alamosa River. Friedland's bankrupt subsidiary pled guilty to 40 felony counts. Cleanup, which is expected to cost $150 million, is ongoing. Molyneux's mining experience began with his stint as CEO of SouthGobi Energy Resources, a coal mining operation in Mongolia. The company was controlled by a firm founded by Friedland. Molyneux was fired from this position after the company racked up millions of dollars in operating losses and he apparently alienated the Mongolian government. A market observer summarized the situation: "The SouthGobi thing was a mess, with restated financials for two years, an abortive takeout by a China company, Rio Tinto's giving Mr. Molyneux his walking papers, and Ontario-groomed class-action lawsuits. *n* (The Calandra Report) Whether Azarga intends to actually mine uranium in the Black Hills remains to be seen. It is also possible that the company hopes to make a profit by getting mining permits, then selling the proposed mine site to someone else, or they might get permission to create deep disposal wells and start taking in wastes from other mines.		

			In addition, Azarga/Powertech's own statements have faced scrutiny by the British Columbia Securities Commission. Canadian regulators consider Azarga's preliminary assessments "too speculative geologically." Azarga acknowledged certain "deficiencies" in its filings relating to the Dewey-Burdock project.		
07459 (Valentine hearing)	Ex. 6 Personal Privacy (PP)	Individual	CHARLES WARD: That's all right. Call me Izzy for short if you want. I just have a couple of comments to make. One is, I don't think the EPA goes out and does these things without somebody pushing. Somebody has had to put in a permit. Who is this Powertech? Who are they really? I mean, where are they coming from? Who are they? And what are they really? [...] And these people, I feel, are doing a job that they are asked -- somebody came to them, just like you or I came to them, and we asked them to do something. I think we need to be looking at this Powertech, find out who these people are, and that's where you vent your things, not on these people, because they're just doing the job like we do a job also. So that's my comments. Thank you.		
07460 (5/8 Rapid City hearing)		Individual	We have a plan here, which is going to take 4,000 wells, and use it, supposedly, for uranium mining. But I want to discuss this business of uranium mining for a minute so that you understand where this is all coming from. This company began as a hedge fund in Vancouver, Canada, with ten employees. They went to Colorado. They drilled some test wells down there. They polluted some water. They got sued. The lawsuits ended up in front of the supreme court of Colorado. The governor got into it, as well as the legislature. They basically got thrown out of Colorado for having made a mess. And there is a wonderful website for this called PowertechExposed.com, which you can look at for the history of this. They then came to little South Dakota, which had rudimentary rules about handling uranium mining and it had very rudimentary rules about watching after this. And then they ran into a local guy named Mark Hollenbeck, whose family had ranched in the Dewey-Burdock area for some time. And he had been a state legislator for two years, and then he turned into a lobbyist, and then he somehow met the Powertech people, and then they began to attack South Dakota.		

			First thing they did was they began to sell stock out of this hedge fund to everybody and anybody that would buy it. Before it was over, a significant portion of our state legislature had bought stock in it, so had every person of any wealth in Rapid City and Sioux Falls and Belgium and places like this. Pretty soon, Powertech had sold a whopping 420 million shares of stock. It had run close to $70 million through it, and that was all from stock sales. And they had spent the money on a few lawyers, a few hydrologists, and themselves. Themselves got the biggest part of this. To get you in perspective, 420 million shares is a gigantic amount of shares for a little hedge fund company that has never booked a single dollar of normal money from any operation that they might do. Somewhere along the line, about eight months ago -- [...] SUSAN HENDERSON: They sold some stock to Synatom, which is a unit of GDF Suez. They put -- Synatom put two guys on their board for about six months, and then they abruptly got off. They walked away from the $7 million that they had given to Powertech. And you have to look at what is Synatom doing. Well, Synatom is the largest purveyor of uranium worldwide. They sell uranium to countries that want to buy it, to our plants, et cetera, et cetera. GDF Suez is a huge, global conglomerate that is involved in water projects worldwide, and they bottle and buy up water. So one of the things that's going to be interesting in this permit application is what is the real fate of the water. Now, this company is broke. It is supposed to, according to the EPA -- or the NRC, it is supposed to fill in 7,650 boreholes out there. If you spent $50,000 a piece on that, you'd be talking about $382 million. They don't have this kind of money. They don't have any money at all. This is a company that has manipulated their annual reports and their quarterly reports to drive the stock up and down. That's what they're really doing. This thing is a stock scam. So because the EPA allows this permit to be sold, this thing will be sold the next morning. After they get the permits and after they get the giant water permit, the largest one that South Dakota will have ever issued, then they will be able to sell this. 30 percent of the leases in the Dewey-Burdock are owned by a Russian company called Uranium One.		

			Now, I hardly think -- [...] SUSAN HENDERSON: Well, that's fine. But I'm telling you -- the last thing I have to say here is that this is not going to be uranium mining. This is going to be, sell the permit, and then we'll see what we're going to do with it.		
07460 (5/8 Rapid City hearing)	Ex. 6 Personal Privacy (PP)	Individual	SUSAN HENDERSON: Thank you. We have one chance at this. If we permit this and we allow this company to sell the permit or keep the permit or proceed with uranium mining or not proceed with uranium mining or whatever it decides to do to make money to feed its voracious appetites, we do not get to do this over. Radioactivity is so very lethal, so very permanent, and so very hard to work with that that we will forever have to deal with what comes because we have allowed this to happen. We cannot imagine the problems that will ensue. [...] There was a testimony in Hot Springs last week about the fact that the Tennessee Valley Authority had some sort of a report that had been bought by or given to Powertech that indicated that there were -- after ten years of the TVA studying the site, that there was not recoverable uranium there to be mined. Well, the import of this is, if they knew about this at the beginning, then they defrauded every single stockholder because they sold this stock based on a uranium mining project. And they may or may not have -- but I suspect they did have -- knowledge of aforesaid, that there was no recoverable uranium there to mine. So once we give them this permit, what are they going to do about this problem? They don't want to spend $300-plus million filling in the boreholes. They want to sell this property. What does that property have that would be valuable? Well, it's going to have this huge water permit, and remember that this company has been bought by an outfit called Azarga out of Hong Kong and has Chinese interests in it. The Chinese are rolling all over the world looking for potable water because they have ruined the water in their country. [...] So this company does not have the money to mine. It has not acted properly toward its stockholders. It never registered with the SEC, or with the Securities		

			and Exchange Commission, of the State of South Dakota until, you know, just recently. For the longest time, it didn't even have audited financial reports. The financial reports you got to read were things that they basically made up, and they were doing this so they could keep selling the stock. Their whole idea was to sell the stock and make money on the stock. That's why they got the 420 million shares of stock, that's why they got the some $70 million in, and they basically spent it, so this company has never operated as a proper uranium mining company. And I would also tell you that some of the principals of that company do not have good track records either. So the bottom line is that this will not be a uranium mining operation.		
07460 (5/8 Rapid City hearing)	Ex. 6 Personal Privacy (PP)	Individual	SYLVIA LAMBERT: Sylvia Lambert. What is Azarga/Powertech? Azarga Resources Limited, is a Canada-based, China-led company that has never mined uranium. After owning part of Powertech since 2013, it is now merged with Powertech to form a new company named Azarga Uranium. The new ownership controls Powertech's operations in South Dakota, as well as uranium interests in Colorado. Azarga's largest stockholder is Platinum Partners, a hedge fund that is based in the Cayman Islands. Seven members of Platinum Partners's leadership team, including its founder, Mark Nordlicht, have been charged in federal court in New York for a $1 billion fraud and for running what the media has called a Ponzi scheme. This makes the status of Azarga uncertain. The former investment banker who heads Azarga Resources is Alexander Molyneux, who was born in Australia. Molyneux left investment banking and entered the mining industry with the help of Robert Friedland, a dual-citizen of the United States and Canada who lives in Singapore. Friedland is known by some as, quote, "Toxic Bob," partly for his role in the disaster at the Summitville gold-silver mine in Colorado. The Summitville mine was run by a subsidiary of Friedland's company, Galactic Resources. It is now a Superfund site that discharged acid drainage and cyanide, arsenic, cadmium, copper, lead, mercury, and other heavy metals into the Alamosa River. Friedland's bankrupt subsidiary pled guilty to 40 felony counts. Cleanup, which is expected to cost $150 million, is ongoing.		

			Molyneux's mining experience began with his stint as CEO of SouthGobe Energy Resources, a coal mining operation in Mongolia. The company was controlled by a firm founded by Friedland. Molyneux was fired from this position after the company wracked up millions of dollars in operating losses and he apparently alienated the Mongolian government. A market observer summarized the situation, quote: "The SouthGobi thing was a mess, with restated financials for two years, an abortive takeout by a China company, Rio Tinto's giving Mr. Molyneux his walking papers, and Ontario-groomed class-action lawsuits." That's from The Calandra Report. Whether Azarga intends to actually mine uranium in the Black Hills remains to be seen. It is also possible that the company hopes to make a profit by getting mining permits, then selling the proposed mine site to someone else, or they might get permission to create deep disposal wells and start taking in waste from other mines. In addition, Azarga/Powertech's own statements have faced scrutiny by the British Columbia Securities Commission. Canadian regulators consider Azarga's preliminary assessments "too speculative geologically." Azarga acknowledged certain, quote, "deficiencies" in its filings relating to the Dewey-Burdock project. There should be no deficiencies where our water is concerned.		
07460 (5/8 Rapid City hearing)	Ex. 6 Personal Privacy (PP)	Individual	You guys -- most of what I wanted to talk about was covered. Azarga is a completely unethical company if you research them. Powertech is a subsidiary of Azarga. They are going to do the same thing every other uranium mine has done. They are going to abandon it once they've made it toxic and leave.		
07460 (5/8 Rapid City hearing)		Individual	BRYCE IN THE WOODS: Good evening. You know, when Powertech was doing this years ago, they went belly-up. And then you have this Chinese company come in and trying to revive something that should have remained dead.		
07460 (5/8 Rapid City hearing)		Individual	Let's talk about hypocrisy and cynicism. It is breathtakingly cynical for Azarga and other mining forces to stand before us and say that they will clean up after their mining activities. [...]		

			And Powertech, they are crooks to boot. Their stock is worth pennies, and Platinum Partners, which owns 30 percent of Azarga stock, is under indictment -- is under indictment that basically describes Platinum Partners as a Ponzi scheme, according to the Rapid City Journal and other sources. So even if Powertech intended to use the most advanced monitoring and cleanup methods on the Dewey-Burdock site, they wouldn't be able to afford it. The people of Custer and Fall River Counties will be left with toxic water and the bill to pay for it, pay for it with the health of their children, their stock, and their livelihoods.		
07460 (5/8 Rapid City hearing)	Ex. 6 Personal Privacy (PP)	Individual	I think that that's the company trying to win us over because they are foreign. I also am concerned that they don't care about our livelihood because they are not from South Dakota or even the United States. Another thing that really bothers me is their current stock price is 32 cents per share. That's a penny stock. This company has no financial backing. And if they did spill into our aquifer that provides water for 59,000 people in South Dakota, they would not have the amount of money to try and clean it up. So I hope that you take this into consideration. Thank you.		
07460 (5/8 Rapid City hearing)		Individual	We are here today to discuss allowing a foreign-owned corporation to mine for uranium and to drill a total of eight boreholes. Now, normally you only need one. Part of what I heard this morning makes me wonder, if there is more than eight required, what this corporation wants to do. There are already over 15,000 abandoned uranium mines within 15 Western states; 75 percent of these are in federal and tribal land. Ten million people live within 50 miles of an abandoned uranium -- I've got to move this, sorry -- of an abandoned uranium mine.		
07460 (5/8 Rapid City hearing)		Individual	I don't know how this company got here and elevated up with so much privilege. I know they have connections with the state government somehow. I don't know all the facts. They hired Mark Hollenbeck, former mayor of Edgemont. Hollenbeck, he said he believes it's ridiculous that they have to wait so long to be able to get to work on this. And I just want to say: Have you considered the consequences of what could happen? What do you expect? Do you think you can just come in here and open up shop? And -- yeah. What it really boils down to is it's all about the money.		

			[...] Forget about it. This company isn't going to do us any good. Just think, when they tell us everything is going to be all right or criticize us, saying we're misleading the facts, I want you to remember it's all about the money. And that money isn't going in our -- that money is going in their pockets, not ours.		
07461 (5/9 Rapid City hearing)	Ex. 6 Personal Privacy (PP)	Individual	How can we ever trust them when they had this kind of dishonest intentions? Why, if the process is, to quote Mr. Hollenbeck, "safe and benign," would they need to change the rules to make it easier for a company to destroy an area and then walk away without paying the consequences? Asking for an aquifer exemption should certainly make clear their intentions.		
07461 (5/9 Rapid City hearing)		Individual	A few years back, this gentleman here was in the legislature, and he encouraged a lot of people to buy stock. And then they come up with this bill, Senate Bill 158, I believe, where the state gave away its water to foreign corporations. Now, I'm sure all of you in your own hometown, wherever you live, get a water bill every month. And you pay it because you're trusting them to bring you safe water, and it's there always. These people gave it away. Our legislature in this state gave it away to foreign corporations. Powertech is one of them, Azarga.		
07461 (5/9 Rapid City hearing)		Individual	But let's say that all that did matter was money on this, and let's look at some of the financial aspects of this. If you read financial things having to do with the uranium industry, this project is on If you read financial things having to do with the uranium industry, this project is on the top of the list and it's publicized everywhere. They see this as a huge opportunity to make a huge amount of money without a very large investment. It is also unclear who exactly owns Powertech. There's been mention of Chinese ownership. Even in the last week, there's been shift of who owns most stock in the company. And I believe that it probably is some kind of, basically, money laundering where you've got Powertech, the first organization we see, but it works up through many other investment companies, some of which have been found guilty of various types of illegal money activities.		

			Furthermore, if you read about China, their main objective right now is to get overseas sources of uranium, and that's big on their agenda. So if Azarga or Powertech are somehow connected through China, it would make sense. The other thing, though, is that this company isn't real stable economically. There was a good column in the Journal by a well-known financial consultant named John Tsitrian. And I don't understand finances enough, but he talks about things like their stock value being 30 cents right now, whereas it was $30 quite some time ago. And he makes comments about how they are very likely to go under. And so that is an issue when you talk about the potential liability that this mine or this cleanup would have. To give a couple examples of that kind of expense, there's a Riley Pass uranium mine not far from here -- I believe in Wyoming -- that was owned by Kerr-McGee in 2014, and they were fined $5.15 billion. And that's the largest environmental settlement ever won by the U.S. government for cleanup. They are responsible for thousands of sites contaminated by creosote and uranium debris, and they fraudulently moved assets around to evade debts and liability for the environmental cleanup, justifying that kind of penalty. Another one has already been mentioned here, the Gilt Edge Mine. That's a gold mine, of course, but they had a $6.4 million bond that they forfeited when they went bankrupt. But up until now, it's cost $88 million to the EPA and the State of South Dakota to clean that up. And by the way, the environmental impact statement for that predicted a very low risk of acid rain off of those mines. So I'm not sure, even at this hearing, if the EPA cares about what our concerns are. It seems like they just want to know if there's any technical data that would dispute their recommendations.		
07461 (5/9 Rapid City hearing)	Ex. 6 Personal Privacy (PP)	Individual	TERRI HULM: Good evening. I know it's your last night, and you guys have already heard about the ethics of Azarga and Powertech, so you already have that on record, how unethical they are. And you've heard all the scientific proof of that, how bad this is and how bad this is going to be to people.		
07642 (Hot Springs hearing)		Individual	The fact the Platinum Partners, which is Azarga's largest shareholder, is being charged with a variety of misdeeds which, if convicted, could provide prison terms for the guilty, should be a wake-up call to the EPA as to the kind of ethics embraced by Azarga.		

			With the company based in China, overseeing a Canadian company with offices in Colorado, one can easily guess how Azarga feels about the long-term health of the citizens in this area when compared to the drive for profit at all costs.		
07642 (Hot Springs hearing)	Ex. 6 Personal Privacy (PP)	Individual	ROBERT LAFFERTY: My name is Robert Lafferty. I'm from Pine Ridge, South Dakota, and I just have a couple concerns on who actually owns Powertech. Is it Azarga, or is it a Chinese investment fund from China?		
8050 (10/5 Hot Springs hearing)		Individual	Azarga/Powertech has not done -- I know we're not supposed to say anything negative, and I just found out about it. So I'm going to read it anyway. Azarga/Powertech have not done -- they have not filled the boreholes or done the cultural study which is required by law. So right there, they are not fulfilling their responsibilities, and that should be taken into consideration. It's also common knowledge that a foreign government is behind this, and it boggles the imagination to think we would allow this when we are so hated by so many. We're not in their best interest. This is all about power and money. [...] Looking on the computer -- and I'm not going to read the whole thing, I'm going to read only the first line: Foreign owned miles -- mines operate royalty-free under an outdated U.S. law. So they don't even have to pay royalties. So even though this company is a U.S. company, it's a foreign company behind it, so they've got carte blanche. They've got carte blanche.		
8050 (10/5 Hot Springs hearing)		Individual	I'm here today to reiterate some of the problems of allowing issuance of a permit to Powertech/Azarga to inject mining wastewater into the aquifers in the Dewey-Burdock area. Following the NRC hearings, Powertech has not complied with the requirements or even started with the NRC recommended requirements. Hundreds of boreholes -- or thousands in the area have not been adequately plugged, or if they were, it was not done sufficiently to conform to any contamination. Originally, the request was for one injection well. It has risen to include up to eight wells. The history of the in-situ mining industry has been full of lies, deception, and failures to mitigate the damage done by these techniques either by lack of finances, lack of responsible cleanup, or the ability to do so, thus	Ex. 5 Deliberative Process (DP)	

			leaving a history of illness and cancer in the surrounding communities caused by runoff or leakage of the wastewater into drinking water.		
8050 (10/5 Hot Springs hearing)	Ex. 6 Personal Privacy (PP)	Individual	I worked for a survey and design company out of Tulsa, Oklahoma, and we were working on a job in the Barnett Shale in the Dallas-Fort Worth area. I worked directly at the table at the coordination meetings three times a week. I've seen how these companies operate. I've seen how their PR people operate. I've seen how they get around the permits, how they use the permits, how they create their own little sister companies for environmental research. It's all in-house, you know. I saw it operate. It's crazy. And you hear these things, and you hope to think that it's not all bad, right? But it's all about the bottom line. The problem with the bottom line is water is the basis for all economic value. And we have to take care of the water, along with everything else.		
8128		Individual	Powertech/Azarga cannot be trusted to dispose of the waste properly. They have never mined Uranium before and have ties to Canada, China, and Kyrgyzstan. The company leadership has a history of fraud and crimes as found by New York federal courts.		
8131		Individual	[...] All reports indicate there is a glut of uranium, it is often used for nefarious purposes and this company has no experience mining uranium. [...]		
8138		Individual	It is wrong to give permits to foreign companies who have no other interest in this area than increasing their wealth.		
8153		Individual	The greedy minds behind this project will be sitting in gated communities hundreds or thousands of mile away sipping Fiji Water and laughing at the hicks they duped into supporting their project. Powertech/Azarga is a foreign owned company that has no interest in preserving the health of our community and the health of future generations. Powertech/Azarga will be no different than previous uranium mining projects in western South Dakota, they will walk away with the profits and through corporate shell games they will sidestep any real responsibility for the mess they leave behind.		
8174		Individual	Not to mention, that is approval is for a company that essentially has no assets, and owned by a foreign country. This fact highlights the reality that in the highly		

			likely event there is an catastrophic event, no remedial action will ever take place by this company. Please do not approve these permits for the Dewey-Burdock uranium mining and high pressure waste disposal wells.		
8179	Ex. 6 Personal Privacy (PP)	Individual	Powertech should not be allowed to have an injection well permit and an acquifer exemption with an unlimited time frame which would allow them time to find a buyer for their company including the permits. If anything is granted to this company it should not be allowed to be sold with the company or controlling shares. [...] III. The Viability of Powertech Azarga: Powertech began as a hedge fund out of Canada and first tried to operate in Colorado. They drilled some test wells which polluted water supplies and were ultimately sued by the damaged parties. The scandal reached into the Governor's Office and the Colorado Legislature. Colorado eventually passed stringent laws to protect valuable resources. Powertech lost its cases an ultimately pulled our of Colorado. This has been documented by the website "Powertech Exposed". This site keeps track of Powertech Azarga and exposes its machinations. It gives a history of the management of the company and their exploits. [...] Early on in the application process, Powertech began issuing stock which was sold in South Dakota and out of the Toronto, Canada exchange. The stock was portrayed as a very valuable mining stock which could be had for a price of $10 to $20 per share. The company opined that soon this stock would be worth in the $600 per share range. Unsuspecting people bought the stock but only insiders realized and value from it. When it trades it goes for about 2 cents a share. Meanwhile Powertech has had stock sales in at least the $65,000 000 range. There expenses have been salaries for the hedge fund executives, lawyer fees, and fees paid to the EPA and NRC for evaluating their applications. Powertech picked up uranium leases in the Dewey Burdock area from Uranium One, the Russian Company who bought out Energy Metals Corporation who had the original leases. Also Powertech merged with a Hong Kong company Azarga which has substantial investments by the Chinese. If this company receives United States permits it will be free to sell the company to outside interests. Because of the investments of the Chinese and the Russians		

			we will have these countries involved in our local uranium mine. I do not think we can adequately police these entities. Nor can the State of South Dakota. Please deny all permits. Respectfully submitted, Ex. 6 Personal Privacy (PP)		
8221	Anonymous	Individual	Allowing a mining company who has no experience mining uranium is setting the area up for gross mismanagement, contamination and pollution of the natural resources.		
8253	Ex. 6 Personal Privacy (PP)	Individual	Keep in mind that Powetech / Azarga went before our South Dakota representative in Pierre and asked them to remove the permitting process of the Department of Energy and Natural Resources. Stating it was "redundant" and "a waste of the tax payers money". To my dismay the representatives voted 6 to 1 to remove the permitting process. I'm a tax payer and I'm outraged at this. In 2017, after the EPA hearing in Hot Springs, I was asked by the project manager of the Dewey Burdock site why I cared about this. I told him that our well is in the Minnelusa up north of Hot Springs. He said, "why do you care, you're down stream". He doesn't care about anything but himself and his family. They will take what they want and leave a mess behind for us to deal with.		
8254.2		Standing Rock Sioux Tribe	[Specifically, EPA failed to address our comments relating to...] the over-reliance on biased data provided by PowerTech.		
8275		Individual	Concerned that Powertech is owned by Chinese company, and that they will be selling the mined uranium primarily to China. Also, will they be bringing in Chinese workers? And will the profits be going to China?		
8296		Individual	Valois, I would like to voice my opposition to the applications submitted concerning water permits for the Dewey-Burdock uranium mining and high pressure waste disposal wells. I have served the past eleven years as a county commissioner for Fall River County South Dakota, and have been a resident of Fall River County for seventy-two years. I have testified before the National Regulatory Commission and presented my views. I will spare writing a lengthy response addressing the		

			specific dangers involved and numerous negatives that could impact our citizens and our county in general. The bottom line of the issue is clear. Several years ago Powerteck (now known as Azarga, a Chinese owned company) was able to lobby our state legislature and remove the oversights pertaining to the regulations that would oversee companies such as Azarga. The current project manager of Azarga's Dewey-Burdock project is a past state legislator. During the time of the permit process, several members of our Fall River County Commission held stock in Azarga. This cannot be verified because there is a' gag order' in place, protecting stockholders. Fall River County does not have safeguards in place because of its failures to implement a county management plan. As to often happens, big business and corrupt politicians have positioned themselves while the 'little guy' is unnoticed.		

21.
Issuance of these draft permits seems contrary to EPA's mission.

Letter ID	Commenter Org.	Text
00014	Individual	Subject: Aquifer exemption for uranium mining project in southwestern South Dakota In regards to the uranium mining exemption- We must not continue to destroy our waterways and lands by allowing big business to dump wastes and bypass the protections provided by the EPA. The EPA's job is to Protect the environment although it appears that Mr Pruitt is unfamiliar with the concept. What could possibly make anyone think that allowing dumping near an aquifer would be a good idea except someone who doesn't live near by and is only concerned about making more money. Mr Pruitt- Step up and protect the environment or step down!

22. Concerns about ability of EPA to provide adequate oversight of the project or require clean-up because of uncertain future of EPA.

Letter ID	Commenter Name	Commenter Org.	Text
00030	Ex. 6 Personal Privacy (PP)	Individual	We saw how your business, your EPA was slashed and know about the things you as the EPA are required to do by court order in Flint alone. We know there is no physical way that settlement can be honored based on your deployment of agents, because the number of houses doubled in count testing positive for poison. You simply don't have the man power.

Letter ID	Commenter Name	Commenter Org.	Text
00113	Ex. 6 Personal Privacy (PP)	Individual	I understand that your organization is currently facing opposition, due to the current Administration's total disregard for science and the well being of humanity in general, but I beg you to do what you can to not allow this project to move forward. Short term-private wealth is not worth the cost of radioactive waste.
00137		Individual	With massive cuts to EPA funding, I'm terrified by the possible repercussions one small error could have on this very important water supply. As a scientist yourself, I'm certain you know much more about this than I do.
00169		Individual	Subject: aquifer exemption for uranium mining project in southwestern South Dakota Ms. Shea, I am writing to comment on the uranium mining project in Edgemont, South Dakota. I am opposed to the project for a number of reasons. You were quoted in the Black Hills Pioneer as stating, “The best permit in the world isn’t a guarantee that nothing will happen,” she said. “But there will be extra monitoring and remediation so if anything did happen, we would catch it early and fix it.” I find this a troubling statement especially given the current political climate where science is being dismissed in the interest of monetary gain. I by no means wish to question you personally as a scientist, but I feel that there would be a lot of plausible deniability from Powertech should something go wrong with this project and do not have confidence in the EPA as it currently exists that it would sufficiently enforce remediation should something happen.

23. Concerns about adequate monitoring (mistrust of Azarga/Powertech fulfilling monitoring requirements, the permit needs to contain additional monitoring requirements, no way to adequately monitor to prevent contamination, etc.)

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
00003	Ex. 6 Personal Privacy (PP)	Individual	My major concern with the permits being issued is that Powertech is going to be responsible for their own monitoring of the underground drinking water. This to me seems a bit outlandish. What about checks and balances? It seems that if anything were to go south with this project this would be this instance. Who will hold them accountable? I appreciate that the EPA is going to be holding this company to specific standards for their waste and the surrounding source water. I think it’s a good idea that they will be testing the water before, during, and after the project. But I think a third party with no financial ties to	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			the project or company should be in charge of these regulations. Corruption and cover ups are too common in situations like these and the people that pay for it are the local citizens. I would feel much more on board with this project if some of these concerning issues were taken care of. Projects like these are a tricky situation on all sides and everyone wants to be happy with the end results. I think many people would feel more inclined to support this if the idea of corruption wasn't looming over their heads. Thank you for your time,		
00013	Ex. 6 Personal Privacy (PP)	Individual	Who will be at the site to ensure that the water injected into Class V wells meets ClassV standards? Where is the guarantee that the chemical laden water can even be filtered to acceptable ClassV standards. Radioactive minerals should not be allowed in Class V wells. And if Azarga goes bankrupt and they don't cap the wells, what happens? Will there be continued monitoring when Azarga is done with the site and the wells are capped? NO! Who monitors these sites 20 or 30 years from now to know if the wells crack and leaking occurs?	Ex. 5 Deliberative Process (DP)	
00015		Individual	I am also concerned that adequate oversight of the quality of liquid wastes pumped into the Minnelusa Formation through the proposed deep disposal wells will be inadequate, and groundwater WILL be contaminated.		
00017		Individual	I understand that the water would be monitored for safety throughout the process. Still: no. Completely and emphatically no. What happens when the water in the aquifer is found to be contaminated? How long would the remediation process take, if it's even possible?		
00034		Individual	The companies cannot and should not be trusted with this activity [monitoring]. We all know about companies who have historically not provided accurate information to the public when water has been contaminated. This withholding of information has resulted in serious illness or death for people who have been exposed to contaminated water.		
00034		Individual	Who will be doing the monitoring of the water? [...] What happens when the injection material gets into the aquifer? Will the companies pay to clean it up or does that fall on tax payer to clean up their mess.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
00044	Ex. 6 Personal Privacy (PP)	Individual	It is a known fact that several executives of Powertech previously worked with other uranium companies that were cited for mining violations. One company went bankrupt and left tons of radioactive mill tailings along the Colorado River in Moab, Utah. That mill is now a superfund site whose cleanup is funded by your tax dollars. Why should we trust them to clean up future operations? Is this why they want to send their waste water deep underground; Out of sight, out of mind?	Ex. 5 Deliberative Process (DP)	
00054		Individual	They claim that In-situ mining is safe, there is no safe, clean in-situ mining. Crawford, NE had violations that were discovered by their State oversight.We can assume, from past experience, that our State of SD will not be actively involved with monitoring this project. By the time we realize there is a problem, it will be too late. The water will never be returned to its current state. The EPA standards are merely lowered to make it OK once the water is contaminated.		
00094		Individual	I am also concerned that groundwater is likely to be contaminated due to inadequate oversight of the quality of liquid wastes pumped into the Minnelusa Formation through the proposed deep disposal wells.		
00095		Individual	I am very concerned that continuous oversight of the mine and the quality of liquid wastes pumped into the Minnelusa Formation through the proposed deep disposal wells will be impossible. If this is allowed to proceed, there must be a qualified third-party monitor who is continuously on-site during operations. Thanks for this opportunity to comment.		
00108		Individual	• Adequate oversight of the quality of liquid wastes pumped into the Minnelusa Formation through the proposed deep disposal wells will be impossible, and our groundwater is likely to be contaminated.		
00136		Individual	• Adequate oversight of the quality of liquid wastes pumped into the Minnelusa Formation through the proposed deep disposal wells will be impossible, and our groundwater is likely to be contaminated.		
00172		Individual	Subject: Permits for Dewey-Burdock Uranium Mine [...]		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			I am also concerned that adequate oversight of the quality of liquid wastes pumped into the Minnelusa Formation through the proposed deep disposal wells will be inadequate, and groundwater is likely to be contaminated		
00219	Ex. 6 Personal Privacy (PP)	Individual	Subject: draft UIC Dewey-Burdock permitting [...] Providing adequate well monitoring and maintenance programs for all the wells, including the monitoring wells, will ensure well operational efficiency and extend the life of the wells throughout the project. Among other water constituents, high TDS and sulfate levels that exist in the formations, as well as the process water, will tend to clog well screens and gravel filter packs over time without vigilance. In addition to the required step tests for fracture determination discussed in section 5.9, routine pump/step tests can be useful for monitoring well efficiencies and the need to treat the wells before problems occur. The flowing artesian wells present within the area will remain a concern and should be watched.	Ex. 5 Deliberative Process (DP)	
00221		Individual	Subject: Stop Dewey-Burdock Uranium Mine [...] It concerns me that adequate oversight of the quality of liquid wastes pumped into the Minnelusa Formation through the proposed deep disposal wells will be inadequate, and groundwater is likely to be contaminated. Further, these permits should not be issued until it can be demonstrated that groundwater resources will be protected.		
00486		Individual	In addition, as trucks come in the dark of night and dump toxic waste into the deep holes, who oversees what is being dumped and where did it come from? Is there going to be a 24 hour security guard (in peprituity sp?) and how would he be even able to know what awful stuff is in those containers? As one lady said yesterday, if something bad happens at that site, it could take several hours for law enforcement to get out there. Thanks.		
00514		Individual	The Class V wells according to the EPA site are for waste that has been cleaned and will not contaminate USDW. The problem is monitoring this procedure. The mining industry cannot		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			be trusted to self monitor and the EPA has not done a good job in the past. Mistakes and violations once made cannot be remedied.		
00519	Ex. 6 Personal Privacy (PP)	Black Hills Clean Water Alliance	Another important omission is that the draft permits beg the question of who is going to do on-the-ground regulation of the proposed mine and deep disposal wells. In 2011, the State of South Dakota suspended its ability to regulate in situ leach uranium mining, so it has no authority to do that regulation at this time. The NRC has two inspectors based in Texas, who visit ISL mines once or twice a year. There is no indication that their regulation can be competent or complete. This is tremendously important. The draft permits include some very critical actions, such as testing the Minnelusa Aquifer to determine its water quality before deciding whether the company can proceed with deep disposal wells. This is a high-stakes test that can impact the future of the southwestern Black Hills. First of all, the water quality test should have been done under EPA's direct supervision before a draft permit was issued. If the Minnelusa's water turned out to be appropriate for drinking water, the time and expense of creating the application and the Class V draft permit would have been avoided. Second, if the permit is issued, the testing of the Minnelusa aquifer's water should be done under EPA's direct supervision, rather than allowing the company to do a test in the area of its choice using equipment it supervises, sending the sample to the lab of its choice, and expecting the people who use the Minnelusa Aquifer in the southern Black Hills to believe the results.	Ex. 5 Deliberative Process (DP)	
00527		Clean Water Alliance	Another document issue is located in the Class III Fact Sheet (p. 108). The EPA, following Section 2.2.2 of *The Unified Guide*, described performance standards that Powertech must follow in its statistical analysis of groundwater monitoring data. One of the standards is that, when using a tolerance interval or prediction interval, that interval must be "protective of human health and the environment." The EPA should know that the science as to what is "protective" when it comes to in situ leach uranium mining is in dispute. There is very little science on the subject, and some of what has been done was completed with improper or inadequate methodology or was paid for by the uranium industry. Before any		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			further steps are taken in working with this process, additional research needs to be completed. These are some of the general problems with the EPA documents on the proposed project. Others will become apparent as we move into process issues and omissions. […] Second, if the permit is issued, the testing of the Minnelusa aquifer's water should be done under EPA's direct supervision, rather than allowing the company to do a test in the areas of its choice using equipment it supervises, sending the sample to the lab of its choice, and expecting the people who use the Minnelusa Aquifer in the southern Black Hills to believe the results. Similarly, the following must be done under the direct supervision of a knowledgeable regulator: • pre-mining water quality testing in the proposed mining area, • testing designed to determine the likelihood of down-gradient excursions, • information underlying decisions about what holes and wells should be plugged, • mitigation of air quality impacts, • pump tests, • well construction, • reports on and handling of vehicle accidents involving hazardous or radioactive contaminants, • groundwater level measurements, • injection fluid characteristics, • post-restoration monitoring, • determination of the corrective response that must be taken when an excursion happens (this is currently left to the regulated company), • well plugging and abandonment, • analysis of radiological issues, • disposal of hazardous wastes,		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			• regulation of a variety of soil issues (Section 7.0 of Draft Cumulative Effects Analysis), • programs to minimize the impacts to land use, • fugitive dust control, and • all measurements related to the presence, monitoring, and impacts of excursions, and of attempts to measure or cure excursions. Note that Raymond H. Johnson, the lead author of the two articles that are the basis for the section related to down-gradient excursions in the Class III Fact Sheet (p. 62), appeared as a speaker at an event hosted by Powertech that was designed to promote the Dewey-Burdock project. He worked for the USGS at the time, which gave the audience the impression that the USGS was promoting the project, according to people who were there. This occurred in Hot Springs and in Custer in the Spring of 2013. I note that he was also in communication with EPA staff on this project. He then went to work for a firm that serves the uranium industry. While the "revolving door" phenomenon is not uncommon as people move from government to the private sector – and sometimes back again – the impartiality of Mr. Johnson's research has been questioned by some people in the Black Hills. For more information, see [HYPERLINK "http://www.argusleader.com/story/news/2015/03/07/ex-federal-scientist-center-uranium-fight/24581135/"]		
07461 (5/9 Rapid City hearing)	Ex. 6 Personal Privacy (PP)	Individual	So -- but in just looking at this slide here -- and I'll try to speak to it because I know we're on the record here verbally -- I was thinking about, if this was an NRC site and this was a nuclear plant, they would have Plans B and C, and I don't think the EPA has that in this case. When I looked at this drawing -- and I know it's sort of a schematic -- I see this is 120 feet from the -- the aquifer exemption boundary is 120 feet. This row of wells is supposed to capture whatever goes wrong in here in the Class III ISL wells. So that distance appears to be about 360 feet. So I don't know how long it's going to take for you guys or the -- Powertech operating the site to finally figure out that there's a problem in this, what I call, amoeba shape. Somewhere in here there's something that's gone wrong, and suddenly you have of a well 360 feet away that has contamination in it. You have no further, you know, Plan B or Plan C. What are you going to do when that happens?	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			I think EPA needs to put in the permit all of these kinds of situations, specifically what happens. When I heard Ms. Shea in her presentation, if I heard it correctly, that they would immediately go in to a restoration situation. And if that's to be done, you know, specifically how many of these wells are going to get turned into recovery wells and are you going to turn off the injection? I -- if I was designing this, I would have another series of monitoring somewhere in this -- in this circle so that you had the first indication that there's a problem, not wait until it gets 360 feet away and then throw your hands up and say, You know, Powertech you've got to do something about it. I don't know what you're going to do. All of those things need to be in the permit. So, I just am very concerned about this operation without that level of detail in the -- in the plans. So that was my parting shot tonight. Thank you.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
8066	Anonymous	Individual	I would like to start by saying that I focused on the DRAFT ENVIRONMENTAL JUSTICE ANALYSIS when I decided to comment on the permit requests. The EPA conducted a Site Inspection (SI) in September 2015 to evaluate potential impacts to sensitive environments and fisheries. Sampling was limited to surface water and sediments since access was not granted to mine source areas. However, the SI included evaluation of data submitted to the NRC that Powertech collected in the mine source areas. The SI report was completed in March 2016. Analytical results of the surface water samples showed that concentrations of total metal uranium, uranium-238, and radium-226 did not exceed three times background concentrations, which is the threshold the EPA uses for indication of a contaminant release. A release of metals and radionuclides to the surface water pathway could not be documented for the Site. My issue here is that the company asking for the permits were the ones doing the sampling. It would be like RJ Reynolds paying for and running a study on the link between smoking and lung cancer. I am not sure why the EPA was not granted access for the sampling but I would be more likely to believe the results if it had happened that way and until an unbiased party does it, I am inclined not to believe there wasn't some bias involved. I was also wondering why surface water pathways could not be determined. Was it because of access to the site? [...] It is noted that the "barren" lixiviant will be injected back into the wells. What tests will be done to confirm this, will it be done before they can inject this back into the wells and who would provide oversight for this?	Ex. 5 Deliberative Process (DP)	
8149	Ex. 6 Personal Privacy (PP)	Individual Ex. 5 Deliberative Process (DP)	The EPA suggests allowing Powertech to take a sample of the Minnelusa Aquifer to see if it is appropriate for drinking water after giving the company its permit to inject mining wastes into	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			the aquifer. Water testing of the Minnelusa Aquifer must be done before any permit is issued. The EPA, not Powertech, must select testing sites, take samples, and insure that they are tested properly.	Ex. 5 Deliberative Process (DP)	
8153	Ex. 6 Personal Privacy (PP)	Individual Ex. 5 Deliberative Process (DP)	There is no way that Powertech/Azarga can guarantee that the mining waste injected into a particular aquifer will stay in that aquifer. All extraction processes are prone to failure. The consequences of an even small failure in this system would be catastrophic.		
8179		Individual Ex. 5 Deliberative Process (DP)	Further Powertech and the EPA have now indicated that computer modeling techniques instead of well monitoring using actual samples of water will be used to determine what contamination, pollution, or waste water migration is occurring. This should not be allowed either. We should have monitoring procedures to analyze water quality in the area before, during, and after the waste water injection wells are used. Actual water testing is needed to determine what is actually happening. I do not trust the applicant, Powertech to fairly pay for and develop any computer models that are not biased towards Powertech. [...] To propose a mathematical model derived from a variety of other mining operations for off-site monitoring of water quality in this dangerous situation is irresponsible. It can't possibly account for the unpredictability of water movement through these geological strata and, most certainly, it won't be accurate or comprehensive.		
8181		Individual Ex. 5 Deliberative Process (DP)	Where to begin? First of all, why haven't you sampled Minnelusa Aquifer water yet? You know that it isn't in Powertech's interest to provide the public with objective information. Throw out your draft permits and get a third party, non-corporate entity, to select testing sites. Take samples, test them properly for drinking water quality, so that you and the public are confident about what the quality of the water is right now. Then make your decision on permits. First things first!		
8219	Anonymous	Individual	The EPA suggests allowing Powertech to take a sample of the Minnelusa Aquifer to see if it is appropriate for drinking water after giving the company its permit to inject mining wastes into		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
		Ex. 6 Personal Privacy (PP)	the aquifer. Water testing of the Minnelusa Aquifer must be done before any permit is issued. The EPA, not Powertech, must select testing sites, take samples, and insure that they are tested properly. Many South Dakotans use the Minnelusa Aquifer for drinking water and it must be protected		
8225	Ex. 6 Personal Privacy (PP)	Individual Ex. 6 Personal Privacy (PP)	Changes made since your 2017 proposals make severe environmental deterioration at this site more likely. Removing all down-gradient compliance boundary wells and post-restoration monitoring from this project is short-sighted and unscientific. Modeling is fine, and should be done, but there must be physical monitoring not just at critical edges of the site, but in other strategic areas inside the boundaries. Physical monitoring is the only way to assure that models have validity. The Dewey-Burdock site has a complex hydrogeology that is bordered by domestic and livestock wells that are in use. Water quality must be monitored, not just modeled.	Ex. 6 Personal Privacy (PP)	
8146		Individual Ex. 6 Personal Privacy (PP)	The size, complexity, and gaps in knowledge mentioned in the introduction of the Conceptual Site Model Criteria Support document are extremely understated regarding the Dewey-Burdock Site. Our incomplete understanding of the Black Hills' aquifers under current conditions inherently means dependable predictions of how the proposed mining operations will affect the aquifers and/or the interactions between them cannot be made. Until all gaps in knowledge are filled and all uncertainty about impacts of this in-situ mining project on groundwater resources are assuaged it should not be permitted. The removal of Down-gradient Compliance Boundary Baseline monitoring wells and PostRestoration Groundwater Monitoring wells is alarming. I understand the Down-Gradient Wells have been opted out in favor of Geochemical Model Approach.This Geochemical model is favored because it is believed that it will allow detection and addressing of Lixiviant flares and		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
		Ex. 5 Deliberative Process (DP)	ISR contaminants at the well site rather than down-gradient with higher efficacy and response time. (Class III Fact sheet pg 123). The Geochemical model is a useful tool, but if groundwater restoration were to be implemented on this project it would be useful to also install the Down-Gradient monitoring wells. The purpose of these wells is to detect lixiviant that is introduced to free up toxic Uranium and ISR contaminants. These wells should be used in conjunction with the Geochemical model to detect as much as possible. One cannot stress enough the importance of awareness of noncompliance and/or unnecessary contamination of our water. The cement casings of mining wells using high pressure fluids have well documented fail rates and they tend to be low, however with 1500 proposed wells I am not confident casing failure will not be an issue with the Dewey-Burdock site. There seems to be a lot of emphasis on 'down-gradient' numbers however it is not reasonable to assume the large quantity of water pumped back into the Minnelusa under pressure would resemble the natural percolation of water rather it would make traditional directional flow null and void. Though they keep referring to intervals of the Minnelusa it is irresponsible not to treat the aquifer as one entity due to the aforementioned gaps in knowledge of hydrology and geology. .		
8196.1	Ex. 6 Personal Privacy (PP)	Oglala Sioux Tribe	The purpose of the monitoring wells is to identify and assess impacts of ongoing uranium recovery operations and detect fluid movement out of the approved injection interval, should such an event occur. The problem is that the proposed corrective action required in the Class III permit is totally inadequate. Part II of the permit, section D.4.d. states that: "if wellfield pump test results indicate a possible breach in a confining unit that cannot be located for corrective action, or corrective action does not completely repair the confining zone breach, then the monitoring well system shall be designed to verify that wellfield injection interval fluids will remain within the approved injection interval per 40 CFR §144.55(b)(4)." This is the worst kind of circular logic. Furthermore, to require the Permittee to develop "operational controls" as a method of achieving the corrective action is pure non-sense. Part III on Corrective Action only deals with problems that may occur when breaches are detected during pre- operational wellfield delineation and pump testing. There is absolutely nothing in Part III on Corrective Action that states what the Permittee	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			should do during the subsequent operational period should a problem occur in which contaminants are detected in one of the monitoring wells (either vertically in one of the confining zones or horizontally outside the authorized wellfield area). In this case, the first thing that should be required is that the Permittee must shut down the entire system and the site restoration process should begin immediately while the problem is investigated. Why aren't these simple basic requirements included in the Corrective Action section? Because any potential breach in containment would be so impactful, it must be addressed immediately. Another issue that should be addressed is that one set of monitoring wells is insufficient. In the nuclear industry, redundancy is always built into systems so they are practically fail-safe. The same thing is needed by this permit. Therefore another ring of monitoring wells should be required to be installed outside the first ring (in the horizontal direction at least) in order to provide a second line of defense. So if and when an exceedance is detected in the first ring of monitoring wells, then it will be possible to have sufficient time to evaluate the proper course of action needed to address the situation.	Ex. 5 Deliberative Process (DP)	

24. Comments about plans for injection of fluids received from outside the Dewey-Burdock Area.

Letter ID	Commenter Name	Commenter Org.	Text
07460 (5/8 Rapid City hearing)	Ex. 6 Personal Privacy (PP)	Individual	And they did business with GDF Suez for a while, which was the largest water development company in the world outside of Nestle. And then they might want to sell the permit to somebody that could dump some kind of radioactive or otherwise toxic materials into those wells.

25. Comments on draft Environmental Justice Analysis document.

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
00036	Ex. 6 Personal Privacy (PP)	Individual	1. Introduction	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
	Ex. 6 Personal Privacy (PP)		In April of 2017, the US Environmental Protection Agency (EPA) released draft permits for uranium recovery and wastewater disposal associated with the proposed Dewey-Burdock in-situ recovery project. In accordance with EPA policy and Executive Order 12898, the EPA also conducted an environmental justice (EJ) analysis concerning the mine's possible environmental or health impacts on minority and low-income communities. The report finds that "the city of Edgemont is a potentially overburdened community" based on its low-income status and accumulation of environmental health risks, but that the Dewey-Burdock project is not expected to meaningfully change this status. The EPA also recognizes the need for consultation with tribal communities for whom "the Black Hills is an area of cultural importance," although it recognizes that consultation activities are not a part of the EJ analysis. Finally, the EJ analysis mentions several times that the EPA will conduct "enhanced public participation and outreach activities" given that UIC wells have the "potential for significant public health or environmental impacts." These included several public comment sessions in the Black Hills area. We find the EJ analysis deficient in several connected ways. First, the analysis appears at odds with broad public understandings of environmental justice, scholarly expansions on public understandings, as well as the narrower, pragmatic definition of EJ used by the EPA. Second, although the draft EJ analysis and the EPA's actions seem to suggest an understanding that the project might affect Lakota and other tribal relationships with the Black Hills, the draft EJ analysis as written does not allow the EPA to acknowledge the possible burden the proposed project might place on the culture, religion, or health of Native peoples.		
00036	Ex. 6 Personal Privacy (PP)	Individual	2. Defining environmental justice The concept and practice of environmental justice emerges directly from the activism of people of color and Native peoples directly affected by extractive industries, refineries and processing plants, and hazardous waste repositories. In fact, much of this activism was responding to uranium mining, processing, waste disposal, and nuclear weapons testing. In South Dakota, Native and non-Native groups alike devoted many years in the 1970s and 80s to proving that drinking water on the Pine Ridge and Cheyenne River reserves had been contaminated by past mining activities, resulting in undue health burdens for their people. The organization Women of All Red Nations (WARN) conducted many of the first drinking water tests on South Dakota reservations and fought for environmental justice on a national and international scale (LaDuke and Churchill 1985). The Indigenous	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			Environmental Network (IEN) emerged to help facilitate the extremely influential 1991 People of Color Environmental Justice Summit, which directly led to Executive Order 12898, signed by President Clinton in 1994. Based on EO 12898, the EPA defines environmental justice in the following way. "Environmental justice (EJ) is the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation and enforcement of environmental laws, regulations and policies. Fair treatment means no group of people should bear a disproportionate share of the negative environmental consequences resulting from industrial, governmental and commercial operations or policies." The EPA goes on to define the meaning of meaningful involvement: • People have an opportunity to participate in decisions about activities that may affect their environment and/or health • The public's contribution can influence the regulatory agency's decision • Community concerns will be considered in the decision making process • Decision makers will seek out and facilitate the involvement of those potentially affected We will return to this definition in a moment, but first it is important to contrast these principles originally agreed upon at the 1991 Summit (which can be viewed in full at [HYPERLINK "http://www.ejnet.org/ej/principles.html"]). These include, most notably, 4) Environmental Justice calls for universal protection from nuclear testing, extraction, production and disposal of toxic/hazardous wastes and poisons and nuclear testing that threaten the fundamental right to clean air, land, water, and food. 7) Environmental Justice demands the right to participate as equal partners at every level of decision-making, including needs assessment, planning, implementation, enforcement and evaluation. 11) Environmental Justice must recognize a special legal and natural relationship of Native Peoples to the U.S. government through treaties, agreements, compacts, and covenants affirming sovereignty and self-determination. In contrast to the EPA's definition of environmental justice, the 1991 Summit identified the specificity of particular activities (e.g., uranium mining) and the specificity of particular		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			communities and their relations with land and law (e.g., Native peoples) as fundamental to achieving environmental justice. Here, environmental justice did not simply mean the absence of harms or equality of distribution of risks, but also the proactive recognition of historic relationships with specific land and environments as well as industries. Scholars of environmental justice have focused closely on the twin problems of distribution of environmental harms and benefits and participation in public decision-making processes (Holifield 2001, Holifield et. al. 2010, Schlosberg 2009, Young 1996). What both social scientists and political theorists commonly argue is that public contribution rarely has the chance to influence the regulatory agency's decision. Nonetheless, individuals and organizations participate wholeheartedly and without pay in public hearings like those conducted by the EPA in South Dakota and Nebraska for the Dewey-Burdock project. In the case of the Dewey-Burdock project, public comments were overwhelmingly against the project. Although not always couched in this terminology, we would suggest that many of the speakers were attempting to demonstrate to the EPA that the proposed Dewey-Burdock project does not produce just outcomes for marginalized populations in South Dakota. Whether their public comments meet the threshold for 'meaningful participation' depends on how willing the EPA is to modify its approach and adhere to its own principles. The EPA has continued to expand upon its definition of environmental justice through its EJ 2014 and 2020 Action Agendas. EJ 2014 went a long way toward strengthening the EPA's capacity to recognize possible overburdened communities, as the Dewey-Burdock analysis via EJ Screen and expanded use of participation and outreach meetings demonstrates. However, the EPA has also recognized the difficulty of integrating EJ into all aspects of agency practices, including permitting, public relations, and actual results. This includes understandings of treaty rights, which the EPA admits has been "a major evolution in EPA's understanding of environmental justice and tribal rights" (EPA 2016, 43). The EJ 2020 Action Agenda sets out 4 strategies for enhancing environmental justice towards Native peoples. These are: 1. Strengthen consideration of tribes' and indigenous peoples' issues, their involvement in EPA's decision-making processes, and responsiveness to their concerns when EPA directly implements federal environmental programs. 2. Help federally recognized tribal governments build capacity and promote tribal action on environmental justice.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			3. Address disproportionate impacts, improve engagement, promote meaningful involvement, and improve responsiveness to the environmental justice concerns of indigenous peoples. 4. Promote intergovernmental coordination and collaboration to address environmental justice concerns in Indian country and in areas of interest to tribes and indigenous peoples throughout the United States. Is the permitting process the EPA is conducting for the Dewey-Burdock project consistent with these strategies and goals? Although enhanced public participation was conducted in the spring of 2017, this outreach focused almost completely on the potential health and water quality impacts of the project. While we find these very important, information from the draft environmental justice report was only mentioned, but not explained or referenced in any substantial manner by EPA officials. Although we took the time to download and comment on this report, it is likely that many more participants would have done so if the EPA representatives had explained their findings more substantially. The EJ analysis is insufficient in the EPA's own standards. Yet ultimately the standards of environmental justice today, as thirty years ago, should be responsive to debates and actions in the public sphere, including proposals emerging from social movements. Our next section examines in more detail perspectives on environmental justice elaborated by Native peoples.		
00036	Ex. 6 Personal Privacy (PP)	Individual	3. Native American perspectives on environmental justice Environmental justice scholarship and activism features various assertions of (and mobilizations against) environmental (in)justice in the US from the perspectives of Native peoples, ranging from industrial pollution and contamination (Johnston, Dawson, and Madsen 2010; Voyles 2015) to hydroelectric power (Howe and TallBear 2006; Lawson 2009) and oil and natural gas development (Estes 2014; Allard 2016) to the threats which climate change poses to traditional food sources and ecosystems (Doerfler, cited in Scheman 2012; Dittmer 2013; Whyte 2017; Wildcat 2009). Importantly, nearly all Native-led engagements with questions of environmental justice are grounded in claims and relationships to land, some aspects of which are legally enshrined by treaties with the US government. Many scholars and activists, including Tsosie (1996; 2009), Whyte (2013), and various Lakota, Dakota, and otherwise-affiliated Native individuals who testified during the EPA public comment sessions, have noted that their communities' complexly reciprocal relationships with the land escape capture by the narrowly defined terms of federal	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			treaties. Despite this important caveat, treaties remain an important ground from which Native individuals and communities have articulated their visions for environmental justice. This emphasis on land, water, and treaty rights extends to Lakota articulations of environmental justice. Contemporary Lakota concerns with the impacts of proposed uranium mining activities, including the proposed Dewey-Burdock project, are grounded in a longer history of negative fallout from and concerted opposition against harmful mining projects in the Black Hills region. [...] It wasn't until the 1970s that the health effects of uranium mining began to be noticed by people in the region. A South Dakota Department of Health study in 1976 already found elevated cancer rates around Edgemont (Tupper 2015). Downstream on the Pine Ridge reservation, WARN was conducting the first water tests, which found elevated levels of radioactive elements consistent with toxicity from uranium mining. It would be more than 25 years before an alternative water source was finally in place. Throughout the 1980s, WARN, the Black HIlls Alliance, Defenders of the Black Hills, and other Native and non-Native led groups sought to connect treaty rights to environmental justice in a meaningful way based on their histories of contamination, activism, and experience with the EPA and other federal institutions as well as private corporations. Since the initial wave of activism in the 1980s, groups such as Owe Aku and the Black Hills Clean Water Alliance have been working to amplify both Native and non-Native concerns related to uranium mining into advocacy for clean water. Just as these groups' organizing and advocacy strategies are built upon previous iterations of the environmental justice movement in the Black Hills, so too are their concerns with potential environmental harm from the proposed Dewey-Burdock project grounded in and made more significant by past and ongoing experiences of contamination from historic uranium mining activities. The cumulative effects of past uranium mining, which remain in South Dakotan waterways, bodies, communities today, have been repeatedly cited by the public as one of the most meaningful reasons that contemporary uranium mining is seen as an environmental injustice. The lack of understanding of this history of local and regional environmental justice movements and their connection with the fight for treaty rights (Ostler 2011) is one of the most troubling aspects of the EPA's draft EJ analysis.		
00036	Ex. 6 Personal Privacy (PP)	Individual	5. Conclusion	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
	Ex. 6 Personal Privacy (PP)		Outlined above is a broad understanding of the environmental justice concerns the Dewey-Burdock raises for two scholars of environmental politics in South Dakota. Our expertise comes from being students and scholars learning from the individuals and organizations expressing concerns about the Dewey-Burdock project and from a commitment to do our part in amplifying and translating these concerns into concepts recognizable to the EPA. We have attempted to enhance the picture of what environmental justice could look like if the concerns of Lakota and other tribal communities were properly recognized as part of the permitting process. Our brief outline is insufficient to be counted as an environmental justice analysis in its own right; we only seek to highlight the striking absences within the EPA's draft EJ analysis. With this in mind, we do not see how the proposed permits for the Dewey-Burdock project can be issued and retain any valence of environmental justice. In addressing some of the problems highlighted above, the EPA has a chance to set a precedent for working with Native communities in a manner more consistent with the goal of creating environmental justice. Works Cited Allard, LaDonna Bravebull. 2016. "Why the Founder of Standing Rock Sioux Camp Can't Forget the Whitestone Massacre." Yes! Magazine, September 3, 2016. http://www.yesmagazine.org/people-power/why-the-founder-of-standing-rock-sioux-camp-cant-forget-the-whitestone-massacre-20160903. Dittmer, Kyle. 2013. "Changing Streamflow on Columbia Basin Tribal Lands-Climate Change and Salmon." Climatic Change 120: 627–41. Doerfler, Jill. 2003. "Where the food grows on water: The continuance of scientific racism and colonization." Unpublished manuscript. Cited in Scheman, Naomi. 2012. "Toward a Sustainable Epistemology." Social Epistemology: A Journal of Knowledge, Culture and Policy 26 (3–4): 471–89. Environmental Protection Agency. 2016. "Environmental Justice 2020 Action Agenda." https://www.epa.gov/sites/production/files/2016-05/documents/052216_ej_2020_strategic_plan_final_0.pdf. Estes, Nick. 2014. "Declaring War on KXL: Indigenous Peoples Mobilize." National Lawyer's Guild Mass Dissent. Special Issue: "Environmental Justice and Indigenous Resistance Movements" 37(3).		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			Grossman, Zoltan. 2002. "Unlikely Alliances: Treaty Conflicts and Environmental Cooperation Between Native American and Rural White Communities." Ph.D. thesis, Madison: The University of Wisconsin. Halder, Bornali. 2002. "Mitaku'oyasin: An Anthropological Exploration of Lakota Sioux Environmental Activism." Ph.D., Oxford: University of Oxford. Holifield, Ryan. 2001. "Defining Environmental Justice and Environmental Racism." Urban Geography 22 (1): 78–90. Holifield, Ryan, Michael Porter, and Gordon Walker, eds. 2010. Spaces of Environmental Justice. Chichester, West Sussex, U.K.; Malden, MA: Wiley-Blackwell. Howe, Craig and Kim TallBear, eds. 2006. This Stretch of the River: Lakota, Dakota, and Nakota Responses to the Lewis and Clark Expedition and Bicentennial. Sioux Falls, SD: Pine Hill Press. Howe, Craig, Lydia Whirlwind Soldier and Lanniko L. Lee, eds. 2011. He Sapa Woihanble: Black Hills Dream. St. Paul, MN: Living Justice Press. Jarding, Lilias Jones. 2011. "Uranium Activities' Impacts on Lakota Territory." Indigenous Policy Journal 22 (2). http://articles.indigenouspolicy.org/index.php/ipj/article/view/48. Johnston, Barbara Rose, Susan Dawson, and Gary Madsen. 2010. "Uranium Mining and Milling: Navajo Experiences in the American Southwest." In Smith, Sherry L. and Brian Frehner. Indians & Energy: Exploitation and Opportunity in the American Southwest. Santa Fe, NM: School for Advanced Research Press. LaDuke, Winona, and Ward Churchill. 1985. "Native America: The Political Economy of Radioactive Colonialism." Journal of Ethnic Studies 13 (3): 107–32. Lawson, Michael. 2009. Dammed Indians, Revisited: The Continuing History of the Pick-Sloan Plan and the Missouri River Sioux. Pierre, SD: South Dakota State Historical Society Press. Ostler, Jeffrey. 2011. The Lakotas and the Black Hills: The Struggle for Sacred Ground. New York: Penguin Books. Schlosberg, David. 2009. Defining Environmental Justice: Theories, Movements, and Nature. Oxford University Press. Sharma, Rohit K., Keith D. Putirka, and James J. Stone. 2016. "Stream Sediment Geochemistry of the Upper Cheyenne River Watershed within the Abandoned Uranium		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			Mining Region of the Southern Black Hills, South Dakota, USA." Environmental Earth Sciences 75 (9): 823. Thunder Hawk, Madonna. 2007. "Native Organizing before the Nonprofit Industrial Complex." In The Revolution Will Not Be Funded: Beyond the Non-Profit Industrial Complex, edited by INCITE! Women of Color Against Violence, 101–106. Tsosie, Rebecca. 1996. "Tribal Environmental Policy in an Era of Self-Determination: the Role of Ethics, Economics, and Traditional Ecological Knowledge." Vermont Law Review 21: 225–333. Tsosie, Rebecca. 2009. "Climate Change, Sustainability, and Globalization: Charting the Future of Indigenous Environmental Self-Determination." Environmental & Energy Law & Policy Journal 4 (2): 188–255. Tupper, Seth. 2015. "Rapid City Journal Special Project: Radioactive Legacy." Rapid CIty Journal, November 1. http://rapidcityjournal.com/app/pages/uranium/. Voyles, Traci Brynne. 2015. Wastelanding: Legacies of Uranium Mining in Navajo Country. Minneapolis, MN: University of Minnesota Press. Weaver, Jace. 1996. Defending Mother Earth: Native American Perspectives on Environmental Justice. Maryknoll, NY: Orbis Books. Whyte, Kyle Powys. 2013. "Justice Forward: Tribes, Climate Adaptation and Responsibility." Climatic Change 120: 517–30. Whyte, Kyle Powys. 2017. "Our Ancestors' Dystopia Now: Indigenous Conservation and the Anthropocene." In Routledge Companion to the Environmental Humanities, edited by Ursula K. Heise, Jon Christensen, and Michelle Niemann, 206–215. New York, NY: Routledge. Wildcat, Daniel R. 2009. Red Alert! Saving the Planet with Indigenous Knowledge. Golden, CO: Fulcrum Publishing. Young, Iris Marion. 2011. Justice and the Politics of Difference. Princeton University Press. Young, Phyllis. 1996. "Beyond the Water Line." In Defending Mother Earth: Native American Perspectives on Environmental Justice, edited by Jace Weaver, 85–98. Maryknoll, NY: Orbis Books.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
00527	Ex. 6 Personal Privacy (PP)	Clean Water Alliance	ENVIRONMENTAL JUSTICE AND NATIONAL HISTORIC PRESERVATION ACT ISSUES The issues involving the EPA's DRAFT Environmental Justice (EJ) Analysis and its National Historic Preservation Act (NHPA) report are linked and will be discussed briefly in this section. The primary shortcoming of the DRAFT Environmental Justice Analysis is its limitation to a 20-mile radius. While it is true that Edgemont qualifies for impacted status, the 20-mile limitation effectively eliminates people who live downstream and on the Lakota reservations and who are impacted by the destruction of treaty, historical, and cultural sites. Note that both EJ and NHPA analysis should have been completed as part of a full tribal government-to-government consultation before the draft permits or aquifer exemption were released. There has, at this point, already been a violation of trust by the EPA that will be difficult or impossible to remedy. [...] The EJ analysis includes Table 12, which purports to list "Additional State and Federal Permits Powertech is required to obtain" (p. 24). This Table is misleading in several ways that make it look like the company faces few hurdles. First, the table does not include the Clean Air Act permit that the EPA says is required. Second, it does not indicate the current status of either the state water appropriation permits or the state Groundwater Discharge Plan. These permits have not just been "recommended for approval"; they have been put on hold for several years. And third, the NRC's Source Material License is under appeal in federal court, and this is not mentioned. The EPA also states conclusions about the mining process and its outcomes that are not supported by experience or science in the EJ analysis. This is discussed elsewhere in these comments. The EJ analysis mentions that the public in the White Mesa mill area, where the company wants to take its 11e wastes, is 49% American Indian and Native Alaskan. After making this statement, the agency fails to do an EJ analysis of that site, simply saying that the Dewey-Burdock waste would be a small percentage of the waste at the site. This begs the question – What are the impacts of the mill on the nearly half of the population of the area that should be protected under EJ guidelines? There should at least be a reference to a complete analysis of this issue and, if one doesn't exist yet, it should be done as part of the Dewey-Burdock process and before further action is taken by the EPA.	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
00528	Ex. 6 Personal Privacy (PP)	Aligning for Responsible Mining	**8. COMMENTS ON THE DRAFT ENVIRONMENTAL JUSTICE (EJ) ANALYSIS FOR THE DEWEY-BURDOCK UIC PERMITTING ACTIONS** The Town of Buffalo Gap, SD, with a history of high uranium levels in the water (higher than found in Edgemont, SD) should be included in the EJ analysis to the same extent as Edgemont, SD. [ATTACHMENT: "Location of the Study Area, which includes the Dewey-Burdock Project Area and a 20-mile buffer measured from the approximate Project Area Boundary, and the Edgemont Area, which includes a 5-mile buffer around the City of Edgemont" (image)] Section 1.3 of the EJ Analysis states that the EPA used a 20-mile buffer zone measured from the location of the Dewey-Burdock Project Area Boundary without considering the flows of water or related aquifers that impact areas farther away such as Buffalo Gap, SD. The EPA found that 'Based on the preliminary screening processes, the City of Edgemont, South Dakota was identified as a community for which the EPA should conduct additional evaluation to determine if the area is a potentially overburdened community as discussed in Section 2.5." [ATTACHMENT: "Drinking Water Systems Radiological Chemical Data Proximity of Cheyenne River" (image)] The Town of Buffalo Gap, SD, shown in close proximity to the Project Area Boundary, should be included in the EJ Analysis. Like Edgemont, SD, the Town of Buffalo Gap, SD, is a potentially overburdened community. Section 11.0 of the EJ Analysis describes additional, enhanced public participation and outreach requirements that should be made available to the residents of Buffalo Gap, SD. 11.0 Conclusions The screening process using EJSCREEN identifies the City of Edgemont as a potentially overburdened community. Thus, the EPA has determined that it is appropriate to conduct enhanced public participation and outreach activities with the aim of encouraging public involvement in the permitting process. The EPA is exercising its discretion to hold a number of public informational meetings and public hearings following issuance of the draft UIC permits and to allow for a longer comment period than that required by regulation. The EPA also proposes to implement appropriate permit requirements intended to ensure protection of the underground sources of drinking water and to facilitate public notification and access to information in the event of noncompliance with	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			permit requirements. The EPA will continue to assess potential EJ considerations and is inviting review and comment on this draft EJ analysis. [ATTACHMENT: "00528_DavidFrankelARMCommentsEPADBJune2017-7.0final.pdf"] Buffalo Gap, SD tested 500% higher for Uranium in its water than Edgemont, SD. Based on the foregoing, the Town of Buffalo Gap, SD should be included in the EJ Analysis. For the foregoing reasons, and based on the foregoing comments, the undersigned hereby object to the issuance of the proposed permits to Powertech.		
00565	Ex. 6 Personal Privacy (PP)	Thunder Valley Community Development Corporation	Besides these general concerns, I would like to discuss several issues with the draft permits. The first is that the Environmental Justice (EJ) section does not adequately consider the impacts of the proposed mine and deep disposal wells on Lakota people. The area covered in considering EJ issues is inadequate, as they include no reservation lands. Environmental Justice concerns should clearly include the Pine Ridge and Cheyenne River Reservations, which will be directly impacted if this project is permitted, as they are downstream.	Ex. 5 Deliberative Process (DP)	
07461 (5/9 Rapid City hearing)		Individual	I want to support the comments from the two University of Minnesota students on your analysis of environmental justice. You need to look at how your Agency's actions, your permits, your inactions are affecting or how they are not considering an already marginalized people.		
07461 (5/9 Rapid City hearing)		Individual	JULIE SANTELLA: Hi. My name is Julie Santella. I'm a graduate student in geography at the University of Minnesota in Minneapolis. I grew up in Sioux Falls, eastern part of the state. And I am humbled by all the people who have spoken yesterday and today, and a lot of what I am going to say is to reiterate what other folks have said. And while the stated focus of these public hearings is on these draft permits and the exemption from the Safe Drinking Water Act for parts of the Inyan Kara aquifer, I want to focus my comments on another draft document being presented, the so-called Environmental Justice Analysis for this proposed project. I'm troubled by the way that public input on the EPA's EJ and tribal consultation processes has been underemphasized here when, in fact, these proposed permits and proposed aquifer exemption are questions of environmental justice in really important ways, and		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			these considerations of environmental justice or injustice ought not to be bracketed off from the rest of the project approval process. So my concerns with the EJ process are many. First, as many people have been noting yesterday and today, the proposed project area as well as this place where we are meeting today is contained within treaty territory, as defined by the 1851 and 1868 Fort Laramie Treaties. And therefore, when developing the National Historic Preservation Act draft compliance and Environmental Justice draft analysis documents, the EPA's analysis is already flawed in saying that the site in question is not located on tribal lands. [...] So even if I agreed with the bounded nature of the EPA's considerations with regard to environmental justice, considering only a 20-mile buffer zone around the proposed project area, even within those bounds I would consider its environmental justice process inadequate. But I don't agree with those boundaries. And I'm concerned about the way that this analysis for environmental justice fails to account for potential impacts of this project beyond these geographic boundaries, and also the failure to recognize the way the environmental follow-up in this project stands to build upon layers of historic environmental injustice experienced in this region. [...] I am no expert when it comes to geology, and I'm hopeful that you will listen to the many scientists, hydrologists, geologists who are working hard to understand the geology of this region better and have reason to question the safety of this proposed project and its -- and its ramifications for communities beyond this bounded 20-mile area. But I'm also concerned about the EPA's failure to recognize that the communities who stand to be harmed by this project have experienced significant historic injustice when it comes to land and resource development. Even if we look only to past uranium projects, we find a more nuanced understanding of injustice in this region. Just yesterday we heard further confirmation that the Cheyenne River is in fact polluted as a result of past mining activities with impacts for downstream communities, including Pine Ridge, Cheyenne River, and other Native communities. [...]		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			I'm also not -- no expert on lived experience of these layers of injustices, and this is not just as a result of uranium mining, but of land theft, logging activities, other mining operations that all over have been, continued to be made possible by colonial dispossession of native lands and resources. And my hope is that you will listen to all these people gathered here today, explaining these layered impacts of these projects on their communities. I hope that you will listen when they tell you that your mechanisms for tribal consultation are inadequate at best and insulting at worst. And I hope you will rethink your definition of environmental justice.		
07461 (5/9 Rapid City hearing)	Ex. 6 Personal Privacy (PP)	Individual	KAI BOSWORTH: Okay. Thanks a lot for allowing me to speak today. My name is Kai Bosworth. I'm also a graduate student in the Department of Geography at the University of Minnesota. I hold an M.A. in Environmental Studies with an interdisciplinary focus on Environmental Justice from Macalester College, as well as a B.A. from the University of Minnesota. And I grew up in Spearfish, South Dakota. So today I also want to make comments with respect to the draft Environmental Justice Analysis that the EPA produced for this project. Environmental justice is defined by the EPA as "the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income, with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies." But the concept and definition of environmental justice were developed not by the EPA itself, but by social movements led by Native nations, black activists, migrants, poor people, and women, namely the people standing behind me here today. Environmental justice was institutionalized via executive order in 1994 and '95 and developed and expanded via agency plans. But while the EPA's definition of environmental justice has narrowed significantly, ours, for those social movements, has expanded drastically. The two parts to the EPA's Analysis of the Dewey-Burdock Project on Environmental Justice primarily concern first the assessment of the project area, which is defined as 20 miles surrounding the Dewey-Burdock project itself, and even within this area that includes the community of Edgemont, the EPA concludes that there are, in fact, communities that qualify as overburdened and face -- have significant health impacts related to past environmental activities on the land.	Ex. 6 Personal Privacy (PP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			But mostly what I want to talk about today is whether participation and consultation are adequate to the EPA's stated standards of fair treatment and meaningful involvement of the folks who have gathered here today. And so I guess my question, my main question is why limit environmental justice analysis to these communities, the 20 miles surrounding Dewey-Burdock, when historically and legally, we all know that this is tribal land and, at the very least, that the project does indeed impact Native nations. The EPA, it seems to me, implicitly agrees with this sentiment for in the EJ analysis, in the second part, they attempt -- they state that they attempt to take enhanced measures to collect input from Native peoples, including, they argue, these very public participation meetings today which were located, supposedly, closer to tribal communities so that -- to facilitate their appearance here today. Many speakers have already commented on consultation, and I think that they are far more qualified to do so than I. So I just want to use my remaining time to comment on public participation in environmental review. And I think what we need to ask ourselves is -- and the EPA, is whether participation today qualifies as meaningful. What is a meaningful contribution and comment to this project? The gracious EPA agents are at pains to tell us that we -- that our comments are being listened to and heard and will be responded to in the final permits that they will grant, but we all know that actions speak louder than words. And the inadequacy of the EPA analysis could be fixed based on our comments that we give today, but I hope you understand our extreme skepticism that it will be. For example, after the head of the EPA's EJ division, Mustafa Ali, resigned two months ago and indicated that the department's future could be at risk under the current administration. So to me and many EJ scholars, what meaningful commitment and -- or, comment and participation might do would recognize the participants who are speaking here today, especially those who come from Native nations, as the experts on the region, its water and its land. And possible conditions that you could all attach to future permitting that would create meaningful participation would recognize this: By expending -- expanding the spatial and historical parameters of the Environmental Justice Analysis beyond the immediate 20-mile		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			radius; to include the long history of dispossession, broken treaties, and contamination of Native land and bodies. This would recognize that what justice means is something far more than what goes on in this five-minute speech or anything like that, but much longer, a process of redress and reconciliation. I think that in order to do this, you would have to recognize that the expert analysts are the people in this room and who have spoken to you over the last few days and not the experts from Powertech and their consultants. So I suggest that perhaps one thing you might think about doing is, instead of using us and our free time to supplement their income and projects, is instead to hire everyone in this room to complete the consultation process of the environmental justice draft permit. I think that this would begin to develop a meaningful participation by including us in a real dialogue. Thank you to everyone who has spoken today, and I look forward to submitting longer written comments to this panel.		

26. Comments on draft Cumulative Effects Analysis document.

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
00519	Ex. 6 Personal Privacy (PP)	Black Hills Clean Water Alliance	The EPA also omits important issues from its Draft Cumulative Effects Analysis. Two that are glaring are the potential for mining wastes to be transported from other areas to Dewey-Burdock Class V wells and the potential for uranium mining to expand onto Powertech/Azarga's contiguous claims on the Wyoming side of the state line (the Dewey Terrace project). It's important to consider climate change, but it's also important to consider cumulative impacts that are on or adjacent to the proposed mine site.	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
	Ex. 6 Personal Privacy (PP)				
00527		Clean Water Alliance	The next omission is that the treatment of radiological wastes from the drying cycle at the Central Processing Plant is not specified. The Cumulative Effects Analysis says that "off-gases generated during the drying cycle will be filtered through a baghouse" (p. 86), and it also mentions a "sock filter" (p. 87). However, the document does not give any information on where or how the wastes in the filters/baghouse would be disposed. It is assumed that these wastes will be radioactive, so should probably be 11e wastes. But readers (and the company) should not have to guess about such things. This situation should be the subject of comprehensive analysis, and the entire waste cycle should be specified clearly. There is also no discussion of potential accidents during processing (which have occurred) or the remediation or mitigation that might be needed as a result. Much of the mitigation sections appears to be vague, incomplete, or based on stock language picked from other documents, such as the discussion of soil impacts mitigation on page 78-79 of the Cumulative Effects Analysis. The mitigation sections of EPA documents should offer a complete and detailed analysis of the required mitigation that is site specific at the Dewey-Burdock location. To top it off, the EPA makes use of the Draft Cumulative Effects Analysis difficult, as the document has neither a Table of Contents nor an Index. In the future – and before further action is taken on the proposed mine, Class V wells, and aquifer exemption -- we hope that the EPA will rectify this and the other omissions. [...] Another issue is that, because the EPA documents downplay the amount of water that would be consumed by this project, the cumulative impacts do not adequately consider the proposed project's use of large amounts of water. As a result, the EPA also does not adequately consider the actual drawdown of water or the long-term impacts that this water use could have on the environment and economy of the southwestern Black Hills. The southern Black Hills is a semi-arid area that will need all its ground water in	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			the future. This need will grow with climate change and with the ongoing depletion of the High Plains (Ogallala) aquifer a bit to the south. A third major problem is the admission that injectate from the Class V wells will mingle with Madison aquifer water and come to the surface 20 miles away. While the EPA says this will happen "on the scale of 10,000 years" in its Cumulative Effects Analysis, remember that the calculations of water movement underground at the Dewey-Burdock site vary widely. The information offered by Powertech's contractor suggests that water movement is many times slower than independent estimates. Also, there are other wells into the Minnelusa and Madison aquifers to the south and east, over the 20-mile span between the project site and Cascade Springs. This admission should negate the entire Class V application and send Powertech back to Canada, China, and the Cayman Islands. The sections on ground water use in the Draft Cumulative Effects Analysis rely overly-much on the opinion of one person, the former South Dakota State Engineer. Other people should be consulted. [...] The statement that "radon-222 itself has very little radiological impact on human health or the environment" (p. 85, Cumulative Effects Analysis) runs counter to what can probably be called common knowledge. It certainly runs counter to the EPA's website on the topic: [HYPERLINK "https://www.epa.gov/radon/health-risk-radon"] The UIC Program needs to go back to the drawing board and do a comprehensive, science-based analysis of this issue. Along the same line, in its discussion of the Central Processing Plant, the Cumulative Effects Analysis says both that "ventilations systems will exhaust outside the building" and that there will be "open doorways" on processing buildings (p. 86). One would hope that, for the safety of workers, the open doorways are nowhere near the exhausts. This should be specified by the EPA, and potential employees should be fully informed of the situation. Section 3.3.1 of the Cumulative Effects Analysis (p. 19) is vague on key aspects of the impacts that will occur to ground water quality in the ore zone. The second-to-last sentence of this section say that the company "will		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			monitor groundwater using standard industry practices." This is repeated in the section on post-restoration monitoring (p. 22). These standard practices, of course, have been associated with all sorts of problems, including the ongoing failure to return even one ISL mine's water to baseline. The EPA can do better. Similarly, the section ends with a statement that the EPA "concludes that impacts to ore zone water…should be minimal." How is "minimal" defined? Is it what the EPA will allow? Is it minimal to the company? Or is it minimal to the impacted communities? This term should receive better explanation. We also disagree with the statement in Section 3.3.2.1, in which the EPA says that an excursion can be left as is, if it is not corrected within 60 days; instead, the company can increase its financial assurance obligation in a manner that is suitable to the NRC (p. 21). This is not acceptable.		
00527	Ex. 6 Personal Privacy (PP)	Clean Water Alliance	As for other companies, there are 11 uranium companies that have expressed an interest in the Black Hills, and one – Peninsula Minerals – recently started an ISL mine on the northwestern edge of the Hills in Wyoming. If the Dewey-Burdock project is not abandoned and if Powertech acquires all the needed permits (at least 10 at last count, including the Clean Air Act permit), then this would be the first ISL mine in South Dakota. If Powertech is allowed to move forward – especially on such flimsy permitting documents – a precedent would be set. We do not want to open South Dakota to a stampede of ISL uranium mining companies, for all the reasons discussed in this document. However, for the EPA's documents to be complete, the existing Black Hills mine and the potential for a much larger number of ISL uranium mines must be fully considered. This need is even greater for the Class V draft permit, which might allow wastes from other mines to be injected into ground water in the Dewey-Burdock area. And as for the third item, Powertech has claims to the east of the current project boundary, and it has contiguous claims just across the border in Wyoming. This is very clearly a topic that should be considered under any discussion of cumulative effects. According to our research, the company has approximately 744 federal claims in Wyoming, with the majority being across the border from the Dewey-Burdock project area.	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			Another important omission is that the draft permits beg the question of who is going to do on-the-ground regulation of the proposed mine and deep disposal wells. In 2011, the State of South Dakota suspended its ability to regulate in situ leach uranium mining, so it has no authority to do that regulation at this time. The NRC has two inspectors based in Texas, who visit ISL mines once or twice a year. There is no indication that their regulation can be complete or happen often enough to catch problems. This is tremendously important. The draft permits include some very critical actions, such as testing the Minnelusa Aquifer to determine its water quality before deciding whether the company can proceed with deep disposal wells. This is a high-stakes test that would impact the future of the southwestern Black Hills. First, the water quality test should have been done under EPA's direct supervision before a draft permit was issued. If the Minnelusa's water turned out to be appropriate for drinking water, the time and expense of creating the application and the Class V draft permit would have been avoided – as would have the stress on people in the area who use and rely on the aquifer.		
00527	Ex. 6 Personal Privacy (PP)	Clean Water Alliance	The EPA omits important issues from its Draft Cumulative Effects Analysis. Three that are glaring are the potential for mining wastes to be transported from other areas to Dewey-Burdock Class V wells, the presence of other uranium companies in the Black Hills, and the potential for uranium mining to expand onto Powertech/Azarga's contiguous claims on the Wyoming side of the state line (the Dewey Terrace project) and to the east on National Forest Service land. It's important to consider climate change, but it's also important to consider cumulative impacts that are on or adjacent to the proposed mine site.	Ex. 5 Deliberative Process (DP)	
00546		Oglala Sioux Tribe	Lastly, the cumulative impacts analysis prepared by EPA does not appear to account for (1) the September 2014 two-page announcement from U.S. EPA stating that it has completed a Preliminary Assessment (PA) of the Darrow/Freezeout/Triangle abandoned uranium mines located within the area of the proposed Dewey-Burdock project; and (2) the September 24, 2014 document from Seagull Environmental Technologies captioned as "Preliminary Assessment Report regarding the Darrow/Freezeout/Triangle		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			Uranium Mine Site near Edgemont, South Dakota, EPA ID: SDN000803095." Attached, labeled Ex. OST-026. Specifically, EPA's analysis must analyze the causation link not just between the unreclaimed surface mines and surface water contamination, but also ground water contamination. These EPA documents raise the issue of a causal link to the contamination of ground water and nearby ground water wells. The lack of analysis of these issues demonstrates a lack of basis for any findings regarding the baseline hydrogeology, and particularly groundwater connectivity issues at the site. EPA concedes in these documents that additional data and sample collection for soils and surface waters is needed beyond what NRC Staff required or EPA has yet obtained. EPA states further that this data collection is necessary to better characterize and define source areas at the unclaimed uranium mines. Ex. OST-026 at 30. Importantly, these are the "source areas" for the "observed release to groundwater" that "has occurred at the site." Id. Thus, the fact that the proposed new sampling includes only soil and surface waters does not disconnect this issue from the "observed" ground water contamination. Further, EPA's analysis reveals that "[s]ome significant data gaps exist within the information reported." Exhibit OST-026 at 29. BEPA analysis reveals for the first time that while "[g]roundwater samples were collected within the area of the Site from various wells; however, lack of ground water sampling data from near and upgradient of the Site limited availability of reliable background concentrations." Id. Also, EPA points out that although soil samples were collected at the site by Powertech, "of the 25 samples collected, only three were analyzed for additional radionuclides including uranium, Pb-210, and Th-230 – the other known contaminants on site." Id. Together, these EPA documents demonstrate that additional investigation is necessary at the site in order to establish the scientifically credible baseline analysis required by the SWDA, UIC regulations, NEPA, and the APA. All considered, the discussion presented herein demonstrates that the applicant, and EPA, have failed to provide an adequate baseline geology and hydrogeology analysis and as a result fails to adequately analyze the impacts		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			associated with the proposed mine, particularly on groundwater resources and with respect to the applicant's ability to contain mining fluid. […] **VI. INADEQUATE ANALYSIS OF DISPOSAL OF SOLID 11E2 BYPRODUCT MATERIAL** The EPA and applicant documentation indicate an intent to use the White Mesa Uranium Mill near the White Mesa Ute Community in Utah as the site for disposal of the radioactive wastes (known as 11e2 Byproduct material) generated by at the proposed Powertech Facility. The EPA analysis fails to acknowledge that the White Mesa Mill is not licensed to receive or dispose of all forms of Powertech's 11e2 Byproduct Material. EPA's draft permits do not, and cannot, authorize Powertech to dispose of 11e2 Byproduct Material at White Mesa. EPA appears to have failed to compare the impacts of transporting and disposing of the solid 11e2 Byproduct Material in Utah against any other alternative disposal site. Further, EPA's cumulative impact report fails to address the cumulative impact or alternatives to Utah licensing the White Mesa Mill as the disposal facility for the ISL wastes. The EPA documents fail to provide a meaningful review of foreseeable impacts of generating many tons of solid 11e2 Byproduct Materials. Instead, EPA relies on blanket statements that permanent disposal will simply occur in conformance with applicable laws. This uncritical approach does not analyze any of the applicable criteria of regulations applicable to such 11e2 Byproduct Material disposal. A proper review by EPA must ensure that the impacts and alternatives of creation, storage, and disposal of mill tailings – aka 11e2 Byproduct Material - are fully analyzed and addressed. Permanent disposal of solid 11e2 Byproduct material is a central feature of the proposed mining operation and a competent review must include an analysis of the impacts or alternatives to shipment and disposal at White Mesa. The NRC environmental documents confirm that White Mesa lacks a license approval from Utah to accept and dispose of the wastes created by the draft license or other NRC-licensed ISL facilities in the region. However, neither NRC's nor EPA's analysis includes a review of the impacts such disposition would		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			entail, compares those impacts to other reasonable disposal alternatives, or assess whether disposal at White Mesa facility can be accomplished in accordance with applicable State and federal requirements. The EPA's cursory discussion of the disposal of Powertech's 11e2 material contains no analysis of whether or not Utah law or the Mill owner's (Energy Fuels) license would allow the interstate transport and disposal of this waste given the history of leaks and violations at the White Mesa facility. Interstate transportation impacts across the Intermountain West are evident, but are dismissed without specific analysis. The EPA presents no information on the type of containers that would be required for the shipments to White Mesa and no corresponding information on the moisture content of the solid 11e2 Byproduct Materials or the anticipated decommissioning wastes. EPA identifies no other site that is currently licensed to dispose of 11e2 Byproduct Material, implying that no other licensed facility exists in the United States that could accept the Powertech 11e2 Byproduct Material. Whether or not this is the case, White Mesa is not currently licensed to accept Powertech wastes. The failure to address and license the disposal of solid 11e2 Byproduct Material is not a technical deficiency that can be ignored or pushed off until a later time. EPA has a duty to provide specific information, analysis, and alternatives regarding this major feature of an ISL operation in order to allow the Tribe, the Ute Mountain Ute Tribe, the public, and other government decisionmakers to conduct a meaningful analysis of the full scope of environmental impacts involved with Powertech's proposal. Upon selecting the White Mesa Mill as the proposed destination for the waste from this proposal and the region, as the EPA documentation has done, EPAmust follow through with the necessary analysis. The cumulative impacts report lacks analysis of disposal alternatives, including, but not limited to, access, geology, hydrogeology, quantitative impacts upon water supplies for domestic use, livestock, agriculture, non-domesticated plants and animals, and qualitative on-going and subsequent impacts to water supplies due to releases of chemicals into the surface, groundwater and aquifers flowing through the disposal site. Without such an analysis, EPA,		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			the public, other governmental entities, and the Tribe have no basis to identify and assess alternatives to the license application and find ways to avoid or mitigate possible adverse environmental impacts of the proposed mine. EPA must provide extra scrutiny to the packaging and transport of these wastes. Other NRC-licensed ISL projects have sent unspecified liquid radioactive wastes in leaking trucks. The apparent violations involving the Smith Ranch include: 1. the failure to accurately assess the activity of pond sediment and barium sulfate sludge waste shipments; 2. the failure to adequately report the total activity for waste and resin shipments on the associated shipping documents; 3. the failure to accurately label waste shipment packages; 4. the failure to classify and ship the waste packages as Low Specific Activity level two (LSA-II) material; 5. the failure to ship LSA-II waste material in appropriate containers; 6. the failure to ensure by examination or appropriate tests that packages were proper for the contents to be shipped and closure devices were properly secured; 7. the failure to perform evaluations or perform tests that ensured the transportation package would be capable of withstanding the effects of any acceleration and vibration normally incident to transportation; 8. the failure to provide the name of each radionuclide listed and an accurate chemical description of contents; and 9. the failure to provide function specific training to a hazmat employee concerning the requirements that are specifically applicable to the functions the employee performed. [HYPERLINK "http://www.wise-uranium.org/umopuswy.html" \l "SMITHR"] (NRC Inspection Report Apr. 3, 2017) The WISE-Uranium site reports a series of problems indicating the ISL industry appears to be plagued with irregularities and other problems that question NRC's licensing		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			and regulatory diligence. Id., see also [HYPERLINK "http://www.wise-uranium.org/new.html"] (ISL Spill of the Day). Under these circumstances, EPA must not simply rely on NRC's assumptions and must instead diligently investigate and carry out its own analysis of the radioactive and hazardous waste stream involved with the SDWA permitting.		
00556	Ex. 6 Personal Privacy (PP)	South Dakota Department of Game Fish, and Parks	South Dakota Department of Game Fish, and Parks (GF&P) reviewed information provided in the Public Notice: Administrative Record for the Dewey-Burdock Class III and Class V Injection Well Draft Area and "Additional Administrative Record Documents." Agency comments result exclusively from evaluation of the analysis found in the Additional Administrative Record Documents and specifically the Draft Cumulative Effects Analysis (Administrative Record). Our evaluation identifies issues listed below. • South Dakota Mine Permit • Avian management planning • Affected environment • Species of state concern • Waste disposal options • Process pond mitigation [...] If you have question please contact me at any of the numbers listed.		
00556		South Dakota Department of Game Fish, and Parks	Avian Management Plan The Administrative Record identifies an avian management plan. At this time, the management plan is conceptual, has not undergone agency review and essentially does not exist; therefore the extent and effectiveness of mitigation cannot be substantiated. The Dewey Burdock Project proposes a plan to mitigate impacts to avian species during operations, however, special emphasis is given to bald eagles. Monitoring wells, a processing plant, production well fields, disposal facilities, and a supply water well are all currently proposed within a buffer established for an active bald eagle nest. During the life of the project,	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			seasonal restrictions and unspecified mitigative measures are proposed for the facilities. The Administrative Record does not analyze the viability of seasonal mitigation measures on continuously operated facilities. Analysis also does not consider the questionable effectiveness of seasonal mitigation during times of urgent maintenance or situations requiring emergency repairs on continuously operated facilities. Mitigation measures also rely on individual eagle tolerance; as tolerance is known to vary greatly among individuals. Unsuccessful mitigation risks a disturbance take. Analysis in the Administrative Record does not recognize the necessity of bald eagle take permitting. Administrative Record fails to recognize or establish the relationship between the site's prairie dog colonies and avian management. The site's prairie dog colonies are the presumed forage base and home range for bald eagles and other avian species. The Administrative Record does not describe the project's direct and cumulative effects on prairie dog colonies, and collateral impacts on bald eagles and other avian species. Authorization of UIC activities on the site provides a reasonable risk of unpermitted bald eagle disturbance take. Seasonal mitigation in the discernible method of nesting bald eagle protection but USFWS take permitting is done "only" if necessary. Obtaining a permit out of necessity implies a response to a situation that may already has constituted disturbance or take. Operation of UIC permits in important bald eagle habitat, and the uncertainty associated with a seasonal mitigation strategy continuously operated facility will result in the probability of take. The Administrative Record does not assess the probability of bald eagle take during project operation.		
00556	Ex. 6 Personal Privacy (PP)	South Dakota Department of Game Fish, and Parks	Species of state (South Dakota) concerns Section 14.2, "Species of State and Tribal Interest: The Short-Horned Lizard" does not describe species of state interest. For a complete listing of state threatened, endangered or rare species see: [HYPERLINK "http://gfp.sd.gov/wild%20life/threatened-endangered/"].	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
00556	Ex. 6 Personal Privacy (PP)	South Dakota Department of Game Fish, and Parks	Waste disposal options The Administrative Record does not analyze the potential for combined disposal methods (deep well and land application), or the potential for onsite disposal of wastes produced off site. Section '10.1 Overview of Operations' in the Class III permit states that Powertech may use land application in conjunction with deep disposal wells or by itself.	Ex. 5 Deliberative Process (DP)	
00556		South Dakota Department of Game Fish, and Parks	Process Pond mitigation The Administrate Record is silent on the ecologic impact of process ponds containing toxic solutions or viability of mitigation measures. Section '14.0 Impacts To Ecological Resources' did not include analysis of direct and cumulative impacts to migratory birds and bats exposed to toxic solutions contained in the projects process related ponds.		
07460 (5/8 Rapid City hearing)		Individual	RODNEY KNUDSON: Yeah. I'm Rodney Knudson. And I addressed my paper to "Dear Sirs"; I should have said "Mademoiselles." But in any case, my experience is -- dealt -- deals with teaching physics, chemistry, and biology in high school. My master's degree is -- basically was done on, what is it, environmental, ecological curriculum. So anyway, my past experience involved working in a psychopharmacology lab on a tranquilizer. It was called reserpine, and I worked on it for a year and a half, you know, whacking the heads off of rats and so on. And come to find out later, after all these 40 years later, looked it up in the Merck Index and find, oh, definitely a human carcinogen. So science at work. All right. Anyway, I'm addressing the problem today, opposing the permit. Yesterday I printed off the 151-page EPA summation entitled "Draft Cumulative Effect Analysis of the Dewey-Burdock Uranium In-Situ Recovery, Underground Injection Control Permit." I took the time to read it all day. And it was a good report. And it says -- the report pointed a rather benign -- painted a rather benign picture of the mining process, ending with kudos for the small carbon		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			footprint left by the power plants that produce that electricity from the enriched uranium. Not mentioned was the enormous amount of electricity required to isolate uranium-234, -235, -238, generated by coal, oil, or gas power plants, but more importantly, toxic products of this process that we are creating with no safe place to put them.		
07461 (5/9 Rapid City hearing)	Ex. 6 Personal Privacy (PP)	Individual	JONI TOBACCO: Good afternoon. I want to welcome you to Lakota territory. (Speaking in indigenous language.) My name is Joni Tobacco. I am an enrolled member of the Oglala Sioux Tribe, and I'm also an employee with the Tribe's Natural Resources Regulatory Agency. I want to make some comments and express my concerns about this draft permit. You've issued a 151-page draft Cumulative Effects Analysis. I was hoping to see more than seven sentences on tribal concerns. Seven sentences is what was given to the Great Sioux Nation. Dakota Access, Keystone XL, Crow Butte, and Powertech, where is the cumulative effects analysis for all of the permits and aquifer exemptions that have the potential to impact the tribes of the Great Sioux Nation? I don't see your Agency fulfilling any type of trust responsibilities in this regard, and it falls on us to fight. It seems that all we do is fight for our water, for environment, for our survival. Do you have any idea the impacts that has on a society of people? I don't see that in your socioeconomic impacts analysis. I want to make a request, that you do an assessment of the psychological impacts your Agency's actions, and maybe inactions, have on the Great Sioux Nation. Also, please consider the impacts these mining activities have on the cottonwood forests on the Cheyenne River and the White River. Our tribe struggles with identifying whose responsibility it is to identify these impacts, these cumulative impacts on our tribe when it comes to these two mines, one in Crow Butte, Nebraska, and one -- the one up here.	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			Is it the NRC? Is it the EPA? It's unclear at this point. And I think it's the federal government's responsibility to figure out whose job it is to identify just how your actions are impacting my people.		
8149	Ex. 6 Personal Privacy (PP)	Individual	In addition to the Dewey-Burdock project, Powertech has about the same number of claims on the Wyoming side of the state line at its Dewey Terrace uranium project. The EPA's cumulative impacts discussion does not include the Dewey Terrace project. This must be corrected, and the cumulative impacts of two neighboring uranium projects - especially on water -- must be fully considered.	Ex. 5 Deliberative Process (DP)	
8158		Individual	In addition to the Dewey-Burdock project, Powertech has about the same number of claims on the Wyoming side of the state line at its Dewey Terrace uranium project. The EPA's cumulative impacts discussion does not include the Dewey Terrace project. This must be corrected, and the cumulative impacts of two neighboring uranium projects - especially on water -- must be fully considered.		
8286		Individual	In addition to the Dewey-Burdock project, Powertech has a similar number of claims on the Wyoming side of the state line at its Dewey Terrace uranium project. The EPA's cumulative impacts discussion does not include the nearby Dewey Terrace project. This must be corrected, and the cumulative impacts of two neighboring uranium projects – especially on groundwater — must be jointly considered.		
8290		Black Hills Group of the Sierra Club	The EPA needs to consider the cumulative impacts of uranium exploration and mining on both sides of the South Dakota-Wyoming border. If both the Dewey-Burdock project and the Dewey Terrace project are approved, the impact on the Minnelusa aquifer and other groundwater and surface water resources are doubled. These adjacent projects both threaten the water resources of the Black Hills, a region that straddles the state line. Both South Dakota and Wyoming are in Region #8, and the EPA is in a position to		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			consider and evaluate these adjacent uranium projects in conjunction with each other.		
8196.1	Ex. 6 Personal Privacy (PP)	Oglala Sioux Tribe	As for other companies, there are 11 uranium companies that have expressed an interest in the Black Hills, and one- Peninsula Minerals - recently started an ISL mine on the northwestern edge of the Hills in Wyoming. If the Dewey-Burdock project is not abandoned and if the Permittee acquires all the needed permits (at least 10 at last count, including the Clean Air Act permit), then this would be the first ISL mine in South Dakota. If the Permittee is allowed to move forward - especially on such flimsy permitting documents - a precedent would be set. We do not want to open South Dakota to a stampede of ISL uranium mining companies, for all the reasons discussed in this document. However, for the EPA's documents to be complete, the existing mine(s) in the Black Hills and the potential for a much larger number of ISL uranium mines must be fully considered. In addition, the Permittee has claims to the east of the current project boundary, and it has contiguous claims just across the border in Wyoming. This is very clearly a topic that should be considered under any discussion of cumulative effects. According to our research, the Permittee has approximately 744 federal claims in Wyoming, with the majority being across the border from the Dewey-Burdock project area. [...] impacts that this water use could have on the environment and economy of the southwestern Black Hills. The southern Black Hills is a semi-arid area that will need all its ground water in the future. This need will grow with climate change and with the ongoing depletion of the High Plains (Ogallala) aquifer a bit to the south. Another major problem is the admission in section 4.7.1 on p. 52 that injectate from the Class V wells will mingle with Madison aquifer water and come to the surface at Cascade Springs, about 20 miles away. While the EPA says this will happen "on the scale of 10,000 years" in its CEA, remember that calculations of water movement underground at the site vary widely. The information presented in the documents indicates that EPA apparently	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			believes that water movement is many times slower than independent estimates. Also, there are other wells into the Minnelusa and Madison aquifers to the south and east, over the 20-mile span between the project site and Cascade Springs. This admission should result in the EPA denying the Class V UIC permit. There is also a question about the rate of pumping of water during the mining operations. In Section 5.2.1 of the Draft Cumulative Effects Analysis, the text says that the "header piping [would be] designed to accommodate injection and production flow rates of 2,000 gpm " (p.56). On the next page, the document says that each header house will service up to 20 production wells and 80 injection wells. The schedule for the project indicates that as many as five wellfields will be active at one time. As each wellfield is likely to have more than 100 wells, so these numbers add up to more than the 8,500 gpm that the Permittee is asking to use. This amount of water is huge and its cumulative effects need to be carefully researched and analyzed before issuing any permits on the proposed project. Much of the mitigation sections appears to be vague, incomplete, or based on stock language picked from other documents, such as the discussion of sojl impacts mitigation in the CEA (pp. 78-79). The mitigation sections of EPA documents should offer a complete and detailed analysis of the required mitigation that is site specific at the Dewey-Burdock location. To top it off, the EPA makes use of the Draft Cumulative Effects Analysis difficult, as the document has neither a Table of Contents nor an Index. In the future - and before further action is taken on the proposed mine, Class V wells, and aquifer exemption - we hope that the EPA will rectify this and the other omissions. In addition, many key aspects of this CEA rely upon non-existent "permits." Examples are almost too numerous to count, but suffice it to say that unless these non-existent "permits" are actually issued, information based on them should be omitted from the EPA's documents. This draft CEA as written by the EPA is neither realistic nor complete and should therefore be re-done. The statement that "radon-222 itself has very little radiological impact on human health or the environment'' (p. 85) runs counter to what is common knowledge. It certainly runs counter to EPA's own website on the topic:		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			https://www.epa.gov/radon/health-risk-radon. The UIC Program needs to go back to the drawing board and do a comprehensive, science-based analysis of this issue. Along the same line, in its discussion of the Central Processing Plant, the CEA says that "ventilation systems will exhaust outside the building'' and that there will be "open doorways" on processing buildings (p. 86). It should be specified that, for the safety of workers, the open doorways are nowhere near the exhausts and that employees should be fully informed of this situation. The treatment of radiological wastes from the drying cycle at the Central Processing Plant is not specified. On p. 86, the CEA says: "The off-gases generated during the drying cycle will be filtered through a baghouse " and it also mentions a "sock filter" (p. 87). However, the document does not give any information on where or how the wastes collected in the baghouse or sock filters would be disposed. It is assumed that these wastes will be radioactive, so will probably be l1e wastes. But readers (and the Permittee) should not have to guess about such things. This situation should be the subject of comprehensive analysis, and the entire waste cycle should be specified clearly. There is also no discussion of potential accidents during processing (which have occurred historically at other sites) or the remediation or mitigation that might be needed as a result. The sections on ground water use in the draft CEA overly rely on the opinion of one person, the former South Dakota State Engineer. Other people should also be consulted. Another problem that has been common in the mine area and that is omitted from the EPA's discussion is wildfires. There have been at least three large wildfires in the area in the last five years. The Crow Butte ISL mine - only about 65 miles from Dewey-Burdock--was evacuated in 2012 due to a wildfire. The impacts on water, air, and land could be enormous, if a building containing nuclear materials, wellfields, or storage ponds were impacted by a wildfire. The discussion of cumulative effects must include a thorough discussion of how this type of problem would be dealt with to protect the land, air, and water.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
8252	Ex. 6 Personal Privacy (PP)	Clean Water Alliance	[...] The last few topics we would like to address are covered – or in some cases not covered – in the discussion of cumulative impacts. The major topic that is not covered is the presence of Powertech's Dewey Terrace project, which is adjacent to the Dewey-Burdock project, but on the western side of the Wyoming-South Dakota state line. The Dewey Terrace project claims include a similar amount of acreage as the Dewey-Burdock claims. This means that there is the potential for substantial additional uranium mining activity by the same company in the immediate area – a fact that should certainly be discussed in a consideration of cumulative impacts. This could mean twice as much waste, twice as much demand for water, twice the risk of contamination of the same aquifers, twice the land surface impacts (or perhaps more due to truck traffic within two adjoining permit areas), twice the air quality impacts, and so forth. Also, if the Dewey-Burdock project builds the processing facilities and infrastructure, it would make the Dewey Terrace project less expensive and more likely to be constructed. Of critical concern is consideration of the potential demand for twice as much water. Powertech has asked for the water rights for 9000 gallons per minute in South Dakota, although they –- and in places the EPA -- minimize this by talking only about bleed rates and water recycling. If the company is successful at the state level, they will have the rights to use 9000 gpm of South Dakota water, regardless of bleed rates or recycling – they will be able to control and use that much water. If they duplicate that just across the border in Wyoming, what would be the impact? As a federal agency, the EPA should certainly be considering cross-boundary issues, especially since Wyoming is also in Region 8. Another kind of missing information in the cumulative impacts deals with long time periods. It is interesting that the EPA states that in 10,000 years the Minnelusa formation's water will be uncontaminated at Cascade Springs, a statement for which no reference is given and no study is cited. We assert that, if impacts are to be considered 10,000 years from now, the	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			well documented half-lives of relevant radionuclides and their impacts should certainly be a featured topic in the cumulative impacts discussion. A third issue involving missing information occurs in the discussion of climate change -- the emissions of greenhouse gases (GHG) as a result of uranium enrichment from yellowcake transportation through fuel rod installation. While the EPA discusses the process, which uses gasoline or diesel and large amounts of electricity -- some of which is presumably generated using fossil fuels -- it omits the GHG emitted throughout this process completely. After it skips all these GHG sources, it states that nuclear power plants are "net neutral GHG emitters." This treatment turns the situation on its head in an apparent attempt to justify the use of nuclear power plants. The cumulative impacts section should include information on all fuel and electricity use and the resulting GHG emissions for exploration, mining, transportation, enrichment, fuel rod manufacture, power generation, and decommissioning. The climate change discussion also minimizes the amount of drawdown in area aquifers as a result of the expected warmer summers and increased evaporation. While this is mentioned, it is simply stated that it will be offset by increased winter and spring precipitation, without any measurements or scientific basis. The increased flooding that results from higher spring runoff is also given short shrift. As anyone who has lived here for any length of time – and specifically in 1972 or in the last year – knows, the area is given to enormous flooding on a regular basis. The flood that pushed the train off its tracks in the Dewey-Burdock area is mentioned. The 1972 flood of Rapid Creek killed over 200 people. And last year's floods were out of all memory, which indicates that flooding may be becoming more severe due to climate change. The more regular occurrence of "100 year" floods needs to be considered in the discussions of ponds, land application of wastes, and catchment areas.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			If you have any questions about these comments, please feel free to contact me. Thank you for your consideration. Sincerely, Lilias Jones Jarding, Ph.D. President Ex. 6 Personal Privacy (PP) Rapid City, SD 57709 Nancy Hilding President Ex. 6 Personal Privacy (PP) Black Hawk, SD 57718 Douglas Meiklejohn Executive Director New Mexico Environmental Law Center 1405 Luisa Street, Suite 5 Santa Fe, NM 87505 Geoffrey Fettus Senior Attorney Natural Resources Defense Council 1152 – 15th Street, NW, Suite 300 Washington, DC 20005 Jay Davis Coordinating Committee Representative Coloradoans Against Resource Destruction Ex. 6 Personal Privacy (PP)		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			Wellington, CO 80549 Earl L. Hatley Grand Riverkeeper LEAD Agency, Inc. Ex. 6 Personal Privacy (PP) Vinita, OK 74301 Jennifer Thurston Executive Director Information Network for Responsible Mining Ex. 6 Personal Privacy (PP) Paradox, Colorado 81429 Susan Gordon Coordinator Multicultural Alliance for a Safe Environment Ex. 6 Personal Privacy (PP) Albuquerque, NM 87196 Frank DiCesare President, Rapid City Chapter Izaak Walton League of America Ex. 6 Personal Privacy (PP) Rapid City, SD 57701 Tatewin Means Executive Director Thunder Valley Community Development Corporation P.O. Box 290 Porcupine, SD 57772		

27. Comments on draft NHPA document.

Letter ID	Commenter Name	Commenter Org.	Text
00565	Ex. 6 Personal Privacy (PP)	Thunder Valley Community Development Corporation	Unfortunately, the National Historic Preservation Act (NHPA) Review is not much better. In its current form, it is little more than an outline of a few of the relevant issues. [...] The EPA suggests the possibility of relying on the Nuclear Regulatory Commission's NHPA analysis. This would be disastrous. The NRC has floundered for years in its feeble attempt to do a NHPA analysis. It began the analysis without taking the need for full tribal consultation seriously, and it has dragged its feet through a piecemeal and incomplete process since then, despite legal direction to do a proper analysis. The EPA can - and should - do better.

28. Comments in support of the project.

Letter ID	Commenter Name	Commenter Org.	Text

29. Comments on EPA hampering the project (e.g. EPA taking too long to issue draft permits or permit requirements are too stringent).

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
00518	Ex. 6 Personal Privacy (PP)	Uranium Producers of America	On behalf of the Uranium Producers of America (UPA), the national trade association representing the domestic uranium industry, we are writing in opposition to the unprecedented and unwarranted new requirements the Environmental Protection Agency (EPA) is proposing for the Dewey-Burdock ISR operation. These requirements are arbitrary, capricious, and not supported by the governing statutes, existing regulations, or long-standing agency guidance. EPA has not provided any scientific or factual justification for the imposition of these new unwarranted and costly requirements. UPA is unaware of any Class III permits for uranium ISR operations in the U.S. for which similar conditions have ever been imposed. Among our concerns are EPA's proposed requirements to: • Conduct post-restoration groundwater monitoring for each wellfield after the Nuclear Regulatory Commission (NRC) approval that groundwater restoration has been successfully completed;		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			• Install a new down-gradient compliance boundary monitoring well network for each wellfield inside of that currently required by NRC license requirements and quarterly sampling to determine initial baseline values; • Collect core samples prior to operations, storing these for years and then testing these in "pass/fail" laboratory column tests, where a single constituent measured above background concentration would signal a failed test; • Additional monitoring and corrective action requirements for an excursion detected in a non-injection interval monitoring well beyond those reviewed and approved by NRC; and • Additional monitoring and corrective action requirements for an "expanding excursion plume" and a "remnant excursion plume", despite citing no evidence that these have ever occurred at an ISR facility. It appears the Region 8 office is attempting to apply similar standards to those included in a proposed rule issued by the EPA in January 2017 – Health and Environmental Protection Standards for Uranium and Thorium Mill Tailings (82 FR 7400). However, as you know, that rulemaking is not finalized and has serious flaws. In fact, it is still open for public comment and unclear if it will ever be finalized. The EPA previously issued and latter withdrew a substantially similar proposed rule. The bottom line is, EPA must evaluate projects based on the existing statute, regulations, and long-standing guidance. We urge Region 8 to re-evaluate its proposed requirements to ensure they are scientifically justified and in line with the existing rules and regulations.		
00529	Ex. 6 Personal Privacy (PP)	Uranerz Energy Corporation (an Energy Fuels Company)	On behalf of Energy Fuels Resources (USA), Inc. (Energy Fuels), we appreciate the opportunity to comment on the EPA's Dewey-Burdock Uranium In-situ Recovery (ISR) Draft UIC Class III Area Permit. Energy Fuels is a domestic uranium mining company, and we own and operate the last operating uranium mill in the United States, the White Mesa Mill in Southeast Utah. We also own and operate two in-situ uranium recovery operations, the Nichols Ranch Uranium Project located in		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			Central Wyoming, and the Alta Mesa Uranium Project in South Texas. Energy Fuels employs 116 people in the states of Arizona, Colorado, New Mexico, Texas, Utah and Wyoming. As an experienced operator of uranium in-situ projects we have serious concerns with the EPA's Draft UIC Class III Area Permit. The EPA draft, as presented, contains requirements far exceeding those established in 40 CFR 144.33. Energy Fuels primary concerns lie with the following overarching issues presented in EPA's draft, 1. Insertion of permit conditions that are duplicative of proposed rules currently in the rulemaking process. 2. Misapplication of the regulatory requirements set forth in 40 CFR §144.12(b) and 40 CFR §142. 3. Overlap and Exceedance of the Nuclear Regulatory Commission's (NRC) authority as defined in the Uranium Mill Tailings and Recovery Act and existing rules. **Permit Conditions that are Duplicative of Current Rulemaking** In Part I, page 1, paragraph 2, first sentence, the EPA draft permit states, *"Because this permit authorizes more than one injection well, it is an Area Permit and subject to the requirements found at 40 CFR §144.33"*. That is a true statement; however, EPA has no authority to place additional requirements extending beyond those established in the cited regulation. EPA appears to be attempting to insert; and thus set a precedent for the inclusion of proposed regulations presently described in 40 CFR 192 (*Proposed Rule – Health and Environmental Protection Standards for Uranium and Thorium Mill Tailings* (Federal Register/Volume 82, Number 12/ Monday, January 19, 2017). At this time, no other ISR Company is required to meet these proposed permit conditions in States with primacy over UIC programs under §144.33. A side-by-side comparison between the draft permit and the proposed revisions to 40 CFR §192 are remarkably similar, and yet, the proposed revisions to §192 remain "proposed" and still subject to the full rulemaking process before becoming final. EPA should revise the draft		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			permit to incorporate only the applicable rule requirements rather than creating requirements that could be counter to future rule changes. An example of EPA's backdoor approach to implementing unapproved regulations, by inserting duplicative permit conditions, is found in Part IV of the draft. Per the draft permit 'post-restoration' it is to be completed following approved restoration by the NRC. While the draft permit does not contain any specific requirements directing the Dewey Burdock project to conduct restoration, the EPA is directing additional 'post-restoration' work above and beyond what is currently required by NRC regulations and the source material license issued by the Commission. Furthermore, Part IV of the draft permit includes a requirement to install a Down-Gradient Compliance Boundary. The Down-Gradient Compliance Boundary is an additional string of monitor wells located between the production area and the monitor well ring. To this unjustified requirement, for installation of an additional set of monitoring wells, the EPA has attached an entirely new set of baseline monitoring, excursion monitoring, a new and separate point of compliance, and therefore an additional set of restoration requirements; all of which is completely duplicative and overlapping with the NRC license and Commission decisions. **Misapplication of 40 CFR §144.12(b) and 40 CFR §142** Part IX, Section E of EPA's draft permit also addresses 'post-restoration' monitoring, indicating it is required to demonstrate no ISR contaminates cross the aquifer exemption boundary into the surrounding USDW's at a concentration above the baseline water quality limits of the USDW outside the aquifer. Again, this monitoring is outside current approved regulation. Interestingly, the monitoring requirements appear to be an application of 40 CFR §144.12(b), even though it isn't cited in the document, and it has been misinterpreted and therefore misapplied. 40 CFR §144.12(b) actually states: "*…if any water quality monitoring of an underground source of drinking water indicates the movement of any contaminant into the underground source of drinking water, except as authorized under part 146, the*		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			Director shall prescribe such additional requirements for construction, corrective action, operation, monitoring, or reporting (including closure of the injection well) as are necessary to prevent such movement. In the case of wells authorized by permit, these additional requirements shall be imposed by modifying the permit in accordance with §144.39, or the permit may be terminated under §144.40. If cause exists, or appropriate enforcement action may be taken if the permit has been violated." 40 CFR §144.12(b) indicates that modifying a permit to include additional monitoring is done only as a consequence of negative monitoring results for a USDW outside of the aquifer exemption; whereas, EPA is requiring all of the additional monitoring at the start of mining. It is obvious this regulation, as written, has a specific course of action by which negative results must be demonstrated, which then triggers a consequence and/or corrective action (i.e. additional monitoring). For the EPA to "pre-impose" a regulation without cause, thus adding exorbitant costs to a start-up project, is inappropriate. Another part of 40 CFR §114.12 the EPA has omitted is the language from 40 CFR §144.12(a) which states: *"…if the presence of that contaminant may cause a violation of any primary drinking water regulation under 40 CFR §142 or may otherwise adversely affect the health of persons."* §144.12(a) is important because of its relationship with 40 CFR §142, and should be cited in the draft permit document. 40 CFR §142 not only includes the national drinking water standards but also the application of MCL's that must be considered when applying the standard, "*may otherwise adversely affect the health of persons*." EPA's misinterpretation gives the appearance of selectively applying regulation by only allowing baseline as the criteria and disallowing the use of MCL's which form the standard used for protection of human health. This is evident with EPA's statement, "*to demonstrate that no contaminants cross in the aquifer exemption boundary*" in reference to Table 13 that contains 45 contaminants, accounting for all major cation and anions known to commonly occur in natural groundwater systems.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			The requirement to meet baseline for 45 contaminants is an interesting imposition considering the EPA itself doesn't believe waste fluids are being injected into the exempted aquifer as cited in the EPA Draft Aquifer Exemption, Record of Decision (ROD), page 18, Ensuring Protection of Adjacent USDWs, referencing EPA guidance #34 which states: *"…if the exemption pertains to only a portion of an aquifer, a demonstration must be made that the waste will remain in the exempted portion. Such a demonstration should consider among other factors, the pressure in the injection zone, the waste volume, and injected waste characteristics (i.e., specific gravity, persistence, etc.) in the life of the facility. Given the nature of the ISR operation, waste fluids are not being injected into the exempted portion of the aquifer."* **Overlap and Exceedance of NRC Authority** The Uranium Mill Tailings Radiation Control Act (UMTRCA) grants EPA the authority to promulgate *generally applicable standards* (not regulation). The NRC then enacts and enforces regulations to conform to the generally applicable standards. The requirements in Part IV and Part IX of this draft, which are provided for under the guise of 40 CFR §144.33, not only overlap the NRC regulations but exceed the EPA's authority under UMTRCA. Stringent requirements for *all* groundwater restoration of ISR wellfields already exist per NRC authority under 10 CFR §40 Appendix A which states: *"Under the existing requirements in Appendix A of 10 CFR Part 40, the staff will apply the Criterion 5B standards in evaluating **all** ISR groundwater restoration plans currently under review or submitted in the future. This policy includes reviews of applications for new ISR facilities, reviews of restoration plans at existing, licensed ISR facilities, and review of ISR license renewal applications."* Criterion 5B(5) goes on to say: *"At the point of compliance, the concentration of hazardous constituents must not exceed-*		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			(a) The Commission (NRC) approved background concentration of that constituent in the ground water; *(b) The respective value given in the table in paragraph 5C if the constituent is listed in the table and if the background level of the constituent is below the value listed; or* *(c) An alternate concentration limit established by the Commission (NRC)."* Implementation of restoration requirements are presented in NRC Regulatory Issue Summary 2009-05 Uranium Recovery Policy Regarding (1) The Process for Scheduling Licensing Reviews of Applications for New Uranium Recovery Facilities, and (2) the Restoration of Groundwater at Licensed Uranium In Situ Recovery Facilities (April 29, 2009). This publication is a public document available on the NRC Adams site Accession Number ML083510622. Knowing this poses several concerns about the EPA's document: 1. The EPA is imposing a 'post-restoration' requirement when *ALL* restoration (that would include this idea of 'post restoration') is covered by NRC regulations. To reiterate, 'post-restoration' requirements are contained in proposed, not approved, regulation. 2. Referring again to Table 13, containing 45 contaminants (to be at baseline, without consideration of MCL's), is an overreach of authority knowing the NRC addresses contaminants in 10 CFR Part 40, Appendix A, Table 5C *maximum values for groundwater protection*. (By the way, even in EPA's proposed rulemaking for 40 CFR §192, (January 19, 2017) the EPA reduced the number of contaminants down to 12, therefore this EPA draft permit exceeds its own proposed regulation.) 3. The EPA has added these requirements without a clear understanding of the risks or benefits of implementation and even acknowledges ISR doesn't inject waste per the Draft Aquifer Exemption ROD statement *"waste fluids are not being injected into the exempted portion of the aquifer"*. Therefore, since waste isn't being injected the risk of contamination is very low. Additionally, considering the draft permit		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			requirements mimic EPA's proposed revisions for 40 CFR §192, a review of rulemaking shows the EPA acknowledges, *"the Agency does not have sufficient information to document a specific instance of contamination of a public source of drinking water caused by an ISR."* And further states, *"the EPA is unable to quantify the potential benefits."* In conclusion, it is Energy Fuels opinion that EPA should revise the draft permit with conditions that are limited to those requirements specifically described in 40 CFR §144.33. EPA should remove any overlapping and/or additional restoration requirements that come under the purview of UMTRCA and NRC. Nor should the draft permit contain requirements currently in the rulemaking process, and EPA should rely on the rulemaking process to determine the requirements of the final rule. Energy Fuels appreciates the opportunity to comment on the Dewey-Burdock uranium in-situ recovery (ISR) draft UIC Class III Area Permit.		
00534	Ex. 6 Personal Privacy (PP)	AUC LLC	AUC LLC, a holder of an NRC Source and By-Product Materials License and of a Class III UIC Permit and Aquifer Exemption for Uranium Mining, hereby objects to the unprecedented and unwarranted new requirements the Environmental Protection Agency (EPA) is proposing for the Dewey-Burdock ISR operation. In addition to not being supported by the statute, regulations, or long-standing agency guidance, EPA has not provided any scientific or factual justification for the imposition of these new and costly requirements. Over the past 7 years, AUC studied in detail all of the Class III permits issued for uranium ISR operations in the U.S., in preparation for its own application to the State of Wyoming (approved and authorized by EPA). Nowhere in any of the previous Class III permits was there such conditions and obligations listed. The most fundamental problem is that the draft permit fails to identify any data, evidence, or analysis that justifies such increased monitoring or other activities before, during or after mining.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			The absence of such analysis, in the context of a more than 30 year history of ISR operations is vivid and compelling: both the NRC and the State of Texas have publicly stated after extensive investigation that no off site underground sources of drinking water have ever been contaminated by ISR mining of Uranium. We summarize below our most substantial concerns: • Conduct post-restoration groundwater monitoring for each wellfield after the Nuclear Regulatory Commission (NRC) approval that groundwater restoration has been successfully completed; • Install a new down-gradient compliance boundary monitoring well network for each wellfield inside of that currently required by NRC license requirements and quarterly sampling to determine initial baseline values; • Collect core samples prior to operations, storing these for years and then testing these in "pass/fail" laboratory column tests, where a single constituent measured above background concentration would signal a failed test; • Additional monitoring and corrective action requirements for an excursion detected in a non-injection interval monitoring well beyond those reviewed and approved by NRC; and • Additional monitoring and corrective action requirements for an "expanding excursion plume" and a "remnant excursion plume", despite citing no evidence that these have occurred at an ISR facility. • The conditions are also highly prescriptive, being focused on nuts and bolts activities rather than creating successful outcomes in uranium mining and restoration of ground water. This creates a strong disincentive to innovation and research currently being carried out by the uranium industry and academia, some with EPA funding. It also appears that Region 8 is attempting to apply standards similar to those included in a revised proposed rule issued by the EPA in January 2017 -Health and Environmental Protection Standards for Uranium and Thorium Mill Tailings (82 FR 7400). That rulemaking is not finalized and the comment period is still open. The EPA previously issued and later		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			withdrew a substantially similar proposed rule. It is inappropriate for Region 8 to create wholly new requirements in a draft permit that have no approved basis in regulation, and should be excluded. We urge Region 8 to revise the draft permit in light of the above, and issue the Permit in a form that is scientifically justified and in line with the existing rules and regulations.		
00535	Ex. 6 Personal Privacy (PP)	Ur-Energy Inc.	Ur-Energy, whose scientists and engineers have decades of experience permitting, constructing, operating, and reclaiming in situ uranium mines, provide the following general and specific comments on the Draft UIC Class III Area Permit for the Dewey-Burdock Project. **General Comments** Ur-Energy is concerned that despite decades of successful regulation of in situ uranium mining by various states and the Nuclear Regulatory Commission ("NRC"), the EPA has elected to devise a new regulatory scheme for the Dewey-Burdock Project. The new and unprecedented requirements include: • Conducting post-restoration groundwater monitoring for each wellfield after NRC approval that groundwater restoration has been successfully completed; • Installing a new down-gradient compliance boundary ("DGCB") monitoring well network for each wellfield inside of that currently required by NRC license requirements; • Collecting core samples prior to operations and testing these in "pass/fail" laboratory column tests, where a single constituent measured above background concentration would signal a failed test; • Quarterly groundwater sampling from the DGCB monitoring wells to establish initial baseline values before injection begins in the wellfield;		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			• Additional monitoring and corrective action requirements for an excursion detected in a non-injection interval monitoring well beyond those reviewed and approved by NRC; • Additional monitoring and corrective action requirements for an "expanding excursion plume;" and • Additional monitoring and corrective action requirements for a "remnant excursion plume" The EPA's attempt to create a new regulatory approach seems to be based largely on concerns that post restoration residual contaminates will damage USDWs. We are certain the EPA is aware of the 2009 NRC staff memorandum to the Commission in which they stated they were unaware of any situation indicating that: (1) the quality of groundwater at a nearby water supply well has been degraded, (2) the use of a water supply well has been discontinued, or (3) a well has been relocated because of impacts attributed to an ISR facility. Similar statements can be found in other NRC documents as well as from the Texas Commission on Environmental Quality ("TCEQ"). Comments by these experienced agencies who operate under mandates to protect the environment should be carefully considered by the EPA when the agency attempts to justify new and burdensome permit conditions. Some may justify the onerous conditions in the draft permit by arguing that no groundwater problems have been found because we haven't looked long enough or hard enough. This argument is short on technical merit and shouldn't be given serious consideration by a science driven agency such as the EPA. If, however, despite a lack of credible evidence the EPA believes USDWs are being negatively impacted by in situ uranium mining, the agency should fund research to verify and define the problem instead of drafting permit conditions based on unsubstantiated concerns. In conclusion, we strongly encourage the EPA to remove all unprecedented permit conditions and consult with the NRC and states to develop a draft permit that is consistent with long-standing regulatory practices that have proven to be protective. Failure to do so will place		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			Powertech, as well as any future in situ uranium mines in South Dakota, at a distinct disadvantage while providing no known benefit to the environment.		
00549	Ex. 6 Personal Privacy (PP)	Powertech (USA) Inc.	This letter and attachments represent Powertech (USA) Inc.'s (Powertech's) written comments on the Draft Class III Area Permit for the Dewey-Burdock Project issued for public comment in March 2017. The written comments pertain to the draft permit, Draft Class III Area Permit Fact Sheet, Draft Aquifer Exemption Record of Decision and other supporting documents, including the Draft Cumulative Effects Analysis and Draft Environmental Justice Analysis. Following are general comments followed by specific technical comments (Tables 1 through 5) and additional comments included with proposed alternate solutions for several draft permit conditions (Attachments A-1 through A-10). References are provided as PDF files in Attachment B. Powertech's primary concern is that the draft permit would impose a raft of unprecedented and wholly unwarranted new requirements for an *in-situ* recovery (ISR) operation that would prove both operationally and financially burdensome. Yet EPA has offered no sound scientific or factual justification for the imposition of these additional requirements. Speculation is the only reason that EPA has ever offered for this type of approach. Because these requirements would be uniquely imposed on Powertech, Dewey-Burdock Project operations would be subjected to a substantial economic and competitive disadvantage. As explained in more detail in other portions of Powertech's comments, some of the unprecedented requirements that the draft Class III area permit would impose on Dewey-Burdock Project operations include: • conducting post-restoration groundwater monitoring for each wellfield after NRC approval that groundwater restoration has been successfully completed; • installing a new down-gradient compliance boundary (DGCB) monitoring well network for each wellfield inside of that currently required by NRC license requirements;		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			• collecting core samples prior to operations and testing these in "pass/fail" laboratory column tests, where a single constituent measured above background concentration would signal a failed test; • quarterly groundwater sampling from the DGCB monitoring wells to establish initial baseline values before injection begins in the wellfield; • additional monitoring and corrective action requirements for an excursion detected in a non-injection interval monitoring well beyond those reviewed and approved by NRC; • additional monitoring and corrective action requirements for an "expanding excursion plume"; and • additional monitoring and corrective action requirements for a "remnant excursion plume". The only justification that EPA has ever offered for considering such requirements has been presented in support of the Agency's ongoing but uncompleted rulemaking to impose expansive new requirements in conjunction with setting health and environmental protection standards under the Uranium Mill Tailings Radiation Control Act of 1978 (UMTRCA). That rulemaking began with publication of a proposed rule on January 26, 2015 (80 Fed. Reg. 4156; Exhibit 007). For reasons that have been amply documented in comments on that proposal, EPA proposed regulatory requirements that exceeded its statutory authority under UMTRCA and for which it provided no scientific or technical justifications. In January 2017, EPA discarded the 2015 proposal and published another proposal, 82 Fed. Reg. 7400 (January 19, 2017; Exhibit 025).[1] In so doing, EPA openly acknowledged the lack of any support for the types of provisions that now are proposed in the draft Class III permit: "Focusing on the area of surrounding or adjacent aquifers, the EPA acknowledges that the Agency does not have sufficient information to document a specific instance of contamination of a public source of drinking water caused by an ISR." 82 Fed. Reg. at 7404. Instead of providing any scientific evidence to support the need for additional regulations, EPA engages in speculation by suggesting that "the lack of		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			data does not demonstrate that no contamination is occurring, as industry commenters assert, but instead merely demonstrates the lack of data available to be able to make such a determination, especially here there has been limited post-restoration monitoring." 82 Fed. Reg. at 7404. As noted below, this speculation runs contrary to the conclusions of the NRC based on data amassed by NRC and operators over decades of experience with ISR technologies. As noted by the Supreme Court of the United States, it is also an unlawful basis for administrative action: "assumptions are not a proper substitute for the findings of a significant risk of harm required by the Act."[2] In this case, the Safe Drinking Water Act (SDWA) "prevent[s] underground injection which endangers drinking water sources."3 It does not prevent all underground injection or even all movement of contaminants in fluid moving into USDWs. The SDWA prevents the movement of "endangering"4 contaminants into USDWs. "Contaminant" is defined in 40 CFR § 144.3 so broadly as to have little meaning without the consideration of endangerment: "Contaminant means any physical, chemical, biological, or radiological substance or matter in water." Quite simply, the SDWA cannot be read to prevent all movement of "contaminants" into USDWs. It is directed only at "endangering" contaminants. This is very similar to the observations of the Supreme Court: "[R]equiring the Secretary to make a threshold finding of significant risk is consistent with the scope of the regulatory power granted to him by § 6(b)(5), which empowers the Secretary to promulgate standards, not for chemicals and physical agents generally, but for "toxic materials" and "harmful physical agents." *IUD v. API* at 643-44. The SDWA is likewise directed at "endangering" contaminants. Consequently, the proposed draft permit is fundamentally flawed because it is based on speculation about potentially existing but completely unobserved and unproven effects rather than "the best available peer-reviewed science and economics." Accordingly, many of the proposed permit conditions would unnecessarily burden the recovery of uranium essential to the use of nuclear energy in the United States by curtailing and imposing significant costs on the permitting and		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			operation of uranium ISR projects essential to the utilization of nuclear energy resources. The imposition of such requirements contravenes the essence of energy and regulatory policies embedded in Executive Order 13783 "Promoting Energy Independence and Economic Growth" (March 28, 2017); Executive Order 13777 "Enforcing the Regulatory Reform Agenda" (February 24, 2017); and Executive Order 13771 "Reducing Regulation and Controlling Regulatory Costs" (January 30, 2017). In addition to proposing unsupported requirements, EPA has encroached into areas already fully addressed by the license issued by the NRC. As noted throughout Powertech's comments, these forays would impose requirements that are not only unnecessary because already addressed by NRC, but also requirements that are in conflict with the NRC license provisions. Imposing requirements that address the very same issues as addressed by the NRC but in a manner that is inconsistent and conflicting is no way to be "prudent and financially responsible in the expenditure of funds, from both public and private sources" as mandated by Executive Order 13771. In order to "manage the costs associated with the governmental imposition of private expenditures required to comply with Federal regulations," EPA needs to base its permit requirements on "transparent processes that employ the best available peer-reviewed science and economics" instead of relying on speculation to impose unnecessary and conflicting requirements. See Executive Order 13771; Executive Order 13783. **General Comments** G-1: As a general matter, there is no evidence of off-site impact to non-exempt groundwater even after decades of uranium ISR operations in the U.S. There is significant support for this conclusion. First is documentation from the NRC staff in a 2009 memorandum to the NRC Commission (Exhibit 001 at 2), which found that: The Staff is unaware of any situation indicating that: (1) the quality of groundwater at a nearby water supply well has been degraded, (2) the use of a water supply well has been discontinued, or (3) a well has been relocated because of impacts attributed to an ISR facility.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			The same document describes NRC staff's evaluation of excursions at historically operated ISR facilities and concludes that no excursion has resulted in environmental impacts: With regard to the migration of production liquids toward the surrounding aquifer, each licensee must define and monitor a set of nonhazardous parameters to identify any unintended movement toward the surrounding aquifer. Exceedances of those parameters result in an event termed an excursion; excursion events are not necessarily environmental impacts but just indicators of the unintended movement of production fluids. The data show over 60 events had occurred at the 3 facilities. For most of those events, the licensees were able to control and reverse them through pumping and extraction at nearby wells. Most excursions were short-lived, although a few of them continued for several years. None had resulted in environmental impacts. Second, as noted above, EPA itself acknowledged this in January 2017 (Exhibit 025 at 7404): Focusing on the area of surrounding or adjacent aquifers, the EPA acknowledges that the Agency does not have sufficient information to document a specific instance of contamination of a public source of drinking water caused by an ISR. Third is NUREG/CR-6733 (Exhibit 002 at 4-38), which addresses the history of excursions at U.S. ISR facilities and documents the finding that: [T]here were no reports of extraction fluid excursions being detected in off-site water supplies in any of the documentation for U.S. uranium ISL sites reviewed for this report. Fourth is documentation from the Texas Commission on Environmental Quality (Exhibit 003 at 22) that no such impacts have been documented in Texas: With regard to research on the effects of similar mining projects on neighbors, the Executive Director is not aware of a documented case of off-site groundwater contamination from a Class III injection well operation in over 30 years of *in situ* uranium mining in South Texas. Also, the Executive Director is not aware of any other scientific evidence that		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			in situ uranium mining in Texas has led to adverse health effects on the public. Based on extensive research of the NRC ADAMS document server, Wyoming DEQ permitting files, and other publicly available information sources, Powertech is unaware of any negative impact to a water supply well located off-site from an ISR operation since these studies were published. Based on the lack of historical impacts at uranium ISR operations using groundwater protection measures consistent with those required by the NRC for the Dewey-Burdock Project, the additional monitoring requirements proposed by EPA are unnecessary and financially burdensome. G-2: As noted, the Draft Class III Area Permit (draft permit) includes many unprecedented requirements that are not included in Class III permits for any other ISR facilities within the U.S. These include, but are not limited to, post-restoration groundwater monitoring requirements, column testing requirements and additional excursion monitoring and corrective action requirements. Rather than citing any impacts to groundwater quality resulting from historically or currently operated ISR facilities, none of which have been burdened by these additional requirements, EPA proposes to add these requirements "in order to demonstrate that no ISR contaminants cross the aquifer exemption boundary into the surrounding USDWs at a concentration above the baseline water quality limits of the USDW outside of the aquifer exemption boundary" (page 99-100 of the fact sheet). Given that no evidence is cited supporting the need for additional requirements for the Dewey-Burdock Project compared to other ISR facilities, the groundwater restoration and excursion monitoring requirements imposed by NRC after reviewing Powertech's NRC license application for 5 years are sufficient to ensure that there will be no measurable impacts to groundwater quality outside of the exempted aquifer that would impact the usability of the non-exempt waters. This is demonstrated by the examples listed in the previous comment. G-3: The unprecedented requirements included in the draft permit are a significant departure from previous EPA Region 8, Underground Injection		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			Control (UIC) Program reviews and approvals for ISR aquifer exemptions in adjacent Wyoming. The Dewey-Burdock Project is in a similar hydrogeologic setting to Wyoming ISR projects and borders the Wyoming/South Dakota state line. EPA's role in Wyoming is to approve UIC program revisions designating exempted aquifers after Wyoming DEQ has reclassified the aquifer and submitted a program revision to EPA Region 8. In support of the reclassification and designation of the mining aquifer, permittees are required to assemble information that includes: hydrogeologic data (subsurface depths, vertical confinement, thickness, area to be exempted, water quality analysis, etc.) and, more importantly, aquifer protection measures including: mineralogy, geochemistry, wellfield description and groundwater monitoring plan (Exhibit 004 at PDF pages 156-161). Aquifer protection measures as part of the groundwater monitoring plan are consistent across Wyoming operations. The EPA Region 8 UIC Program reviews the program revisions from Wyoming DEQ and supporting documents and, in all cases, has approved them as non-substantial program revisions without conditions or stipulations (Exhibit 005). This is illustrated in the record of decision issued by the EPA Region 8 UIC Program for the Jane Dough Amendment to the Nichols Ranch ISR Project (Exhibit 006). The program revision approval notes that it "applies to the location and the injection activities described herein." Further, it acknowledges that "WDEQ has also demonstrated that fluids injected or mobilized will remain within the [designated] aquifer exemption boundary" (Exhibit 006 at 3). Powertech's groundwater protection measures approved in its NRC license are virtually identical to those approved in adjacent Wyoming operations and were reviewed by the very same group at EPA Region 8 with far different outcomes. Powertech's draft permit includes extraordinary conditions and technically infeasible stipulations, none of which were imposed by EPA Region 8 on other ISR projects during the approval process. These other ISR projects include: Lost Creek ISR Project, Nichols Ranch ISR Project (including the recent Jane Dough amendment), Ross ISR Project and the Reno Creek ISR Project, all of		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			which were reviewed and approved in the same general timeframe as the Dewey-Burdock draft permit was developed by EPA. This arbitrary lack of consistency within EPA Region 8 and, more importantly, within the UIC Program at EPA Region 8 is unjustified given that there have been no changes to the regulations or associated guidance from EPA during this period and the technical attributes (excursion monitoring, groundwater restoration, etc.) of the Wyoming ISR Projects and the Dewey-Burdock Project are virtually identical. The draft permit is an unveiled attempt to take an arbitrary approach and drastically change the way the ISR industry is regulated far in advance of the proposed rule changes, giving Wyoming ISR operators a clear business advantage over a similar project located just across the state border in South Dakota. G-4 EPA considers contaminants to include "any physical, chemical, biological, or radiological substance or matter in water" regardless of whether the contaminant has the potential to impact human health or the environment (fact sheet page 104). Powertech disagrees with EPA's definition of what would constitute a violation of UIC regulations on the basis of 40 CFR 144.12(a), which states (emphasis added): No owner or operator shall construct, operate, maintain, convert, plug, abandon, or conduct any other injection activity in a manner that allows the movement of fluid containing any contaminant into underground sources of drinking water, if the presence of that contaminant may cause a violation of any primary drinking water regulation under 40 CFR part 142 or may otherwise adversely affect the health of persons. The applicant for a permit shall have the burden of showing that the requirements of this paragraph are met. This regulation is consistent with the purpose of the Safe Drinking Water Act (SDWA) and the UIC program, which is to protect USDWs. Imposing permit conditions to verify that non-hazardous parameters such as calcium, which does not have the potential to violate a drinking water regulation or otherwise affect the health of persons, do not cross the aquifer exemption boundary would not provide any added protection for USDWs. Additionally, the presence of a contaminant regulated under 40 CFR part 142 at a concentration below the federal maximum		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			contaminant level (MCL) would not have the potential to adversely affect human health. This is exactly why the MCLs were established. EPA's statement in the fact sheet for the draft permit that "UIC regulations at 40 CFR § 144.12(b) prohibits movement of any contaminant into an underground source of drinking water" is incorrect. The non-endangerment standard of the SDWA prohibits fluid movement from injection only insofar as it would cause a failure of a public water system to comply with health-based limits for contaminants.5 Moreover, the meaning of this requirement is plain on the face of the statutory provision and requires no further interpretation. The fluid movement prohibition applicable to the UIC program is set forth in the SDWA, which directs EPA to establish "minimum requirements for effective programs to prevent underground injection which endangers drinking water sources within the meaning of subsection (d)(2) [of this section]." *See* 42 U.S.C. § 300h(a)(1) and (b)(1). Under the UIC program, underground injection is prohibited unless authorized by a permit or by rule. 42 U.S.C. § 300h(b)(1)(A). To obtain an underground injection permit, applicants "must satisfy the State that the underground injection will not endanger drinking water sources." 42 U.S.C. § 300h(b)(1)(B). The applicable standard for "non-endangerment" is spelled out in subsection (d)(2): Underground injection endangers drinking water sources if such injection may result in the presence in underground water which supplies or can reasonably be expected to supply any public water system of any contaminant, and if the presence of such contaminant may result in such system's not complying with any national primary drinking water regulation or may otherwise adversely affect the health of persons. U.S.C. § 300h(d)(2)(emphasis added). EPA's regulations establish the general fluid movement limitation in 40 CFR §§ 144.12(a) and 144.1(g), which closely track the language of the statute:		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			No owner or operator shall construct, operate, maintain, convert, plug, abandon, or conduct any other injection activity in a manner that allows the movement of fluid containing any contaminant into underground sources of drinking water, if the presence of that contaminant may cause a violation of any primary drinking water regulation under 40 CFR part 142 or may otherwise adversely affect the health of persons. 40 CFR § 144.12(a) (emphasis added). In carrying out the mandate of the SDWA, this subpart provides that no injection shall be authorized by permit or rule if it results in the movement of fluid containing any contaminant into underground sources of drinking Water (USDWs - see § 144.3 for definition), if the presence of that contaminant may cause a violation of any primary drinking water regulation under 40 CFR part 141 or may adversely affect the health of persons (§ 144.12). 40 CFR § 144.1(g) (emphasis added). These provisions adopt the statutory non-endangerment standard into the regulations. They clearly condition the prohibition of fluid movement on the potential to cause endangerment of an underground source of drinking water.6 All other provisions in the UIC regulations must be read in light of this overarching standard that defines what fluid movement is prohibited. The regulatory history of the "non-endangerment" standard shows that EPA never decided to impose an absolute prohibition on fluid movement. When EPA proposed its implementing regulations, the Agency decided to try to spell out a definition in the regulations "to clarify what is meant by 'endangerment.'" 41 Fed. Reg. 36730, 36731 (August 31, 1976). In so doing, the Agency provided its interpretation of the statutory non-endangerment standard. EPA stated that "[i]n the case of existing system using an underground water source, the logical meaning of this provision is that contamination endangers drinking water if it requires the use of new or additional treatment by the [public water] system to meet a national primary drinking water regulation or otherwise to prevent a health risk." 41 Fed. Reg. at 36733. Similarly, EPA		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			concluded that "[i]n the case of a potential source of underground water which will require treatment if it is used in the future, degradation may make further treatment necessary or may make the water unsuitable for use as drinking water." *Id.* For contaminants other than those covered by national drinking water regulations, EPA concluded that the question of endangerment remained focused on how the presence of such contaminants in the potential water source would affect the ability of the water to be used as drinking water following whatever treatment would have been necessary absent consideration of that contaminant. Thus, endangerment would occur if the contamination would render the water unfit for use as drinking water or if, for a chemical not covered or likely to be covered by drinking water regulations, "the contamination of an underground drinking water source by that chemical could adversely affect the health of persons who obtain the drinking water from that source." *Id.* Although EPA ultimately chose to allow the statutory definition of "endangerment" to speak for itself without further definition in the UIC regulations, EPA did not repudiate its own interpretation of what is required by the statutory non-endangerment standard.7 After receiving public comment on its 1976 proposal, the Agency decided to change course, concluding that "its proposed definition was unduly vague and confusing." 44 Fed. Reg. 23740 (April 20, 1979). EPA "decided that since 'endangerment' is defined in the Act, it need not be redefined in these regulations." 44 Fed. Reg. 23753 (April 20, 1979). Thus, the only definition of "endangerment" is the statutory definition quoted above. Instead of writing a new definition of "endangerment" in its UIC regulations, EPA developed "an operational test." *Id.* But this test was not intended to change the standard: EPA still intends to accomplish the statutory goal of 'preventing endangerment to underground sources of drinking water' – no change in this regard is contemplated. Rather our intention has been to fashion a test of 'endangerment' that is workable and reduces uncertainty.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			44 Fed. Reg. 23740 (April 20, 1979). EPA described the proposed test as follows: The test in these reproposed regulations is whether injection operations will cause the migration of injected or formation fluids into an underground source of drinking water. If injection into a well can cause such migration, the owner/operator must take appropriate action to eliminate the fluid migration. *Id.* EPA explained that this "'no migration' standard was applicable to wells in Classes I-III, which were to achieve it through the use of sound engineering practices." 45 Fed. Reg. 42476 (June 24, 1980). "The technical requirements of Part 146 are designed to insure that such movement will not occur." 45 Fed. Reg. 33436 (May 19, 1980). The standard was spelled out in 40 CFR § 122.34(a) (the predecessor to section 144.12(a)): (a) No UIC authorization by permit or rule shall be allowed in the following circumstances: (1) Where a Class I, II, or III well causes or allows movement of fluid into underground sources of drinking water. EPA later called this standard "a blanket prohibition … against movement of fluid into underground sources of drinking water for Class I, II, or III wells." 46 Fed. Reg. 48246 (October 1, 1981). If this had been the end of the rulemaking process, there might have been more support for EPA's assertion in the fact sheet. But this was not the end of the rulemaking process, and that is not what EPA's UIC regulations now prescribe as the fluid movement limitation applicable to Class III wells. In response to petitions for judicial review of the final UIC regulations, EPA revised the regulations on February 3, 1982 (47 Fed. Reg. 4996-97) to eliminate the blanket "no migration" prohibition. EPA chose, instead, to adopt the present wording that is anchored in the statutory standard for assuring that underground injection will not "endanger" drinking water sources:		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			In carrying out the mandate of the SDWA, this subpart provides that no injection shall be authorized by permit or rule if it results in the movement of fluid containing any contaminant into Underground Sources of Drinking Water (USDWs – see § 144.3 for definition), if the presence of that contaminant may cause a violation of any primary drinking water regulation under 40 CFR part 141 or may adversely affect the health of persons (§ 144.12). 40 CFR § 144.1(g) (originally promulgated as § 122.31(d)) (emphasis added). This fluid movement standard is founded on the statutory SDWA "non-endangerment" standard. Accordingly, EPA lacks legal authority to impose a more stringent prohibition on fluid movement than is contained in the SDWA and its own regulations. Finally, the courts have rejected any notion of prohibiting insignificant risks, such as the movement of innocuous contaminants. As already explained, the Supreme Court has concluded the necessity of determining before taking administrative action "that it is reasonably necessary and appropriate to remedy a significant risk of material health impairment." *IUD v. API* at 639. Similarly, the U.S. Court of Appeals for the District of Columbia Circuit has said "something is "unsafe" only when it threatens humans with "a significant risk of harm." *Natural Resources Defense Council, Inc. v. USEPA*, 824 F.2d 1146, 1153 (D.C. Cir. 1987). Drawing on the analysis in that case, the action proposed here, which clearly is directed at prohibiting the movement of all contaminants from an exempted portion of an aquifer into a USDW is unwarranted because EPA "has made no finding with respect to the effect of the [potential movement of contaminants] on health." 824 F.2d at 1163. Here "endangerment" is clearly defined in terms of health. That means EPA "should consider differences in degrees of significance rather than simply a total elimination of all risks." *IUD v. API* at 643, n.48. An absolute fluid movement prohibition, by contrast, is aimed at the elimination of all risks rather than those found to be endangering and is therefore unsupportable. Moreover, 40 CFR § 144.12(b) by its terms indicates that additional corrective action, operation, monitoring, or reporting may be imposed		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			only if monitoring within the USDW indicates the movement of a contaminant into the USDW. All of the proposed additional monitoring requirements would occur within the exempted aquifer, which would be permanently removed from classification as a USDW. Additional monitoring requirements are not warranted unless an impact is documented in an adjacent non-exempted USDW. G-5: The proposed additional permit requirements are not based on any final rulemaking, which would be the appropriate venue to change the way that the U.S. ISR industry is regulated. Since EPA does not cite any site-specific concerns with the Dewey-Burdock Project as the basis for the proposed additional permit requirements, Powertech must conclude that EPA has determined that these additional monitoring requirements are appropriate for the ISR industry generally. To promulgate additional permit requirements without a federal rulemaking contravenes the purpose of federal regulation. As noted above, there are many aspects of the previously proposed but discarded 40 CFR part 192 rulemaking that are now proposed as draft permit conditions despite the fact that the rulemaking was discarded. Some of these are summarized in Table G-1. Table G-1: Proposed Permit Requirements Apparently Stemming from Previously Proposed but Discarded 40 CFR Part 192 Rulemaking		

Proposed Requirement	Draft Permit Section	40 CFR Part 192 Section (Exhibit 007)
Post-restoration groundwater monitoring for at least 30 years under natural groundwater gradient1	Part IX, Sec. E	§ 192.53(e) (p. 4187), which would have required post-restoration monitoring for 30 years, or at least 3 years with geochemical modeling
Geochemical modeling if column testing does not conclusively demonstrate	Part IV, Sec. D.1.e	§ 192.53(e)(iii) (p. 4187), which would have allowed post-restoration groundwater monitoring duration to be shortened based on

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	

attenuation of all contaminants		geochemical modeling using site-specific data
Monitoring for an extensive list of parameters in the event that an excursion is confirmed	Part IX, Sec. C.3.f Part IX, Sec. C.4.b.ii	§ 192.53(b)(2) (p. 4186), which would have required immediate sampling of all Table 1 constituents if an excursion is detected
Quarterly pre-operational baseline sampling for down-gradient compliance boundary monitoring wells	Part IV, Sec. C.1 Part IX, Sec. B.3	§ 192.53(a)(4) (p. 4186), which would have required at least one year of pre-operational background monitoring for all monitoring wells

Notes:

1 Refer to Attachment A-3, which shows that the minimum time required for groundwater to reach down-gradient compliance boundary monitoring wells installed 200 feet from the wellfield would be 33 years.

G-6: The NRC staff prepared the Supplemental Environmental Impact Statement (SEIS) for the Dewey-Burdock Project, which evaluated potential impacts to groundwater outside of the exempted aquifer (Exhibit 008). As noted on page 5 of the Draft Cumulative Effects Analysis, EPA reviewed the draft and final NRC SEIS. However, at no time did EPA comment that the groundwater protection measures required by NRC were insufficient to protect groundwater outside of the exempted aquifer. EPA offers no evidence that impacts have occurred at other ISR facilities as a basis for the proposed post-restoration groundwater monitoring, column testing and additional excursion monitoring and corrective action requirements. Accordingly, those proposed conditions are wholly unsupported and should be deleted.

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			G-7: Powertech submitted the Class III permit application in December 2008, which means that EPA took more than 8 years to develop the draft permit. However, Powertech was never informed of the proposed permit conditions that extend significantly beyond – and are inconsistent with – NRC license requirements, including, but not limited to, post-restoration groundwater monitoring, column testing and additional excursion monitoring and corrective action requirements. Had Powertech had the opportunity to comment on a preliminary draft permit or otherwise discuss the draft conditions with EPA, it would have been possible to avoid some technical pitfalls in the proposed permit conditions. For example, the proposal to conduct post-restoration groundwater monitoring until after the arrival of a tracer injected at the upgradient edge of the wellfield would involve 400 to 800 years of monitoring under natural groundwater flow conditions. Clearly such a condition is not a practical means of demonstrating a lack of negative impact to down-gradient USDWs. G-8: The draft permit contains inconsistent conditions that overlap with NRC license requirements. Some examples include: 1) Excursion monitoring during ISR operations (Part IX, Section C.1) 2) Excursion monitoring during groundwater restoration (Part IX, Section C.2) 3) Corrective actions during a confirmed excursion event (Part IX, Section C.3) 4) Annual monitoring of domestic wells within the Area of Review (Part IX, Section B.5.a) 5) Quarterly sampling of stock wells within the permit area (Part IX, Section B.4.b) 6) Quarterly monitoring of additional monitoring wells located upgradient and down-gradient of the ISR wellfields in accordance with NRC regulatory guidance (Part IX, Section B.4.c) By specifying the monitoring well locations, sampling frequency and parameters for all of these overlapping monitoring requirements, Powertech will have to modify both the NRC license and Class III Area		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			Permit if a monitoring location changes (e.g., if a new domestic well is drilled near the permit area). EPA also proposes to significantly alter the parameter list for most groundwater samples, which would lead to confusion for Powertech and regulators in having to submit samples to a laboratory for two different analyte lists. G-9: EPA does not have the authority for proposing duplicative and in many cases expansive requirements for areas already regulated by NRC (especially excursion monitoring within the exempted aquifer). Congress amended the Atomic Energy Act of 1954 (AEA) with the Uranium Mill Tailings Radiation Control Act (UMTRCA) in 1978 to specifically address a new class of AEA materials known as 11e.(2) byproduct material. As mandated by Congress, EPA was granted limited and indirect regulatory authority to propose generally applicable standards that would serve as the starting point for the NRC to promulgate regulations that would address such byproduct material and the process known as "uranium milling." NRC and not EPA was granted direct regulatory authority over this to implement and enforce appropriate regulations consistent with EPA's generally applicable standards. However, while EPA was allowed to promulgate such standards, it has no authority to create the applicable regulations, to impose requirements on NRC's licensees or to enforce NRC license requirements on such licensees. Pursuant to Section 275 of the AEA, Congress assigned EPA the authority to promulgate generally applicable standards for the protection of public health and safety and the environment from the potential radiological and non-radiological hazards associated with the possession, transfer, and disposal of 11e.(2) byproduct material. 42 U.S.C. § 2022(b). For the non-radiological hazards associated with 11e.(2) byproduct material, these generally applicable standards are to provide equivalent protection to that provided by EPA's RCRA standards for such non-radiological hazardous materials. See 40 CFR § 264 et seq. As a result, 11e.(2) byproduct material is specifically exempted from EPA regulation under RCRA and permitting authority over such material is deliberately withheld from EPA. See 40 CFR § 261.4.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			More specifically, Section 275(d) of the AEA provides that "[i]mplementation and enforcement of the standards promulgated [by EPA] pursuant to subsection (b) of this section shall be the responsibility of the Commission in the conduct of its licensing activities under this Act." In addition, Congress expanded NRC's regulatory authority under Section 84 of the AEA to develop its own requirements for the management of 11e.(2) *byproduct material*. Specifically, Section 84(a) of the AEA directs NRC to ensure that any 11e.(2) *byproduct material* is managed in a manner: (i) that the Commission deems appropriate to protect health, safety, and the environment from the potential radiological and non-radiological hazards associated with such materials; (ii) that conforms with the generally applicable standards developed by EPA; and (iii) that conforms with the general requirements established by NRC, comparable to standards applicable to similar hazardous materials regulated under the Solid Waste Disposal Act [42 U.S.C. § 6901 *et seq.*]. By way of example, NRC's 10 CFR Part 40, Appendix A, Criterion 5 incorporates the basic groundwater protection standards as promulgated by EPA in 40 CFR Part 192, Subparts D & E, which, as noted above, incorporate RCRA standards in 40 CFR Part 264 *et seq.*, and which apply both during operations and to final closure. The primary standard in Criterion 5 focuses on the type of liner necessary to protect groundwater during the management of uranium or thorium mill tailings. Additionally, a *secondary* groundwater standard is provided requiring that hazardous constituents entering groundwater must not exceed concentration limits in the "uppermost aquifer beyond the point of compliance during the compliance period." Criterion 5 prescribes a specific course of action for implementing *primary* and *secondary* groundwater standards, which include provisions for alternate concentration limits (ACLs), the classification of hazardous constituents and whether they may be exempted from the regulation. But, EPA is not		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			allowed to prescribe the requirements for obtaining an ACL from NRC and has so conceded that point on multiple occasions. With respect to ISR operations such as the Dewey-Burdock Project, in the 1980s, the Commission determined that the active operational portion of such an operation constitutes "uranium milling" and therefore falls under the provisions of UMTRCA. Later, in 2000, the Commission determined that restoration fluids from ISR operations are 11e.(2) byproduct material as well as determining that it had exclusive, preemptive federal jurisdiction under the AEA/UMTRCA over both the radiological and non-radiological aspects of 11e.(2) byproduct material and, thus by definition, "uranium milling." As a result of these decisions, the Commission later determined that Appendix A Criteria, including Criterion 5 groundwater corrective action requirements, are to be applied to ISR wellfields as a matter of law, despite the fact that ISR licenses up to that point included license conditions mandating groundwater restoration in such wellfields. As a result of this determination, which has never been challenged by EPA or any other entity, the Commission fully regulates all aspects of ISR operations, including but not limited to groundwater restoration. Interestingly enough, EPA's SDWA UIC regulations do not require post-operation groundwater restoration for exempted aquifers, because such exempted aquifers will not be used as a drinking water source at any time before, during or after ISR operations are complete. In some cases, states such as Wyoming, Texas and Nebraska through their "primacy" UIC programs have created regulations for groundwater restoration of depleted underground ISR ore bodies to specified standards, including class-of-use. While EPA does not require restoration, the agency's UIC regulations do prohibit the injection of fluids that result in the migration of such fluids to adjacent, non-exempt USDWs, if such migration may cause a violation of any primary drinking water regulation or may adversely affect the health of persons, and do require corrective action/remediation for contamination of adjacent, non-exempt aquifers in accordance with the purpose of the SDWA and the UIC program, which is to protect USDWs. *See* 40 CFR §§ 144.55 and 146.7.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			It is completely unnecessary for EPA to impose duplicative regulatory requirements on ISR projects, especially where the Commission already imposes detailed wellfield monitoring programs that specifically prohibit the migration of production or restoration fluids outside of the perimeter monitoring well ring, which is designed to serve as an early warning system for such potential migration. Powertech is required by Commission regulation to submit detailed wellfield packages to NRC for review and in some cases either written verification or specific approval, which include the proposed monitoring program and commitments to immediately engage in corrective action if identified constituents are found at a perimeter monitoring well. Further, after termination of active operations, groundwater restoration must be conducted in accordance with Criterion 5 requirements, which are Commission-approved background or an MCL, whichever is higher, or an ACL as determined by the Commission using an exhaustive list of approximately 13 separate requirements. Also, an ACL will not be granted by the Commission unless it is determined to be adequately protective of public health and safety, is demonstrated to show that there are no steadily increasing trends of constituents of concern that may indicate the potential for future excursions to adjacent, non-exempt aquifers, and that the Commission's as low as reasonably achievable (ALARA) standard has been met. In accordance with the ACL requirements, Powertech must demonstrate that the ACL value and the geochemistry in the depleted ore body and down-gradient areas will be adequately protective of human health and the environment at the point of exposure (POE), which is the aquifer exemption boundary (Exhibit 009 at 13). Based on the success with this regulatory program, the Commission directed NRC staff to conduct a study of its licensed ISR projects, past and present, to determine if there has ever been migration of ISR ore body fluids to adjacent, non-exempt aquifers. As described in comment #G-1, in 2009, NRC staff completed its inquiry and reported that no such migrations had ever taken place. Therefore, EPA's imposition of otherwise duplicative and, in many cases, onerous requirements on		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			Powertech for groundwater monitoring and corrective action in the face of NRC's regulatory program is improper. G-10: Regarding the proposed post-restoration monitoring and column testing requirements, EPA does not appear to have considered the ACL approval process required under NRC regulation and license condition for any constituents exceeding the baseline concentration or an MCL after groundwater restoration. In order to approve an ACL application through a formal license amendment process, NRC must determine that there will be no migration of recovery solutions outside of the aquifer exemption boundary. Additional information is found in Attachment A-3. In light of the groundwater quality standards in 10 CFR Part 40, Appendix A, Criteria 5B(5) and 5B(6), there is no need or technical justification for additional post-restoration monitoring and column testing, which would create an unjustified economic burden. G-11: EPA acknowledges the effectiveness of the excursion monitoring system that will be conducted under NRC license requirements on page 116 of the fact sheet: The monitoring well detection system described in Section 12.5 is a proven method used at historically and currently operating facilities. In spite of this acknowledgement, EPA proposes significant revisions to the excursion monitoring program such as monitoring for a potential “expanding excursion plume” and a “remnant excursion plume,” neither of which has been documented in the fact sheet to have occurred at a historically operated ISR facility. G-12: Powertech is unaware of any Class III permits for uranium ISR operations in the U.S. for which similar conditions have been imposed for post-restoration groundwater monitoring, column testing and additional excursion monitoring and corrective action requirements. This includes Class III permits issued by the State of Wyoming within the last 10 years for the Lost Creek ISR Project, Ross ISR Project, North Butte ISR Project, Nichols Ranch ISR Project, Moore Ranch ISR Project and Reno Creek ISR Project. It also includes Class III permits issued or amended in		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			2017 for the Nichols Ranch ISR Project (Jane Dough Amendment) and Burke Hollow ISR Project in Texas. G-13: It is noted that some historical and recent ISR projects (e.g., the Cameco Resources Crow Butte ISR Project and the UEC Burke Hollow ISR Project) received aquifer exemptions for the majority of the permit area. Powertech originally proposed an aquifer exemption boundary at a reasonable distance from the ISR wellfields (1,600 feet from the injection and production wells), which was consistent with WDEQ, Land Quality Division Chapter 11 regulations. This would have provided an operational buffer for adjusting wellfield boundaries based on delineation drilling and for ensuring that ISR solutions remain within the exempted aquifer. At EPA's request, Powertech revised the proposed aquifer exemption boundary to only include a very narrow buffer area extending 120 feet from the perimeter monitoring well ring for the proposed wellfields. Many of the proposed requirements in the draft permit, such as installing additional down-gradient compliance boundary monitoring wells if a statistically significant increase is observed during post-restoration groundwater monitoring, would fit within a larger aquifer exemption buffer area. However, these requirements are poorly suited to the relatively small area currently proposed. When Powertech proposed the 120-foot offset distance at EPA's request, it was unaware of the proposed permit conditions that would make this narrow buffer area operationally challenging. Accordingly, EPA should approve the ¼-mile buffer in the designation of the exempted aquifer if the proposed permit conditions are imposed, as described in Attachment A-10. G-14: Despite citing no evidence that any impacts outside of the exempted aquifer have ever occurred at a domestic ISR facility and no evidence that there are site-specific conditions at the Dewey-Burdock Project that warrant additional monitoring and corrective actions, the draft permit would impose millions of dollars in additional well installation, monitoring, column testing, laboratory analysis and other costs such as maintaining lease agreements with affected landowners for decades or even hundreds of years and maintaining financial responsibility for virtually the entire project for this same duration. This		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			is illustrated in Table G-2, which provides an estimated cost for the additional proposed requirements beyond current NRC license requirements. Table G-2. Itemized Life-of-Mine Cost Estimate for Proposed Permit Requirements beyond NRC License Requirements		

Item	Life-of-Mine Cost Estimate
Groundwater Monitoring – Laboratory Analysis1	$13,102,600
Groundwater Monitoring – Sample Collection	$3,565,900
DGCB Monitoring Well Installation	$4,326,500
DGCB Monitoring Well Reclamation	$507,400
Core Collection and Storage	$224,000
Core Leach Testing	$571,600
Geochemical Modeling	$2,800,000
Contingency at 20%	$5,019,600
Total Life-of-Mine Cost2	**$30,117,600**

Notes:

1 Includes DGCB monitoring wells plus additional laboratory analysis costs for analyzing non-injection interval monitoring wells, nearby domestic wells, operational monitoring wells, and other water samples for the Table 8 list of parameters rather than the NRC-approved list of parameters in Table 6.1-1 of the approved NRC license application.

2 Uses a very conservative assumption of 6 years of post-restoration groundwater monitoring for each wellfield, assuming pumping of DGCB monitoring wells and then monitoring for two 2-year periods after arrival of the tracers injected at the down-gradient and upgradient wellfield boundary. Does not include added cost for maintaining financial

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			responsibility and maintaining lease agreements for several additional years. The cost estimate is based on well estimates and unit cost estimates from the most recent economic study of the project: NI 43-101 Technical Report, Preliminary Economic Assessment, Dewey-Burdock Uranium ISR Project, April 2015 (Exhibit 026). The estimate uses a very conservative assumption of 6 years of post-restoration groundwater monitoring, assuming pumping of DGCB monitoring wells and then monitoring for two 2-year periods after arrival of the tracers injected at the down-gradient and upgradient wellfield boundary. As described in Attachment A-3, the duration of post-restoration groundwater monitoring under natural groundwater flow conditions could be hundreds of years, which would have an exponential impact on this cost estimate. G-15: The Draft Cumulative Effects Analysis extends well beyond EPA's regulatory requirement under 40 CFR § 144.33(c)(3). That requirement allows authorization for multiple injection wells under an area permit provided that "[t]he cumulative effects of drilling and operation of additional injection wells are considered by the Director during evaluation of the area permit application and are acceptable to the Director" (emphasis added). Many aspects of the Draft Cumulative Effects Analysis do not relate to drilling and operation of the Class III or V injection wells, including: potential groundwater consumption and drawdown, which are only related to production wells and Madison water supply wells (Sections 3.1 and 3.2), potential effects of storage ponds on groundwater quality (Section 3.3.4), potential impacts from spills and leaks other than those from injection wells (Sections 3.3.5, 5.0 and 5.7), diversion channels around ponds and facilities (Section 4.2.3), potential impacts from land application for treated wastewater (Sections 4.7.2 and 7.3), potential pipeline leaks (Section 5.1), potential header house leaks (Section 5.2.1), potential processing facility leaks (Section 5.3), potential transportation accidents (Section 5.5), potential pond leaks (Section 5.6), potential land use impacts other than those related to injection wells (Section 6.0), potential radiological impacts (Section 9.0), potential air quality impacts other than those related to		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			construction and operation of Class III and V injection wells (Section 10.0), potential climate change impacts other than those related to construction and operation of Class III and V injection wells (Section 11.0), potential transportation impacts (Section 12.0), potential impacts from accidents (Section 13.0) and potential impacts from waste management (Section 15.0). Such a cumulative effects analysis is not provided for under UIC regulations and should not be included in the draft permit documents. G-16: Powertech is frustrated by the amount of time that it has taken EPA to review the draft permit applications and requests that EPA expedite efforts moving forward to the extent possible. Powertech submitted the Class III UIC permit application in December 2008, and it was determined to be administratively complete in February 2009, more than 8 years ago. Powertech updated the application in July 2012 to be consistent with the updated NRC license application, and in February 2014 EPA indicated that it intended to announce its draft permit decisions in April 2014. Contrary to this statement and without issuing any more substantive comments to Powertech, it took another 3 years to issue the draft permit. Similarly, the Class V permit application was submitted in March 2010 and the draft permit was not issued until 7 years later. The amount of time taken by the EPA to review the permit applications has also caused undue financial burden to the Company. Going forward, Powertech requests that EPA take steps necessary and bring resources to bear to facilitate a more timely process of review of this application. In conclusion, Powertech's primary concern is that the draft permit would impose a raft of unprecedented and wholly unwarranted new requirements for an ISR operation that would prove both operationally and financially burdensome. EPA has offered no sound scientific or factual justification for the imposition of these additional requirements. Many of the requirements are also untested and technically infeasible. Because these requirements would be uniquely imposed on Powertech, Dewey-Burdock operations would be subjected to a substantial economic and competitive disadvantage. In an effort to facilitate a		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			constructive working relationship, Powertech has presented alternatives for certain permit conditions (Attachments A-1 through A-10). Although these alternatives include added monitoring, geochemical modeling, and corrective action provisions beyond those required by NRC and which would significantly add to the project cost, they would provide EPA with the necessary assurance that there is no endangerment to adjacent, non-exempt aquifers from the Dewey-Burdock Project. Powertech appreciates the opportunity to provide these comments and would be happy to discuss them with EPA. We request that EPA give these comments full consideration and produce a revised permit that reflects the current regulations, technical situation and past permits, and we request that this be done within a reasonable time frame. [ATTACHMENT: "Table 1. Class III Draft Area Permit Specific Comments and Recommended Permit Language Revisions"; "Table 2. Draft Class III Draft Area Permit Fact Sheet Specific Comments"; "Table 3. Draft Aquifer Exemption Boundary Record of Decision Specific Comments"; "Table 4. Draft Cumulative Effects Analysis Specific Comments"; "Table 5. Draft Environmental Justice Analysis Specific Comments"; "Attachment A Proposed Alternate Solutions"; Attachment B Exhibits"]		
00551	Ex. 6 Personal Privacy (PP)	Strata Energy, Inc.	This letter provides comments by Strata Energy, Inc. (Strata) to the Dewey-Burdock Draft Class III Area Permit. Strata Energy is the operator of the Ross Uranium ISR Project in Crook County, Wyoming. Strata is concerned the Draft Class III Area Permit includes many unprecedented requirements that are not included in Class III permits for any other ISR facilities within the U.S. These include post-restoration groundwater monitoring requirements, column testing requirements and additional excursion monitoring and corrective action requirements. Groundwater restoration and excursion monitoring requirements at other ISR operations are imposed by the US Nuclear Regulatory Commission (NRC) or governing Agreement State and are sufficient to ensure that there will be no impacts to groundwater quality outside of the exempted aquifer that would affect the usability of the non-exempt		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			waters. The requirements are prime examples of regulatory duplication of existing NRC license conditions. The various unprecedented requirements in the Draft Area Permit are nothing more than a thinly veiled attempt to impose the previously proposed, but never approved 40 CFR Part 192 rulemaking. The Region 8 office is attempting to apply similar standards to those included in a proposed rule issued by the EPA in January 2017 – Health and Environmental Protection Standards for Uranium and Thorium Mill Tailings. However, as you know, that rulemaking is not finalized. EPA must evaluate projects based on the existing statute, regulations, and long-standing guidance. I urge Region 8 to re-evaluate its proposed requirements to ensure they are scientifically justified and in line with the existing rules and regulations.		
8195.4	John Mays	Powertech (USA) Inc.	**Powertech (USA) Inc. Comments on Dewey-Burdock Project Revised Draft Class III Area Permit** Dear Valois: This letter and enclosures represent Powertech (USA) Inc.'s (Powertech's) written comments on the Draft Class III Area Permit for the Dewey-Burdock Project issued for public comment on August 26, 2019 (the "Revised Draft Class III Permit"). The written comments pertain to the Draft Class III Area Permit, Draft Class III Area Permit Fact Sheet, Draft Aquifer Exemption Record of Decision and other supporting documents, including the Draft Cumulative Effects Analysis, Draft Environmental Justice Analysis and the CADMUS documents. General comments are followed by specific technical comments (Tables 1-6). While Powertech believes that the Revised Draft Class III Permit issued on August 26, 2019 is somewhat more consistent with Class III Underground Injection Control (UIC) permits issued for other uranium in-situ recovery (ISR) operations in the USA, the Revised Draft Class III Permit continues to include unprecedented and unwarranted new requirements. Further, the Revised Draft Class III Permit is not consistent with UIC permits for similar uranium ISR operations within Region 8 of		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			the U.S. Environmental Protection Agency (EPA or the Agency), which includes the Dewey-Burdock Project. As noted in General Comment G-3 in Powertech's June 16, 2017 letter to the EPA (the "Original EPA Letter"), the unprecedented and unwarranted requirements included in the original draft permit were a significant departure from previous EPA Region 8 UIC Program reviews and approvals for ISR aquifer exemptions in adjacent Wyoming. The Dewey-Burdock Project is in a similar hydrogeologic setting to Wyoming ISR projects and borders the Wyoming/South Dakota state line. Powertech's groundwater protection measures approved in its U.S. Nuclear Regulatory Commission (NRC or "the Commission") license are virtually identical to those approved in adjacent Wyoming operations and were reviewed by the very same group at EPA Region 8 with far different outcomes. Powertech's Revised Draft Class III Permit continues to include unprecedented and unwarranted conditions, none of which were imposed by EPA Region 8 on other ISR projects during the approval process. These other ISR projects include: the Lost Creek ISR Project, the Nichols Ranch ISR Project (including the recent Jane Dough amendment), the Ross ISR Project and the Reno Creek ISR Project, all of which were reviewed and approved in the same general timeframe as the Dewey-Burdock draft permit was developed by EPA. This lack of consistency within EPA Region 8 and, more importantly, within the UIC Program at EPA Region 8 is unjustified given that there have been no changes to the regulations or associated guidance from EPA during this period and the technical attributes of the Wyoming ISR Projects and the Dewey-Burdock Project are virtually identical. The Revised Draft Class III Permit provides Wyoming ISR operators a clear business advantage over a similar project located just across the state border in South Dakota. Further, the EPA still has not offered a scientific or factual justification for the imposition of unprecedented and unwarranted new requirements in the Revised Draft Class III Permit. Because these requirements would be uniquely imposed on Powertech, as noted above, the Dewey-Burdock Project operations would be subjected to		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			economic and competitive disadvantage in comparison to other uranium ISR facilities in the USA. In particular, the EPA has now proposed exhaustive geochemical modeling requirements for site closure at the Dewey-Burdock Project. Though Powertech proposed an alternative solution that included geochemical modeling for site closure, in its Original EPA Letter (Attachment A-3, Proposed Alternate Solution to Post-Restoration Groundwater Monitoring), the scope of the geochemical modeling requirements included in the Revised Draft Class III Permit far exceeds that included in Powertech's proposed alternative solution (specific comments on the geochemical modeling are included below and in the technical comment tables). Further, these requirements are unprecedented and unwarranted and are not required for other uranium ISR operations in the USA, including those in EPA Region 8. These requirements stretch well in excess of current standards, standards that the NRC has successfully enforced for decades at uranium ISR facilities in the USA. Powertech simply asks to be treated consistently and equitably with other domestic uranium ISR projects, where EPA appropriately leave matters regarding the regulation of ISR wellfields to the NRC. Consistent with other licensed uranium ISR operations, the EPA should follow the lead of the NRC in matters of regulation of ISR wellfield operations, including site closure. As noted in comment G-9 of Powertech's Original EPA Letter, EPA does not have the authority for proposing duplicative and in many cases expansive requirements for areas already regulated by NRC (especially excursion monitoring within the exempted aquifer). Congress amended the Atomic Energy Act of 1954 (AEA) with the Uranium Mill Tailings Radiation Control Act (UMTRCA) in 1978 to specifically address a new Class of AEA materials known as 11e.(2) byproduct material. As mandated by Congress, EPA was granted limited and indirect regulatory authority to propose generally applicable standards that would serve as the starting point for the NRC to promulgate regulations that would address such byproduct material and the process known as "uranium		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			milling." NRC and not EPA was granted direct regulatory authority over this to implement and enforce appropriate regulations consistent with EPA's generally applicable standards. However, while EPA was allowed to promulgate such standards, it has no authority to create the applicable regulations, to impose requirements on NRC's licensees or to enforce NRC license requirements on such licensees. With respect to ISR operations such as the Dewey-Burdock Project, in the 1980s, the Commission determined that the active operational portion of such an operation constitutes "uranium milling" and therefore falls under the provisions of UMTRCA. Later, in 2000, the Commission determined that restoration fluids from ISR operations are 11e.(2) byproduct material as well as determining that it had exclusive, preemptive federal jurisdiction under the AEA/UMTRCA over both the radiological and non- radiological aspects of 11e.(2) byproduct material and, thus by definition, "uranium milling." As a result of these decisions, the Commission later determined that 10 CFR 40 Appendix A Criteria, including Criterion 5 groundwater corrective action requirements, are to be applied to ISR wellfields as a matter of law, despite the fact that ISR licenses up to that point included license conditions mandating groundwater restoration in such wellfields. As a result of this determination, which has never been challenged by EPA or any other entity, the Commission fully regulates all aspects of ISR operations, including but not limited to groundwater restoration. It is completely unnecessary for EPA to impose duplicative regulatory requirements on ISR projects, especially where the Commission already imposes detailed wellfield monitoring programs that specifically prohibit the migration of production or restoration fluids outside of the perimeter monitoring well ring, which is designed to serve as an early warning system for such potential migration. Powertech is required by Commission regulation to submit detailed wellfield packages to NRC for review and, in some cases, either written verification or specific approval, which include the proposed monitoring program and commitments to immediately engage in corrective action if identified constituents are found at a perimeter monitoring well. Further, after		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			termination of active operations, groundwater restoration must be conducted in accordance with Criterion 5 requirements, which are Commission-approved background or a maximum contaminant level (MCL), whichever is higher, or an alternate concentration limit ("ACL") as determined by the Commission using an exhaustive list of approximately 13 separate requirements. Also, an ACL will not be granted by the Commission unless it is determined to be adequately protective of public health and safety, is demonstrated to show that there are no steadily increasing trends of constituents of concern that may indicate the potential for future excursions to adjacent, non-exempt aquifers, and that the Commission's as low as reasonably achievable (ALARA) standard has been met. In accordance with the ACL requirements, Powertech must demonstrate that the ACL value and the geochemistry in the depleted ore body and down-gradient areas will be adequately protective of human health and the environment at the point of exposure (POE), which is the aquifer exemption boundary. To evaluate the success of this regulatory program, the Commission directed NRC staff to conduct a study of its licensed ISR projects, past and present, to determine if there has ever been migration of ISR ore body fluids to adjacent, non-exempt aquifers. As described in comment G-1 in the Original EPA Letter, in 2009, NRC staff completed its inquiry and reported that no such migrations had ever taken place. Therefore, EPA's imposition of otherwise duplicative and, in many cases, onerous requirements on Powertech for groundwater monitoring and corrective action, in the face of NRC's regulatory program, is improper. As noted above, though the Revised Draft Class III Permit is somewhat more consistent with Class III permits issued for other uranium ISR operations in the USA, Powertech continues to see the EPA extending its reach into areas of NRC authority. Further, as noted in Powertech's Original EPA Letter, the only justification offered by the EPA in consideration of such requirements, in either version of the draft permit, is connected to the Agency's proposed rulemaking (40 CFR Part 192), which would have imposed expansive new requirements in conjunction with setting health and environmental		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			protection standards under UMTRCA. However, as discussed further below, this proposed rulemaking was withdrawn. The rulemaking began with publication of a proposed rule on January 26, 2015 (80 Fed. Reg. 4156; Exhibit 007 in Powertech's Original EPA Letter). For reasons that have been amply documented in comments on that proposed rule, the Agency proposed regulatory requirements that exceeded its statutory authority under UMTRCA and for which it provided no scientific or technical justifications. In January 2017, EPA discarded the 2015 proposal and published another proposal, 82 Fed. Reg. 7400 (January 19, 2017; Exhibit 025 in Powertech's Original EPA Letter). In so doing, EPA openly acknowledged the lack of support for the types of provisions that would have been imposed: "Focusing on the area of surrounding or adjacent aquifers, the EPA acknowledges that the Agency does not have sufficient information to document a specific instance of contamination of a public source of drinking water caused by an ISR." 82 Fed. Reg. at 7404. Instead of providing any scientific evidence to support the need for additional regulations, EPA engaged in speculation by suggesting that "the lack of data does not demonstrate that no contamination is occurring, as industry commenters assert, but instead merely demonstrates the lack of data available to be able to make such a determination, especially where there has been limited post-restoration monitoring." 82 Fed. Reg. at 7404. This speculation runs contrary to the conclusions of the NRC based on data amassed by NRC and operators over decades of experience with ISR technologies (see Powertech's Original EPA Letter, comment G-1). As noted by the Supreme Court of the United States, it is also an unlawful basis for administrative action: "assumptions are not a proper substitute for the findings of a significant risk of harm required by the Act."[1] ([1] Industrial Union Dept., AFL-CIO v. American Petroleum Institute, 448 U.S. 607, 662 (1980) ["IUD v. API"].) Further, on October 30, 2018, the EPA issued notice of the withdrawal of its proposed rulemaking on 40 CFR Part 192 (83 Fed. Reg. 54543). On withdrawal, the EPA stated that, "stakeholders, including the NRC, raised significant concerns regarding the EPA's legal authority under UMTRCA to propose these standards. Based on those significant concerns, we		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			now have serious questions concerning whether the EPA has the legal authority under UMTRCA to issue the regulations as developed in the 2017 Proposal." 83 Fed. Reg. at 54543. The EPA's reasoning went even further stating that, "the EPA no longer believes that a national rulemaking to promulgate standards is currently necessary as the Agency believes the existing regulatory structures are sufficient to ensure the targeted protection of public health and the environment at existing ISR facilities. The NRC stated in its public comments that its 'current regulations, at 10 CFR part 40, Appendix A, and those of the various Agreement States, as supplemented by site- specific license conditions, guidance documents . . .and the operational experience and technical expertise of the regulatory agency staff, constitute a comprehensive and effective regulatory program for uranium in situ recovery operations (ISR) facilities.'" 83 Fed. Reg. at 54543. With such statements invalidating the need for new requirements, it is unreasonable for the EPA in the Revised Draft Class III Permit to continue to promulgate additional requirements beyond what NRC requires for groundwater protection. While many of the proposed Revised Draft Class III Permit requirements are now somewhat more aligned with NRC requirements, the EPA has now proposed exhaustive geochemical modeling requirements for site closure, which go well beyond current NRC requirements for uranium ISR operations for site closure and well beyond Powertech's Proposed Alternate Solution to Post-Restoration Groundwater Monitoring, Attachment A-3 in Powertech's Original EPA Letter. Many of the geochemical modeling requirements proposed by the EPA remain vague and unspecified, and the results that must be demonstrated for successful closure by EPA are unclear. Many of the proposed requirements contain open-ended wording, which creates ambiguity to the extent which the EPA could implement actual requirements after issuance of the permit. This is further compounded by the fact that many of the supporting documents for the geochemical model make use and reference the no-longer applicable March 2017 draft Class III permit requirements and the withdrawn, previously proposed, 40 CFR Part 192 rulemaking. Even more concerning is that an		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			expansive geochemical model was a specific requirement of the withdrawn 40 CFR Part 192 rulemaking (see Powertech's Original EPA Letter, comment G-5). In conclusion, while Powertech appreciates the EPA updating the Revised Draft Class III Permit to be somewhat more consistent with Class III permits issued to other uranium ISR operations in the USA, including Region 8, the Revised Draft Class III Permit continues to include unprecedented and unwarranted new requirements. Further, Powertech continues to see the EPA extending its reach into areas of NRC authority. EPA's imposition of otherwise duplicative and, in many cases, onerous requirements on Powertech for groundwater monitoring and corrective action in the face of NRC's regulatory program is improper. This is evidenced by the withdrawal of the proposed 40 CFR Part 192 rulemaking. In order to ensure that Powertech is not at an economic and competitive disadvantage relative to other uranium ISR operations in the USA, including operations in Region 8, Powertech would largely expect the consistent application of permit conditions for all ISR operators in the USA and Region 8. Therefore, Powertech requests that the EPA remove the exhaustive geochemical modeling requirements as well as address the other requests made by Powertech in this comment letter with respect to the Revised Draft Class III Permit. Many of the requirements proposed by the EPA have been developed outside of the context of more than 40 years of ISR operations regulated by the NRC, during which migration of ISR ore body fluids to adjacent, non-exempt aquifers has NEVER occurred. The NRC license comprehensively addresses the regulation of ISR wellfields, and regulation of ISR wellfields should remain solely with the NRC. Powertech acknowledges that it proposed an alternative solution to post-restoration groundwater monitoring, which included geochemical modeling for site closure, in its Original EPA Letter; however, the scope of the geochemical modeling requirements included in the Revised Draft Class III Permit far exceed that included in Powertech's proposed alternate solution as further discussed in this comment letter. If the EPA insists on including geochemical modeling, despite the fact that Powertech remains		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			unaware of any other Class III permits for uranium ISR operations in the USA, including Region 8, that require mandatory geochemical modeling, Powertech requests that the geochemical modeling be consistent with its proposed alternative and its discussion in this comment letter. Powertech incorporates its Original EPA Letter by reference with this submission. This letter often references comments from Powertech's Original EPA Letter. In the tables below, Powertech has included comments from the Original EPA Letter that Powertech believes have not been fully addressed by the EPA. Powertech has also provided new comments based on its review of the Revised Draft Class III Permit. Powertech appreciates the opportunity to provide these comments and would be happy to discuss them further with the EPA. We request that the EPA give these comments full consideration and produce a final Class III permit that reflects the current regulations, consistency with other ISR permits for projects in the United States and Region 8 and reflects EPA's proper regulatory authority. We request that this process be completed within a reasonable time frame and no later than the end of the 1st quarter of 2020.		

30. General questions about the EPA permitting and public review processes.

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
00044	Ex. 6 Personal Privacy (PP)	Individual	I also question the legality of the current permit application process as I believe the application by Powertech (USA) should be null and void since the official name is now that of Azarga Uranium, and Azarga hold 100% ownership of the Dewey Burdock uranium project. However, on the EPA's public notice Powertech (USA) Inc. is listed as the operating company. If ownership has changed, shouldn't Azarga Uranium now be the "Official Company" in which Azarga would need to go through the official permit application process from the very beginning?	Ex. 5 Deliberative Process (DP)	
00259		Individual	Subject: Aquifer Contamination		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			Does this paragraph actually state that despite the comments about treating the water in the preceding paragraph that you are requesting an exemption from treating it?		
00313	Ex. 6 Personal Privacy (PP)	Individual	Why was this [public comment period] extended?		
00330		Individual	Subject: Comment on Dewey- Burdock in situ leach uranium mining injection well licensing Please explain why you did not have a hearing in Newcastle, Wyoming. Dewey-Burdock is next to the Wyoming Border. Don't people living nearby in Wyoming deserve a hearing? Are their roads going to be used to transport stuff? If their water or air more or less at risk than SD's?	Ex. 5 Deliberative Process (DP)	
00401		Individual	Subject: RE: Dewey-Burdock Class III and Class V Injection Well Draft Area Permits Hi Valois, A NEPA related question for you: Will EPA's "decision" / Administrative Record provide analysis of various alternatives? That is, consideration of No Action (no permit), and alternative actions (permit with various conditions).		
00459		Individual	MY PRELIMINARY CONCLUSION IS THAT SOME OF THE EPA HAS BEEN CAPTURED BY THE URANIUM INDUSTRY. FOR THOSE IN THE AUDIENCE WHO DON'T KNOW THIS TERM, WHEN I SAY "CAPTURED," I MEAN THAT THE AGENCY HAS COME TO RELATE TOO CLOSELY TO THE COMPANIES IT REGULATES, TO THE DETRIMENT OF THE GENERAL PUBLIC. THIS IS A DIFFICULT THING TO SAY, AND YOU DESERVE TO HEAR MY REASONS FOR THIS CONCLUSION. THE FIRST REASON I SAY THIS IS THE USE OF LANGUAGE BY REPRESENTATIVES OF THE AGENCY AT THESE HEARINGS. INSTEAD OF SAYING THAT PARTS OF THE INYAN KARA AQUIFERS ARE UNDER CONSIDERATION FOR EXEMPTION, YOUR STAFF SAID, "THE AREAS THAT		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			WE **ARE** EXEMPTING" -AS IF THE EXEMPTION HAS ALREADY BEEN GRANTED -OR AT LEAST AS IF THE DECISION HAS ALREADY BEEN MADE. IN THE POWER POINT THAT I HAVE NOW OBSERVED SEVERAL TIMES, THE SLIDE ON THE ROLES OF THE VARIOUS AGENCIES MAKES IT SOUND AS IF THE PERMITTING PROCESS IS ALL BUT COMPLETE. IN FACT, THE NRC LICENSE IS UNDER LITIGATION. THE STATE DENR HAS ONLY HELD ONE WEEK OF HEARINGS ON THE PROPOSED LARGE-SCALE MINE PERMIT, AND THAT HAPPENED 3 YEARS AGO. IN FACT, THE PROCESS HAS BEEN ON HOLD SINCE THEN.		
00466	Ex. 6 Personal Privacy (PP)	Individual Ex. 5 Deliberative Process (DP)	If a petition for review of the new permits is filed, the new permits are not in effect pending final agency action. If a petition for review of the permit modifications is filed, the permit conditions subject to the modification would be deemed not to be in effect pending a final agency action. Within a reasonable time of receipt of the petition for review, the EAB will either grant or deny the appeal. The EAB will decide the appeal on the basis of the written briefs and the total administrative record of the permit actions. If the EAB denies the petition, EPA will notify the petitioner of the final permit decisions. The petitioner may, thereafter, challenge the permit decisions in Federal Court. If the EAB grants the appeal, it may direct the Region III office to implement its decision by permit issuance, modification or denial. The EAB may order all or part of the permit decisions back to the EPA Region III office for reconsideration. In either case, a final agency decision has occurred when a permit is issued, modified or denied and that decision is announced. After this time, all administrative appeals have been exhausted, and any further challenges to the permit decision must be made to Federal Court.	Ex. 5 Deliberative Process (DP)	
00470		Individual Ex. 5 Deliberative Process (DP)	I would appreciate being kept up to date with the decision that are being made that the potential to affect, not only this generation, but also genetically, many generations to come.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
		Ex. 5 Deliberative Process (DP)			
00470	Ex. 6 Personal Privacy (PP)	Individual Ex. 5 Deliberative Process (DP)	After all the hearing, does it even matter to what we think? Are no not going to mine?? Is that is done deal already?? If we all say NO?? will you go away?? Who did the big money people already buy out?? Will you drink the water? After you leave – we will be here after you all to home. Listen to the people. NO MINING!! You're destroying our earth, water, environment. Listen B-4 it's too late. NO URANIUM MINING.	Ex. 5 Deliberative Process (DP)	
00519		Black Hills Clean Water Alliance	This brings us to another problem. Large portions of the documents used to support the EPA's draft permits are based on other permits that do not exist or that were prepared inadequately. For example, the EPA's documents defer repeatedly to the NRC's SEIS for the Dewey-Burdock project. This document echoed Powertech/Azarga's submissions in all important respects, rather than taking a hard look at the situation. The EPA documents also refer repeatedly to the requirements of an NPDES permit that has not even been applied for. And they refer frequently to a state Large Scale Mine Permit that has just barely begun the hearing process and is far from issuance. To rely on non-existent regulatory instruments for large portions of the permitting documents indicates both problems with the regulatory process and a lack of analysis of the proposed mine, deep disposal wells, and aquifer exemption.		
00546		Oglala Sioux Tribe	**II. DE FACTO RULEMAKING** A full review of the documents relevant to the proposed Dewey-Burdock project demonstrate that EPA Region 8 has taken efforts to develop what it has referred to in internal documents as "guidance" with respect to how the agency will implement its permitting authority under the		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			Safe Drinking Water Act ("SDWA"), 42 U.S.C. §§ 300h, *et seq.*, Underground Injection Control ("UIC") program, as it relates to ISL mining and processing of uranium. This information came to light in documents obtained via a Freedom of Information Act (FOIA) request submitted in February 2009 on behalf of multiple conservation and Native American organizations in both Colorado and South Dakota. Several significant documents from this period are omitted from the records EPA has made available publicly with respect to this project. The Tribe asserts that all of the documents and records, including all emails, reflecting the coordination between EPA and Powertech and any of its consultants must be made part of the administrative record for this proceeding, and must be disclosed to the public during the public comment process in order to allow for meaningful public review and comment of the proposed Draft UIC permits. Several of these documents are attached, which represent examples of the discussions improperly omitted from the existing public record. The full set of documents reveal EPA's and Powertech's close coordination in developing regulatory requirements for the UIC permitting process. A draft of the resulting "guidance" is attached. This "guidance" was developed in consultation with the uranium mining industry and without public notice or public involvement. As discussed herein, this process was unlawful. In order to ensure compliance with the federal Administrative Procedure Act ("APA"), 5 U.S.C. §§ 701, *et seq.*, EPA must initiate a national rulemaking to ensure strong involvement from the public and stakeholders for the protection of underground sources of drinking water from the impacts of ISL uranium mining. In the meantime, while this rulemaking process is carried forward, EPA should suspend processing of currently filed applications for ISL uranium mining. According to the agency's documents, the Dewey-Burdock UIC permit process currently underway through EPA Region 8 is the first instance in the nation where the EPA will be the direct permitting agency for a UIC Class III injection well for the purpose of injecting chemical fluids for dissolving and extracting uranium ores, through ISL uranium mining. The		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			agency's documents also reveal EPA Region 8 staff concern with respect to the adequacy of the existing UIC regulations to provide the specificity necessary to directly implement the program. EPA Region 8's assessment is correct in this regard, which gives rise to serious concerns as to whether the regulations are sufficient to provide protection of underground sources of drinking water from threats posed by ISL uranium mining. As EPA Region 8 is aware, the proposed Dewey-Burdock ISL project has created considerable controversy and drawn opposition from citizens, local governments, Native American tribal groups and governments, medical organizations, local business, agricultural interests, and conservationists based on the significant threats these ISL uranium mines pose to groundwater, local economies, public health, and cultural resources. Overall, the documents obtained from EPA Region 8 via FOIA, including extensive email communications between EPA Region 8 staff and mining industry interests, reveal a troubling lack of transparency and public involvement in the development of the so-called "guidance" documents. Importantly, the proposed "guidance" is highly substantive in nature and, at the least, sketches out several policy conclusions with respect to EPA's regulation of ISL uranium mines. For example, the proposed "guidance" effectively defines the terms "area of review" and "aquifer exemption boundary" as they will apply to all future EPA Region 8 UIC Class III applications. Such decisions will not only establish the equivalent of an obligatory policy for Region 8, but also have national policy implications and long-term environmental impacts. Thus, it appears that Region 8 was engaged in drafting needed changes to the UIC regulations without the benefit of the substantive and procedural protections of notice and comment rulemaking. This process neglects the rulemaking requirements of the APA and the SDWA requirement that only the Administrator may promulgate SDWA regulations. See 42 U.S.C. § 300h(a). As noted above, there has been a lack of transparency and public involvement. The EPA Region 8 documents demonstrate that while the		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			uranium mining industry and its scientists and consultants were extensively involved in the drafting and development of the new policies from the earliest stages, there were no efforts by EPA Region 8 to include the public or any public interest organization in the development of these important policies. An EPA Region 8 description of its activities in relation to its regulation of ISL uranium mining, including the extensive interaction with uranium industry representatives, is attached. This lack of public participation is difficult to harmonize with EPA Region 8's direct acknowledgement in the documents of the high level of public interest and controversy surrounding the subject of Powertech ISL uranium mining proposal, and its potential impact on local communities, economies, and natural resources in South Dakota. Indeed, as evidenced by the EPA's decision to revisit the uranium recovery standards, these are issues of national significance and interest. In order to comply with both the APA and SWDA, and especially given the controversial impacts of ISL mining and the precedent-setting nature of any new regulations in this area, EPA (Region 8 or Headquarters) must suspend processing of currently filed applications and initiate a Tier 1 Rulemaking. Such an action is well grounded in past agency practice and will provide the benefit of the sound science, public participation, and careful review of available technologies and SDWA standards which are conducted during formal rulemaking. The regulatory changes are required before any further or final permits are issued. The regulatory deficiencies and changes and details included in the Region's proposed guidance represent a substantive and controversial regulatory development that implicate the agency's obligations under the SDWA and the Administrative Procedure Act ("APA"), 5 U.S.C. § 553. As the EPA is no doubt aware, the APA requires public notice and comment rulemaking whenever a federal agency embarks on substantive changes in or development of regulations. Id. The SDWA itself specifically states that "[a]ny regulation under this section shall be proposed and promulgated in accordance with section 553 of title 5 (relating to rulemaking)...." 42 U.S.C. § 300h(a)(2).		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			While not all federal agency policy pronouncements require APA notice and comment rulemaking, the federal courts have held that the critical factor in whether an agency policy is properly considered an agency rule requiring APA compliance on one hand or mere guidance on the other is the extent to which the policy is binding on future agency conduct. Compliance with the APA's notice and comment rulemaking provisions is required whenever such a policy establishes a "binding norm" that effectively dictates the agency's regulatory discretion with respect to individual permitting decisions. See *Pacific Gas and Electric Co. v. Federal Power Commission*, 506 F.2d 33, 38 (D.C.Cir.1974); ***American Min. Congress v. Marshall***, 671 F.2d 1251 (10th Cir. 1982). The "guidance" developed by Region 8 constitutes a "binding norm" in this instance. As noted above, EPA Region 8's "guidance" contains detailed analysis defining critical terms in the EPA's UIC regulations, which are to be applied to future UIC Class III permit applications (as evidenced by their application in this instance). Such definitive terms create binding norms, and these concepts must be defined by regulations promulgated through notice and comment rulemaking and approved by the Administrator, as required by law. Such notice and comment rulemaking is critical to the protection of groundwater in any proposed ISL uranium mining area. As such, APA notice and comment rulemaking in this instance is beneficial and legally required. At minimum, given the sharp controversy the Powertech ISL uranium mining project has generated in South Dakota, public involvement and participation in this rulemaking process is essential.		
00553	Ex. 6 Personal Privacy (PP)	South Dakota DENR	2. DENR recommends EPA make the final Injection Authorization Data Package Reports and approval documents for the Class V and Class III permits publically available on EPA's webpage.	Ex. 5 Deliberative Process (DP)	
07460 (5/8 Rapid City hearing)		Individual Clarify this was the NRC or state hearing?	I did this similar talk in 2007 when you were here down at the Radisson, but apparently it didn't -- was swept under the rug, and I hope this doesn't do the same thing. I can feel that in the air that we're just here, and it's all going to be recorded and pushed under the rug again. I hope this doesn't happen.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
07460 (5/8 Rapid City hearing)	Ex. 6 Personal Privacy (PP)	Individual Explain why we allotted 5 minutes to each speaker?	MARVIN KAMMERER: From Meade County, South Dakota. Five minutes isn't enough, as the lady said, as you told me before.	Ex. 5 Deliberative Process (DP)	
07460 (5/8 Rapid City hearing)		Individual	In addition, if permitted, I would say that no more than two Class V wells should even be considered here. If more wells are needed in the future, let Powertech submit additional applications and undergo the review process in accordance with 40 CFR, et cetera, et cetera.		
07461 (5/9 Rapid City hearing)		Individual	I say no to granting Powertech USA, Inc., which, by the way, shouldn't the permit application be in the name of Azarga Uranium since now the Dewey-Burdock project is 100 percent owned by Azarga? Which they do name that on their -- Azarga's website. They say, We're 100 percent owned, the Dewey-Burdock area. So should that be changed over? Shouldn't Azarga have to start from A to Z like Powertech? They came in, and they applied for applications under their name. Now it's changed over to -- changed hands.		
07462 (Hot Springs hearing)		Individual	CINDY BRUNSON: Also, there was a lot of reference to this, and I would strongly suggest you get a copy of this because it would be very helpful to explain a lot of these comments that these people have been giving to you today. [Cadmus note: This is from p. 172 of the Hot Springs hearing transcript. It's not clear from the transcript what document the commenter was referring to.] USGS Hydrologic Investigations Atlas HA-747 – inserted by valois		
07642 (Hot Springs hearing)		Individual	In fact, any of these public hearings I've ever been to related like this, it's more of an opportunity for the EPA to make a check in a box on a checklist than it is to listen to your comments. So I encourage you to make your comments and make them strong. Thank you.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
8050 (10/5 Hot Springs hearing)	Ex. 6 Personal Privacy (PP)	Individual	Okay. I have some notes here, but -- I asked three questions that I did send. I'm just going to read them to you. The Question Number 1 was: What triggered the reissuance of the draft 2017 water permits? I know this is just a public hearing, but I just want you to hear my questions. The second one was: When was the decision made to reissue the water permits, and by whom? And the third one is: What are the substantive differences between the 2017 and 2019 draft water permits? And the last one is: Is there a document that compares the 2017 and 2019 draft water permits?	Ex. 5 Deliberative Process (DP)	
8069		Individual Ex. 5 Deliberative Process (DP)	Requesting an additional 90 days for the Dewey Burdock underground injection permits. Thank you		
8077		New Mexico Environmental Law Center Ex. 5 Deliberative Process (DP)	[Dewey-Burdock UIC extension letter] We need to add his comments: On behalf of the New Mexico Environmental Law Center, I am emailing you today to urge the EPA to extend the Public Comment deadline on the Dewey-Burdock underground injection control pennits. I request that you extend this deadline by an additional 90 days based on the fact that (according to an EPA document) Powertech was made aware of this upcoming public comment schedule well over 6 months ago, and that according to the EPA notice there is now additional items added to this public comment, which include; 1. the identification of traditional cultural properties, 2. options for approval of the aquifer exemption, and 3. a revised draft environmental justice analysis. The applicant, Powertech, was given ample notice to review these new documents, gather infonnation and/or lobby on these new substantive issues. Giving the applicant significantly more time than the public to address these new issues fundamentally undermines the public participation requirements of the Safe Drinking Water Act and		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
		Ex. 5 Deliberative Process (DP)	longstanding EPA policy. Moreover, the population most affected by the proposed Dewey-Burdock uranium project is an environmental justice population, as defined by EPA environmental justice guidance. Failing to allow for adequate time to respond to the new infonnation related to Powertech's UIC application violates the EPA's environmental justice guidance as well as Executive Order 12,898. I thank you in advance for your fair and equal time consideration on this request for an addition 90 days.		
8196.1	Ex. 6 Personal Privacy (PP)	Oglala Sioux Tribe Ex. 5 Deliberative Process (DP)	We support the conclusion of EPA's statutory analysis that the Dewey-Burdock mine is subject to the Clean Air Act and subpart W. If the project goes forward, we request that public education sessions and public comment periods be held as part of the subpart W regulatory process. The citizens of the area that would be most impacted by this project spoke loudly and clearly at the hearings in April and May of 2017, as well as the hearings in Hot Springs on October 4, 2019, that they were opposed to this project. The will of the people is what counts to most in a democracy. So the EPA should act consistently with the voices of the vast majority of the people at these hearings, rather than approving a project that is poorly considered, ill-advised, full of gaps, and dangerous to the health, the economy, the cultural resources, and the environment of the Black Hills. And if these drilling activities are actually allowed to proceed, there should be a provision that makes all resulting information public. None of this information will be subject to public review or comment, and key information would become available only after permits have been granted. This turns the regulatory process on its head. All testing should be done, subject to both professional and public reviews, before any of the draft permits or the aquifer exemption are issued.	Ex. 5 Deliberative Process (DP)	

31. List of questions asked: (divided into rhetorical questions & questions for EPA to answer in the response to comments)

Per EPA's request on 8/25, we have categorized questions under the relevant topic categories.

32. Specific technical comments related to errors or suggested changes in the draft permits and fact sheets, separated into Class III, Class V, and general/both.

Class III

Letter ID	Commenter Name	Commenter Org.	Text		
00121	Ex. 6 Personal Privacy (PP)	Individual	12). Previous mining operations, such as the TVA some decades ago found no further viable sources of uranium	Ex. 5 Deliberative Process (DP)	
00445		Individual Ex. 5 Deliberative Process (DP)	. With the extensive mixing of aquifers and the 7650 open boreholes that contaminate the aquifers, there is likely organified uranium and other toxic metals by bacteria that create a form of organic uranium that is not recoverable by ISL anyway. Organic uranium does not bind to the resin beads in the "glorified water softeners" of ISL recovery. So the only money to be made at this site is from taking in hazardous toxic mining wastes from other mines to dump into our aquifers and make the Black Hills a toxic waste dump. [...] Further, the 14 production well fields are not on a uranium rich roll front, as per TV A documents. (uranium ISL mines are typically situated on a uranium rich roll front so that extraction is efficient and the mine is profitable. Remember, the roll front was found by TVA to be mined out prior by surface mining)		
00523		Cheyenne River Sioux Tribe Ex. 5 Deliberative Process (DP)	Furthermore, the Preliminary Economic Assessment related to this project notes uncertainty in whether the Dewey-Burdock Mine is even economically viable. This is a grave concern to the Tribe for two reasons. First, it raises the concern that the project proponents will not have the financial resources to provide contingency funds for future remediation or if the project proponent will even maintain responsibility for such activities.		

Letter ID	Commenter Name	Commenter Org.	Text		
00527	Ex. 6 Personal Privacy (PP)	Clean Water Alliance ORC Ex. 5 Deliberative Process (DP)	One omission is simply the failure to provide a very important definition in the section of the Class III Fact Sheet related to mechanical integrity. This is the statement that internal mechanical integrity and external mechanical integrity will both be confirmed if "There is no significant" leak or fluid movement. The document needs to provide a clear, measurable definition of "significant" in each case. [...] OTHER ISSUES In addition to problems with documents, omission and process, there are statements that we simply disagree with in the EPA's project documents. First, the Class III Fact Sheet states, "There is no limit in the Class III Area Permit as to how many injection and production wells Powertech may construct" (p. 14). There certainly should be a limit, and that limit should be conservative and set by the regulator, i.e., the EPA. This should be corrected. [...] There should also be clarification of the length of time that the proposed Dewey-Burdock project would be active. This goes directly to the potential impacts of the project. The estimate in the State Mining Permit Application is seven to 20 years of uranium recovery, maybe more, with the Central Processing Plant likely to operate longer. The Class III draft permit is for the "operating life of the facility" (p. 7). At 14 wellfields, each operating for two years, this could be as long as 28 years, if the company ran them consecutively. There is also the potential for the company to expand the project to include its contiguous claims to either the east or west of the current project area. There's a difference between regulating a project that lasts seven years and regulating a project that lasts over 20 years. As stated repeatedly, the draft permits and Cumulative Effects Analysis should discuss the full range of potential impacts and scenarios. There are two statements in the Class III Fact Sheet that apparently involve the EPA being prescient. Especially given the critical topics that these statements are about, they should, instead, be made factual. The first is that "the Lower Chilson is expected to provide adequate confinement...." (p. 66), and the second is that "The distance between the Chilson Sandstone	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text		
			potentiometric surface and the targeted ore zone…is expected be [sic] adequate to allow the drawdown required….” (pp. 68-69). These statements should be proved, not “expected” into existence. There is also a question about the rate of pumping of water during the mining process. In Section 5.2.1 of the Draft Cumulative Effects Analysis, the text says that the “header piping [would be] designed to accommodate injection and production flow rates of 2,000 gpm….” (p. 56). On the next page, the document says that there would be 100 wells per header house. The schedule for the project indicates that as many as five wellfields will be active at one time. As each wellfield is likely to have more than 100 wells, these numbers add up to more than the 8,500 gpm that the company has asked to use in its more recent documents. This situation needs to be carefully researched and analyzed before any further action is taken on the proposed project.		
00528	Ex. 6 Personal Privacy (PP)	Aligning for Responsible Mining Ex. 5 Deliberative Process (DP)	F. The permit application and the draft area permit are both silent on the issue of reduced groundwater flow in the Fall River and Chilson aquifers downgradient of the mining wellfields. **There should be a water budget analysis to estimate reductions in flow and a discussion of groundwater discharge from the Fall River and Chilson aquifers.** **G.** Apparently **Powertech is not planning on active treatment as part of the groundwater restoration. Instead they will rely on natural attenuation, which will be assessed by collecting cores and conducting laboratory column testing.** If the leaching data do not indicate an adequate decrease in ISR contaminants –Powertech will need to submit a treatment plan. There should be concern about implementing this approach – the leaching data might very well be inconclusive and the time and money required to design and operate a treatment method may be unreasonable.	Ex. 5 Deliberative Process (DP)	
00528		Aligning for Responsible Mining	The Bhattacharyya study (2017) indicates that there is far more organic uranium in roll front deposits, such as those at the Dewey Burdock site, than previously believed. This impacts both estimates of the amount of recoverable uranium at the site and the ability to restore the impacted		

Letter ID	Commenter Name	Commenter Org.	Text		
			aquifers post-mining. These factors need to be properly understand and evaluated for this site prior to permitting.		
00535	Ex. 6 Personal Privacy (PP)	Ur-Energy Inc. Ex. 5 Deliberative Process (DP)	1. Part II, Section A, pg. 6. Requires wellfields to be at least 1, . 600 feet from the Permit Area boundary (0.3 miles). The determination of this distance seems arbitrary and is overly restrictive while providing little or no benefit. We believe this distance sets an unreasonable precedent that will likely prevent the complete recovery of mineral resources at future mines. A science based approach to determine this distance is in order. We suggest the EPA work with the proponent to determine an appropriate minimum distance between the wellfields and the permit boundary that is protective of surrounding USDWs (with sound technical justification consistent with requirements of the NRC and other states) while at the same time allowing for recovery of the majority of the resource. 2. Part II Section E, Table 8, pg. 14. This table lists a total of 45 parameters, several of which are not typically found in this geologic setting or are typically not found at levels of concern. We urge the EPA to remove the following parameters from Table 8 or require only one round of analysis to demonstrate the ions aren't present in baseline conditions (Aluminum, Antimony, Beryllium, Boron, Fluoride, Mercury, Nickel, Silver, Strontium, Thallium and Thorium). We suggest the EPA review the list of parameters that NRC requires in Table 2.7.3-1 of NUREG 1569 (also see language immediately above Table 2.7.3-1 that discusses the selection of parameters). Table 8 in the draft permit should more clearly specify if the analysis is to be performed for particulates or dissolved fraction. Finally, the EPA should clarify that gross alpha excludes both radon and uranium in accordance with drinking water MCLs. 3. Part V, Section E(4), pg. 33 requires 120% of the calculated volume be used. This statement isn't clear since I assume the EPA isn't requiring the cement be forced with pressure into the open hole. We assume the statement means the permittee must prepare at	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text		
		Ex. 5 Deliberative Process (DP)	least 120% of the calculated volume. This practice will result in the waste/disposal of cement. We encourage the EPA to allow the permittee to prepare 100% of the calculated volume. Any remaining void should be top filled after the cement has cured. 4. Part VII, Section C(4)(d) states the permittee may use air to induce pressure during an MIT. Instead of using "air" we suggest the permittee be allowed to use "compressed gas" which could include air. Part VIII, Section F(4)(b)(i), page 44, requires the water level at the perimeter monitor wells be consistently lower than baseline levels to demonstrate hydraulic control. While it is possible to generally maintain the water level at these measurement points lower than baseline, it will be impossible to keep the water levels below baseline values "consistently." For example, if a single downhole pump breaks down, a resulting pressure wave will quickly migrate out to the monitor well ring and could cause the local water level to temporarily exceed baseline. A temporary pressure wave like this does not indicate that hydraulic control has been lost. However, extended time periods with elevated water levels is an indication that hydraulic control has been lost or may be lost. We recommend the wording be changed to either require a specified percent bleed rate (typically 0.5 to 1%) or allow the permittee a specified time to bring the water level below the baseline level (on the order of one week).		

Letter ID	Commenter Name	Commenter Org.	Text		
		Ex. 5 Deliberative Process (DP)			
00553	Ex. 6 Personal Privacy (PP)	South Dakota DENR Ex. 5 Deliberative Process (DP)	Comments on the Draft Class III Area Permit 9. Page 40, Part VII, Section C - DENR recommends EPA have an inspector on-site to witness the initial and ongoing mechanical integrity testing of the Class III Area Permit wells. 10. Page 40, Part VII, Section C.3 - South Dakota's Underground Injection Control Class II rule ARSD 74:12:07:18 requires a minimum 15 minute time period for pressure fall-off and wellhead pressure tests. Based on the rule and to ensure testing procedures are consistent with existing Class II wells in the vicinity of the proposed project, DENR recommends EPA require the internal mechanical integrity tests to run for a minimum of 15 minutes rather than the 10 minutes proposed in the draft permit. 11. Page 45, Section H - DENR recommends EPA add a fifth sub-section to this section stating the permittee is prohibited from injecting fluids received from facilities or operations other than those associated with the Dewey-Burdock Uranium In-Situ Recovery Project. 12. Page 72, Section D.11.i - Revise this section to include the following contact information for reporting oil and chemical releases to DENR. DENR Ground Water Quality Program, Spills Section, (605) 773-3296 or after hours at (605) 773-3231.	Ex. 5 Deliberative Process (DP)	
07460 (5/8 Rapid City hearing)		Individual	So in conclusion, I would like to ask the EPA that if you do grant this Class III injection well permit, that you insist upon two things. Before approving them, much more work should be done with pilot wells in this location and transparency with regard to distributing the results of those tests.	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text		
07461 (5/9 Rapid City hearing)	Ex. 6 Personal Privacy (PP)	Individual	Since the recovery of the uranium is not 100 percent and they are not holding the other harmful elements out for production, arsenic, which is a known cancer-causing metal and contaminates wells, molybdenum and vanadium, et cetera, are other elements that could be extracted, but I see no indication within permits to recover anything other than uranium. All that would be waste. We recycle plastics, glass, and cardboard. Why wouldn't it be feasible to insist on the recovery of all heavy metals and elements that are extractable from this process?	Ex. 5 Deliberative Process (DP)	
07461 (5/9 Rapid City hearing)		Individual Ex. 5 Deliberative Process (DP)	There's essentially no economically recoverable uranium left in the area to mine and why the TVA abandoned the site twice. This roll front is gone, mined out.		
07462 (Hot Springs hearing)		Individual Ex. 5 Deliberative Process (DP)	There should be very elevated levels of organified uranium and other metals in the Inyan Kara because of the contamination of the aquifer with microorganisms from open boreholes and decaying fence posts placed in the old boreholes so that -- and I emphasize this -- little recoverable uranium is there. There should be minimum levels of actual mining uranium shown for the permit speciated and inorganic. [...] EPA should require additional pump tests. Existing data is admittedly incomplete. The EPA should also require, prior to permitting, no staged process. And also very important, this is EPA's first UIC permit. You've got to do it right, got to be careful what you do.		
8109		Individual	CONCERNS Please note I have **bolded** specific words and phrases of concern. In addition, I have both ***bolded and italicized*** words or phrases that I consider to be ambiguous or undefined. Questions included within sections or comments are underlined. Proposed Changes (8/26/19)		

Letter ID	Commenter Name	Commenter Org.	Text		
			Class III: 1) The wellfield location buffer zone will be **reduced** from 1,600 feet to 1,000 feet. (P. 1) 2) Post-restoration groundwater monitoring **is no longer required**. Does this include the 8 uranium mines in the area that are no longer in use? (P. 6)		
8195.4	Ex. 6 Personal Privacy (PP)	Powertech (USA) Inc. Ex. 5 Deliberative Process (DP)	**Additional General Comments to Powertech's Original EPA Letter** G-17: The proposed geochemical model for site closure generated by the EPA in Part IV of the Revised Draft Class III Permit and represented by the five CADMUS documents far exceeds industry standards and is inconsistent with other uranium ISR operations in the USA, including Region 8. Further, the EPA/CADMUS proposal is not consistent with the NRC requirements for any other domestic uranium ISR operations. In addition, the scope of the proposed geochemical model is far beyond the Proposed Alternate Solution to Post-Restoration Groundwater Monitoring, included in Attachment A-3 of Powertech's Original EPA Letter. In its proposed alternative, Powertech envisioned two geochemical models being completed, one for each major wellfield area (i.e., one geochemical model for the Dewey area and one for the Burdock area), each generated after the successful conclusion of all ISR activities within each major wellfield area and following the NRC-approved closure of all wellfields within each major wellfield area. Powertech's proposal was designed to address the aquifer exemption boundary at each of the Dewey and Burdock areas, following the closure of the associated wellfields. Powertech envisioned the modeling effort for the Dewey and Burdock areas to be consistent with an ACL application under NRC regulations. The extensive requirements described in the five CADMUS documents would constitute an expansive and cost prohibitive undertaking that would require a full-time modeling effort lasting more than a decade. These requirements have been developed outside of the context of more than 40 years of ISR operations regulated by the NRC, during which migration of ISR ore body fluids to adjacent, non-exempt aquifers has NEVER occurred. The geochemical modeling efforts described within the CADMUS documents and incorporated into the Revised Class III Draft Permit, appear to be consistent with the withdrawn, previously proposed, rules under 40 CFR Part 192. As evidenced	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text		
			by the EPA statements associated with the withdrawal of the proposed Part 192 rules, these proposed, extensive CADMUS requirements are unnecessary as there is already a "comprehensive and effective" regulatory framework for ISR wellfield operations, groundwater restoration and closure imposed by NRC. It is not appropriate for the EPA to develop an entirely unique approach to ISR regulation for this project for which it does not have regulatory authority. Further, the proposed, extensive CADMUS requirements effectively ignore the established protocols of the NRC, which have been successful in regulating ISR operations in the USA, including Region 8, for decades. Powertech respectfully requests that all references/connections to the CADMUS documents be removed from the Revised Draft Class III Permit. As discussed above, inclusion of the CADMUS documents into the Revised Draft Class III Permit is not supported. Further, Powertech requests Part IV of the Revised Draft Class III Permit be revised to remove requirements that are directly derived from the proposed CADMUS document requirements and replace these with requirements that are fully consistent with NRC requirements and existing regulations applicable to other uranium ISR operations in the USA, as was contemplated in the closure plan in its Proposed Alternate Solution to Post-Restoration Groundwater Monitoring, Attachment A-3 of Powertech's Original EPA Letter. Powertech has four major areas of concern with the CADMUS documents, as follows: 1.) <u>The five CADMUS documents, and thus the Revised Draft Class III Permit, fail to fully recognize the current standards and regulations for groundwater restoration.</u> The geochemical modeling efforts described by the CADMUS documents do not recognize the existing standard for groundwater restoration of ISR wellfields found under 10 CFR Part 40, Appendix A, Criterion 5 (see Powertech's Original EPA Letter, comments G-9 and G-10), which does not specifically require further demonstration, or modeling, of the transport of ISR contaminants across the aquifer exemption boundary if groundwater restoration is successfully returned to the Commission-approved background or an MCL. This regulation sets the standard for what is protective of human health and the environment for groundwater restoration of an ISR wellfield, yet it is never mentioned in any of the CADMUS documents or the Revised		

Letter ID	Commenter Name	Commenter Org.	Text		
			Draft Class III Permit. In contrast to this, in accordance with the Revised Draft Class III Permit, the EPA would require Powertech to do advance model "iterations" and collect potentially irrelevant site- specific geochemical data to determine the geochemical transport properties for constituents, which following groundwater restoration and stability phases, may meet the standard of being protective of human health and the environment. In such cases no further demonstration should be required. Review of ISR restoration data shows that nearly all, if not all, constituents are readily returned to background conditions or MCLs. Powertech requests that the Revised Draft Class III Permit be updated to reflect that no geochemical modeling would be required for constituents that meet the Commission-approved background or an MCL. The standards of 10 CFR Part 40, Appendix A, Criterion 5B(5) have successfully protected human health and the environment for groundwater restoration of ISR wellfields, which is reinforced by the fact that migration of ISR ore body fluids to adjacent, non-exempt aquifers has NEVER occurred. Thus following NRC requirements, there is no endangerment outside of the aquifer exemption boundary. 2.) The five CADMUS documents, and thus the Revised Draft Class III Permit, contain no specific standards of requirements for successful data collection or closure with a geochemical model The requirements of the CADMUS documents do not contain any specific criteria or standards needed for Powertech to obtain approval of closure by the EPA using a geochemical model. In fact, even for the preliminary conceptual site model (CSM), there is no clear and complete list of analytes, laboratory testing or sampling methodologies (for example, locations, frequencies, etc.) that would be deemed sufficient for the EPA to accept a completed CSM. In the "Geochemical Model Acceptance Criteria Checklist for the Dewey-Burdock Project," each criterion listed is presented in the form of a question, leaving it completely unclear what Powertech needs to achieve for a sufficient geochemical model that will obtain closure approval from the EPA. The vague requirements surrounding the CSM and geochemical models, as currently written in the Revised Draft Class III Permit, do not provide Powertech with an understanding of the EPA's expectations on these matters, nor do they enable Powertech to plan in advance a monitoring program that		

Letter ID	Commenter Name	Commenter Org.	Text		
			will satisfy the EPA. Further, the Revised Draft Class III Permit currently enables the EPA staff to request additional analysis and data collection for the CSM and geochemical model regardless of any determinations made by the NRC pertaining to the approval of wellfield authorizations or closures. It also remains unclear what actions the EPA may take if it does not find it has sufficient information for the CSM or geochemical model. 3.) The five CADMUS documents, and thus the Revised Draft Class III Permit, impose different modeling time frames and are inconsistent with Powertech's proposal and NRC requirements. In its Proposed Alternate Solution to Post-Restoration Groundwater Monitoring, Attachment A-3 of Powertech's Original EPA Letter, Powertech stated that "Powertech requests the ability to prepare a Closure Plan that will be submitted to EPA for review and approval following NRC approval of groundwater restoration in the first wellfield. The Closure Plan will be updated or a new Closure Plan prepared for each subsequent wellfield. The Closure Plan will document groundwater restoration efforts, stability monitoring results, and NRC correspondence during the approval process. This would include documentation of NRC staff's rigorous review process for any ACLs to determine that the ACL does not pose a potential hazard to human health or the environment." In addition, Powertech stated, "Following the completion of each major wellfield area (i.e., the Dewey area or the Burdock area), the Closure Plan will be updated to include an integrated hydrologic and reactive transport (geochemical) model encompassing all restored wellfields in that area. The model will evaluate the geochemical stability of the production zone and the possibility of release of constituents from the restored production zone to the aquifer exemption boundary." These statements place the timing of the geochemical modeling effort after completion of stability for each major wellfield area (one geochemical model for the Dewey area and one geochemical model for the Burdock area), and this would occur subsequent to the closure of all wellfields within each major wellfield area by the NRC. Again, the concept here was to have a single geochemical model for each major wellfield area. The NRC license does not require groundwater modeling, particularly when an ACL application is not required. However, in the event an applicant determines an ACL application is		

Letter ID	Commenter Name	Commenter Org.	Text		
			needed, modeling could be one of the methods typically used to address the license requirement to satisfy 10 CFR Part 40, Appendix A, Criterion 5B(6). The difference here is that the geochemical modeling done for such applications usually only involves one or two constituents of concern, as identified from groundwater restoration and stability monitoring (e.g., see Exhibit 020 from the Original EPA Letter; NRC geochemical modeling at Christensen Ranch included two constituents, uranium and radium). The Revised Draft Class III Permit would require an iterative geochemical modeling effort following each round of sample data collection during groundwater restoration and stability. For the 44 parameters that would need to be sampled in accordance with the Revised Draft Class III Permit EPA baseline requirements, of which 21 are metals or radionuclides, how many must be modeled? This is unclear. Given that there are 14 wellfields and assuming quarterly sampling over a 2-year period for restoration and stability, this would equate to 112 geochemical models for just one parameter. If this were required for all metals or radionuclides, the number of geochemical models would be 2,352. The suggested approach is completely impractical, especially when considering that conducting geochemical modeling at the start of groundwater restoration would be before the need for any potential ACL is determined. In addition, it is unclear if the CSM represents a separate preliminary geochemical model, as statements allude to this being some form of a geochemical/hydrologic model with the Revised Draft Class III Permit. For example, it states that, "In the event that unresolved data gaps or uncertainty are identified concerning geology, hydrologic properties, geochemical characteristics, and/or geochemical processes that could affect mobility and transport of uranium and other metals, the Director may require the Permittee to develop more than one CSM to characterize a range of potential site conditions." Even without additional alternative models, the CSM would need to be updated quarterly with new information, further expanding the scope many times over. Powertech requests that, if geochemical modeling is required in the Final Class III Permit, despite Powertech demonstrating in its letter that the protections to human health and the environment as currently regulated and enforced by the NRC at all other ISR uranium operations in the USA, including Region 8, are sufficient and do not require this, the Revised		

Letter ID	Commenter Name	Commenter Org.	Text		
			Draft Class III Permit should be revised to include a single geochemical model that will be constructed after successful completion of stability for each major wellfield area (one geochemical model for the Dewey area and one geochemical model for the Burdock area). Further, constituents of concern should be limited to specific analyte(s) if concentrations exceed Commission-approved background or an MCL at the end of groundwater restoration and stability monitoring. 4.) The NRC license requirements provide full protection against the transport of contaminants outside the aquifer exemption boundary. The Revised Draft Class III Permit offers no additional protections beyond those already imposed by NRC in the approved NRC license. As noted earlier, the NRC has a well-developed ISR oversight program that has been enforced successfully for several decades at numerous ISR operations in the USA, and there has never been migration of ISR ore body fluids to adjacent, non-exempt aquifers. Following completion of the Final Environmental Impact Statement (FSEIS) for the Dewey-Burdock Project, on which the EPA provided comment, Powertech was issued its comprehensive NRC license in 2014. Though the Revised Draft Class III Permit is more consistent with Class III permits issued for other uranium ISR operations in the USA and the Dewey-Burdock Project NRC requirements, one significant exception that remains is the geochemical model. The fundamental requirement for groundwater restoration within the approved NRC license is tied to 10 CFR Part 40, Appendix A, Criterion 5B(5), which states: 5B(5)—At the point of compliance, the concentration of a hazardous constituent must not exceed— (a) The Commission approved background concentration of that constituent in the groundwater; (b) The respective value given in the table in paragraph 5C[2] ([2] Table 5C – Maximum Values for Groundwater Protection; generally consistent with EPA MCLs) if the constituent is listed in the table and if the background level of the constituent is below the value listed; or (c) An alternate concentration limit established by the Commission.		

Letter ID	Commenter Name	Commenter Org.	Text		
			In the event an ACL is warranted, the licensee is required to submit a wellfield-specific license amendment application to the NRC for its review and approval. The NRC review and approval process includes: a mandatory technical/safety and environmental review, production of a safety evaluation report (SER) and, at a minimum, an environmental assessment (EA), and notice of an opportunity for an administrative hearing before the Atomic Safety and Licensing Board (ASLB). An ACL is a site-specific (wellfield-specific), constituent-specific, risk-based human health standard that addresses a number of specific requirements, including satisfaction of the ALARA standard that the Commission considers when evaluating an ACL license amendment application. Such a license amendment application is required to include an affirmative demonstration by the licensee that all of Criterion 5B(6) standards for ACLs have been met, including the ALARA standard, showing that the licensee has attempted to restore groundwater within the depleted ore body to primary or secondary restoration goals in Criterion 5B(5). In accordance with ACL requirements, the licensee must demonstrate that the values calculated for ACLs and the geochemistry in the depleted ore body will be adequately protective of human health and the environment at the point of exposure – i.e., will not pose a substantial present or future hazard. Standards for demonstration of an ACL are specified in regulation 10 CFR Part 40, Appendix A, Criterion 5B(6), which states: 5B(6)—Conceptually, background concentrations pose no incremental hazards and the drinking water limits in paragraph 5C state acceptable hazards but these two options may not be practically achievable at a specific site. Alternate concentration limits that present no significant hazard may be proposed by licensees for Commission consideration. Licensees must provide the basis for any proposed limits including consideration of practicable corrective actions, that limits are as low as reasonably achievable, and information on the factors the Commission must consider. The Commission will establish a site specific alternate concentration limit for a hazardous constituent as provided in paragraph 5B(5) of this criterion if it finds that the proposed limit is as low as reasonably achievable, after considering practicable corrective actions, and that the constituent will not pose a substantial present or potential hazard to human health or the environment		

Letter ID	Commenter Name	Commenter Org.	Text		
			as long as the alternate concentration limit is not exceeded. In making the present and potential hazard finding, the Commission will consider the following factors: (a) Potential adverse effects on groundwater quality, considering— (i) The physical and chemical characteristics of the waste in the licensed site including its potential for migration; (ii) The hydrogeological characteristics of the facility and surrounding land; (iii) The quantity of groundwater and the direction of groundwater flow; (iv) The proximity and withdrawal rates of groundwater users; (v) The current and future uses of groundwater in the area; (vi) The existing quality of groundwater, including other sources of contamination and their cumulative impact on the groundwater quality; (vii) The potential for health risks caused by human exposure to waste constituents; (viii) The potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents; (ix) The persistence and permanence of the potential adverse effects. Unlike the requirements of the CADMUS documents and Part IV of the Revised Draft Class III Permit, these NRC requirements are directly tied to potential impacts to human health and environment. Again, the NRC has successfully regulated ISR sites for decades, and the additional requirements proposed in the CADMUS documents and Part IV of the Revised Draft Class III Permit provide no further protections. As stated in Appendix B of the FSEIS for the Dewey-Burdock Project, "The staff will not approve an ACL if it will affect any adjacent USDWs" (See Exhibit 008 at p. B-3 of Powertech's Original EPA Letter). This statement directly aligns with the goals of the EPA, and unprecedented and unwarranted permit conditions are not required to achieve this, as currently contemplated in the CADMUS documents and Part IV of the Revised Draft Class III Permit. G-18: As discussed above, on October 30, 2018, the EPA issued notice of the withdrawal of its proposed rulemaking on 40 CFR Part 192. Further, the		

Letter ID	Commenter Name	Commenter Org.	Text		
			expansive geochemical modeling and constituent monitoring in the Revised Draft Class III Permit appear to be directly tied to this withdrawn, previously proposed, rule, 40 CFR Part 192, 82 Fed. Reg. 7400 (January 19, 2017; Exhibit 025 in Powertech's Original EPA Letter). The proposed rule stated: "Long-term stability monitoring, modeling and other analysis … In addition to the long-term stability monitoring requirements described in paragraph (d)(2) of this section, the licensee must provide to the regulatory agency geochemical modeling and other analysis sufficient to demonstrate that the long-term stability standard in 192.52(c)(3) has been met." The 2017 draft rulemaking documents, when describing the draft rule, stated: "Complying with the proposed standards may require some existing ISR facilities to monitor groundwater for additional constituents that they are not currently monitoring. It would also require all ISR facilities to continue monitoring for a period of at least three years after the initial stability standard is met, and to conduct geochemical modeling and other analysis to demonstrate that the applicable constituent concentration standards will continue to be met in the future. The additional monitoring, modeling and analysis that would be required under this proposed rule could increase costs to ISR facilities." Such additional constituents exceed those required by the NRC license for the Dewey-Burdock Project, yet these remain in the Revised Draft Class III Permit. The exhaustive geochemical modeling requirements are discussed elsewhere, so this discussion focuses on the additional constituents. In its Original EPA Letter, Powertech made numerous comments regarding the lack of justification for the additional constituents during baseline monitoring and that the constituents listed by the EPA were inconsistent with the NRC long-established monitoring programs. Despite modifying this list in the Revised Class III Draft Permit, EPA retained a total of 44 constituents or parameters in Table 8 of the Revised Draft Class III Permit. This is substantially greater than the 36 constituents or parameters required by the NRC and inconsistent with other ISR uranium operations licensed by the NRC in the USA, including Region 8. Powertech requests that Table 8 be made consistent with the NRC requirements for constituents. G-19: The EPA does not appear to have addressed Powertech's comments on the Cumulative Effects Analysis. As stated in comment G-6 of the Original EPA		

Letter ID	Commenter Name	Commenter Org.	Text		
			Letter, the NRC staff prepared the FSEIS for the Dewey-Burdock Project, which evaluated potential impacts to groundwater outside of the exempted aquifer (Exhibit 008 of Powertech's Original EPA Letter). As noted on page 5 of the Draft Cumulative Effects Analysis, EPA reviewed the draft and final NRC SEIS. However, at no time did the EPA comment that the groundwater protection measures required by the NRC were insufficient to protect groundwater outside of the exempted aquifer. The EPA offers no evidence that impacts have occurred at other ISR facilities as a basis for the proposed requirements. G-20: The Revised Draft Class III Permit continues to contain a number of requirements that are duplicative of or inconsistent with NRC requirements. EPA does not have the authority for proposing duplicative and in many cases expansive requirements for areas already regulated by NRC. Such duplication of regulation and review by EPA is unnecessary and inefficient. Duplicative requirements include, but are not limited to: 1.) Requirements for excursions including: a. Reporting (Part IX, Sections B.1.c, d, f, and h) b. Monitoring for Excursions (Part IX, Section C) c. Remediation of Excursions (Part IX, Section C.5) d. Requirements inconsistent with NRC requirements during a confirmed excursion event (Part IX, Section C.4), including, but not limited to: i. Monitoring Nearest Unimpacted Wellfield Perimeter Monitoring Wells (Part IX, Section C.4.c) ii. Criteria for Expanding Excursion Plume (Part IX, Section C.4.d) iii. Verification Actions for Expanding Excursion Plume (Part IX, Section C.4.e) iv. Additional Requirements for Excursions Detected in Non-Injection Interval Monitoring Wells (Part IX, Section C.4.f) v. Geochemical Modeling of an Expanding Excursion Plume (Part IX, Section C.4.g) 2.) Requirements for groundwater monitoring including:		

Letter ID	Commenter Name	Commenter Org.	Text		
			a. Wellfield baseline analysis requirements (Part IX, Section B.2, Part II, Section E, Tables 6,7) b. Wellfield baseline parameter list (inconsistent with NRC list) (Part II, Section E, Table 8) c. An operational monitoring program including operational, domestic, and stock wells (Part IX, Sections B.3.a, b, and c and Tables 8, 9, 10, 11, and 12) G-21: Powertech remains unaware of any other Class III permits for uranium ISR operations in the USA, including Region 8, that require mandatory, expansive geochemical modeling proposed in the CADMUS documents and Part IV of the Revised Draft Class III Permit. This has been extensively discussed throughout. Sincerely, John Mays Chief Operating Officer Powertech (USA) Inc.		
8252	Ex. 6 Personal Privacy (PP)	Clean Water Alliance	[...] And one quick typo issue: on page 105 of the Class III Fact Sheet in Table 21, your document mentions "Radium 266" and "Radium 268." Per my research, these isotopes do not exist.		

Class V

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
00527	Ex. 6 Personal Privacy (PP)	Clean Water Alliance	Another process issue is that EPA has gone through all sorts of contortions in its Fact Sheet on the Class V application in an attempt to define what is clearly a Class I well as a Class V well. The disposal would clearly take place above a USDW, the Madison formation, which is a large aquifer of broad use in the Black Hills. It is used by, among others, Edgemont and Rapid City. The EPA justifies its labeling of Class I wells as Class V wells by treating them as Class I wells for construction and monitoring purposes and by requiring the company to treat the injectate until it is "at or below radioactive waste standards" (Class	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
		Ex. 5 Deliberative Process (DP)	V Draft Area Permit Fact Sheet, p. 8). The fear of many people in the area, as expressed in the public hearings, is that this is not sufficient, and our water would become irretrievably contaminated. [...] Next, deep disposal well integrity should be tested at least once per year, not as infrequently as every 5 years, as EPA suggests in the Class V Fact Sheet (p. 56). And injectate should be monitored and analyzed regularly, as the characteristics of wellfields will differ, and as the functioning of the RO system may also vary in effectiveness. Records should be maintained until at least five years after the end of the project, in case problems develop over time, not for as little as three years, as the Fact Sheet suggests (p. 59). Similarly, EPA calculations indicate that "the pressure within the Minnelusa injection zone resulting from injection activity is **not** [bold in original] below the critical pressure needed to move fluids out of the Minnelusa injection zone into the Madison Formation" (p. 28). The EPA correctly requires the company to recalculate in light of this fact, but must also hold firm if the resulting injection rates are even near the critical pressure, with the potential result that the permit would not be granted. Again, it is critical to protect the Madison aquifer, and the nature of the upper portion of that aquifer is particularly concerning due to the presence of rapid water movement.		
00528	Ex. 6 Personal Privacy (PP)	Aligning for Responsible Mining	**3. COMMENTS SPECIFICALLY RELATED TO DRAFT CLASS V UIC AREA PERMIT** A. Powertech is required to demonstrate that the injectate will be contained within the injection interval by confining zones above and below. The upper confining zone is identified as the Opeche shale which overlies the Minnelusa Fm. The lower confining zone is identified as the lower part of the Minnelusa Fm. **Calculations performed by EPA staff indicate that the injection induced pressure within the injection zone will exceed the critical pressure needed to move waste fluids into the underlying Madison USDW for a distance of 3.5 miles from DW1 and 2.5 miles from DW-3. This means that there is a significant potential for waste fluid injectate to migrate downward through**	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
		Ex. 5 Deliberative Process (DP)	**natural geologic pathways (faults, fractures, high permeability zones) or anthropogenic features (abandoned oil/gas wells). There is significant disagreement on this between EPA and Powertech based on very different calculations of the critical pressure.** **There is also significant uncertainty regarding the porosity of the injection zone, the elevation of the potentiometric surface of the Madison Fm. and the effect of pumping by two proposed Madison water supply wells. These data are necessary for calculating the distance over which the injection-induced pressure exceeds the critical pressure needed to move waste fluids downward to the Madison. To be conservative the Area of Review should extend at least 3.5 miles from each proposed class V well.** Currently the lack of hydrologic data for the Minnelusa Fm. injection zone and, especially the Madison Fm. results in uncertainty that is too great and does not support a decision that there is an adequate lower confining zone. It may also mean that more than 4 injection wells will be required to limit injection rates and pressures. B. Lack of Site Specific Data. Calculations were made to estimate the radius of fluid displacement, which is an indication of how far from the injection well the waste fluid will move. The calculations were based on a simple model which consider only porosity and thickness of the injection zone. **Powertech used a porosity value of 21% and EPA used a porosity value of 10%. Neither are based on site specific data**. These analyses did not consider transport of the waste fluid plume by ground water flow. The waste fluid plume will not be static –but will migrate in a downgradient direction once it is emplaced in the injection zone. C. EPA is relying on data that will be obtained from drilling and testing the two proposed Madison water supply wells (***which have not been approved by SD DENR***) and drilling and testing the Class V wells. EPA is also relying on data on formations underlying the Minnelusa from well DW-1 ***if*** it is drilled to the base of the Deadwood Fm. as Powertech indicated in the Class V permit application ***(unclear if Powertech still plans to do this).*** **This results in a difficult problem if Powertech cannot obtain any data hydrologic/ geologic on the Madison USDW or if data obtained indicate that**		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			the proposed injection zone does not meet the criteria specified in UIC regs. It would be very difficult for EPA to deny a permit once the wells are drilled and completed. This means that more data is needed before a permit is issued. [...] G. **Class V fact sheet. What about the arsenic, barium, cadmium, chromium, lead, mercury, selenium and silver?** The EPA Document states: 7.8.1 Hazardous Waste Permit Limits The Area Permit requires the injectate to be below the concentrations for the hazardous waste toxicity characteristic limits found at 40 CFR § 261.24 Table 1. The Table 1 constituents that could be expected in the injectate are the following metals: arsenic, barium, cadmium, chromium, lead, mercury, selenium and silver. The Area Permit requires that the injectate samples be analyzed quarterly for these metals. Arsenic and selenium are present in the uranium ore deposit mineralogy. The hazardous waste permit limits the injectate must meet are listed in Table 19. Permit SD52173-00000 51 Dewey-Burdock Class V Draft Area Permit Fact Sheet USNRC, NUREG-1910, Vol. 1, GEIS, Section 2.7.2 describes typical liquid waste from ISR facilities: Liquid wastes from ISL facilities are generated during all phases of uranium recovery; construction, operations, aquifer restoration, and decommissioning. Liquid wastes may contain elevated concentrations of radioactive and chemical constituents. Table 2.7-3 shows estimated flow rates and constituents in liquid waste steams for the Highland ISL facility. Liquid waste streams are predominantly production bleed (1 to 3 percent of the process flow rate) and aquifer restoration water. Additional liquid waste streams are generated from well development, flushing of depleted eluant (the fluid that removes uranium minerals from the resin) to limit impurities, resin transfer wash, filter washing, uranium precipitation process wastes (brine), and plant wash down water.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			Table 19. Hazardous Waste Concentration Limits for Class V Deep Disposal Wells Constituent Total Metals Concentration Limit (mg/L) Arsenic 5.0 Barium 100.0 Cadmium 1.0 Chromium 5.0 Lead 5.0 Mercury 0.2 Selenium 1.0 Silver 5.0 7.8.2 Radioactive Waste Permit Limits The Area Permit requires that the injectate be treated to decrease radionuclide activities to levels below the established limits for discharge of radionuclides to the environment, which are listed in 10 CFR Part 20, Appendix B, Table 2, Column 2. These limits are presented in Table 20. Waste streams containing radionuclides below these regulatory limits are not classified as radioactive waste per UIC regulations. The radioactive constituent limits included in Table 20 are the limits set in Table 16 of the Area Permit that injectate will have to meet. Liquid wastes will be treated to achieve uranium effluent limits in the ion-exchange columns. It is not anticipated that thorium-230 and lead-210 will be present at concentrations above the limits; however, if concentrations are above the limits, the effluent will be treated as necessary to satisfy the Table 16 limits. Radium-226 will be treated in radium settling ponds by adding barium, which will cause the radium to precipitate out of solution. Table 20. Radioactive Effluent Limits for Class V Deep Disposal Wells. Radionuclide Effluent Limits 10 CFR 20 App B, Table 2, Column 2 µCi/ml Permit Limit pCi/l Lead-210 1.00x10-8 10		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			Polonium-210 4.00x10-8 40 Radium-226 6.00x10-8 60 Uranium (Natural) 3.00x10-7 300 Thorium-230 1.00x10-7 100 EPA and Powertech documents continues to rely on Powertech's intent to dispose of its liquid chemical waste via a Class V underground injection control permit. However, the disposal of waste, and particularly radioactive waste, below the lower-most aquifer that serves as an Underground Source of Drinking Water (USDW), as proposed here, is not a Class V activity. Rather, such disposal is a Class I underground disposal well. Compare, 40 C.F.R. § 144.80(a) (Class I – deep injection) with 40 C.F.R. § 144.80(e)(Class V – shallow injection). Further demonstrating this fact is the SD DENR which classifies any well that proposes to be used for injection of either hazardous or non-hazardous liquid waste, or municipal waste, as a Class I UIC well. Importantly, the State of South D 9 akota specifically and unambiguously precludes operation or construction of any Class I UIC wells within its borders. Indeed, the applicable regulatory provision is even broader, stating in its entirety: "Class I and IV disposal wells prohibited. No injection through a well which can be defined as Class I or IV is allowed." S.D. Admin. R. § 74:55:02:02 (emphasis added). This is a significant issue, which the EPA analysis must address. On December 8, 2016, Powertech expressed concern that removing the Deadwood Formation as an option for injection of treated ISR waste fluids would greatly diminish the capacity for waste fluid disposal. A few days later, Powertech withdrew its request to inject into the Deadwood Formation. **Therefore, based on Powertech's own statements, its proposed capacity for waste fluid disposal is greatly diminished which increases the likelihood of land application. However, the Application does not address the cumulative impacts of land application of toxic waste fluid including selenium which is highly toxic to people and wildlife. These impacts require a full and complete analysis.**		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
00553	Ex. 6 Personal Privacy (PP)	South Dakota DENR	Comments on the Draft Class V Area Permit 3. Page 4, Section A.1.d - DENR recommends EPA evaluate the total dissolved solids (TDS) concentration on a well-by-well basis due to the variability of TDS concentrations in the area and to be consistent with the existing aquifer exemption process for the Class II disposal wells in the vicinity of the proposed project. 4. Page 27, Section D - DENR recommends EPA have an inspector on-site to witness the initial and ongoing mechanical integrity testing of the Class V Area Permit wells. 5. Page 27, Section E - DENR concurs with the permit limitation described in Section E - Class V disposal should only be authorized in non-USDWs (Underground Source of Drinking Water with TDS greater than 10,000 mg/L). 6. Page 28, Section K - DENR recommends EPA add a third sub-section to this section stating the permittee is prohibited from injecting waste fluids received from facilities other than from operations associated with the Dewey-Burdock Uranium In Situ Recovery Project. 7. Page 38, Section A- This section states EPA will not approve the plugging and abandonment (PA) of any Class V well until all Class III wellfields have been decommissioned by the Nuclear Regulatory Commission (NRC). DENR recommends EPA revise this section to include the authority to authorize the immediate PA of a Class V well in the event a well loses mechanical integrity or otherwise fails and threatens a USDW. 8. Page 44, Section D.11.i - Revise this section to include the following contact information for reporting oil and chemical releases to DENR. DENR Ground Water Quality Program, Spills Section, (605) 773-3296 or after hours at (605) 773-3231.		
07460 (5/8 Rapid City hearing)		Individual Ex. 5 Deliberative Process (DP)	My second concern has to do with the aquifer restoration plan. According to Azarga/Powertech, the company proposes to restore the contaminated aquifers by treating water pumped from production wells using reverse osmosis, membranes under high pressure, thus removing 90 percent of the dissolved constituents. Restored water will then be returned to injection wells, and the RO reject, the brine, will be disposed of in the Class V wells.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			The company has concluded that minimal benefit, if any, is derived from the groundwater sweep prior to deep well injection and suggests eliminating groundwater sweep as an unnecessary, ineffective, and consumptive step in the restoration process. According to the EPA, "High pressure reverse osmosis can only be employed after groundwater sweeping, because high concentrations of contaminates during the initial stages of the restoration process tend to disrupt and rupture the RO membranes."		
07461 (5/9 Rapid City hearing)	Ex. 6 Personal Privacy (PP)	Individual Ex. 5 Deliberative Process (DP)	.After speaking with Ken Buhler -- B, as in boy, U-H-L-E-R -- of the South Dakota Department of Environment & Natural Resources, or DENR, he said that in November of 2014, the DENR started identifying which aquifer a well draws from on their permit forms, and this means that for many wells in use it is unknown which aquifer they draw from. Mr. Buhler said there are hundreds to thousands of domestic wells using water from the Minnelusa Aquifer. The exact number of wells is unknown at this time. However, Mr. Buhler said it is known that there are 196 appropriated water rights permits in the Minnelusa, which include municipal, commercial, industrial, and housing use. In addition, the USGS -- that's United States Geological Survey -- Water-Resources Investigations Report 01-4119 abstract starts with this statement: "The Madison and Minnelusa aquifers are two of the most important aquifers in the Black Hills area of South Dakota and Wyoming." The USGS Water-Resources Investigations report 01-4226 abstract begins with: "The Black Hills are an important recharge area for aquifers in the northern Great Plains. The surface-water hydrology of the area is highly influenced by interactions with the Madison and Minnelusa aquifers, including large springs and streamflow loss zones." In Valois Shea's presentation yesterday, she mentioned that a Class V injection well permit could not be used for an aquifer that is an underground source of drinking water, if I understood correctly. The Minnelusa is being used as a such, so I think it is safe to say that it is considered an underground source of drinking water.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			The EPA's website defines an underground source of drinking water as the following: One, it supplies any public water system, which the Minnelusa does; two, the source of water contains a sufficient quantity of groundwater to supply a public water system, which it appears the Minnelusa does; three, it currently supplies drinking water for human consumption, which it sounds like the Minnelusa does; and four, it contains fewer than 10,000 milligrams of total dissolved solids, which according to USGS tables that I found online applies to most parts of the Minnelusa; and five, the source of water is not an exempted aquifer, which I believe the Minnelusa is not.		
07461 (5/9 Rapid City hearing)	Ex. 6 Personal Privacy (PP)	Individual Ex. 5 Deliberative Process (DP)	The ability to purify the wastewater to Class V standards is not being considered. Simply putting the wastewater in a pond to air out the radon gas and then precipitating out the radium with barium chloride does not remove the other radioactive and toxic components. The toxic metals that have been mobilized are still there. And that includes vanadium, strontium, thallium, thorium, some radioactive forms of lead, and organified uranium that has been documented to build up in recycled wastewater and is not recoverable by ion exchange. And all are radioactive as well as toxic as heavy metals in biochemistry. This does not constitute the level of safety equal to stormwater or sewage effluent that a Class V well is limited to. If Powertech were able to clean this water to levels they boasted about in the NRC and ASLB hearing, so pure you could almost swim in it, then that water would be valuable for agriculture, irrigation, and farm use in this high, dry area of the country. It does not meet the qualifications for a Class V UIC, not for the concentration of toxic metals and radioactivity of such.		
8109		Individual Ex. 5 Deliberative Process (DP)	CONCERNS Please note I have **bolded** specific words and phrases of concern. In addition, I have both ***bolded and italicized*** words or phrases that I consider to be ambiguous or undefined. Questions included within sections or comments are underlined.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			[...] Proposed Changes (8/26/19) Class V: 1) No longer have specified intervals in the confining zone for core collection and **does not specify how much core to collect.** 2) Requires core from the upper confining zone of **only within the first injection well** constructed. (P. 7) What is the reason for this change?		
8196.1	Ex. 6 Personal Privacy (PP)	Oglala Sioux Tribe Ex. 5 Deliberative Process (DP)	A key process issue is that EPA has seemingly gone through all sorts of contortions in its Class V Fact Sheet in an attempt to define what is clearly a Class I well as a Class V well. The disposal would clearly take place above a USDW, in the Madison formation, which is a large aquifer of broad use in the Black Hills. It is used by, among others, Edgemont and Rapid City. The EPA justifies its labeling of Class I wells as Class V wells by treating them as Class I wells for construction and monitoring purposes and by requiring the Permittee to treat the injectate until it is "at or below radioactive waste standards" (Class V Draft Area Permit Fact Sheet, p. 8). Many people in the area expressed their fear in the public hearings that this is insufficient because they believe the risk of our water becoming irreversibly contaminated is just too great.	Ex. 5 Deliberative Process (DP)	

General/both

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
00470	Ex. 6 Personal Privacy (PP)	Individual Ex. 5 Deliberative Process (DP)	What is half-life of constituents going into the deep injection wells?	Ex. 5 Deliberative Process (DP)	
00527 These comments		Clean Water Alliance	The applicant's project has also changed in important respects between the time the NRC began considering it and the time the EPA began considering it. Examples include: • NRC documents consider the use of 4,000 gallons of water per minute for the mining and reclamation process. The EPA		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
were duplicated			applications consider the use of 9,000 gpm, more than twice as much water. • This project was originally described as involving 1,500 injection, recovery, and monitoring wells. By the time the EPA issued its draft permits, this had grown to 4,000 wells, nearly three times more wells. • The projected bleed rates have varied over time, from .5% of the water used to 17% of the water used. In addition, the reverse osmosis process makes at least 30% of the water put through the RO process into waste, and this is not fully considered in the EPA documents. This seriously weakens all the assumptions and calculations on water use in the Class III draft permit and in the Draft Cumulative Effects Analysis. • Documents prepared by Petrotek for Powertech/Azarga set subsurface water movement rates at 6 to 7 feet per year (without offering peer-reviewed sources). NRC documents set the transmissivity rate in the Fall River formation at 255 $ft.^2$ per day and in the Lakota formation at 150 $ft.^2$ per day. Dr. Perry Rahn's 2014 article, mentioned above, concluded that the average ground water velocity for the Lakota and Fall River formations in the Dewey-Burdock area was 66.1 ft./year. But, he said, groundwater velocity in the Inyan Kara Aquifers at the Dewey-Burdock site might be as much as 5,480 feet per year – over a mile -- which "might indicate fast groundwater movement through very permeable units or through fractures," although he considered this number "very high." The draft permits omit this critical information that could have very real impacts on wells that are downgradient of the proposed mine site. This issue is critically important, and further independent studies should be done before any permit is issued. • Powertech talked about the possibility of doing open pit mining at the NRC hearings, and this possibility is not raised in the EPA documents.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			These changes in the parameters of the proposed project go to the heart of the information that informs the process in this case. The NRC and the EPA have had different projects submitted to them. The processes are not functional equivalents, and consideration of both projects would not be redundant – it would be sensible. The EPA should begin a thorough NEPA process to assess the project as it is currently proposed. […] This letter provides comments from Clean Water Alliance on the EPA's draft Underground Injection Control permits for the proposed Dewey-Burdock uranium project, as well as the associated proposed aquifer exemption. We oppose the EPA's proposed issuance of permits and an exemption for the following reasons. There are a number of problems with the EPA's documents and with the process surrounding the draft permits and draft exemption. The items we have identified as key issues are explained below. The first part of the comments will discuss the problems with EPA documents. We will then turn to the EPA process and omissions. Then we'll discuss environmental justice and National Historic Preservation Act issues. And finally, we'll consider other types of issues. DOCUMENT ISSUES A glaring problem with the EPA's documents on the proposed project is that large portions of the documents used to support the EPA's draft permits are based on other permits that do not exist or that were prepared inadequately. For example, the EPA's documents defer repeatedly to the NRC's SEIS for the Dewey-Burdock project. This document echoed Powertech/Azarga's submissions in all important respects, rather than the NRC taking a hard look at the situation. The EPA documents also refer repeatedly to the requirements of a state NPDES permit that has not even been applied for. And they refer frequently to a state	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			Large Scale Mine Permit and a state Groundwater Discharge Permit (GDP) that have just barely begun the hearing process, are on hold, and are far from issuance. To rely on non-existent regulatory instruments and what are essentially the applicant's documents for large portions of the permitting documents indicates both problems with the regulatory process and a lack of analysis of the proposed mine, deep disposal wells, and aquifer exemption. These non-existent "permits" are relied upon for major aspects of the proposed mine and associated facilities. For example, the GDP and NPDES permits are relied upon for statements that the land waste disposal option will be safe and that there will be no contamination. This runs counter to the research on this topic, which indicates a build-up of highly-toxic selenium at a similar site. And then the EPA signs off on Powertech's proposal to grow crops on the land disposal sites without any analysis of the safety of this practice for wildlife, domesticated animals, or humans. This is a problem. Similarly, the EPA relies upon an "NPDES permit" that hasn't even been applied for to discuss the Emergency Preparedness Program and Environmental Management Plan that are the basis of its discussion of impacts from spills and leaks, worker safety, and other topics. The agency concludes "Because the project site will be reclaimed and released for unrestricted use," there won't be impacts to land use. It's a long way from a non-existent "permit" to full reclamation twenty years down the line. This use of speculative information should not be allowed as part of the application, cumulative effects, draft permit, or aquifer exemption documents. Some other examples of the reliance upon non-existent "permits" for key aspects of the Cumulative Effects analysis can be found pages 36, 39, 51, 53, 54, 55 (3 times!), 60, 61, 67, 71, 72 (3 times!), 74, 75 (3 times!), 79, 83, 88, 96, 109, 125, 132, 137, 138, 139, 140, 142, and 143. Until if and when the suggested permits are issued, information based on non-permits should be omitted from the	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			EPA's documents. A realistic, complete EPA analysis should be done.		
8050 (10/5 Hot Springs hearing)	Ex. 6 Personal Privacy (PP)	Individual	However, if the EPA is considering granting Powertech/Azarga a permit for either one waste disposal well, you should seriously consider the following: Require the company to prove that the Minnelusa Aquifer and other affected aquifers that now supply drinking water are somehow now deemed not suitable for drinking water or any other competing purpose, such as agriculture and ranching. Require an independent testing agency. Require the company to identify potential environmental degradation that its activities might cause, including contamination of primary and associated surface and groundwater bodies that might be affected by excursions through fractures and fissures. Require the company to demonstrate that of all the competing interests for water, its project is the highest and best use. We think not. Require all phases of the mining process/procedure to be timely monitored by an independent agency. No self-monitoring. Identify existing remedial technologies and their costs and develop realistic financial parameters for remediation. Require the company to post to the state a bond commensurate with any risks so that we taxpayers aren't stuck paying for what should be the company's responsibility.	Ex. 5 Deliberative Process (DP)	
8050 (10/5 Hot Springs hearing)		Individual	The first one is in Part 9 where it addresses what's called the downgradient compliance boundary baseline monitoring. This has been completely removed from the original draft, and this is a very, very important part, to monitor the downgradient. And I		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			don't know why it was removed, but I would like -- I would ask that it be reinstated in the proposal. Also, under Part 9, the six-month interval post-restoration groundwater monitoring, that also has been removed. And I believe that is also a very important part of this process and needs to be reinstated. Moving along, probably the most important one is in Part 4 under "Well Operation." It simply states in Part 4 that the waste wells are limited to the fluids from the ISR process. That's it. And I've got some severe problems with that. I have some suspicions -- I don't think I'm the only one -- that these waste wells are going to be used for something beyond that. And I'm talking primarily of the oil and gas industry that is constantly look for places to dump their -- their fluids from their process. So I would like -- I would request that in the proposal in the contract, that not only that it state this, but it have some way to police this action. And I don't think we can trust this corporate entity to police itself. It's going to require that they pay, out of their pocket, an independent agency or group to monitor it day and night, such that an infraction of any kind would create a complete removal of the permit forever. It has to be strong. It has to have teeth. Because if we don't do this, if it's not there, it's going to happen.	Ex. 5 Deliberative Process (DP)	
8109	Ex. 6 Personal Privacy (PP)	Individual Ex. 5 Deliberative Process (DP)	CONCERNS Please note I have **bolded** specific words and phrases of concern. In addition, I have both ***bolded and italicized*** words or phrases that I consider to be ambiguous or undefined. Questions included within sections or comments are underlined. [...] Proposed Changes (8/26/19)		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			Classes III and V - Aquifer Exemption: 1) Addresses flexibility in the AE boundary location. (P. 13) - What does this mean? 2) Adds a 3rd option to allow Powertech to submit a SD Water Well Completion report to classify well 16 as a monitoring well and attach documentation that well 16 should not be used for human consumption because **groundwater produced from the well exceeds the primary drinking water standards for radium and gross alpha and radon levels are high enough that indoor use should be avoided.** (P. 13). What is the justification for this reclassification if it involves groundwater contamination? Potential Environmental Effects - Conservation and Mitigation Measures This section of the BA contains a number of conservation measures ***proposed*** by Powertech which include a number of ambiguous phrases such as ***controlling*** erosion, preserving natural vegetation ***as much as possible***, restoring disturbed vegetation, and **if** land application of wastewater is employed, ***improving drainage patterns*** in the affected areas. (BA, p. 11) Mitigation measures ***proposed*** by Powertech include ***minimize*** road construction and traffic; construct new infrastructure in existing corridors; ***minimize*** areal impacts by sequential construction; and use dust control measures ***such as*** spraying water on vegetation to protect foraging vegetation. This paragraph references additional trees present in an area where **mining *is not projected* to occur in the near future** and states individual bats were seen near water bodies and treed habitats ***which are not currently scheduled for disturbance***. (BA, pp. 11-12)		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			Other ***proposed*** measures reference designing fences for ponds that won't alter habitat or impede wildlife migration; ***monitor water quality*** in wells that provide water to livestock and wildlife; provide other sources of water ***in the event of a drawdown***; use BMP's for constructing power lines to prevent bird injuries and *mortalities;* ***enhance habitats*** by land restoration and other measures; ***follow a raptor monitoring plan*** to minimize conflicts with active nests; ***allow*** snakes and lizards to retreat; and ***educate employees*** on wildlife laws and penalties associated with taking or harassing wildlife, types of wildlife they might encounter and how to avoid collisions. (BA, pp. 11-12) Additional ***proposed*** measures include enforcing speed limits to reduce wildlife injuries and mortality; restore wildlife habitat by reseeding; ***adequately*** **cover ponds** to prevent access by migrating and breeding waterfowl; replace any jurisdictional wetlands that are disturbed; and conduct construction activities outside of breeding season. (BA, p. 12) **Questions:** 1) Will these be proposals be included in the final permits and if so, will they be specific in term definition, extent, timing and amount of time allowed for completion? 2) Will monitoring programs for water quality, raptors and other factors have specific parameters and require submission of reports to EPA and USFWS? 3) Will wildlife experts be involved in establishing training programs for employees, raptor monitoring, and establishment of breeding and migratory seasons, etc.? 4) How, specifically, will employees "allow" snakes and lizards to retreat? 5) Who will be responsible for enforcing these measures?		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			Without specific language in the permits, these "proposed" measures are open to wide interpretation and will likely be unenforceable. […] The Class III Area Permit **does not limit** the number of injection and production wells Powertech may construct. **Each wellfield would have up to several hundred wells operating interchangeably as production or injection wells.** Initial construction includes nine wastewater treatment and storage ponds, with center pivot irrigation systems and storage ponds to be constructed ***as needed***. After uranium removal, uranium depleted lixiviant will be re-fortified with oxygen and carbon dioxide and reinjected back into the wellfield via the Class III injection wells. During groundwater restoration, **these same wells** will be used to inject **clean(?)** water into the aquifer. The wells will pump groundwater out of the wellfields. **In the event of a groundwater sweep during restoration, no fluids will be injected and the production wells will pump groundwater out of the wellfield to a *deeper aquifer*, an adjacent wellfield where mining is being initiated, or to surface ponds where it can evaporate**. Monitoring wells will be placed in the overlying and underlying aquifers to detect **potential migration of lixiviant outside the production zone.** (BA, pp. 4-5) Liquid waste generated by the project will be treated and injected into UIC Class V deep injection wells in the Minnelusa Formation. **A combination of deep well injection and *land disposal may also be considered if* the Class V wells do not have the capacity to dispose of the full volume of waste fluids.** (BA, p. 6)		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			Powertech identified the need for additional storage ponds for treated water during non-irrigation season and spare storage ponds for emergency containment *should any of the storage ponds fail, or portions of the land application system become temporarily inoperable*. Powertech to construct fences around the additional storage ponds. (BA, p. 6) Powertech plans to operate center-pivot irrigation systems to manage and dispose of liquid wastes **24 hours per day from April through October**. SDDENR ***proposes*** to restrict land application when soils are frozen or snow-covered, generally November through March. During this time liquid waste would be stored temporarily in ponds located near the Burdock central plant and Dewey satellite facility. Runoff from precipitation will be directed to catchment areas downgrading of land application areas and **allowed to evaporate or infiltrate**. Powertech ***estimates*** that the maximum area for land application of treated wastewater will be 1,052 acres. (BA, p. 7) **List of chemicals** in wastewater for the proposed land application activities includes arsenic, barium, cadmium, chromium, lead and selenium. (BA, p. 9) […] In conclusion, I am concerned with the ambiguity of some of these "proposed" measures and what criteria will be used to determine if the measures are "acceptable," "adequate," "as needed," etc. I am also deeply concerned about the aquifer exemption to well 16 allowing for groundwater contamination that would render the water unsuitable for indoor use. The other		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			aquifer exemption, relating to the Class III wells in the Inyan Kara Group, which are underground sources of drinking water, would be in direct contradiction of the statute. **We have environmental protection statutes for a reason, and any exemptions should be few and far between, particularly when they involve drinking water near the Black Hills.** The Class III Area Permit **does not limit** the number of injection and production wells Powertech may construct. Each wellfield would have up to several hundred wells operating interchangeably as production or injection wells. (BA, p. 4) The Biological Assessment sets forth a myriad of hazards involving the injection of wastewater into Class V wells. The use of wastewater and treatment ponds also poses significant risks, not just to water quality but to air quality for both animals and humans. Do we know the short-term and long-term effects on air quality and vegetation of allowing these ponds to evaporate? Any "proposed" measures must be detailed and quantified in any permits issued. Right now it appears many of these items are at the discretion of Powertech, and one doesn't have to be a scientist or economist to know that the bottom line for business is profit, often at the expense of safety. I question the need for more uranium mining knowing the risks to the environment as well as the risks of nuclear energy. There are already 7 other non-operational uranium mines in the area as well as the Darrow/Freezeout/Triangle uranium mine, which was abandoned in the mid-1980's due to a decline in uranium prices. If prices decline again, will these new wells be abandoned? If so, will Powertech be required to set aside sufficient funds for reclamation purposes?		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
8196.1	Ex. 6 Personal Privacy (PP)	Oglala Sioux Tribe	[...] **RELIANCE ON OTHER PERMITS** A glaring problem with EPA's documents on the proposed project is that large portions of the documents that were used to support the EPA's revised draft permits are still based on other permits that do not exist or that were prepared inadequately. For example, the EPA's documents defer repeatedly to the NRC's Supplemental Environmental Impact Statement (SEIS) for the Dewey-Burdock project. This document simply echoed the Permittee's submissions in many important respects, rather than the NRC taking a critical look at the issues. The EPA documents also refer repeatedly to the requirements of a state NPDES permit that has not even been applied for. And they refer frequently to a state Large Scale Mine Permit and a state Groundwater Discharge Permit (GDP) that are far from actually being issued. To rely on non-existent regulatory instruments and what are essentially the Permittee's documents for large portions of the permitting documents indicates both problems with the regulatory process and a lack of analysis of the proposed mine, deep disposal wells, and aquifer exemption. These non-existent "permits" are relied upon for major aspects of the proposed mine and associated facilities. For example, the GDP and NPDES permits are relied upon for statements that the land waste disposal option will be safe and that there will be no contamination. This runs counter to the real world situation regarding this issue, which indicates a build-up of highly-toxic selenium at similar sites. Another problem is that EPA has apparently signed off on the Permittee's proposal to grow crops on these land disposal sites without any analysis of the safety of this practice for wildlife, domesticated animals, or humans. Similarly, the EPA relies upon an "NPDES permit" that has not even been applied for to discuss the Emergency Preparedness Program and Environmental Management Plan that are the basis of its discussion of impacts from spills and leaks, worker safety, and other topics. The agency concludes "Because the project site will	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			be reclaimed and released for unrestricted use," there won' t be impacts to land use. It's a long way from a non-existent "permit" to full reclamation twenty years in the future. This use of speculative information should not be allowed as part of the application, cumulative effects, draft permit, or aquifer exemption documents. [...] **COMPLETION OF KEY TESTS ARE LEFT UNTIL AFTER PERMITS ARE ISSUED** The EPA also wrongly leaves the completion of key tests until after permits are issued, including the following: • wellfield delineation drilling, • establishment of current water baselines, • identification of faults, • tests of the integrity of the confining zones, • identification of leakage in the Fuson confining zone, • how to deal with a 10" diameter leaking TVA well, • information on unsaturated groundwater flow (this should be done in real life testing, not using a model that can be easily manipulated), • collecting drill cores to determine the characteristics of down-gradient aquifers' geochemistry, • measurement of confining zone thickness, • all of the work leading up to and including the Injection Authorization Data Package Reports (Class III Fact Sheet, pp. 70-71), • radiological impacts analysis (independent of the Permittee's analysis), • demonstration of the effectiveness of vertical and horizontal monitoring systems,	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			• identifying and creating a contract for disposal for 11e wastes and solid wastes, • the establishment of down-gradient comp1iance boundary wells (these should not be moved in case of an excursion, but should be maintained at their original locations), and • pump tests. These key tests need to be completed BEFORE any permits are issued. [...] **OTHER ISSUES** There are many other issues with the EPA documents and statements with which we simply disagree. For example, on pages 14-16 of the Class III Fact Sheet, it talks about ten "wellfields" in the Burdock area and four "wellfields" in the Dewey area. But nowhere has EPA set a limit of how many injection and production wells the Permittee may construct. However, EPA should certainly set a limit and that limit should be a conservative number of wells. One major permit revision that we had hoped would be made based on previous comments is a stronger statement by EPA forbidding any further action by Powertech until the company has identified and plugged the 7500+ old boreholes on the Dewey-Burdock site. Unfortunately it was not made, but it' s absolutely critical because without this requirement, the project is clearly an accident waiting to happen. The various types of ponds allowed by these permits should not be built where there are old drillholes. Best practices should be followed for all ponds to avoid leakage either through the bottom or through flooding. This includes at least the following: thick, high-quality double liners, clay liners, leak detection systems, procedures for frequent checking of leak detection systems, and the maintenance of substantial empty space in the ponds to accommodate flood events.	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			It is also not wise to build ponds in the 500-year floodplain, especially given the increase in flooding incidents in the area, and this should not be allowed. Similarly, the design of sediment control structures should protect from events larger than a 5-year, 24-hour precipitation event - especially because the mine and the ponds will exist for up to twenty years. This will ultimately result in spills from these ponds. It also goes against EPA's statement that surface water impacts "should be minimal." Impacts will not be minimal if a flood washes out sediment structures or over-tops a pond containing hazardous materials even once. In addition, the EPA should not rely on the NRC's analysis, recommendations, or regulations. The processes by the two agencies should be independent, so that the benefits of the expertise and different regulatory focuses of both agencies would be utilized for the proposed operations, as well as the aquifer exemption and other issues. All boreholes and old uranium mines in the project area should be plugged and reclaimed before any further mining is allowed. Not only does this protect the water, soil, and air of the area, but it also protects workers who would be exposed to the old, open mines. Abandoned open pit uranium minesspread contamination through the water, sediment, and air, as shown by research done by Dr. James Stone of the South Dakota School of Mines and Technology and others.ii The old mines must be reclaimed, and the soil, air, and water must be tested to insure that it is safe before allowing any new uranium mining to go forward. As noted on p. 23 of the Class V Fact sheet, properly calculating the injection zone critical pressure rise is crucial to be able to safely operate the deep disposal wells. It was good that EPA did not agree with some of Powertech's assumptions and recalculated the critical pressure values in the Madison Formation in the revised permits. However, it is apparent that certain assumptions can vary the critical pressure rise results widely. For this reason, more oversight by EPA is needed rather than simply letting Powertech "recalculate	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			the critical pressure rises for each injection zone based on the site-specific information collected during the construction of each well" (p. 25). EPA must also hold firm that if the resulting injection rates are even near the critical pressure, the permit would not be granted. It is vital to protect the Madison aquifer, and the nature of the upper portion of that aquifer is particularly concerning due to the presence of rapid water movement. P. 42 says: "The Area Permit does not authorize injection into an USDW. As discussed in Section 5.3.2, Powertech must demonstrate that the Minnelusa injection zone is not an UDSW [sic]". As far as we are concerned, this permit should not be issued at all UNTIL after Powertech has done the work necessary to prove that the Minnelusa injection zone is not an USDW. Next, deep disposal well integrity should be tested at least once per year, not as infrequently as every 5 years, as EPA required (Class V Fact Sheet p. 53). And injectate should be monitored and analyzed regularly, as the characteristics of wellfields will differ, and the functioning of the RO system may also vary in effectiveness. Records should be maintained until at least five years after the end of the project, in case problems develop over time, not for as little as three years, as specified (p. 56). As mentioned above, modeling is a weak alternative to on-the-ground testing. The EPA should certainly not rely exclusively on models for any decision or requirement in the case of such a complex, controversial project - especially models developed by or for the Permittee. There should be independent analysis of any information currently left to modeling. As the EPA notes in the Cumulative Effects Analysis, "there is inherent uncertainty in the results" (p. 108) when modeling is involved. The length of time that the proposed Dewey-Burdock project would be active should be clarified. This goes directly to the potential impacts of the project. The estimate in the State Mining Permit Application is seven to 20 years of uranium recovery, maybe more, with the Central Processing Plant likely to operate longer.	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			The Class III draft permit is for the "operating life of the facility." So with 14 wellfields, each operating for two years, this could be as long as 28 years, if the Permittee ran them consecutively. There is also the potential for the Permittee to expand the project to include its contiguous claims to either the east or west of the current project area. There's a difference between regulating a project that lasts seven years and regulating a project that lasts over 20 years. The draft permits and Cumulative Effects Analysis should discuss the full range of potential impacts and scenarios. A number of statements in both Fact Sheets make it apparent that the EPA is acting subjectively in many cases rather than factually - basically where ever it says "expected." Given the critical nature of this project, many of these statements should, instead, be made factual. For example, statements such as: "The overlying confining zone for the Lower Chilson is expected to provide adequate confinement... " (p. 67 of the Class III Fact Sheet) and "The uranium ore.is located in the Lower Chilson sand unit, which is expected to be locally hydraulically confined in the area of Burdock Wellfield 6." (p.68) do not instill confidence in the process. Other examples include: "The proposed injection zone for injection wells DW No. 2 and DW No. 4 is the Deadwood Formation, which is expected to lie beneath all USDWs in the area." (p. 8 of the Class V Fact Sheet). Such statements should be scientifically proven, not "expected" into existence. [...] Another important omission is that the draft permits beg the question of who is going to do on-the- ground regulation of the proposed mine and deep disposal wells. In 2011, the State of South Dakota suspended its ability to regulate in situ leach uranium mining, so it has no authority to do that regulation at this time. The NRC has two inspectors based in Texas, who visit ISL mines once or twice a year. There is no indication that their regulation can be complete or happen often enough to catch problems. This is tremendously	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			important. The draft permits include some very critical actions, such as testing the Minnelusa Aquifer to determine its water quality before deciding whether the Permittee can proceed with deep disposal wells. This is a high-stakes test that would impact the future of the southwestern Black Hills. First, the water quality test should have been done under EPA's direct supervision before a draft permit was issued. If water in the Minnelusa aquifer turns out to be appropriate for drinking water, the time and expense of creating the application and the Class V draft permit would have been avoided - as would have the stress on people in the area who use and rely on the aquifer. The testing of the water in the Minnelusa aquifer should be done under EPA's direct supervision, rather than allowing the Permittee to do a test in the areas of its choice using equipment it supervises, sending the sample to the lab of its choice, and expecting the people who use the Minnelusa Aquifer in the southern Black Hills to believe the results. Similarly, the following must be done under the direct supervision of a knowledgeable regulator: • pre-mining water quality testing in the proposed mining area, • testing designed to determine the likelihood of down-gradient excursions, • information underlying decisions about what holes and wells should be plugged, • mitigation of air quality impacts, • pump tests, • well construction, • reports on and handling of vehicle accidents involving hazardous or radioactive contaminants, • groundwater level measurements, • injection fluid characteristics,	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			• post-restoration monitoring, • determination of the corrective response that must be taken when an excursion happens (this is currently left to the regulated company), • well plugging and abandonment, • analysis of radiological issues, • disposal of hazardous wastes, • regulation of a variety of soil issues (Section 7.0 of Draft Cumulative Effects Analysis), [...]		
8196.2	Ex. 6 Personal Privacy (PP)	o/b/o Oglala Sioux Tribe Ex. 5 Deliberative Process (DP) Ex. 5 Deliberative Process (DP)	In my initial testimony I provided the data we recovered from our examination of Powertech's belatedly disclosed borehole data purchased from the Tennessee Valley Authority (TVA). Within this data we observed that the drillers of the TVA boreholes documented uncased holes, improperly plugged holes, artesian water, breccia pipes and caves, and faults. In my expert opinion, secondary porosities in the Dewey-Burdock area are such that loss of containment and the escape of pressurized fluids from underground waste injection are almost a certainty should either mining or injection be allowed. In this document, I will briefly outline my concerns with respect to the proposed changes to the 2017 draft permit. I have published peer-reviewed articles on the Chadron Formation (Terry & LaGarry 1998), the Brule Formation (LaGarry 1998), the mapping of surficial deposits (Wysocki & others 2000, 2005), and local faults (Fielding & others 2007). In future, we also intend to revise and reclassify the remaining rocks and surficial sediments of northwestern Nebraska and adjacent South Dakota. potential uranium contamination risk to communities on the Pine Ridge Reservation (LaGarry & Yellow Thunder 2012), and the transmission of uranium-contaminated water along regional faults (Bhattacharyya & others 2012), among others.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			THE CHANGES FROM 2017 TO 2019 The EPA's proposed changes to the 2017 are paraphrased as follows: 1. The injection wells can be 600' closer to the mine 2. Looser regulation of size and scope of aquifer exemptions 3. Removal of down-gradient monitoring requirements 4. Open-hole completion for well construction 5. Removal of post-restoration monitoring requirements 6. Optional Madison well compensation for wells lost to contamination 7. Ending testing requirements for Class V injection adjacent aquifers 8. Requiring disclosure of private wells impacted by aquifer exemption 9. Limiting injection to Powertech generated waste 10. No reporting of seismic events <4.0 MMI 11. Original request for 8 wells reduced to 4, with 2 being fast tracked **Injection wells can be 600' closer to the mine** In two earlier opinions, including the one I submitted at the May 2017 hearings in Hot Springs, I described the "swiss-cheese" nature of the wellfielde at Dewey-Burdock and its long-term lack of containment. This assess meant was supported by the ASLB in that they imposed licensing requirements that Powertech exhume and properly close large numbers of potentially open holes. I fail to see the logic or benefit to moving a pressurized injection site closer to a demonstrably unconfined wellfield. It is as if you want to increase the likelihood of a pressurized leak. **Looser regulation of size and scope of aquifer exemptions**		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
		Ex. 5 Deliberative Process (DP)	Without clearly demarcated limits of exactly where and how much of an aquifer is exempted, the pattern of behavior long established by ISL mines is to automatically default to ACLs, or as seems to be the case here, no limits at all. This is permission to pollute and avoid accountability. **Removal of down-gradient monitoring requirements** During the hearings there was much discussion about whether or not groundwater within the Minnelusa Aquifer flowed west, east, or not at all. Based on groundwater flow mapping by the United States Geological Survey (Driscoll and others 2002), water in the vicinity of the Dewey-Burdock site flows S/SE along the southern edge of the Black Hills, and once into greater Fall River County, groundwater flow is due east. This report makes no mention of a groundwater divide or other circumstance that would indicate isolation of groundwater within the Dewey-Burdock vicinity. The flow from north of Dewey-Burdock to the SW has been measured at 591 feet/day, but flow south of the site has been measured at 7,393 feet/day. Once eastward flow is established, its been measured at 4,349 feet/day to the east at the SD-WY state line, then 1,463 feet/day to the east in northern Fall River County and 732 feet/day to the east in central and southern Fall River County. On average, flow from Dewey-Burdock towards Edgemont, Hot Springs, Buffalo Gap, Oelrichs, and the western border of the Pine Ridge Reservation is about 3,484 feet/day. The Pine Ridge Reservation (Oglala Lakota County) is 46 miles from the Dewy-Burdock site, which means contaminated water from Dewey-Burdock could travel to the Pine Ridge Reservation in 70 days. Edgemont would be affected in weeks, and Hot Springs would be reached in as little as 35 days. Removal of monitoring means that contaminant plumes will reach and be consumed by nearby community members with no advance warning. People will be directly impacted, and removal of the few	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			available means of getting advance warning is a violation of the public trust by the EPA. **Open-hole completion for well construction** Mines being allowed to leave holes open deliberately weakens injection aquifer containment. These holes will join over 4,000 other potentially problematic wells in the Dewey-Burdock wellfield, along with numerous faults, fractures, and breccia pipes. In 30 as a geologist I have never seen a more poorly considered location for ongoing mining or injection. Open holes at the mine should automatically disqualify nearby injection and vice versa. **Removal of post-restoration monitoring requirements** When the UIC wells are full and subsequently abandoned they become pressurized repositories of chemicals. Should they leak, and they inevitably do, the downgradient public will remain uninformed of toxic contaminants headed towards their wells and will likely drink the stuff to eventually find out about it. Like the removal of Minnelusa monitoring, this is a betrayal of the public trust by the EPA. **Optional Madison well compensation for wells lost to contamination** The promise to replace lost Minnelusa wells with a newer, better one in the Madison Aquifer to then make it optional (a cash-strapped Powertech will certainly not pay for it) was an underhanded ploy to win support for polluting the Minnelusa aquifer. **Ending testing requirements for Class V injection adjacent aquifers** In earlier comments I've called out changes that undermine containment. This completes the undermining of containment by removing the testing that would identify that it has occurred.	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			Requiring disclosure of private wells impacted by aquifer exemption This presumes that each and every aquifer user is aware of these changes and has the means to comply. This cannot be assumed to be the case! There's lots of people using this aquifer that may or may not want to identify themselves for many reasons. Local landowners face threats and intimidation from pro-mining neighbors, and many are reasonably worried about their own exposure. **Limiting injection to Powertech generated waste** On its surface, this seems like a good thing. However, if Powetertech is financially unable to conduct mining, and therefore aren't generating waste, why do the need injection wells in the first place? It seems to me that they could sell dump space to other operators in the vicinity and generate cash with which to continue mining. And with these new proposed weakening of the regulations and no direct oversight, EPA is virtually ensuring abuse will take place. What's going to happen if Powertech takes some of that acid mine fluid from Wyoming and injects it in South Dakota? That acid will Destry what containment there is and ruin ALL of the aquifers. Not concerned because it hasn't happened yet? These are intended to be preventative measures so that these things never happen, because once they do there is no recovery. This is the situation being created here. **No reporting of seismic events <4.0 MMI** As I have mentioned previously in other expert opinions on this subject in this area, I've described seismic events along the the Whiteclay Fault (3.1 MMI) that opened previously closed cracks in the bedrock that essentially swallowed up Chadron's surface water supplies (the creek now drains into these cracks) despite being 40 miles from the epicenter. This mistake by the EPA will end up	Ex. 5 Deliberative Process (DP) Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			proving all of my opinions on the secondary porosity to be true. I will take no joy in it. **Original request for 8 wells reduced to 4, with 2 being fast tracked** Most ISL sites only need 1 injection well. Why does an operator, with no cash to mine and is not producing waste, need 4 injection wells with 2 of them fast tracked? This also lends Creedence to the idea that this is a way for Powertech to get some income by allowing others to inject into these unregulated and unmonitored wells. The entire application for permits seems frivolous, capricious, and arbitrary, UNLESS these are for another, hidden purpose. **CONCLUDING REMARKS** If these changes are intended to help a financially weak Powertech cut costs and be able to afford to mine on a smaller budget, they are misguided. Powertech is known to skirt regulations when they can and it suits them (I'm referring to the nondisclosure of thousands of sketchy boreholes in 2015), and these changes are a tacit invitation to do so again. **SIGNATURE** The information contained herein is true and correct to the best of my knowledge at the time of this writing on 6 December, 2019. Dr. Hannan E. LaGarry Ex. 6 Personal Privacy (PP) Chadron NE 69337		
8252	Ex. 6 Personal Privacy (PP)	Clean Water Alliance Ex. 5 Deliberative Process (DP)	[...] Other proposed changes that we find problematic in the discussion of the Class III permit include: • Narrowing the buffer zone between injection and production wells and the Project Area Boundary from 1600 feet to 1000 feet. This seems unwise. The only reason given is that Powertech changed its mind and "updated" its estimate of buffer width. This is a justification without a scientific basis.	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			• Removing the requirement that Powertech begin construction within one year of the permit effective date and allowing the company to file minimal annual reports to maintain its permit. Is it a requirement that the company begin construction within one year of the permit effective date, as the 2017 Draft Permit says? There is probably a reason that this requirement was put in place. One reason is that we don't want the countryside littered with "zombie" permitted mines that are inactive, and that are part of a dying industry, but that somehow manage to remain minimally "alive." This would create tremendous uncertainty for the many landowners with whom Powertech has leases, as well as keep the general public on edge. Deny the permits. Give landowners and the public certainty. One change that we don't see that is absolutely critical is a stronger statement forbidding any further action by Powertech until the company has identified and plugged the 7500 + old boreholes on the Dewey-Burdock site. Without this requirement, the project is clearly just an accident waiting to happen. Here are our additional comments on this proposal. The EPA needs to decide how many deep disposal wells it is considering – two or four. While the EPA extensively talks about two DDWs, if the company gets the suggested permit, they are actually getting permission for four DDWs. This is misleading. If the EPA permits two wells now and two wells later, there might not be any opportunity for public comment on the third and fourth wells. The relevant documents should have been much more forthcoming about what is being discussed here and, as they were not, if the permit is granted it should be limited to the two wells discussed and mapped throughout most of these documents.	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			Also, as we noted in 2017, the EPA must test the Minnelusa aquifer in the locations of its choice before any final Class V permit could be issued. Allowing Powertech to choose a site and run one test – especially if the EPA is not doing its own research and closely monitoring the test -- is a good way to insure that the company reaches the findings that it desires. Instead, we need the drinking water and the public's long-term needs to be protected. In addition, tests must be performed for all four DDW sites before a permit is issued, as the geology of the rim of the Black Hills is varied and DDW sites are miles apart.		

33. EPA needs to conduct further investigation.

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
00262	Ex. 6 Personal Privacy (PP)	Individual	EPA should require the additional pump tests that will be necessary (the existing data is admittedly incomplete) – NRC is requiring these tests prior to operations – EPA should hold the same requirement prior to full permitting under UIC (EPA should not be pressured to permit this project in order to obtain the necessary data on its environmental safety parameters).	Ex. 5 Deliberative Process (DP)	
00527		Clean Water Alliance	The agency must also rely on its own work, not just the information provided by Powertech, for critical information such as the "maximum volume of liquid wastes injected into the deep injection wells during aquifer restoration" (Cumulative Effects, p. 76). This number is central to the discussion of the Class V wells and should be determined independently of the applicant. If this number is wrong, so are all the assumptions and mitigation measures offered in the draft permits and other project documents. [...] The other glaring process issue is that the EPA has rushed the process, creating draft permits and exemption without going through the proper rule-making process. This is the first time that the EPA has issued draft permits for Class III wells for an ISL uranium mine. It seemed to be in a hurry to do so. There has		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			been extensive discussion of the process with the applicant and the uranium industry, resulting in a procedure, guidance, and draft documents. The draft permit and draft aquifer exemption documents often mimic others, including documents from the applicant, rather than creating a thoughtful analysis of the situation. (See Document Issues). However, there has been no public process on the de facto regulations created and used to craft the draft permits and draft exemption – no public notice, no public hearings, no analysis of public input. This violates the Administrative Procedure Act (APA), as well as the spirit of American government. [...] We contend that, if the RO process and the actual costs of full aquifer restoration were considered, this project would not be feasible economically, technically, or environmentally. The history of the uranium industry includes abandonment of almost 200 mines and prospects in the southern Black Hills and over 3,000 in the Upper Missouri River basin, plus thousands more in the Southwest. Given this history, the applicant should be forced to provide an economic analysis using current uranium prices that shows that this project is feasible before they are given permits or an exemption. They should also provide a copy of a contract with a buyer for the uranium that would be produced at the mine. Even at a modern ISL mine, the Smith Ranch-Highlands mine in Wyoming, aquifer restoration took place for 10 years, and the water quality was about the same as when mining ended, according to a Violation issued by the Wyoming Department of Environmental Quality. Part of the reason appeared to be cost. This situation should not be allowed to happen again. A detailed analysis that includes strict, regular, on-site regulatory enforcement must be an important part of the permitting and exemption process. The EPA wrongly leaves the completion of key tests until after a permit would be issued. These omissions include: • wellfield delineation drilling, • establishment of current water baselines, • identification of faults,	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			• tests of the integrity of the confining zones, • identification of leakage in the Fuson confining zone, • how to deal with a 10" leaking TVA well, • information on unsaturated groundwater flow (this should be done in real life, not using a model that can be easily manipulated), • collecting drill cores to determine the characteristics of down-gradient aquifers' geochemistry, • measurement of confining zone thickness, • all of the work leading up to and including the Authorization Data Package Reports (Class III Fact Sheet, pp. 70-71), • radiological impacts analysis (independent of Powertech analysis), • demonstration of the effectiveness of vertical and horizonal monitoring systems, • identifying and creating a contract for disposal for 11e wastes and solid wastes, • the establishment of down-gradient compliance boundary wells (these should not be moved in case of an excursion, but should be maintained at their original locations), and • pump tests. It appears that additional drilling in the alluvial deposits to determine whether there is upwelling groundwater should also be done before further regulatory action is taken. The "several" drillholes suggested in the Class III Fact Sheet seems inadequate, but the number of drill holes is not specified (p. 39). None of this information will be subject to public review or comment, and key information would become available only after permits have been granted. This turns the regulatory process on its head. All testing should be done, subject to professional review, public review and comment, before any draft permit or exemption is issued.	Ex. 5 Deliberative Process (DP)	
00546	Ex. 6 Personal Privacy (PP)	Oglala Sioux Tribe			

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			V. FAILURE TO ADEQUATELY DESCRIBE OR ANALYZE PROPOSED MITIGATION MEASURES Although EPA lists various mitigation measures that may be used to lessen the impacts from the proposed mining operations, these lists lack any detail necessary for the decisionmakers or public to assess the likely effectiveness of these measures. Further, many of the most crucial mitigation proposals are simply proposals to develop mitigation plans in the future. Reliance on a future, as yet-unsubmitted, mitigation to prevent/mitigate adverse impacts to the resources at the site fails to provide the detail necessary to gauge the impacts of the proposed mining operation. The as-yet developed mitigation relied upon in the EPA's analysis even includes such basic and critical things as post-permit issuance pump tests and hydrologic wellfield packages to determine the ability to contain mining fluids and future consultation under the National Historic Preservation Act to develop and evaluate alternatives or modifications to the undertaking that could avoid, minimize or mitigate adverse effects on historic properties. These represent fundamental aspects and impacts of the mining and in order to assess the impacts of the mine proposal cannot be simply deferred to a later date. Similarly, the application material and EPA analysis inappropriately defers meaningful review of mitigation until later permits to be considered by the State of South Dakota. These deferred analyses include detailed monitoring and mitigation plan for the state of South Dakota permits associated with the potential land application of wastes, as well as the groundwater discharge permit for the land application. Definition of critical features are left to the future, such as the monitoring program with wells that define the perimeter of operational pollution. Other mitigation plans left to future development include an avian and wildlife impact and mitigation plans that are being developed in concert with state and federal agencies necessary to keep wildlife from risking contamination from mine site facilities. However, the details of these plans are not proposed to be developed until approved by the South Dakota Department of Environment and Natural Resources and Game and Fish as a permit condition before any construction begins. Thus, instead of analysis in the EPA documentation, the agency simply lists possible mitigation measures without a meaningful review of	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			the details or the effectiveness of the proposed measures. This in turn leaves the public without the ability to provide meaningful input on the mitigation plans. Instead of presenting well-developed mitigation plans and analyzing their effectiveness in eliminating impacts, the EPA and applicant simply list and mention mitigation measures, and assert that they may be successful in eliminating or substantially reducing the Project's adverse impacts. Under relevant administrative law, a competent cumulative impact review requires that assertions of effectiveness must be supported by substantial evidence in the record. Without the necessary analysis in the impact review, EPA conclusions are arbitrary and capricious in relying on mitigation to conclude that there would be no significant impact to impacts resources. Review of EPA's impact reviews reveals that disclosure and analysis of impacts are insufficient where the mitigation analysis consists largely, if not exclusively, of a list of plans to be developed later, outside the permitting process and the public review. For instance, with regard to the cultural resources impacts, the agency concedes that consultation is not complete, although that is the process through which impacts are assessed and mitigated. As discussed herein, reliance on a discredited Programmatic Agreement ("PA") is insufficient. Indeed, the PA itself simply defers mitigation planning to some future time.		
8050 (10/5 Hot Springs hearing)	Ex. 6 Personal Privacy (PP)	Individual	The EPA should pause its permitting actions now until the NRC process is complete because many of the -- a lot of the water issues are common to both the NRC and the EPA. Some of the other outstanding issues that need to be addressed is the need for identification and plugging of the thousands of the boreholes at the site prior to issuing a permit. There is also the need for additional pump tests to characterize the hydrology. The NRC is requiring these tests prior to operation but after they issue the license. The EPA should require these pump tests prior to permitting. The EPA should include a detailed analysis of potentially leaking abandoned mines and how they would impact the groundwater and surface water, including the unreclaimed Darrow, Freeze Out, and Triangle mines.	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			The EPA should also include a detailed analysis of the plan for disposal of radioactive and toxic waste that will be generated as part of the water treatment at the site. The NRC hasn't done a good job working with the tribe. They are in cahoots with Powertech, and they oppose all involvement by the tribe at each step of the licensing process. And I thought the -- well, that's just how it is, I guess. The EPA still has a chance, you know, to examine the groundwater. And the last contention with the NRC of the Oglala Sioux Tribe is the cultural -- cultural resources survey. And one of the things is, there is a need for a competent cultural resources survey. It has to be conducted by qualified persons who have the knowledge and the expertise to identify significant -- culturally significant and sacred sites.	Ex. 5 Attorney Work Product (AWP)	
8143	Anonymous	Individual	The EPA must do its own full evaluation of the proposed Dewey-Burdock project and cannot "piggyback" its evaluation on the work done by other state or federal agencies. The EPA must require Powertech/Azarga to properly plug all historic boreholes and reclaim historic abandoned mines in the project area before they issue any future permits. Failing to do this would allow a continued dangerous situation for our aquifers, rivers, reservoirs, and landowners. Per Article Six of the U.S. Constitution, treaties are the "supreme law of the land." The EPA cannot just brush off this fact. The EPA must consider potential negative impacts to human health from a cultural perspective, as well as from a technical/scientific perspective. The EPA said that the Nuclear Regulatory Commission's review of cultural resources "appears sufficient." Actually, this review has been ruled "not sufficient" by a federal court. The EPA should perform a cultural resource review that follows federal law.		
8183	Ex. 6 Personal Privacy (PP)	Individual	Dear Ms. Robinson: In the matter of Powertech's proposed Dewey-Burdock uranium mining project, I agree with other critics of the EPA's handling of the application. The Agency relies too heavily on information from Powertech, and other agencies, and doesn't do enough of its own independent research. The danger of ceding this responsibility to others, especially the mining industry itself, is that permit		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			decisions can be made on the basis of conclusions that look like science, but in reality are technical rationalizations of raw, misguided and dangerous self-interestdangerous to public well-being, for sure, if not to Powertech's bottom line. As for what can go wrong when independent information and standards are not adhered to in mine permitting, consider an example from the history of heap-leach gold mining in Lawrence County. In the 1988 hearings regarding St. Joe Gold Corporation's proposed Richmond Hill gold mine near Terry Peak, scientific testimony provided by citizen intervenors warned that acid rock drainage could pollute Squaw Creek (aka Cleopatra Creek). The company's scientists scoffed at this warning, calling it amateur science. They testified that the amount of acid rock in the ore body was minimal and that, in any case, the presence of acid neutralizing minerals would completely foreclose any toxic excursions. The Company's view prevailed, but its selfserving 'science', far too common in the mining industry, proved wrong on both counts. Fish kill from acid rock drainage in Squaw Creek, a tributary of Spearfish Creek, was identified by the South Dakota DENR in 1992. The company's surety bond was increased from $1.2 million to $10.7 million, the mine was closed and years of reclamation ensued. Powertech's rebuff of citizen intervenors who wish to highlight the inherent uncertainties of water flows in their project's complex and unstable geological strata resembles St. Joe Corporation's hubris. To properly contend with this dangerous attitude, before it issues any permits, the EPA must weigh the merits of the broader public interest in the quality of our commonly held water against the narrower and self-serving interests of the mining company. It can only do this properly with its own objective research. Useful to that research would be an independent confirmation of water quality prior to permitting the project, as well as a follow-up requirement of independent on-site monitoring that provides substantive real-time and sitespecific data. If the EPA doesn't take on the responsibility of doing its own detailed and comprehensive research, the project's potential for damage to our aquifers, and the cost of cleaning them up, will make St. Joe Corporation's costly poisoning of Squaw Creek seem like a triflethat is, if clean-up of a poisoned aquifer is even possible.	Ex. 5 Deliberative Process (DP)	

34. General information about Edgemont and the public hearings.

Letter ID	Commenter Name	Commenter Org.	Text

35. Concerns the project will not benefit Edgemont, the Counties, the States or the USA.

Letter ID	Commenter Name	Commenter Org.	Text
00083	Ex. 6 Personal Privacy (PP)	Individual	We have great possibilities for being an extensive organic farming and ranching area. A few years ago the city of Hot Springs purchased Evans Plunge, a world-famous natural spring mineral water pool. The city has invested millions. The Evans Plunge would being damaged beyond use if the powertec Azarga permits would be given. This area would be unfit to live in due to the fact of having unsafe water quality for human, livestock and farming purposes. I say start up a Superfund Site in the Dewey Burdock site instead.
07459 (Valentine hearing)		Individual	And if there's one thing that we know is that anytime there's an environmental disaster, it's the community that resides there that is charged to clean it up, and we simply do not have those resources. The same thing when our waters are contaminated and people's rates of cancer begin to rise in these communities, we don't have a cancer care clinic here. We have to travel many, many hours

36. Comment topic unrelated to the UIC draft permits & aquifer exemption.

37. Any additional topics not included in the above list.

38. Comments about other government agencies or regulatory programs (NEPA, the Clean Air Act, the Nuclear Regulatory Commission, etc.)

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
00489	Ex. 6 Personal Privacy (PP)	Individual	DENR regulates water and sewer – where is their involvement	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
00519	Ex. 6 Personal Privacy (PP)	Black Hills Clean Water Alliance Ex. 5 Deliberative Process (DP)	There are a number of shortcomings in the EPA's documents and process surrounding these draft permits and draft exemption. This letter will summarize some of the key issues. The basic issue in this process has been the failure to adhere to the NEPA process. While the NRC has attempted to follow that process for the possession of nuclear materials, its actions have not covered a variety of current issues that are under the EPA's purview, particularly water issues. The applicant's project has also changed in important respects between the time the NRC began considering it and the time the EPA began considering it. Examples include: • NRC documents consider the use of 4,000 gallons of water per minute for the mining and reclamation process. The EPA applications consider the use of 9,000 gpm, more than twice as much water. • This project was originally described as involving 1,500 injection, recovery, and monitoring wells. By the time the EPA issued its draft permits, this had grown to 4,000 wells, nearly three times more wells. • The projected bleed rates have varied over time, from .5% of the water used to 17% of the water used. In addition, the reverse osmosis process makes at least 30% of the water put through the RO process into waste, and this is not considered in the EPA documents. This seriously weakens all the assumptions and calculations on water use in the Class III draft permit documents. • Documents prepared by Petrotek for Powertech/Azarga set subsurface water movement rates at 6 to 7 feet per year (without offering a source). NRC documents set the transmissivity rate in the Fall River formation at 255 ft.2 per day and in the Lakota formation at 150 ft.2 per day. Dr. Perry Rahn, Professor Emeritus from the South Dakota School of Mines and the acknowledged expert in these matters, said in a 2014 speech (which has since been submitted for publication) that groundwater velocity in the Inyan Kara Aquifers at the Dewey-Burdock site might be as much as 5,480 feet per year – over a mile -- which "might indicate fast groundwater movement through very permeable units of through fractures." The draft permits omit this critical information that could have very real impacts on wells that are downgradient of the proposed mine site. These changes in the parameters of the proposed project go the heart of the information that informs the process in this case. The NRC and the EPA have had	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			different projects submitted to them. The consideration of both projects would not be redundant – it would be sensible. The EPA should begin a thorough NEPA process to assess the project as it is currently proposed.		
00527	Ex. 6 Personal Privacy (PP)	Clean Water Alliance	PROCESS ISSUES The basic process issue in this case has been the failure of the EPA to adhere to the NEPA process. While the NRC has attempted to follow that process for the possession of nuclear materials, its actions have not adequately covered a variety of issues that are under the EPA's purview, particularly water issues. The EPA needs to complete its own NEPA process. [...] At the end of the Class V Fact Sheet and the Draft Cumulative Effects Analysis, the EPA indicates that the Endangered Species Act will be complied with, but gives no information on how it intends to do this. When will this be done? What species will be considered? Who will do the analysis (not the company)? This should already have been completed before draft permits were issued. The EPA mentions the presence of a short-horned lizard, which is rare and protected in South Dakota, in the proposed project area. After stating that the species is "important in some tribal cultures," it offers the solution "Once construction activities begin at the site, the EPA expects that the [sic] any short-horned lizards that were in the area will seek less disturbed locations." This is pure conjecture, without any back-up information on the size or habits of the lizards. Are they territorial, or is it species-appropriate for them to move? Are they large enough to move fast enough to out-run a bulldozer or pick-up truck? Or are they, in reality, unprotected? Species other than animals are not considered in this discussion. Plants cannot simply move off the site. Some of them are important to tribal practices and customs, such as medicinal plants and timpsila (prairie turnips). Full scientific information should be gathered, and full analysis must be done, for non-animal species. Species that are important to the long-term residents of the area -- the Lakota, Cheyenne, and other native nations – require special protection. There is already information on protection of some species in project documents that could serve as a base for part of this analysis. However, a full and independent analysis is also needed.	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			This analysis would include close consideration of the opinion of the South Dakota Department of Game, Fish and Parks. This opinion was stated in an October 17, 2008, letter written by Stan Michals. Michals said that exploratory activity should not take place on some parts of the project area between February and August (inclusive) due to the presence of a bald eagle nest (a state-protected bird) and a redtail hawk nest. Mining, deep disposal wells, land application, and reclamation, which are more long-lasting and disruptive than exploration, should clearly also not take place during those seven months of the year in raptor nesting and other protected areas. The sturgeon chub must be included in the discussion of wildlife concerns. It is present in the Cheyenne River and may be threatened or endangered in areas downstream from the proposed mine. Additional silt, heavy metals, and radioactive materials would be potential threats. […] In addition, the EPA should not rely on the NRC's analysis, recommendations, or regulations. The processes by the two agencies should be independent, so that the proposed mine, disposal wells, and aquifer exemption receive the benefits of the expertise and different regulatory focuses of both agencies.	Ex. 5 Deliberative Process (DP)	
00528	Ex. 6 Personal Privacy (PP)	Aligning for Responsible Mining Ex. 5 Deliberative Process (DP)	B. FAILURE TO ADHERE TO NEPA PROCESS The basic issue in this process has been the failure to adhere to the NEPA process. While the NRC has attempted to follow that process for the possession of nuclear materials, its actions have not covered a variety of current issues that are under the EPA's purview, particularly water issues. The applicant's project has also changed in important respects between the time the NRC began considering it and the time the EPA began considering it. Examples include: • NRC documents consider the use of 4,000 gallons of water per minute for the mining and reclamation process. The EPA applications consider the use of 9,000 gpm, more than twice as much water. **Which is it?**		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			• This project was originally described as involving 1,500 injection, recovery, and monitoring wells. By the time the EPA issued its draft permits, this had grown to 4,000 wells, nearly three times more wells. **Which is it?** • The projected bleed rates have varied over time, from .5% of the water used to 17% of the water used. In addition, the reverse osmosis process makes at least 30% of the water put through the RO process into waste, and this is not considered in the EPA documents. **Which is it?** This seriously weakens all the assumptions and calculations on water use in the Class III draft permit documents. • Documents prepared by Petrotek for Powertech/Azarga set subsurface water movement rates at 6 to 7 feet per year (without offering a source). NRC documents set the transmissivity rate in the Fall River formation at 255 ft.2 per day and in the Lakota formation at 150 ft.2 per day. **Which is it?** • Dr. Perry Rahn, Professor Emeritus from the South Dakota School of Mines and the acknowledged expert in these matters, said in a 2014 speech (which has since been submitted for publication) that groundwater velocity in the Inyan Kara Aquifers at the Dewey-Burdock site might be as much as 5,480 feet per year – over a mile -- which "might indicate fast groundwater movement through very permeable units of through fractures." The draft permits omit this critical information that could have very real impacts on wells that are downgradient of the proposed mine site. **This further supports the conclusion, stated below, that the Town of Buffalo Gap, SD, should be included in the EJ Analysis, because it relies on wells that are downgradient of the proposed mine site.** These changes in the parameters of the proposed project go the heart of the information that informs the process in this case. The EPA should begin a thorough NEPA process to assess the project as it is currently proposed. Along the same line, the draft permit is not accurate on the depth of existing drilling on the site. According to the company's Large Scale Mine permit application, drilling has been done on site down to the Sundance aquifer. This means that information on the Minnelusa should already be available. **Where is it?** [...] **5. Comments on the potential adverse effects of the proposed project**	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			A. **DB Groundwater Discharge Plan May 2017 ("GDP").** In 2012, Powertech applied to the SD DENR for a groundwater discharge permit to dispose of liquid waste fluids via land application. In 2014, the SD DENR recommended conditional approval of the permit application. Conditions include: o Land application of liquid wastes cannot occur if sufficient capacity is available via the Class V UIC disposal wells. o Powertech will collect 4 months of ambient ground water monitoring that is required by ARSD 74:54:02:18 and monthly samples for an additional 8 months AND quarterly sampling thereafter until mining commences. However per a November 17, 2014 letter to DENR Powertech requested permission to suspend the quarterly sampling. This request was granted per a December 3, 2014 letter from DENR. **This suspension of quarterly sampling is not consistent with the permit condition. Further Powertech lacks the financial resources to comply with sampling or monitoring requirements.** o The permit conditions proposed by the SD DENR indicates 7 compliance points – 4 at Dewey and 3 at Burdock – the March 2012 GW Discharge Plan(GDP) prepared by Powertech indicates only 2 compliance wells for the Burdock land application areas. **There should be a 3rd alluvial compliance well for the Burdock area land application areas.** […] o C **The permitted allowable limits ("PALs") that are proposed for the compliance wells by DNER in December 2012 are set at "ambient" values for numerous regulated constituents –particularly sulfate, TDS, uranium, gross alpha and radon. These PALs are orders of magnitude above the SD human health standards (SD ARSD 74:54:01::04) and well above the NRC standards included in 10 CFR 20 , Appendix B, Table 2, Column 2.** THE GDP does not provide any discussion to explain alluvial water quality – i.e., – why high TDS, why high sulfate, why high radionuclides. **These discrepancies need to be explained prior to the issuance of a permit.** o D. No discussion of hydraulic relationship between groundwater in alluvial deposits and surface water in Beaver Creek and Pass Creek. This hydraulic relationship needs to be properly evaluated and publicly disclosed **prior** to the issuance of any permit. […]	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			What about the other toxic constituents? E. The permit application also indicates that Powertech has applied for a land application discharge permit from DENR. There is no information on the soil types that will receive the effluent, the volumes planned for land application, the chemistry of the water, etc.		
00542	Ex. 6 Personal Privacy (PP)	Prairie Hills Audubon Society	Here is a link to the National Environmental Policy Act: [HYPERLINK "https://www.fws.gov/r9esnepa/RelatedLegislativeAuthorities/nepa1969.PDF"] If the EPA is allowed an equivalent process to NEPA... please discuss how are you meeting NEPA's goals and objectives in an equivalent way, especially please discuss how you meet Sec. 102 [42 USC § 4332 (C) (iii) and (E).: I quote some of the text below "Sec. 102 [42 USC § 4332..... *(B) identify and develop methods and procedures, in consultation with the Council on Environmental Quality established by title II of this Act, which will insure that presently unquantified environmental amenities and values may be given appropriate consideration in decisionmaking along with economic and technical considerations;* *(C) include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on --* *(i) the environmental impact of the proposed action,* *(ii) any adverse environmental effects which cannot be avoided should the proposal be implemented,* *(iii) alternatives to the proposed action,* *(iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and* *(v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.*	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			Prior to making any detailed statement, the responsible Federal official shall consult with and obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate Federal, State, and local agencies, which are authorized to develop and enforce environmental standards, shall be made available to the President, the Council on Environmental Quality and to the public as provided by section 552 of title 5, United States Code, and shall accompany the proposal through the existing agency review processes;..... *(E) study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources;" (Emphasis added.)*		
00543	Ex. 6 Personal Privacy (PP)	Prairie Hills Audubon Society	Can either of you give me the publication date for the Federal Register Notice of publication of the CFR rule set that CRF 40 CFR 124.9 (b) (6) belongs within. This rule exempts EPA permitting via underground injection control (UIC) from NEPA. I wish to see the justifications for adoption of this rule set and that would normally be exlained in a preamble for the rule in the Federal Register, when it was adopted. I ask for this information to help write my comments on Dewey Burdock In-situ Leach Application. I wish to understand which legal argument EPA uses to exempt itself from NEPA for UIC. As I understand it courts have exempted agencies from the procedural requirements under NEPA where the court thinks that either: (1) a direct conflict between NEPA and the organic statute authorizing agency action exists, or (2) NEPA procedures will be redundant with those provided for under the organic statute due to either displacement or functional equivalence. I ask that you fully disclose those legal arguments in your final permit documents... fully explain how and why EPA chose to pass CFRs exempting itself from NEPA for UIC. Please fully disclose which legal rationale you tier to. If it is "functional equivalence"; we believe you need to show how you are achieving "functional equivalence" or have redundant procedures to NEPA.	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
00544, 00545	Ex. 6 Personal Privacy (PP)	Prairie Hills Audubon Society Ex. 5 Deliberative Process (DP)	Prairie Hills Audubon Society attaches the Clean Water Alliance (CWA) letter. We thank Lilias Jarding for writing this "sign on letter" and we incorporate the CWA comments by reference & we would love to see you do NEPA analysis on this project.. Lilias Jarding repeatedly argues a NEPA argument and asks you to achieve NEPA standards & compliance. We wish to present CWA letter's points skewed in a slightly different way. We are aware that the EPA adopted 40 CFR 124.9 (b) 6, which the EPA uses to avoid NEPA on UIC approvals. We have not found in writing the EPA's justification, in which it explains why it believes can avoid federal law (NEPA) , but we suspect it is tiering to the legal precedent for “functional equivalence” - an winning argument from various court cases. We don't know if 40 CFR 124.9 (b) 6, has ever been put to a court challenge, to see if the EPA's UIC application review process meets a Judge's view of “functional equivalence”. We are not sure if the EPA has ever directly approved an In Situ Leach Uranium mine vs allowing States primacy over UIC. Has the EPA done such an mine waste injection UIC approvals, (citing 40 CFR 124.9 (b) 6 to escape NEPA) & actually survived a court challenge? Since you all believe you can escape NEPA, we suggest you reread/reconsider all Lilias's NEPA arguments, to say you must demonstrate "functional equivalence" with NEPA. If you must supplement the record to address the issues Lilias raises.. you must then release the revised/supplemented set of EPA review documents also for public comment. If you don't do this additional step, there will be another NEPA or NEPA "functional equivalence" argument that maybe can be litigated. We believe that the project is being approved by multiple entities (EPA, SD-WMB, SD-BME and NRC) and ironically the project description changes. Is the project a slippery moving target? We fear the Applicant will incrementally ratchet up the scope of the project each time some new entity reviews it and expect the new entity to be impressed by and tier to the older reviewing entity's prior approval, who actually reviewed and approved a different and maybe smaller project. We then fear the Applicant will go back to the earlier entity with the later approval of the revised project from the second agency. Maybe this could be an agency manipulation strategy? This also creates special review confusion as the NRC review follows NEPA and the EPA review does not but does "functional equivalence" of NEPA. Please be extremely clear about how the project morphs constantly. Please present all it's modalities, perhaps as a "range of action alternatives" . Lilias Jarding lays out the conflicting project versions out for you in her Clean Water Alliance letter. You must	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			develop the various alternatives in detail -- with smaller footprint and larger footprint "action alternative" versions. And you must do each alternative's impact analysis. NRC must then do another SEIS. [ATTACHMENT: "Dewey_Burdock_Project Sign-On Letter 6-17.docx"]		
00546	Ex. 6 Personal Privacy (PP)	Oglala Sioux Tribe	Other aspects of the EPA and applicant analysis suffer from the same frailty. Specific examples of mitigation measures that are vaguely and inadequately referenced include: • Reliance on the future submission and potential issuance of a National Pollution Discharge Elimination Standards ("NPDES") permit to specify mitigation measures and best management practices ("BMPs") to prevent and clean up spills. • A Fish and Wildlife Service ("FWS") raptor monitoring and mitigation plan has not been developed despite confirmed raptor activity in the project area. • FWS permits to avoid and mitigate impacts to Bald Eagles' use of three existing Bald Eagle nests. • Ongoing development of mitigation plans for listed species. • Generic reference to working BLM mitigation and reclamation guidelines. • Vaguely referenced and unspecified sound abatement controls. • Generically referenced mitigation of evaporation pond impacts that are and deferred to later analysis under the Clean Air Act's Hazardous Air Pollution provisions. • Groundwater mitigation where Powertech excluded such mitigation measures from its proposal or merely assumed compliance with applicable requirements. In summary, EPA has not met its duty to analyze the impacts of the proposal, cumulative and otherwise. [...] **VII. THE EPA HAS AN INDEPENDENT DUTY TO CARRY OUT WILDLIFE SURVEYS AND TO COMPLY WITH THE ENDANGERED SPECIES ACT AND MIGRATORY BIRD TREATY ACT.** Even though the federal approval process has been segmented into individual approvals by NRC, BLM and EPA over the course of a decade, each federal agency (and staff) must satisfy out its independent duties to comply with the Endangered Species Act (16 U.S.C. § 1531 et. seq) ("ESA"), Migratory Bird Treaty Act ("MBTA"), and Bald and Golden Eagle Protection Act (BGEPA) (16 U.S.C. §§ 668-668d). Each agency must	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			demonstrate compliance before taking action that could take, kill, harm, or otherwise impact the protected species. Failure to comply with these laws can subject the agency and its staff to civil and criminal penalties, unless the harm to the protected species is allowed by a lawfully approved permit issued by the U.S. Fish and Wildlife Service ("U.S. FWS"). EPA lacks U.S. FWS's special expertise in wildlife, and it is U.S. FWS that has permitting authority under federal wildlife laws. For ESA-listed species, EPA and must use "all methods and procedures which are necessary" to "prevent the loss of any endangered species, regardless of the cost." Roosevelt Campobello Intern. Park v. U.S. E.P.A., 684 F.2d 1041, 1048-49 (1st Cir. 1982), *quoting* TVA v. Hill, 437 U.S. at 185, 188 n.34 (1978). Powertech and NRC prepared biological surveys that were wholly inadequate and limited in scope. Over the course of a decade, those surveys have become stale and do not correspond to current ecological baselines and status of current listings. Even with the limited survey methods, NRC determined that the Powertech project may affect and even cause prohibited take to listed species, including Whooping Cranes, Greater sage grouse (active leks), Bald Eagles, and Golden Eagles. Courts have set aside agency action that lacks accurate and current data on Greater sage grouse because "inaccurate information participation. Or. Nat. Desert Ass'n v. Jewell, 840 F.3d 562, 570 (9th Cir. 2016). EPA cannot simply turn a blind eye to the protected wildlife that may be affected by the activities subject to SDWA permitting. NRC's FSEIS confirms impacts to MTBA-listed species. See, e.g., FSEIS at 4-97 to 4-98 ("All of these birds are BLM sensitive species and protected by the MBTA."). NRC's FSEIS confirmed that prohibited take of protected species: NRC staff expect that similar potential impacts described in SEIS Section 4.6.1.1.1.1.2, including injury or mortality from vehicles and electrical lines, fragmentation, vegetation conversion, and loss of breeding habitat, for nongame and migratory birds will also potentially impact chestnutcollared longspur, dickcissel, loggerhead shrike, and blue-grey gnatcatcher. FSEIS at 4-98. EPA's ESA consultation duties, 16 U.S.C. § 1536(a)(2) ("Section 7") are triggered because Section 7 "appl[ies] to all actions in which there is discretionary Federal involvement or control." 50 C.F.R. § 402.03. "Action" is defined as "all activities or programs of any kind authorized or carried out, in whole or in part, by Federal		

Ex. 5 Deliberative Process (DP)

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			agencies….” 50 C.F.R. § 402.02. EPA is carrying out agency action, and therefore must carry out Section 7 consultation duties or risk civil and criminal penalties for take. Similarly, Powertech does not appear to have applied for a Section 10 permit, and similarly faces ESA penalties for any “take” it may cause. 16 U.S.C. § 1539(a)(1)(B); 50 C.F.R. § 17.32(b). NRC’s FSEIS reveals that active bald eagle and other raptor nests are known to exist in and near the proposed project site. FSEIS at 4-147, *accord* at 3-46 (“Five confirmed, intact raptor nests and one potential nest site were observed within the proposed project area, and the applicant identified two additional nests within a 1.6-km [1-mi] radius of the study area (Powertech, 2009a)”). EPA’s SDWA permitting thus is likely involves prohibited take under federal wildlife laws, including direct and cumulative impacts on normal breeding, feeding, and/or sheltering behavior of bald eagles due to at least one confirmed, active nest in the project area. FSEIS at 3-46 to 3-47. Similarly, MTBA-listed raptor species, including “red-tailed hawk, American kestrel, and northern harrier [which] were the most commonly seen raptor species in the proposed project area and will be the primary raptor species impacted by project activities.” FSEIS at 4-149. EPA’s SDWA duties independently trigger compliance with federal wildlife laws before any decisions can be issued on Powertech’s application.		
00556	Ex. 6 Personal Privacy (PP)	South Dakota Department of Game Fish, and Parks Ex. 5 Deliberative Process (DP)	<u>South Dakota Mine Permit</u> Wildlife mitigative strategies presented in the Administrative Record are tiered to Powertech's proposed mine permit. EPA must recognize Powertech has only applied for a state mine permit. The proposed state mine permit application has no state standing. Under the SD Mined Land Reclamation Act (SD Codified Law Chapter 45-6b), the Board of Minerals and Environment (BME) is charged with issuing state permits and requirements for ISR facilities. In November of 2013, the BME discontinued hearings on Powertech's proposed state mine permit application until other state and federal agencies finalized their respective permitting. Powertech proposed mine permit application is still pending and no state mine permit exists. The Administrative Record must not reference a state large scale mine permit.		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
00556	Ex. 6 Personal Privacy (PP)	South Dakota Department of Game Fish, and Parks	Affected environment The Administrative Record does not include the site's available wildlife data in describing impacts to ecological resources. Scant use of citations in the Administrative Record makes it difficult to determine what available wildlife study data is used to describe the affected environment. It is reasonable to believe that wildlife data is only as current as the date of application. However it must be noted that it has been almost 10 years since the EPA has started its UGI evaluation. During that time, new wildlife and habitat data have enhanced understanding of the site's ecological conditions. Also, recently listed ESA species may exist on site. The Administrative Record did not adequately describe the affected environment or impacts to ecological resources. Additional wildlife information includes: Prairie dog colonies: The initial baseline wildlife survey documents only 3 of the 7 prairie dog colonies known to exist in the wildlife study area. The significance of the ecologic function of both the existing and newly identified prairie dog colonies is unknown. Direct and cumulative UIC impacts on prairie dog viability are not considered in the Administrative Record. Bats: The USFWS ESA listing of the Northern Long-eared Bat is a significant change since permitting began on the Dewey Burdock Project. The Administrative Record does not address the recent ESA listing or the habitat potential of the project area's historic mine workings. Burrowing owls: Recent wildlife surveys by Powertech have identified burrowing owls use in one of the project area's prairie dog colonies. The extent of burrowing owl use at the site's existing or newly discovered colonies is unknown. Bald eagle: The bald eagle nest identified in the initial wildlife survey is no longer in use, but an alternated nest is now the primary nest site. Powertech proposes construction and facility operation within active bald eagle nest buffers. The Administrative Record does not consider bald eagle disturbance take resulting from project effects on forage areas and home range. Reptiles and amphibians: The rational to determine impacts to short-horned lizard on page 149 of the Draft Cumulative Effects Analysis is unfounded. The rational presumes that native prairie, the preferred habitat of lizards, does not exist on rangelands and since impacts are on rangelands, lizards will not be impacted. The rational originates from Section 6.0 'Impacts To Land Use'. Baseline study from the project identifies	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			native vegetation and "widespread occurrence" of an unknown lizard species. The Administrative Record does not identify native vegetation, cumulative effects of conversion of native vegetation, or direct impacts on lizards.		
07449	Ex. 6 Personal Privacy (PP)	Individual	Subject: Comment on Dewey Burdock In Situ Leach Uranium mining injection wells [...] Here is an e-mail from the lady at the EPA in DC I was directed to, when I asked my NEPA questions. See the second sentence in 40 CFR § 124.9 (b) (6). It is alleged by others that in order for EPA to put this in EPA's administrative CFRs, EPA may be relying on “functional equivalence” doctrine, for which precedent was established in court cases. You might ask Allison about that - see what her opinion is of this and if EPA's CRF 40 CFR 124.9 (b) (6) below, is based in “functional equivalence” legal precedent - how do you comply with that legal precedent parameters? I suggest once you figure it out, you explain it to the public in your final writings on this permitting and I suggest offer us another extended comment period, once your EPA's alternative to NEPA duties are fully understood. If I have time, I will write a better letter later. [...] Begin forwarded message: **From:** "Hoppe, Allison" <hoppe.allison@epa.gov> **Subject: NEPA information** **Date:** May 11, 2017 at 2:04:02 PM MDT **To** Ex. 6 Personal Privacy (PP) Hi Here is the information we talked about. Let me know if you have any further questions. 40 CFR § 124.9 Administrative record for draft permits when EPA is the permitting authority. • (a) The provisions of a draft permit prepared by EPA under § 124.6 shall be based on the administrative record defined in this section. • (b) For preparing a draft permit under § 124.6, the record shall consist of:	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			o (1) The application, if required, and any supporting data furnished by the applicant; o (2) The draft permit or notice of intent to deny the application or to terminate the permit; o (3) The statement of basis (§ 124.7) or fact sheet (§ 124.8); o (4) All documents cited in the statement of basis or fact sheet; and o (5) Other documents contained in the supporting file for the draft permit. o (6) For NPDES new source draft permits only, any environmental assessment, environmental impact statement (EIS), finding of no significant impact, or environmental information document and any supplement to an EIS that may have been prepared. NPDES permits other than permits to new sources as well as all RCRA, UIC and PSD permits are not subject to the environmental impact statement provisions of section 102(2)(C) of the National Environmental Policy Act, 42 U.S.C. 4321. • (c) Material readily available at the issuing Regional Office or published material that is generally available, and that is included in the administrative record under paragraphs (b) and (c) of this section, need not be physically included with the rest of the record as long as it is specifically referred to in the statement of basis or the fact sheet. • (d) This section applies to all draft permits when public notice was given after the effective date of these regulations. [HYPERLINK "https://www.epa.gov/uic/aquifer-exemptions-underground-injection-control-program"] [HYPERLINK "https://www.epa.gov/nepa/epa-compliance-national-environmental-policy-act"] Best, Allison Hoppe Law Clerk Cross-Cutting Issues Law Office Office of General Counsel U.S. Environmental Protection Agency (202) 564-1912		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
07460 (5/8 Rapid City hearing)	Ex. 6 Personal Privacy (PP)	Individual Ex. 5 Deliberative Process (DP)	As you are probably aware, in the 2011 legislature, South Dakota gave up its statutory authority to oversee wastewater aquifer injection in ISL uranium mines at the urging of Powertech, now known as Azarga Uranium. Other types of mining in South Dakota, such as gold, oil, gas are regulated much more thoroughly than ISL uranium mining.		
07461 (5/9 Rapid City hearing)		Prairie-Hills Audubon Society Ex. 5 Deliberative Process (DP)	I'll begin with 42 U.S.C. 4321 or 40 C.F.R. 1500-1508, the NEPA regulations, and the Council on Environmental Quality rules to execute those. I'm aware that the EPA has gotten exempted of the Clean Water Act and the Clean Air Act from having to do NEPA analysis. I've not been able to find that you're exempted under the Safe Drinking Water Act or under RCRA. Maybe you are, and I just haven't looked hard enough. But I didn't find it, and I didn't find it in your rules under your NEPA enforcement. But the GEIS on in-situ leach uranium mining by the NRC just has the cooperating agency, one of the Wyoming agencies, the DEQ or the EQC, I forget which. And the cooperating agency on the SEIS on Dewey-Burdock was the Bureau of Land Management. There was no EPA as the cooperating agency, and you were not a cosignator, that I'm aware of, to any of those frauds. So ir- -- I don't know whether you should have or not. I'm asking you. Are you exempted under the Safe Drinking Water Act and RCRA? So whether it's you, or you and the NRC, I believe these are failings in those documents. You're supposed -- they're the -- that -- either the draft or the final had 642 wells as part of the well fields and the 8 for the deep injection. I've heard that the proposal lists 4,000 wells that you guys are writing up recently. That was not one of the action	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			alternatives. That's a much bigger footprint than was in the action alternative in the SEIS.		
8196.1	Ex. 6 Personal Privacy (PP)	Oglala Sioux Tribe Ex. 5 Deliberative Process (DP)	The other glaring process issue is that the EPA has rushed the process, creating draft permits and exemption without going through the proper rule-making process. This is the first time that the EPA has issued draft permits for Class III wells for an ISL uranium mine and it seemed to be in a hurry to do so. There have been extensive private and behind-the-scenes discussions of the process with the Permittee and the uranium industry, resulting in these procedures, guidance, and draft documents. The draft permit and draft aquifer exemption documents often mimic others, including documents from the Permittee, rather than creating a thoughtful analysis of the situation. (See Document Issues). However, there has been no public process on the de facto regulations created and used to craft the draft permits and draft exemption - no public notice, no public hearings, no analysis of public input. This violates the Administrative Procedure Act (APA), as well as the spirit of American government. If allowed to stand, the entire process would fail to fully consider the project, provide adequate public input, leave western South Dakota with contaminated water, set a bad precedent for future proposed projects, and violate the APA. Refer to lengthy fact sheet discussions and groundwater impacts section of CEA	Ex. 5 Deliberative Process (DP)	

39. Comments about the cost or technical feasibility of treating/remediation of contaminated groundwater

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
00304	Ex. 6 Personal Privacy (PP)	Individual	There are past instances where such actions were detrimental to the environment and natural restoration of the impacted groundwater was questionable, leaving areas of contaminated groundwater within the confines of the mining area and gradually flowing down the slope of the gradient within the aquifer (Mudd, 2001). [...]		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
		Ex. 5 Deliberative Process (DP)	6. Conclusion My opposition to the Class III and Class V Underground Injection Control Area Permits for the Inyan Kara Group aquifers stems from scientific studies of previous in situ uranium recovery projects. Although the waste created from the mining process is treated before it is injected into the groundwater, it has been shown that water quality is often worse than before the mining began. Increased levels of salinity, sulfate, and radionuclides have been observed in the areas of extraction, after restoration took place. Natural processes have not been proven to be effective in reducing the amount of uranium within groundwater (Mudd, 2001). Mining companies are unable to fully clean up the mess that they made, leaving the water and environment a dirtier and less safe place to live in. [...] References Cited: Kyllonen, D., & Peter, K. (1987). Geohydrology and water quality of the Inyan Kara, Minnelusa, and Madison Aquifers of the northern Black Hills, South Dakota and Wyoming, and Bear Lodge Mountains, Wyoming. Date accessed: 26 March 2017. Retrieved from: https://pubs.usgs.gov/wri/1986/4158/report.pdf Mudd, G. (2001). Critical review of acid in situ leach uranium mining: 1. USA and Australia. Environmental Geology. 41(3). 390-403. Date accessed: 26 March 2017. Retrieved from: https://link.springer.com/article/10.1007/s002540100406 "Radiation Protection."(2017). U.S. Environmental Protection Agency. Date accessed: 6 April 2017. Retrieved from: https://www.epa.gov/radiation/health-and-environmental-protection-standards-uranium-and-thorium-mill-tailings-40-cfr	Ex. 5 Deliberative Process (DP)	
00464	Ex. 6 Personal Privacy (PP)	Individual Ex. 5 Deliberative Process (DP)	The NRC estimates that the reclamation will cost upwards of $65 to 70 million. PT will not have that amount available based on foreseeable yellow cake pricing. It will be left in a contaminated condition and will		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			most likely be left to the state and/or the counties to attempt the impossible and bankrupting clean up.		
00491	Ex. 6 Personal Privacy (PP)	Individual Ex. 5 Deliberative Process (DP)	Given my personal experience working for Chem Nuclear Inc., on the Riverton, Wyoming, UMTRA (Uranium Mill Tailings Remedial Action) Project, I have been converted from an advocate of nuclear power, or the use of its by-products, to one opposed to the mining and processing activities associated with the extraction and use of uranium, or other radioactive elements. As a Health Physics Monitor, I was charged with detecting and monitoring radiation in the air, soil, and on equipment at the Riverton Super Fund site.	Ex. 5 Deliberative Process (DP)	
00519		Black Hills Clean Water Alliance Ex. 5 Deliberative Process (DP)	Given the fact that Otten and Hall of the U. S. Geological Survey are among those who have observed that "To date, no remediation of an ISR operation in the United States has successfully returned the aquifer to baseline conditions," the presumptions of companies who propose this type of mining – and the brave statements by regulating agencies -- must be approached with abundant caution. If no U.S. ISL mine has ever returned the water to baseline, what makes the EPA believe that this unprecedented task will be accomplished at Dewey-Burdock? This question must be addressed explicitly and analyzed thoroughly as a result of a full NEPA process, if the EPA decides to push forward rather than deny the permits and exemption.		
00527		Clean Water Alliance	This is important partly because, typically, when companies can't restore water to baseline conditions or to the standards set by the NRC, the NRC simply raises the amount of contamination allowed. At some point, the restoration water "fits" those raised standards, and the mine's water is declared "restored." This is unacceptable for the NRC, and it would be unacceptable for the EPA. The EPA must retain its baseline permit limits through a true restoration process. It is also		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
		Ex. 5 Deliberative Process (DP)	important that standards are set at a true "baseline," which is the original condition of the project area's water prior to uranium drilling or mining. […] OMISSIONS Moving to omissions, there is no analysis – or even discussion – of whether it is possible to treat the quantity of water being used by this project to the required standards. If it is not – and if the process is not closely monitored – water will be permanently contaminated. There is no analysis or discussion of whether it is possible to treat the water quickly enough to keep up with the injection rate proposed by this project. And there is no analysis or discussion of the reverse osmosis facilities, their location(s) in the project area, or the impacts they would bring. This includes the fact that at least 30% of the water put through the RO process typically becomes waste water. The Class V Fact Sheet uses the number 30% (p. 50), but RO operations can create four gallons of waste water for every 1 gallon of treated water. This waste is commonly called "brine," although the waste water in this project would be radioactive and full of heavy metals and would require further treatment before being disposed of as 11e waste. There is also the question of whether RO treatment of all this water can be done economically, given the price of uranium (currently only $19.25 per pound of yellowcake) and other project costs. A responsible agency would include a full discussion of the RO process and its impacts on the environment, waste treatment, bonding requirements, and the feasibility of the project. It would […] As part of this process, note that current conditions do not provide an adequate or accurate "baseline." All baseline measurements (ground and surface water, air, soil, sediment, etc.) should be defined as the original condition of the project area, before drilling and mining. […]	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
		Ex. 5 Deliberative Process (DP)	There is one statement in the Class III Fact Sheet that created more questions than it answers. This is the statement that "Groundwater pumped to the surface during the pump tests will not be injected back into the subsurface" (p. 59). The obvious question, of course, is what will be done with this waste water? Will it be allowed to run into the ground and/or the creeks? What will its quality be? Is this waste water included in the calculations of the amount of water consumed during the project? At a minimum, the answers to these questions should be included in the discussion. Ex. 5 Deliberative Process (DP)	Ex. 5 Deliberative Process (DP)	
00528	Ex. 6 Personal Privacy (PP)	Aligning for Responsible Mini Ex. 5 Deliberative Process (DP)	D. As noted above Powertech is required to treat the waste fluid to comply with standards in CFR Part 20, Appendix B, Table II, Column 2 and 40 CFR 261.24, Table 1. This treatment is required prior to disposal via underground injection. There is little information in the permit application. Apparently Powertech plans to treat the waste fluid by "radium removal in radium removal ponds". There is no information regarding the constituents which are expected to exceed the standard and will need to be removed nor any information on how the "radium removal ponds" work – is radium the only constituent that needs to be		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			treated? Is the radium suspended in the waste fluid? How will compliance be monitored		
07463 (Edgemont hearing)	Ex. 6 Personal Privacy (PP)	Individual Ex. 5 Deliberative Process (DP)	They aren't required to clean it up because it can't be cleaned up. You cannot clean up radioactive material. It remains radioactive.		
8200	Anonymous	Individual Ex. 5 Deliberative Process (DP)	Do not make the same mistake as Navajo Lands is says on epa.gov "more than half of small abandoned Uranium mines from the middle of the 20th century waste still remains and some of these sites have groundwater contamination." There are numerous national research council reports detailing the fact that there are still challenges and technical gaps associated with remediating contaminated groundwater with metals and radon. These technical gaps are not prepared for extreme natural events e.i. hurricanes, earthquakes, intense rainfall events, and drought and have the potential to lead to the release of contaminants if facilities are not designed and constructed to with stand such events or fail to preform as designed. (epa.gov and https://www.ncbi.nlm.nih.gov/books/NBK201052/)		
8217	Anonymous	Individual	Once the water is contaminated, it is unuseable, and there is nothing that the project can do that will protect it with 100% certainty due to the fractured and variable nature of the local geology.	Ex. 5 Deliberative Process (DP)	
8232	Dakota Rural Action	Ex. 6 Personal Privacy (PP) Ex. 5 Deliberative Process (DP)	As we have seen in the northwestern corner of the state with the Riley Pass reclamation efforts, clean-up of old abandoned uranium mining sites is a lengthy and expensive project involving enormous taxpayer funding. We cannot risk yet another massive taxpayer-funded reclamation project created by permitting a completely inexperienced company to mine hazardous materials in this state. Clean up of contaminated soils is one thing clean up of a contaminated aquifer is simply not		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			possible with current technology. The in-situ process used in uranium mining leaves in its aftermath an oxidizing environment that permits the flow of radioactive and toxic metals to continue down gradient within that aquifer until it finds a fracture, unfilled bore hole or breccia conduit to aquifers both above and below the mined aquifer. This is called an excursion. Furthermore, a class V (deep disposal well) has to be created to dispose of the bleed water too contaminated to return to the mined aquifer that, given time, could be involved in an excursion that will reach drinking water aquifers as well.		
8261	Anonymous	Individual Ex. 5 Deliberative Process (DP)	We can see to the stars above but only to the ground below our feet. No one really knows what is happening within the thin layer of the earth's crust and once contaminated there is no way to clean it up. Is't that all we really need to know to see this as the "Pandora's Box" that it is.		
8263	Ex. 6 Personal Privacy (PP)	Individual UIC Program will address Ex. 5 Deliberative Process (DP)	An exemption from compliance with the quality standards of the Clean Drinking Water Act would be needed in order to proceed with the project because "the restoration of an in-situ leach-mined aquifer to pre-mining water quality is an impossibility," the Nuclear Regulatory Commission states. Granting this exemption and the two permits would clear the way to grant the Canadian Chinese company the rights to use 8,500 gallons of water per minute, free-ofcharge, to dissolve uranium in the Inyan Kara Aquifer and then inject the process wastewater into the Minnelusa Aquifer.		
8277		Individual	Clean-up promises are pure lies. Safe mining cannot be done.		
8196.1		Oglala Sioux Tribe	This question must be addressed explicitly and analyzed thoroughly as a result of a full NEPA process if the EPA decides to push forward rather than deny these UIC permits and the aquifer exemption.	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
		Ex. 5 Deliberative Process (DP)	[...] One critical issue not adequately addressed by these permits is that no analysis or discussion of whether it is even possible to treat the quantity of water being used by this project to the required standards. If it is not and if the process is not closely monitored, then water will be permanently contaminated. There is no analysis or discussion of whether it is possible to treat the water quickly enough to keep up with the injection rate proposed by this project. There is also no analysis or discussion of the reverse osmosis (RO) facilities, their location(s) in the project area, or the impacts they would bring. Included in the Class V Fact Sheet is the assumption that at least 30% of the water put through the RO process typically becomes waste water. However, RO units really use approximately three times as much water as they treat (ref. https://www.epa.gov/sites/production/files/2015-11/documents/2005_11_17_faq_fs_healthseries_filtration.pdf). So an estimate of wastewater generation is more like 300%, or an order of magnitude higher that stated in the draft permit. And this wastewater is a brine that will be radioactive and full of heavy metals requiring further treatment before being disposed of as 11e waste. Even if the RO treatment is feasible, there is also the question of whether RO treatment of all this water can be done economically given the other project costs and the current price of uranium at about $25.00/lb. A responsible agency would include a full discussion of the RO process and its impacts on the environment, waste treatment, bonding requirements, and the feasibility of the project. It would also provide numerous examples of places in which this operation has proceeded successfully at the flow rates and with the contaminants proposed by the Permittee. In addition, membranes from the RO process typically last only two to five years even with adequate pre-treatment and routine maintenance. (https://www.epa.gov/sites/production/files/2015-08/documents/ reference guide to treatment technologies for miw.pdf) What happens to these membranes when they are no longer usable and how must they be disposed of?		

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			At the end of the day, we contend that, if the RO process and the actual costs of full aquifer restoration were considered, this project would not be feasible economically, technically, or environmentally. The history of the uranium industry includes abandonment of almost 200 mines and prospects in the southern Black Hills and over 3,000 in the Upper Missouri River basin, plus thousands more in the Southwest. Given this history, the Permittee should be forced to provide an economic analysis using current uranium prices that shows that this project is feasible before they are given any UIC permits or an aquifer exemption. They should also provide a copy of a contract with a buyer for the uranium that would be produced at the mine. Even at a modem ISL mine, the Smith Ranch-Highlands mine in Wyoming, aquifer restoration took place for 10 years, and the water quality was about the same as when mining ended, according to a Violation issued by the Wyoming Department of Environmental Quality. Part of the reason appeared to be that the company was allowed to stop remediation because of costs. This situation should not be allowed to happen again. Strict and regular on-site regulatory enforcement must be an important part of the EPA' s permitting and exemption process.		

40. Comments about baseline monitoring/data collection

Letter ID	Commenter Name	Commenter Org.	Text
00546	Ex. 6 Personal Privacy (PP)	Oglala Sioux Tribe Ex. 5 Deliberative Process (DP)	**III. BASELINE WATER QUALITY INFORMATION IS LACKING** Powertech relies on the same data regarding the baseline water quality for its EPA permit applications as it did for its NRC license applications. The applicant has provided no significant baseline water quality information since the NRC license proceedings were conducted. Indeed, in response to comments from the Tribe during the NRC process specifically detailing the problems with lack of adequate baseline water quality data, NRC Staff confirmed that the applicant collected data from 2007 to 2009 and that “the NRC staff used this information when drafting the affected environmental section of the SEIS as well as analyzing impacts of the proposed action.” FSEIS at E-32; Exhibit NRC-009-B-2.

Letter ID	Commenter Name	Commenter Org.	Text
			Exacerbating these problems, NRC Staff stated that: the applicant will be required to conduct additional sampling if a license is granted to establish Commission-approved background groundwater quality before beginning operations in each proposed wellfield in accordance with 10 CFR Part 40, Appendix A, Criterion 5B(5). However, this does not mean that the NRC staff lacks sufficient baseline groundwater quality information to assess the environmental impacts of the proposed action. FSEIS at E-32; Exhibit NRC-009-B. The same problems persist in the EPA UIC permitting process. The admitted data gaps, and the failure to gain additional sampling before the draft permits were issued, establishes that, like NRC Staff, EPA has not required or used the collection of any additional baseline data for its characterization of baseline water quality, but and that EPA will require additional data in the form of "well field packages" in order to establish a credible baseline for use in the regulatory process. Thus, while the existing administrative record contains data from 2007-2009, the background water quality for use in the actual regulatory process for the facility will be established a future date, outside of any public process, and without the benefit of the public's review and comment. This approach undermines the UIC permitting process, prevents the EPA from accurately assessing the potential impacts from the project, and prevents the public from being able to effectively review and comment on the project. The result is a lack of compliance with the SDWA and the UIC regulations. The attached Opening Written Testimony of Dr. Robert E. Moran (Exhibit OST-001) submitted during the NRC hearing process demonstrates the failings of EPA's approach. Exhibit OST-001; Dr. Moran Opening Written Testimony at 16-18. Specifically, Dr. Moran notes the lack of analysis of impacts from past mining activities (p. 16), the lack of necessary information as to the chemical compositions and volumes of wastes, among others (p. 17), the potential bias of the data thus far provided (p. 18) along with the scientifically invalid tactic of requiring the Applicant to collect meaningful water quality data to be used in the configuration of mine design in the future and outside of the public review: The delayed production of this critical baseline information until after licensing is not scientifically defensible as it prevent establishment of a baseline on which to identify, disclose, and analyze environmental impacts, alternatives, and mitigation measures involved with the Dewey-Burdock proposal. A scientifically defensible monitoring and mitigation of an operating project is not possible based on the baseline data and analyses I have reviewed. Exhibit OST-001 at 17.

Letter ID	Commenter Name	Commenter Org.	Text
			The attached expert Rebuttal Testimony of Dr. Robert Moran also confirms that EPA has not adequately described the baseline conditions at the site using reasonably comprehensive data. Exhibit OST-018. For instance, Dr. Moran specifically opines that despite expectations that post-license collection of data is sufficient to fill in any gaps that currently exist, such a process deprives expert agencies, the public and the parties to this proceeding (and EPA staff) the opportunity to meaningfully review and evaluate the impacts from the proposed project during the permitting process. Exhibit OST-018, Rebuttal Testimony of Dr. Robert E. Moran at 2 (A.2). Further, any assertions that this additional data cannot be obtained without full construction of final well-fields is unsupported and contradicted by the expert testimony of Dr. Moran. Dr. Moran opines that adequate baseline data can be gathered "without constructing the ultimate wellfield monitoring network." Id. Dr. Moran points to previous studies undertaken by TVA and Knight Piesold that conducted pump tests to gather baseline data prior to NRC approval. Id. Dr. Moran states that Powertech's consultant Mr. Demuth "confuses hydrological testing that is needed to establish, analyze, and disclose the hydrogeological setting as part of the NEPA-based NRC permit-approval with the more specialized production tests Powertech will conduct on constructed wellfields." Id. In short, there is no legal, technical, or practical basis to forgo gathering this needed data as part of the UIC application process, or at minimum the EPA draft permit process. At the hearing conducted in the NRC licensing process, Dr. Moran's testimony confirmed that additional data is necessary for a "complete" baseline analysis, including the collection of data for water quality constituents not presented in the company's application materials, such as strontium and lithium. See attached August 20, 2014 Transcript at p. 1007, line 24 to p. 1008, line 1. Consistent with Dr. Moran's testimony, applicant witness Mr. Demuth admitted that additional data is necessary to provide complete baseline data. Id. at p. 1012, lines 16-20. Thus, Dr. Moran's expert opening, rebuttal, and live hearing testimony in the NRC administrative process demonstrates that EPA lacks the necessary information to meet its requirements for demonstrating a competent set of baseline data – and instead defers meaningful collection, disclosure, and analysis until a later date, only after the public have been denied the opportunity to comment on the baseline that reveals the affected environment that will be impacted. This critique is centered on EPA's plan to defer collection of baseline and to rely on future analysis of future baseline analyses conducted as part of the well field packages, to be provided only after license issuance. This is in effect an identical system adopted by NRC Staff, which deferred meaningful review of baseline information through a so-called Safety and Environmental Review

Letter ID	Commenter Name	Commenter Org.	Text
			Panel (SERP) – outside of its NEPA process and long after the public's opportunities for comment and review have run. Further buttressing this argument is the attached Declaration of Dr. Richard Abitz detailing the requisite standards for scientific validity in a baseline analysis. Exhibit OST-001, at 2. See also, Moran Suppl. Decl. at ¶58 ("The [NRC Staff evaluation], like the Powertech Application, fails to define pre-operational baseline water quality and quantity—both in the ore zones and peripheral zones, both vertically and horizontally."); *accord* ¶¶ 47-74, 75, 82-84, 92-94, 95. Overall, the Powertech submittal fails to adequately describe the affected aquifers at the site and on adjacent lands and fails to provide the required quantitative description of the chemical and radiological characteristics of these waters necessary to assess the impacts of the operation, including potential changes in water quality caused by the operations.
07460 (5/8 Rapid City hearing)	Ex. 6 Personal Privacy (PP)	Individual Ex. 5 Deliberative Process (DP)	The other thing is, where is the baseline data? We're talking about three -- we're talking about different types of uranium. You have your natural uranium, the -238, which is like 98 percent -- when you're exposing this to air -- the air, it's causing different chemicals to come into your -- you know, humans are being exposed to that. Is it being tested? Is there any baseline data in that area that is downwind? We have a rain shadow effect coming off the Black Hills into the prairie and the Badlands area. How far is that? We have a map up here that shows the little uranium area, but is the air quality taken into consideration? There's -- which way does the wind blow? Where does the most contaminants come from, the analysis from that? There is no baseline data in Oglala Lakota County, Fall River County for air quality, and that should be a significant factor.
07642 (Hot Springs hearing)		Individual	When this is done, for one thing, I'm testing our water. It's costing us $750 to prove that the Minnelusa water is pure. I will see that you get a copy. Also, I'm trying to get ahold of the state report that said we had the best water in the county. I will see that you get a report.
07642 (Hot Springs hearing)		Individual	Now I'm going to speak on the term "baseline." It is actually a misnomer in that it does not refer to the real pre-mining baseline condition of the groundwater or the entirety of the aquifer. Instead, a selected baseline from the immediate baseline production area of the ore-bearing portion of the aquifer is established. Thus, aquifers and groundwater are left unstable.

Letter ID	Commenter Name	Commenter Org.	Text
8196.1	Ex. 6 Personal Privacy (PP)	Oglala Sioux Tribe	As part of this process, note that current conditions do not provide an adequate or accurate "baseline." All baseline measurements (ground and surface water, air, soil, sediment, etc.) should be defined as the original condition of the project area, before drilling and mining.

41. Comments about Igloo/the Black Hills Army Depot only the clean-up is addressed in the EJ Document; need to say why no impact

Letter ID	Commenter Name	Commenter Org.	Text
00055	Ex. 6 Personal Privacy (PP)	Individual Ex. 5 Deliberative Process (DP)	

42. Comments about Crow Butte – EPA Region 7 asked that we send all comments on Crow Butte to them.

43. Comments about financial responsibility, bond amounts, etc.

Letter ID	Commenter Name	Commenter Org.	Text
00462	Ex. 6 Personal Privacy (PP)	Individual Ex. 5 Deliberative Process (DP)	Who will be responsible for the cost of testing present domestic wells, to obtain a true water quality baseline? [ATTACHMENT: "Hydrogeologic Framework for the Madison and Minnelusa Aquifers in the Black Hills Area"] McKaskey Thesis
00527		Clean Water Alliance Ex. 5 Deliberative Process (DP)	A final issue is the demonstration of financial responsibility by the company, which the Class III Fact Sheet says should be done through a surety bond "or other adequate assurance" (p. 129). The only assurance that should be accepted is an adequate surety bond. The value of the company, if there is any, should not be used to demonstrate financial responsibility. The definition of an "adequate" surety bond is critical. As noted above, in western South Dakota and elsewhere, it has been common historically for uranium and other mining companies to be unable to fund full restoration after mining, to go bankrupt, and to leave the burden for taxpayers – if restoration was even technically feasible. This is especially important because Powertech has already admitted that its restoration could be incomplete. In a 2014 "Restoration Action Plan" submitted to the NRC, the company said that "elevated concentrations above the restoration criteria may remain in the production zone following restoration," which the company called "hot spots." The company suggests that, after further study, the "hot spots" could be ignored and the "well field be declared restored." This is unacceptable, and the EPA should explicitly prohibit this practice.

Letter ID	Commenter Name	Commenter Org.	Text
		Ex. 5 Deliberative Process (DP)	
00539	Ex. 6 Personal Privacy (PP)	Prairie Hills Audubon Society Ex. 5 Deliberative Process (DP)	BONDS, Please fully disclose all bonds or other financial assurances that the various federal, State, Local and/or tribal governments require for the entire Project, under all potential scenarios for potentially permitted actions.
8205		Individual Ex. 5 Deliberative Process (DP)	During the permitting process, the government has not even perfumed a significant background study. [to provide sufficient information to deteremine what standards to use in reclaining/decommissioning the site]
8196.1		Oglala Sioux Tribe Ex. 5 Deliberative Process (DP)	For example, in the case of in situ leach uranium mining, the Wyoming Department of Environmental Quality (DEQ) raised the bonds at the Highland and Smith Ranch ISL mines from $38,416,500 to $80,000,000, after it discovered that restoration attempts were not having any effect. In its March 10, 2008, Notice of Violation, the DEQ indicated that the real cost of restoration would be "on the order of $150 million." The EPA should heed the Wyoming experience and insure that bonds for all activities that are associated with this technology are adequate, especially since full restoration has never happened at any ISL in the US. Based on this information, it is our recommendation that EPA stipulate that the Permittee be required to post a surety bond for this project of at least $100,000,000 so as not to be on the hook for a significant portion of the remedial action that will be required in the future. This is especially important because the Permittee has already admitted that its restoration is likely to be incomplete. In a 2014 "Restoration Action Plan" submitted to the NRC, the Permittee said that "elevated concentrations above the restoration criteria may remain in the production zone following restoration," which the Permittee called "hot spots." The Permittee suggests that, after further study, the "hotspots" could be ignored and the "well field be declared restored." This is unacceptable, and the EPA should explicitly prohibit this practice.

Letter ID	Commenter Name	Commenter Org.	Text
		Ex. 5 Deliberative Process (DP)	

44. Comments Related to NEPA.

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
8103	Anonymous	Individual	According to the Associated Press, "On July 20, [2018] just 18 days after the Nuclear Regulatory Commission abandoned its effort to conduct a cultural resources survey, the appeals courts three-judge panel issued an opinion. The opinion was filed by Chief Judge Merrick Garland.... Garlands opinion said the Nuclear Regulatory Commission violated the National Environmental	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			Policy Act which is known by the acronym NEPA when the commission decided to leave Powertechs license in effect after acknowledging the lack of an adequate cultural resources survey. The opinion further noted that the commissions decision in the Powertech matter had not been a one-off but appeared to be settled practice. 'The agencys decision in this case and its apparent practice are contrary to NEPA,' Garlands opinion said. 'The statutes requirement that a detailed environmental impact statement be made for a proposed action makes clear that agencies must take the required hard look before taking that action. ('Court, regulators clash over uranium project in South Dakota' By Seth Tupper. August 13, 2018). Thus, not only is Powertech proposing to destroy over 2,500 acres of the Black Hills in Lakota territory, and proposing to contaminate the aquifers that underlie that property, but also to ignore the cultural resources that would also be destroyed by the mining activities. Powertech must not receive approval for this Dewey-Burdock mining project. It must be rejected.		
8196.1	Ex. 6 Personal Privacy (PP)	Oglala Sioux Tribe Ex. 5 Deliberative Process (DP)	A major issue in this case to which we have strong objections has been due to the failure of the EPA to adhere to the National Environmental Policy Act (MAJOR) process. While the NRC has attempted to follow that process for the possession of nuclear materials, its actions have not adequately covered a variety of issues that are under the EPA's purview, particularly water issues. The EPA needs to complete its own NEPA process. As part of any new or continued process, the EPA should consider more than one alternative action. Although there are places where more than one alternative is considered for a minor action, the major actions only offer one alternative - giving the Permittee a Class III Area UIC permit, a Class V Area UIC permit, and an aquifer exemption.	Ex. 5 Deliberative Process (DP)	

Letter ID	Commenter Name	Commenter Org.	Text	Legal Context	
			The EPA must also do a thorough tribal consultation. The existing documents indicate that this process has barely begun, and yet the draft permits have been issued. This makes a mockery of the consultation process, which should be completed well before draft permits are issued, so that the resulting information can be analyzed. The EPA must halt all further action until mutually-satisfactory, government-to-government consultation is completed. All cultural and historical properties must be identified by Lakota experts, who should be paid if they so desire, and given complete protection.		

45. Comments Related to the Endangered Species Act.

Letter ID	Commenter Name	Commenter Org.	Text
8109	Ex. 6 Personal Privacy (PP)	Individual	The first thing I would like to point out is the June 14, 2019 letter from the EPA to USFWS requested concurrence with the EPA's conclusion that issuance of the underground injection control permits for the project **may affect, but is not likely to adversely affect**, the listed threatened or endangered species or the designated critical habitat for the species found in/near the project area. The July 8, 2019 response from USFWS to EPA states that the agency concurs with EPA's conclusion that the project **will not adversely affect listed species**. This is not the concurrence EPA asked for and should be clarified. [...] Effects on Wildlife P. 1 of the BA states that the project could impact the following ESA-listed species: Northern Long-Eared Bat (threatened), Rufa Red Knot (threatened), Whooping Crane (endangered). P. 19 of the BA lists the following mitigation measures to avoid or minimize impact on these species: If any of these species are sighted within one mile of the well sites or associated facilities, all construction or operations work must cease within one mile of the species' location and EPA and USFWS must be contacted **immediately**. Work may resume after the species leave the area. How will the contact with EPA and USFWS be made and by whom, and will a written report be required as well? If construction is planned during migratory bird nesting and breeding season, a qualified biologist must conduct pre-construction surveys for migratory birds and their nests within 5 days prior to initiation of

Letter ID	Commenter Name	Commenter Org.	Text
			construction. (BA, p. 19). Who determines the timing of the nesting and breeding season? Is it considered to be the same each year or does it change from year to year? The Permittee must install netting, use bird balls ***or other acceptable bird deterrent method*** to prevent birds and bats from accessing the ponds. (BA, p. 19) Spills or leaks of chemicals and other pollutants at the UIC well site must be reported to the appropriate agencies. What is the timing and method for these reports? **This idea presupposes that Powertech will disclose the presence of the bats if found and will do a thorough inspection of the shaft if bats are not seen on camera. If they fail to take these steps, any bats hibernating in the mine shaft will be trapped inside by the mesh. Also, if the mine shaft is closed as a hibernacula, is it likely that the bats can find other areas to hibernate, especially if there is noise from construction or operations of the wellfields?**
8200	Anonymous	Individual	The wildlife. The Norther Myotis is a Federally threatened species residing in Custer County or the counties touching. State threatened species in this area include the American Dipper, Osprey, Sturgeon Chub, Swift Fox, North American River Otter and the Finscale Dace. State endangerd include the Perigrin Falcon and Blackfooted Ferret. All of these species would be exposed to contaminants in the likely event of ground or surface water exposure to metal, metalloids, NORMs, TENORMs, and solid and liquid tailings.
8196.1	Ex. 6 Personal Privacy (PP)	Oglala Sioux Tribe	At the end of the Class V Fact Sheet and the Draft Cumulative Effects Analysis, the EPA states that the Endangered Species Act will be complied with, but gives no information on how it intends to do this. When will this be done? What species will be considered? Who will do the analysis (surely not the Permittee)? This should already have been completed before draft permits were issued. The EPA mentions the presence of a short-homed lizard, which is rare and protected in South Dakota, in the proposed project area. After stating that the species is "important in some tribal cultures," it offers the solution "Once construction activities begin at the site, the EPA expects that the [sic] any short- homed lizards that were in the area will seek less disturbed locations." This is pure conjecture, without any back-up information on the size or habits of the lizards. Are they territorial, or is it species-appropriate for them to move? Are they large enough to move fast enough to out-run a bulldozer or pick-up truck? Or are they, in reality, unprotected? This and similar information must be provided and backed by scientific research at the Dewey-Burdock site for this and other species. Animals should not simply be expected to move out of a site that's over 10,000 acres in a systematic and comprehensive process. And the EPA then expects them to just move back in after mining is

Letter ID	Commenter Name	Commenter Org.	Text
			complete - as if the same animals will be alive and remember their former homes after as many as 20 years. This is beyond unacceptable in the direction of ludicrous - and is certainly unacceptable. Species other than animals are not considered in this discussion. Plants cannot simply move off the site. Some of them are important to tribal practices and customs, such as medicinal plants and timpsila (prairie turnips). Full scientific information should be gathered, and full analysis must be done, for non- animal species. Species that are important to the long-term residents of the area -- the Lakota, Cheyenne, and other native nations- require special protection. There is already information on protection of some species in project documents that could serve as a base for part of this analysis. However, a full and independent analysis is also needed. In conclusion, we believe that this uranium should be left in the ground because when uranium is mined, it becomes harmful to both the people and the planet. The Oglala Sioux Tribe respectfully requests that the EPA halt the permitting processes for the proposed Dewey-Burdock project by denying both Class ID and Class V UIC well permits and the aquifer exemption. Sincerely, Mr. Reno L. Red Cloud Sr. Oglala Sioux Tribe Water Resources Department/ Administrator P.O. Box320 Pine Ridge, SD. 57770 Mr. Richard A. Bell, PE, President, Sustainable Environmental Energy Engineering, LLC Consultant for the Oglala Sioux Tribe