UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8
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Ref: 8WD-SDU

SENT VIA EMAIL
DIGITAL READ RECEIPT REQUESTED

Chairman Floyd Azure
Assiniboine & Sioux Tribes
sierra-lopez.omar@epa.gov

Dear Chairman Azure:

In accordance with stipulation 7 of the *Programmatic Agreement Among U.S. Nuclear Regulatory Commission, U.S. Bureau of Land Management, South Dakota State Historic Preservation Office Powertech (USA), Inc. and Advisory Council On Historic Preservation Regarding the Dewey-Burdock In Situ Recovery Project Located In Custer And Fall River Counties South Dakota*, dated March 19, 2014 (PA), the U.S. Environmental Protection Agency (EPA) is providing the enclosed signature page to all signatories and consulting parties under the PA. In doing so, EPA agrees to the terms of the PA, joins the PA as a full signatory, and will participate in implementing applicable terms of the PA. Further, EPA designates the Nuclear Regulatory Commission (NRC or Commission) as the lead agency for NHPA compliance, in accordance with 36 C.F.R. § 800.2(a)(2). Accordingly, EPA has satisfied its responsibilities under section 106 of the National Historic Preservation Act (NHPA) with respect to the Dewey-Burdock Project.

As described in the introductory recitals of the PA, EPA is processing two Underground Injection Control (UIC) Permit Applications under the Safe Drinking Water Act in connection with the project. EPA has engaged in consultation efforts with multiple federally recognized Indian tribes concerning the project. , and has participated in discussions with other consulting parties regarding the PA. The Agency has concluded that signing the PA, participating as a signatory to it, and designating the NRC as the lead agency, is an appropriate way for EPA to participate in fulfilling the federal government's section 106 responsibilities for this undertaking. The basis for this decision will be explained in detail in the Response to Comments document associated with EPA's UIC permit decisions.

While EPA has chosen to rely on the Commission's section 106 efforts for this undertaking, we will continue to implement our independent responsibilities under the Safe Drinking Water Act and other statutes.

Having signed the PA, EPA intends to support the NRC in its role as lead agency as appropriate by providing information and recommendations in connection with areas of the project where EPA has knowledge or expertise. More specifically, we intend to participate as appropriate for a signatory in accordance with the terms of the agreement, particularly as referenced in PA stipulations 5, 7, 13, 14, 15, 16, and 17. We will also forward to the Commission any relevant information we have gathered during our consultation and review efforts to date.

We look forward to continuing to work with the Commission and other parties involved in this undertaking.

Sincerely,

DARCY OCONNOR Digitally signed by DARCY OCONNOR Date: 2020.11.13 14:03:29 -07'00'

Darcy O'Connor
Director, Water Division
EPA Region 8

cc: John Fowler, Executive Director, Advisory Council on Historic Preservation
Lori "Chip" Kimball, South Dakota Field Manager, Bureau of Land Management
Jay Vogt, State Historic Preservation Officer, South Dakota State Historic Preservation Office
John Mays, Chief Operating Officer, Powertech (USA), Inc.
Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation
Apache Tribe of Oklahoma
Arapaho Tribe of the Wind River Reservation
Blackfeet Tribe of Blackfeet Indian Reservation
Cheyenne and Arapaho Tribes Oklahoma
Cheyenne River Sioux Tribe of the Cheyenne River Reservation
Chippewa-Cree Tribe of Rocky Boy's Reservation
Confederated Salish and Kootenai Tribes of the Flathead Reservation
Crow Creek Sioux Tribe of the Crow Creek Reservation
Crow Tribe of the Montana
Eastern Shoshone Tribe of the Wind River Reservation
Flandreau Santee Sioux Tribe of South Dakota
Fort Belknap Indian Community of the Fort Belknap Reservation
Kiowa Indian Tribe of Oklahoma
Lower Brule Sioux Tribe of the Lower Brule Reservation
Lower Sioux Indian Community
Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation
Northwestern Band of the Shoshone Nation

Oglala Sioux Tribe
Omaha Tribe of Nebraska
Paiute Indian Tribe of Utah
Ponca Tribe of Indians of Oklahoma
Ponca Tribe of Nebraska
Prairie Island Indian Community
Rosebud Sioux Tribe of the Rosebud Indian Reservation
Santee Sioux Nation
Shakopee Mdewakanton Sioux Community
Sisseton-Wahpeton Oyate of The Lake Traverse Reservation
Skull Valley Band of Goshute Indians
Southern Ute Indian Tribe of the Southern Ute Reservation
Spirit Lake Tribe
Standing Rock Sioux Tribe
Three Affiliated Tribes of Fort Berthold Reservation
Turtle Mountain Band of Chippewa Indians
Upper Sioux Community
Ute Indian Tribe of the Uintah and Ouray Reservation
Ute Mountain Ute Tribe
Yankton Sioux Tribe