

**UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

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OGLALA SIOUX TRIBE, ALIGNING	)	
FOR RESPONSBLE MINING,	)	
	)	
Petitioners,	)	No. 20-1489
	)	
v.	)	
	)	
UNITED STATES NUCLEAR	)	
REGULATORY COMMISSION and	)	
UNITED STATES OF AMERICA,	)	
	)	
Respondents.	)	
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**PETITIONERS' STATEMENT OF ISSUES TO BE RAISED**

1. Whether the Nuclear Regulatory Commission ("Commission") erred in affirming an effective license, record of decision, and final environmental impact statement that failed to adequately assess impacts to cultural and historic resources required by the National Environmental Policy Act ("NEPA") and related laws.
2. Whether the Commission failed to satisfy NEPA's procedural mandates by rejecting the Council of Environmental Quality NEPA regulations and instead using a NEPA process that did not inform decisionmakers and allow public participation to the fullest extent possible.

3. Whether the Commission failed to satisfy the substantive and procedural duties, including government to government consultation, required by the National Historic Preservation Act and related laws.

4. Whether the Commission erred in affirming an effective license, record of decision, and final environmental impact statement that failed to include a reviewable plan for, or analysis of direct, indirect, and cumulative impacts of the storage, transport, and disposal of radioactive processing wastes, as required by NEPA, the Uranium Mill Tailings Radiation Control Act of 1978 (“UMTRCA”), and related laws.

5. Whether the Commission erred in affirming an effective license, a record of decision, and final environmental impact statement that failed to present an adequate analysis of the impacts and effects associated with both geologic faults and the thousands of abandoned boreholes on ground water quality, or the ability of the applicant to successfully identify and secure thousands of boreholes, nor how these efforts would be undertaken and accomplished, as required by the NEPA, UMTRCA, and related laws.

6. Whether the Commission erred in affirming an effective license, record of decision, and final environmental impact statement that failed to adequately assess baseline water quality conditions and deferred the collection of monitoring data to the future, despite the requirements of NEPA, UMTRCA, and related laws.

7. Whether the Commission erred in affirming an effective license, record of decision, and final environmental impact statement that failed to include an adequate analysis of mitigation measure and their effectiveness for impacts to the cultural, historical, and religious sites of the Oglala Sioux Tribe as well as unreviewed plans to mitigate other impacts to the environment, as required by NEPA and related laws

8. Whether the Commission's contention pleading standards were applied arbitrarily and/or unlawfully to exclude administrative adjudication of the Tribe's legitimate issues, including surety, waste disposal, informed decisionmaking procedures, hazardous weather, wildlife, and review of mining plans that had been amended.

9. Whether the Nuclear Regulatory Commission ("Commission") erred when leaving the contested license in place and otherwise failed to carry out its licensing proceeding in accordance with federal law and "the opinion of the court filed" on July 20, 2018. *Oglala Sioux Tribe v. U.S. Nuclear Regulatory Commission, et al.*, Appeal No. 17-1059.

Respectfully submitted,

/s/ Jeffrey C. Parsons

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Filed this 8<sup>th</sup> day of January, 2020.

**CERTIFICATE OF SERVICE**

I, Jeffrey C. Parsons, hereby certify that the foregoing Statement of Issues to be Raised was served on all counsel of record in case number 20-1489 through the electronic filing system (CM/ECF) of the U.S. Court of Appeals for the District of Columbia Circuit.

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