

EPA REGION 8'S RESPONSE TO PETITION FOR REVIEW

ATTACHMENT NN

February 2020 letters to Tribes informing them of
deadline to schedule another consultation meeting

Administrative Record Document Nos. 777-792, 851

Robinson, Valois

From: Varilek, Kimberly
Sent: Tuesday, February 11, 2020 9:15 AM
To: Chairman Harold Frazier; Minter, Douglas
Cc: dnelson@crstepd.org
Subject: EPA R8: Underground Injection Control Program for Draft Dewey-Burdock Draft Permits - Consultation Invitation and Timeline
Attachments: EPA Consultation Letter to CRST Chairman.pdf

Good morning Chairman Frazier – I’m forwarding a digital copy of the letter the EPA Region 8 Office of Water sent to you last week regarding the Cheyenne River Sioux Tribe’s interest in consulting with EPA Region 8 regarding the Dewey Burdock In-Situ Draft Permits re-issued in 2019.

In our previous September 30, 2019 meeting, you identified your interest and support for consultation with the full Cheyenne River Sioux Tribe leadership during the monthly business meetings. If you are still interested in scheduling consultation with EPA Region 8 and the Cheyenne River Sioux Tribal Leadership, please contact our offices as soon as possible. In the letter enclosed, the Region asks for your response as soon as possible, and preferably by this Friday (February 14, 2020), in communicating the Tribe’s interest to consult. We will look to schedule consultation before April 10, 2020.

Please let me know if you have any questions, or please also feel free to reach out to Darcy O’Connor (at (303) 312-6392 or oconnor.darcy@epa.gov), Omar Sierra Lopez (at (303) 312-7045 or sierra-lopez.omar@epa.gov).

We look forward to hearing from you as soon as possible and preferably before this Friday, February 14, 2020.

Thank you! – Kim V.

Kimberly D. Varilek
Tribal Affairs Branch Chief
EPA Region 8 - Office of Regional Administrator
1595 Wynkoop St.
Denver, CO 80202
(303) 312-6264



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

1595 Wynkoop Street
Denver, CO 80202-1129
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www.epa.gov/region8

Ref: 8WD-SDU

FEB 0 6 2020

Honorable Harold Frazier
Chairman
Cheyenne River Sioux Tribe
P.O. Box 590
Eagle Butte, South Dakota 57625-0590

Re: U.S. Environmental Protection Agency Underground Injection Control Program
Invitation and Deadline for Scheduling Tribal Consultation on the EPA's Proposed Actions for the
Dewey-Burdock Uranium Recovery Site near Edgemont, South Dakota

Dear Chairman Frazier:

The EPA is committed to conducting meaningful tribal consultation and, as part of our September 2019 discussion, we request your assistance in scheduling a tribal consultation meeting as soon as possible. I have enclosed the July 8, 2019, letter we sent to you that lists the topics we would particularly like to discuss with you. We also welcome additional topics of discussion.

As you are aware, the EPA *Policy on Consultation and Coordination with Indian Tribes* outlines the EPA's procedures for conducting tribal consultation. Consistent with the EPA's *Policy*, we met with you on September 30, 2019, in Eagle Butte, South Dakota, to consult on the attached list of topics. The Tribe informed us during that meeting that the Tribe's consultation policy requires the EPA to meet with the Tribal Council. The EPA endeavors to work within the Cheyenne River Tribal policy; however, we request the opportunity to schedule a meeting in a timely manner. We made several previous requests, but we received no response to date.

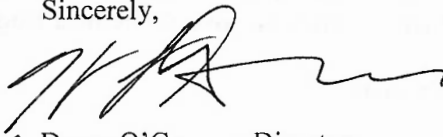
The EPA intends to move forward and work towards timely Underground Injection Control (UIC) permit decisions. Therefore, we are setting a deadline of February 14, 2020, for any requests to schedule a tribal consultation meeting to be held by April 10, 2020. The EPA believes setting these deadlines is necessary to provide the EPA adequate time to give the Tribe's comments due consideration and develop a response to the Tribe on how the EPA has addressed the comments in the final UIC permit decisions.

The EPA has endeavored to schedule tribal consultation meetings with the Cheyenne River Sioux Tribe since transmitting its first consultation invitation letter dated May 28, 2013. The request was reiterated in subsequent letters dated November 25, 2015; August 12, 2016; June 9, 2017 and July 8, 2019, and in email and voicemail messages in November and December 2019. In addition, as documented in the enclosed communication log, the EPA called and emailed the designated Tribal contacts numerous times during 2016 and 2017 attempting to schedule a tribal consultation meeting with the Cheyenne River Sioux Tribe

More recently, we have attempted to schedule a meeting with Tribal Council. I now request that you contact me or have one of your staff contact Omar Sierra-Lopez of my staff by February 14 to schedule a tribal consultation meeting before April 10, 2020. If we do not receive a response from the Tribe by February 14, we will interpret the lack of response to indicate that the Tribe has conveyed all the information it wishes to provide the EPA face-to-face on these proposed EPA actions at the Dewey-Burdock uranium in-situ recovery site, as well as through the comment letters submitted, meetings and tribal consultation held to date. If you prefer to submit any additional comments in writing, please inform us of your intention by February 14, 2020.

I encourage you to contact me at by phone at 303-312-6392 or by email at oconnor.darcy@epa.gov or have one of your staff contact Omar Sierra-Lopez at your earliest convenience by the above deadlines. He can be reached at (800) 227-8917, extension 312-7045 or (303) 312-7045; or by email at sierra-lopez.omar@epa.gov. The EPA will follow up with a phone call to confirm that you received this letter and are aware of the timeframes discussed above.

Sincerely,



for Darcy O'Connor, Director
Water Division

Enclosures (2)

cc: Ms Ev Ann White Feather, Tribal Secretary
Mr. Bryce In the Woods, Councilman
Mr. Steve Vance, Tribal Historic Preservation Officer



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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July 8, 2019

Ref: 8WD-SDU

Honorable Harold Frazier
Chairman
Cheyenne River Sioux Tribe
PO Box 590
Eagle Butte, South Dakota 57625-0590

Re: U.S. Environmental Protection Agency Underground Injection Control Program
Invitation for Consultation on revised Draft Permits and related actions for the Dewey-Burdock Uranium Recovery Site near Edgemont, South Dakota

Dear Chairman Frazier:

The U.S. Environmental Protection Agency Region 8 Underground Injection Control (UIC) Program would like to consult with you, and any other representatives you would like to invite, on revised Draft Permits for injection wells and an updated draft Environmental Justice Analysis for the proposed Dewey-Burdock uranium in-situ recovery (ISR) site near Edgemont, South Dakota. The EPA anticipates issuing the revised Draft Permits in August 2019.

In March 2017, the EPA UIC Program issued two Draft Permits for Powertech (USA) Inc.: one for Class III injection wells used during the uranium recovery process; the second for deep injection wells for the disposal of treated ISR process waste water. The EPA also issued a draft Environmental Justice Analysis at that time. After considering comments received during the public comment period, the EPA has decided to issue revised Draft Permits, a revised draft Environmental Justice Analysis, a revised Aquifer Exemption Record of Decision and an updated document describing the EPA's plan for compliance with section 106 of the National Historic Preservation Act.

The location of the Dewey-Burdock site is shown in the enclosed Figure 1. For additional information about the proposed Dewey-Burdock site, please see the enclosed page entitled *Background Information on the Proposed Dewey-Burdock Uranium In-Situ Recovery Site* and enclosed Figures 1 through 5.

Environmental Justice Analysis

During consultation, we plan to present information about the revised draft Environmental Justice Analysis, specifically related to the The Cheyenne River Sioux Tribe's interest in the Black Hills as a sacred site. We would also welcome any input the Tribe would be willing to offer to assist the EPA in presenting an accurate picture of environmental justice issues related to the Black Hills.

The EPA Tribal Consultation Policy

It is the EPA's policy to consult on a government-to-government basis with federally recognized tribal governments when EPA actions and decisions may affect tribal interests. The EPA views consultation as a process of meaningful communication and coordination between the EPA and tribal officials prior to the EPA taking actions or implementing decisions that may affect tribes. For information about the EPA *Policy on Consultation and Coordination with Indian Tribes* please visit the following website: <https://www.epa.gov/tribal/forms/consultation-and-coordination-tribes>.

The EPA also developed the *Policy on Consultation and Coordination with Indian Tribes: Guidance for Discussing Tribal Treaty Rights* (Treaty Rights guidance) to complement the EPA's general *Policy on Consultation and Coordination with Indian Tribes*. The Treaty Rights guidance provides affirmative steps for the Agency to take during tribal consultations when an EPA action occurs in a specific geographic location and a resource-based treaty right, or an environmental condition necessary to support the resource, may be affected by the EPA's action. The Treaty Rights guidance was developed after nationwide tribal consultation. This guidance document is found at the following website: https://www.epa.gov/tribal/forms/consultation-and-coordination-tribes#treaty_rights.

Consistent with the Treaty Rights guidance, the EPA would also like input from the The Cheyenne River Sioux Tribe on treaty rights related to our revised draft permitting actions. The EPA acknowledges that some tribes have previously provided written public comment stating their position that treaty rights would be impacted by the Draft Permits. Nevertheless, pursuant to the Treaty Rights guidance, the EPA seeks input on the following questions:

- (1) Do treaties exist within the project area?
- (2) What treaty rights exist in or what treaty-protected resources rely upon the project area? Among other things, have treaty-based groundwater rights in the project area been recognized by judicial decree or congressional settlement?
- (3) How are treaty rights potentially affected by the revised Draft Permits?
- (4) Any concerns you have related to treaty rights.

The EPA has a separate responsibility under section 106 of the National Historic Preservation Act (NHPA) to consult with tribes that attach religious and cultural significance to historic properties that may be affected by an undertaking. Accordingly, we invite the The Cheyenne River Sioux Tribe to engage in government-to-government consultation under section 106. Wherever appropriate, the EPA attempts to integrate this section 106 consultation with general consultation under our Tribal Consultation Policy. Therefore, we propose the following potential topics for consultation:

- (1) Changes from the first Draft UIC permits to the second Draft UIC permits;
- (2) Any concerns you may have about the proposed Dewey-Burdock project and the UIC permitting actions; and
- (3) Potential historic properties, including those of traditional religious and cultural importance, within the Dewey-Burdock area of potential effect.

We understand that the The Cheyenne River Sioux Tribe may raise issues in consultation that should be kept confidential and nonpublic. During our consultation process, if there is information that you would like to provide, but that you believe should remain confidential, please specifically identify this information during our consultation meeting and we will explore options for keeping the information confidential in accordance with 36 CFR § 800.11(c). As we move forward with the consultation process,

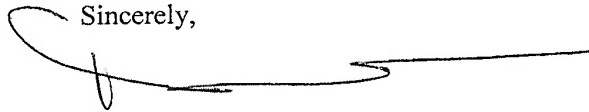
please be aware that any information you provide to the EPA in writing will become a part of the public record unless other arrangements are made to maintain confidentiality.

We are requesting a reply from you as to whether the The Cheyenne River Sioux Tribe wishes to consult with the EPA. If you are interested in meeting with the EPA, please reply by August 2, 2019. Consultation requests should be submitted to Valois Robinson of my staff, who can be reached at (800) 227-8917, extension 312-6276 or (303) 312-6276; or by email at robinson.valois@epa.gov. Please include a point of contact for the Tribe so we can keep you informed as the EPA moves forward with this consultation process.

If we do not hear from you by August 2, 2019, we will interpret this to mean that you do not wish to consult with the EPA at this time. The EPA would also welcome the opportunity to consult after the revised Draft Permits are issued to discuss these important issues.

We appreciate the The Cheyenne River Sioux Tribe's prompt attention to this important matter.

Sincerely,



Darcy O'Connor, Director
Water Division

~~Enclosures (6)~~ enclosures not included with this copy of the letter.

cc: David Nelson, Tribal Environmental Director
Steven Vance, Tribal Historic Preservation Officer
Nicole Ducheneaux, Fredericks, Peebles & Patterson LLP

Cheyenne River Sioux Tribe Communication Log

Before 2017 Draft Permit Issuance

Date	Summary of communication
May 28, 2013	Mailed tribal consultation invitation letter to all tribes
November 25, 2015	Mailed tribal consultation invitation letter
December 23, 2015	Cheyenne River Sioux Tribe sent letter back requesting consultation meeting stating Remi Bald Eagle is the designated contact for scheduling a meeting.
February 18, 2016	Alfreda emailed Remi Bald Eagle to request dates to schedule a meeting Mr. Bald Eagle replied back same day proposing March 8 th at 1PM in Eagle Butte.
March 7, 2016	3/8/2016 meeting canceled by tribe by phone call to Alfreda
April 8, 2016	Email to Mr. Bald Eagle proposing 5/4/16 or 5/6/16 for meetings
April 18, 2016	Email to Mr. Bald Eagle checking on 5/4/16 or 5/6/16 meeting dates
April 21, 2016	Email to Mr. Bald Eagle checking on 5/4/16 or 5/6/16 meeting dates. He replied back same day saying those days would not work.
5/2/2016	Email to Mr. Bald Eagle proposing 5/16/16 or 6/6/16 for meetings
5/6/2016	Email to Mr. Bald Eagle offering web conference
8/12/2016	Mailed letter to Chairman Frazier requesting meeting

After 2017 Draft Permit Issuance

Date	Summary of communication
June 9, 2017	Mailed letter to Chairman Frazier in response to his letter requesting meeting
June 19, 2017	Email from Nicole Ducheneaux of Fredericks, Peebles & Morgan LLP sending attached Letter from the Cheyenne River Sioux Tribe providing comments of the permitting action
June 19, 2017	Email from Nicole Ducheneaux of Fredericks, Peebles & Morgan LLP sending attached Letter from the Cheyenne River Sioux Tribe providing comments tribal consultation
week of July 10, 2017	Called/voicemail message to Nicole Ducheneaux asking to discuss scheduling consultation meeting
July 17, 2017	Email from Nicole Ducheneaux requesting technical reports and other materials that would be relevant to the potential impacts of the proposed project on its treaty rights, reserved water rights, and religious rights.
July 18, 2017	Email to Nicole Ducheneaux sending link to administrative record on the EPA Region 8 UIC website and offering to talk through the documents
July 19, 2017	Email from Nicole Ducheneaux saying they will make sure they have all the documents in their records, that their review should be complete by next week, & asking if I would be available the following week to discuss the logistics of consultation going forward.
July 19, 2017	Email to Nicole Ducheneaux providing info about EPA availability the following week
August 4, 2017	Email to Nicole Ducheneaux offering an informational meeting, like a web conference, to provide overviews of the documents to set the context for consultation meetings
August 4, 2017	Email from Nicole Ducheneaux accepting offer of informational web conference & requesting a general time frame so she can coordinate schedules of tribal representatives

August 4, 2017	Email to Nicole Ducheneaux proposing the week of Aug 14, then look at the week of Aug 28.
August 17, 2017	Email from Nicole Ducheneaux saying Thank you so much for your patience. The end of the summer is a busy time for the Tribe. As such, I am still looking for a good time for the informational session. I wanted let you know that I am still working on it. I will be in touch on Monday to give you a more definite answer.
August 21, 2017	Email to Nicole Ducheneaux requesting call to discuss schedule
August 23, 2017	Email from Nicole Ducheneaux saying Getting multiple schedules nailed down is proving difficult. May I propose that we set a date sometime in early or mid-September and I will make Cheyenne River officials available? Thanks again for your patience.
September 11, 2017	Email to Nicole Ducheneaux proposing week of Oct 16 and narrow it down to a day and time from there, depending on the schedules on your end
September 12, 2017	Email from Nicole Ducheneaux saying she will discuss with the Chairman and get back to you as soon as possible, but no later than next Monday.
September 20, 2017	Email from Nicole Ducheneaux stating: <ul style="list-style-type: none"> • The week of October 16 will work for the informational session; however, Chairman Frazier will be at the National Congress of American Indians conference in Milwaukee. • The director of CRST's EPA and his team will be available anytime that week. • For future consultation, with enough advance notice, barring things like national conferences, tribal officials can be available pretty much anytime.
September 25, 2017	Email to Nicole Ducheneaux proposing Monday, October 16 at 2:00 to see if that works for everyone who will be attending.
October 02, 2017	Email from Nicole Ducheneaux Confirmation Monday, October 16 at 2:00 should work
October 03, 2017	Email to Nicole Ducheneaux that I will send a web conference link, conference call number and draft agenda for everyone's input so we make sure we cover the topics of interest to the Tribe by the end of this week.
October 06, 2017	Email to Nicole Ducheneaux with web conference info and proposed agenda for our up-coming web conference.
October 16, 2017	Held web conference with the Tribal Historic Preservation Officer and the Environmental Director, who expressed disappointment that the Chairman and attorney were not in attendance. They requested an annotated slide presentation be sent to Chairman Frazier and Nicole Ducheneaux.
October 23, 2017	Email to Nicole Ducheneaux to reschedule another web conference. Suggested this week or Nov 1 or 2. Offered to send annotated PowerPoint.
November 17, 2017	email to Nicole Ducheneaux with annotated slides from web conference and offer proposed dates: Mon, Nov 27, 10-11am Wed, Nov 29, 10-11am Fri, Dec 1, anytime during that day until 2:00pm
November 17, 2017 email from Nicole Ducheneaux	Chairman Frazier has been on travel and very busy otherwise the past couple of weeks. Will be in touch soon.
July 8, 2019	Mailed letter to all tribes with list of topics for consultation, including treaty rights and environmental justice.

July – Sept 2019	Emails to schedule consultation meeting
September 30, 2019	Meeting in Eagle Butte. The EPA was informed that we need to meet with Tribal Council to be considered a consultation meeting by the Cheyenne River Sioux Tribe.
October – November, 2019	Ongoing communication to schedule a meeting with Tribal Council

From: [Robinson, Valois](#)
To: [Jennifer Spotted Bear](#)
Cc: [MikeCE@oglala.org](#); [andre_Janis@hotmail.com](#)
Subject: Letter from the EPA requesting consultation with the Oglala Sioux Tribal Council
Date: Friday, February 14, 2020 3:56:00 PM
Attachments: [EPALettertoSecretarySpottedBearFeb14-2020.pdf](#)

Secretary Spotted Bear,
Attached is a letter requesting your assistance in scheduling a consultation meeting with the Oglala Sioux Tribal Council. A mailed hard copy should arrive at your office next week. Omar Sierra-Lopez call you in the near future to discuss possible meeting dates. We appreciate your assistance with this matter!

Mr. Catches Enemy and Mr. Janis,
Please consider the attached letter to be your courtesy copy. Kimberly Varilek, our Senior Tribal Advisor to the Regional Administrator, will email President Bear Runner his courtesy copy of this letter next week when she returns to the office.

Valois

Valois Robinson
U.S. EPA Region 8
MailCode: 8WD-SDU
1595 Wynkoop Street
Denver, CO 80202-1129
Phone: (303) 312-6276
Fax: (303) 312-6741
Email: robinson.valois@epa.gov



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

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FEB 14 2020

Ref: 8WD-SDU

Honorable Julian Bear Runner
President
Oglala Sioux Tribe
P.O. BOX 2070
107 West Main Street
Pine Ridge South Dakota 57770

Re: U.S. Environmental Protection Agency Underground Injection Control Program
Invitation and Deadline for Scheduling Tribal Consultation on the EPA's Proposed Actions for the
Dewey-Burdock Uranium Recovery Site near Edgemont, South Dakota

Dear President Bear Runner:

The EPA is reaching out to you again to assure the Oglala Sioux Tribe of the EPA's commitment to conduct meaningful tribal consultation and request your assistance in scheduling a tribal consultation meeting as soon as possible. I have enclosed the July 8, 2019, letter we sent to you that lists the topics we would particularly like to discuss with you. We also welcome additional topics of discussion.

As you are aware, the EPA *Policy on Consultation and Coordination with Indian Tribes* outlines the EPA's procedures for conducting tribal consultation. The EPA is endeavoring to honor the procedure in Oglala Sioux Tribe Ordinance 11-10 for scheduling consultation with the Oglala Sioux Tribe by sending the enclosed letter to Tribal Secretary Jennifer Spotted Bear. However, we must ultimately adhere to the standards set out in the EPA *Policy*.


The EPA intends to move forward and work towards timely final Underground Injection Control (UIC) permit decisions. Therefore, we are setting a deadline of February 28, 2020, for any requests to schedule a tribal consultation meeting to be held by April 30, 2020. The EPA believes setting these deadlines is necessary to provide the EPA adequate time to give the Tribe's comments due consideration and develop a response to the Tribe on how the EPA has addressed the comments in the final UIC permit decisions.

The EPA has endeavored to schedule tribal consultation meetings with the Oglala Sioux Tribe since transmitting its first consultation invitation letter dated May 28, 2013. The request was reiterated in subsequent letters dated November 25, 2015; August 12, 2016; June 9, 2017 and July 8, 2019. In addition, as documented in the enclosed communication log, the EPA called and emailed the designated Tribal contacts numerous times attempting to schedule a tribal consultation meeting with the Oglala Sioux Tribe.

I now request that you contact me or have one of your staff contact Omar Sierra-Lopez of my staff by February 28 to schedule a tribal consultation meeting before April 10, 2020. If we do not receive a response from the Tribe by February 28, we will interpret the lack of response to indicate that, at this time, the Tribe has conveyed all the information it wishes to provide the EPA face-to-face on these proposed EPA actions at the Dewey-Burdock uranium in-situ recovery site, as well as through the comment letters previously submitted, meetings and tribal consultation held to date. If the Oglala Sioux Tribe prefers to submit any additional comments in writing, please inform us of your intentions by February 28, 2020.

I encourage you to contact me at by phone at 303-312-6392 or by email at oconnor.darcy@epa.gov or have one of your staff contact Omar Sierra-Lopez at your earliest convenience by the above deadlines. He can be reached at (800) 227-8917, extension 312-7045 or (303) 312-7045; or by email at sierra-lopez.omar@epa.gov. The EPA will follow up with a phone call to confirm that you received this letter and are aware of the timeframes discussed above.

Sincerely,



for Darcy O'Connor, Director
Water Division

Enclosures (2)

cc: Ms. Jennifer Spotted Bear, Tribal Secretary
Mr. Michael Catches Enemy, Legislative Liaison, President's Office
Mr. Andre Janis, Environmental Director



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REGION 8

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JUL 08 2019

Ref: 8WD-SDU

Honorable Julian Bear Runner
President
The Oglala Sioux Tribe
P.O. Box 2070
Pine Ridge, South Dakota 57770-2070

Re: U.S. Environmental Protection Agency Underground Injection Control Program
Invitation for Consultation on revised Draft Permits and related actions for the Dewey-Burdock
Uranium Recovery Site near Edgemont, South Dakota

Dear President Bear Runner:

The U.S. Environmental Protection Agency Region 8 Underground Injection Control (UIC) Program would like to consult with you, and any other representatives you would like to invite, on revised Draft Permits for injection wells and an updated draft Environmental Justice Analysis for the proposed Dewey-Burdock uranium in-situ recovery (ISR) site near Edgemont, South Dakota. The EPA anticipates issuing the revised Draft Permits in August 2019.

In March 2017, the EPA UIC Program issued two Draft Permits for Powertech (USA) Inc.: one for Class III injection wells used during the uranium recovery process; the second for deep injection wells for the disposal of treated ISR process waste water. The EPA also issued a draft Environmental Justice Analysis at that time. After considering comments received during the public comment period, the EPA has decided to issue revised Draft Permits, a revised draft Environmental Justice Analysis, a revised Aquifer Exemption Record of Decision and an updated document describing the EPA's plan for compliance with section 106 of the National Historic Preservation Act.

The location of the Dewey-Burdock site is shown in the enclosed Figure 1. For additional information about the proposed Dewey-Burdock site, please see the enclosed page entitled *Background Information on the Proposed Dewey-Burdock Uranium In-Situ Recovery Site* and enclosed Figures 1 through 5.

Environmental Justice Analysis

During consultation, we plan to present information about the revised draft Environmental Justice Analysis, specifically related to the The Oglala Sioux Tribe's interest in the Black Hills as a sacred site. We also welcome any input the Tribe would be willing to offer to assist the EPA in presenting an accurate picture of environmental justice issues related to the Black Hills.

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The EPA also developed the *Policy on Consultation and Coordination with Indian Tribes: Guidance for Discussing Tribal Treaty Rights* (Treaty Rights guidance) to complement the EPA's general *Policy on Consultation and Coordination with Indian Tribes*. The Treaty Rights guidance provides affirmative steps for the Agency to take during tribal consultations when an EPA action occurs in a specific geographic location and a resource-based treaty right, or an environmental condition necessary to support the resource, may be affected by the EPA's action. The Treaty Rights guidance was developed after nationwide tribal consultation. This guidance document is found at the following website: https://www.epa.gov/tribal/forms/consultation-and-coordination-tribes#treaty_rights.

Consistent with the Treaty Rights guidance, the EPA would also like input from the The Oglala Sioux Tribe on treaty rights related to our revised draft permitting actions. The EPA acknowledges that some tribes have previously provided written public comment stating their position that treaty rights would be impacted by the Draft Permits. Nevertheless, pursuant to the Treaty Rights guidance, EPA seeks input on the following questions:

- (1) Do treaties exist within the project area?
- (2) What treaty rights exist in or what treaty-protected resources rely upon the project area? Among other things, have treaty-based groundwater rights in the project area been recognized by judicial decree or congressional settlement?
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The EPA has a separate responsibility under section 106 of the National Historic Preservation Act (NHPA) to consult with tribes that attach religious and cultural significance to historic properties that may be affected by an undertaking. Accordingly, we invite the The Oglala Sioux Tribe to engage in government-to-government consultation under section 106. Wherever appropriate, the EPA attempts to integrate this section 106 consultation with general consultation under our Tribal Consultation Policy. Therefore, we propose the following potential topics for consultation:

- (1) Changes from the first Draft UIC permits to the second Draft UIC permits;
- (2) Any concerns you may have about the proposed Dewey-Burdock project and the UIC permitting actions; and
- (3) Potential historic properties, including those of traditional religious and cultural importance, within the Dewey-Burdock area of potential effect.

We understand that the The Oglala Sioux Tribe may raise issues in consultation that should be kept confidential and nonpublic. During our consultation process, if there is information that you would like to provide, but that you believe should remain confidential, please specifically identify this information during our consultation meeting and we will explore options for keeping the information confidential in accordance with 36 CFR § 800.11(c). As we move forward with the consultation process, please be aware

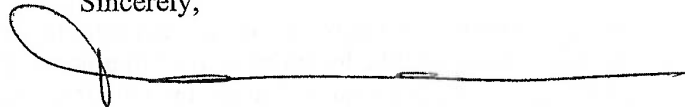
that any information you provide to the EPA in writing will become a part of the public record unless other arrangements are made to maintain confidentiality.

We are requesting a reply from you as to whether the The Oglala Sioux Tribe wishes to consult with the EPA. If you are interested in meeting with the EPA, please reply by August 2, 2019. Consultation requests should be submitted to Valois Robinson of my staff, who can be reached at (800) 227-8917, extension 312-6276 or (303) 312-6276; or by email at robinson.valois@epa.gov. Please include a point of contact for the Tribe so we can keep you informed as the EPA moves forward with this consultation process.

If we do not hear from you by August 2, 2019, we will interpret this to mean that you do not wish to consult with the EPA at this time. The EPA would also welcome the opportunity to consult after the revised Draft Permits are issued to discuss these important issues.

We appreciate the The Oglala Sioux Tribe's prompt attention to this important matter.

Sincerely,

A handwritten signature in black ink, consisting of a large loop followed by a long horizontal stroke.

Darcy O'Connor, Director
Water Division

Enclosures (6)

cc: Dalinda Simmons, Acting Environmental Director
Thomas Brings, Tribal Historic Preservation Officer

Background Information on the Proposed Dewey-Burdock Uranium In-Situ Recovery Site

The Dewey-Burdock site is located north of Edgemont, South Dakota, in Fall River and Custer Counties as shown in the enclosed Figure 1. The EPA Region 8 UIC Program has received Class III and Class V injection well permit applications for this site from Powertech (USA) Inc. The Class III injection wells are related to uranium recovery; the Class V injection wells are deep wells for the disposal of treated process wastewater. The Class III permit application requests authorization for 14 injection well fields including approximately 2,330 wells to inject and recover fluids for the in-situ recovery of uranium. The Class V area permit application requests authorization for the injection of ISR process waste fluids (treated to meet radioactive and hazardous waste standards) into two proposed wells injecting into the Minnelusa Formation. The Class V area permit application requests authorization for up to four deep injection wells in case the two currently proposed wells do not have the capacity to dispose of the anticipated total volume of all ISR process waste fluids.

Powertech proposes using ponds to treat and store treated water that will be injected into the deep injection wells. The locations and configuration of the treatment ponds are shown in Figure 2. These ponds are not regulated under the UIC Program. Powertech will submit an application for review and approval of the pond construction design plan to the EPA Region 8 Air Program. The ponds will not allow infiltration into the subsurface. The ponds are not designed to be evaporation ponds, although some amount of evaporation will occur during storage of the treated water before it is injected into the deep injection wells. The evaporation process does not involve release of heavy metals, including uranium or other radioactive elements, into the air. The EPA has information about radiation at <http://www2.epa.gov/radiation>.

The total proposed project area consists of approximately 10,580 acres (4,282 ha) east and west of the Dewey Road (County Road 6463), including portions of Sections 1-5, 10-12, 14 and 15 in Township 7 South, Range 1 East and Sections 20, 21, 27, 28, 29, and 30-35 in Township 6 South, Range 1 East, Black Hills Meridian. The surface area that will actually be impacted by the uranium ore processing plants, the 14 proposed uranium in-situ recovery well fields, the two proposed deep injection wells, treatment and storage ponds, roads and other surface-disturbing facilities is less than the 10,580-acre project area. The enclosed Figure 1 is a map showing the project site location. Figure 3 is a map showing the locations of the proposed wellfields containing Class III injection wells and the site project boundary. Figure 4 shows the locations for the two proposed deep Class V injection wells. Figure 5 shows a stratigraphic cross section of geologic formations at the Dewey Burdock site and the proposed injection zones for both the Class III and Class V injection wells. The Powertech Dewey-Burdock Project Class III and Class V area permit applications, and other documents that are part of the permit administrative record, are available for public review on the EPA Region 8 UIC Program website at <https://www.epa.gov/uic/epa-dewey-burdock-class-iii-and-class-v-injection-well-draft-area-permits>.

Dewey Burdock Location Map

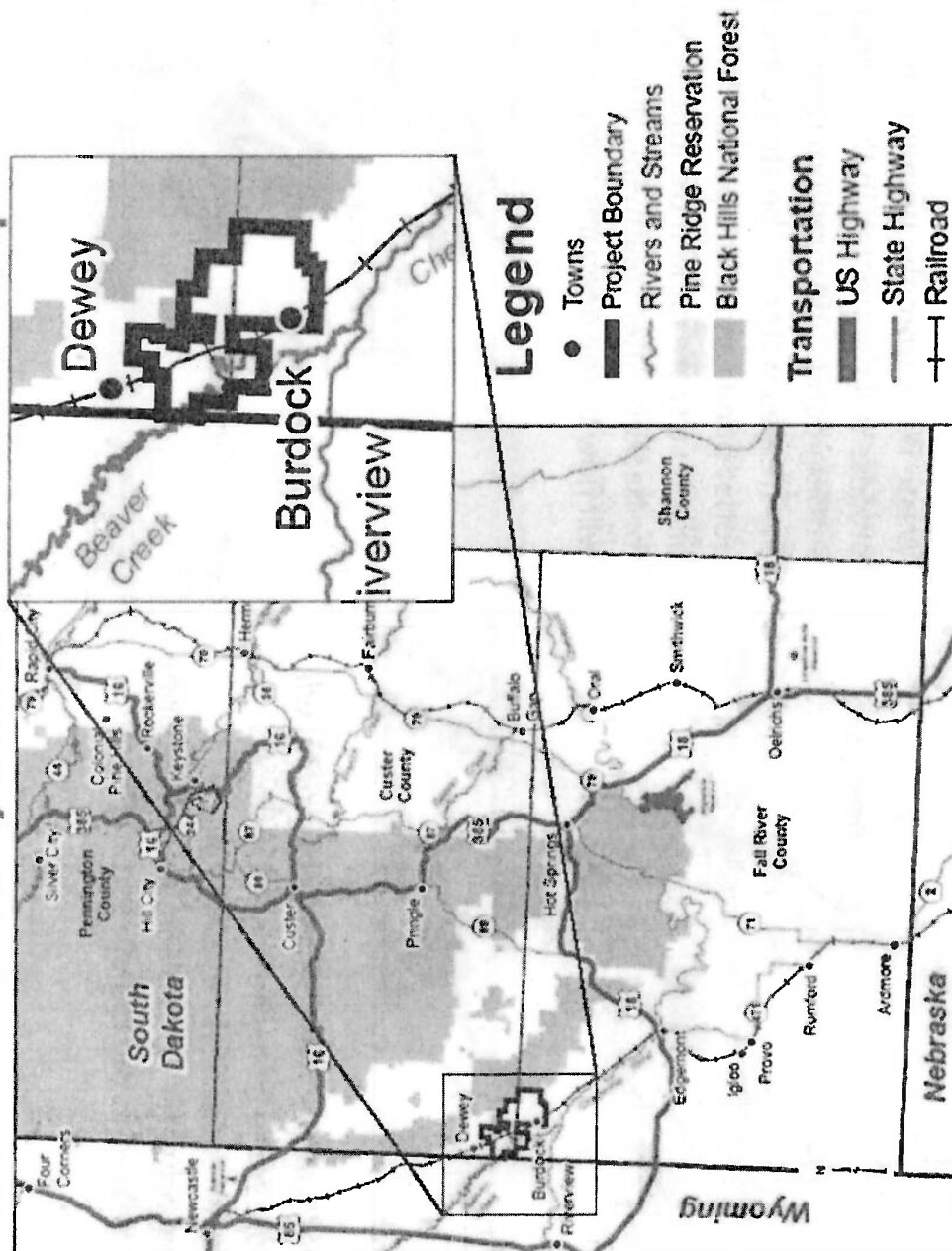
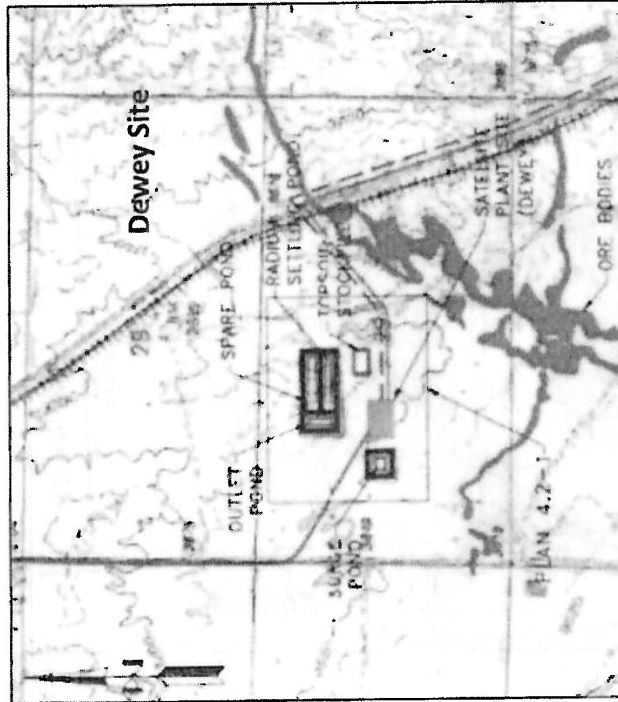


Figure 1. Map showing the location of the proposed Dewey-Burdock uranium recovery site.

Treatment and Storage Ponds for Deep Well Injectate



The Burdock Area central plant pond will store brine from the reverse osmosis treatment process used during groundwater restoration before the brine is treated in the radium settling ponds.

Waste fluids from the uranium recovery process will be treated in the radium settling ponds. After radium removal, the treated water will be stored in the outlet ponds and surge ponds. There will also be a spare radium treatment pond for backup. After treatment, the water will flow to the deep injection wells.

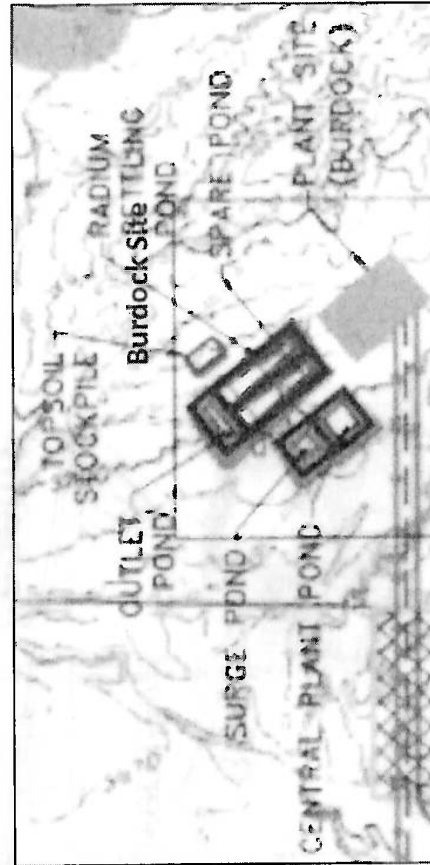


Figure 2. The Proposed Ponds for the Treatment and Storage of the Deep Injection Well Injectate.

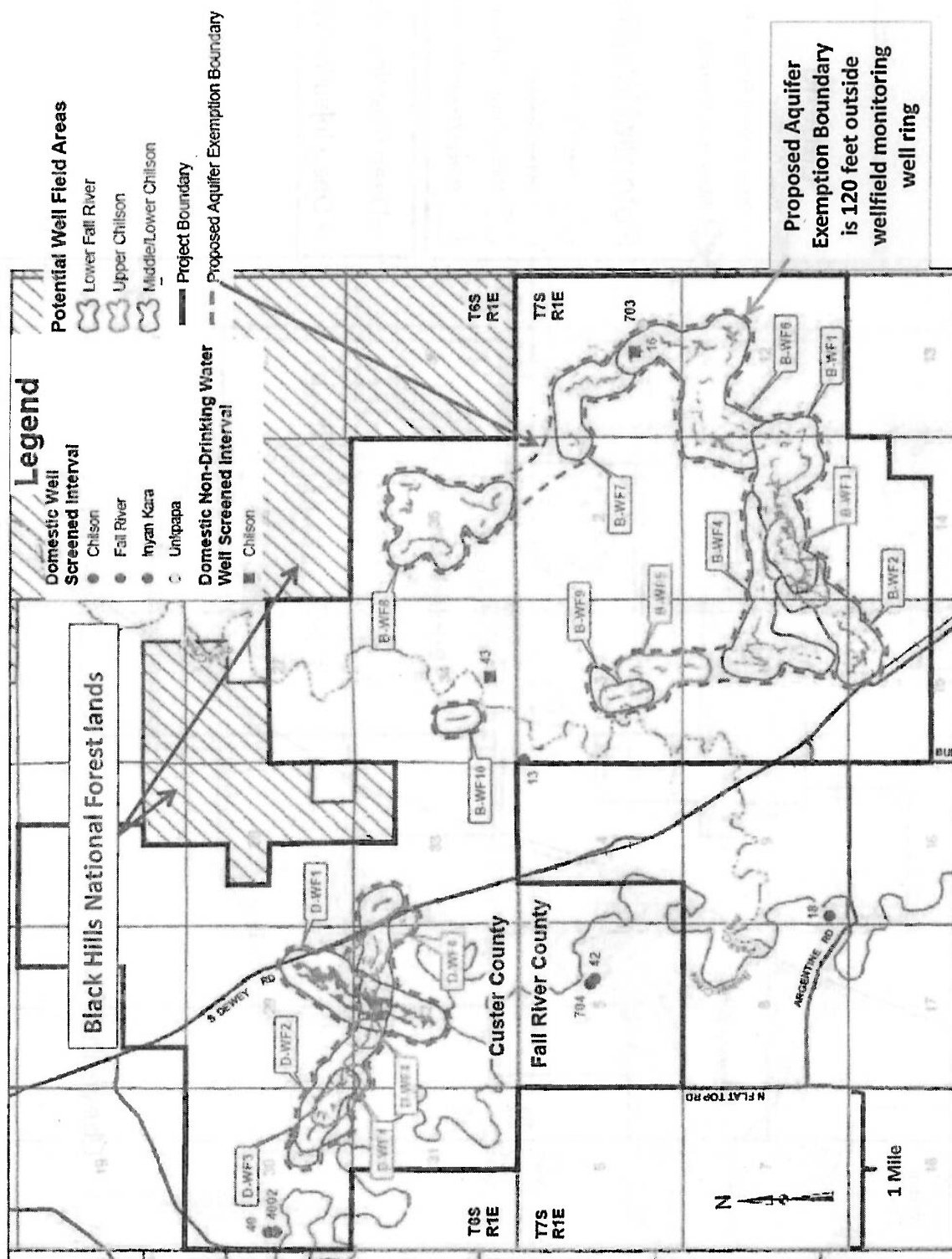
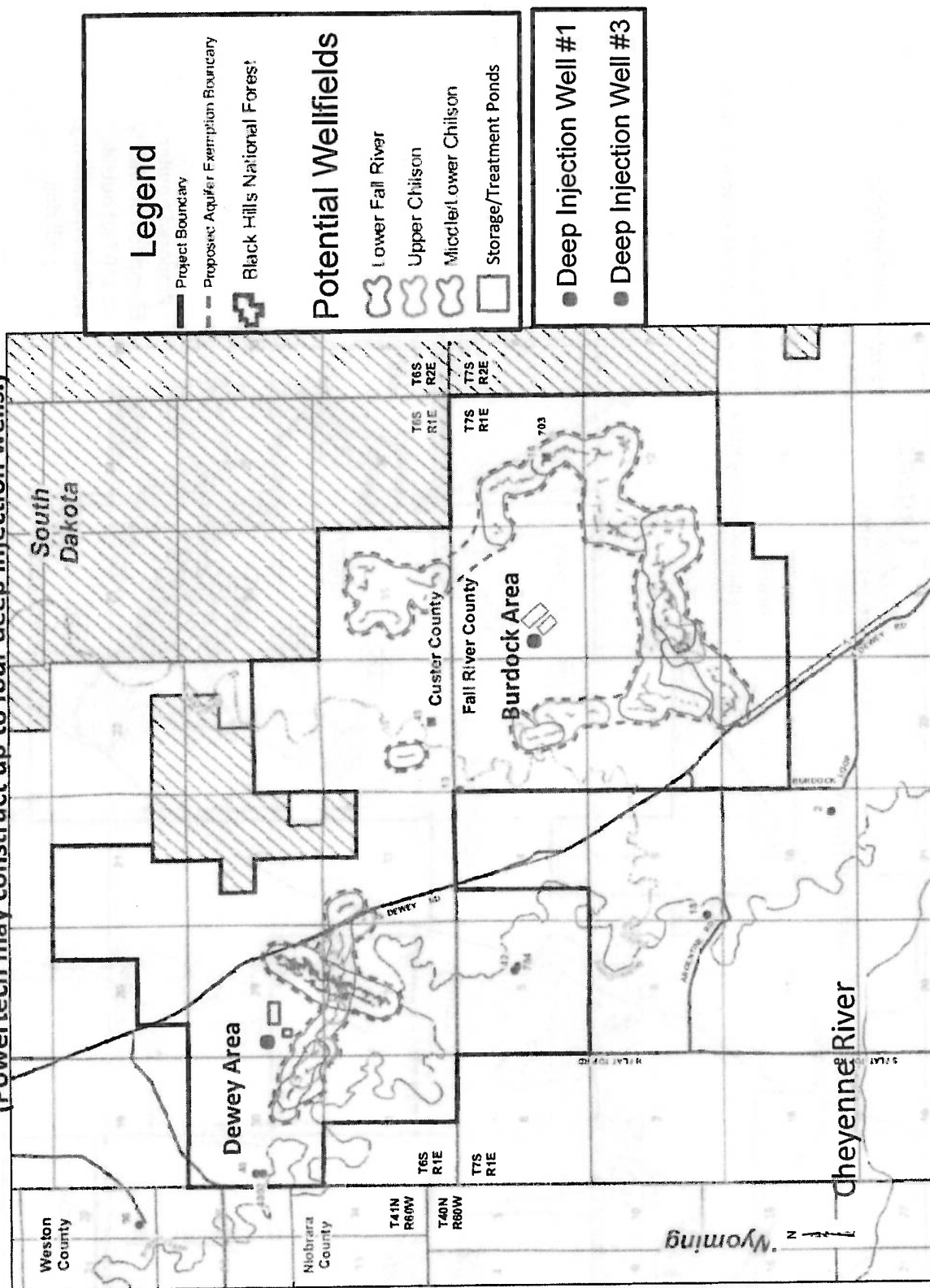


Figure 3. Map showing locations of the proposed wellfields containing Class III injection wells, the aquifer exemption boundary and the UIC permit boundary.

Figure 4. Map showing locations for the two currently proposed deep injection wells.
(Powertech may construct up to four deep injection wells.)



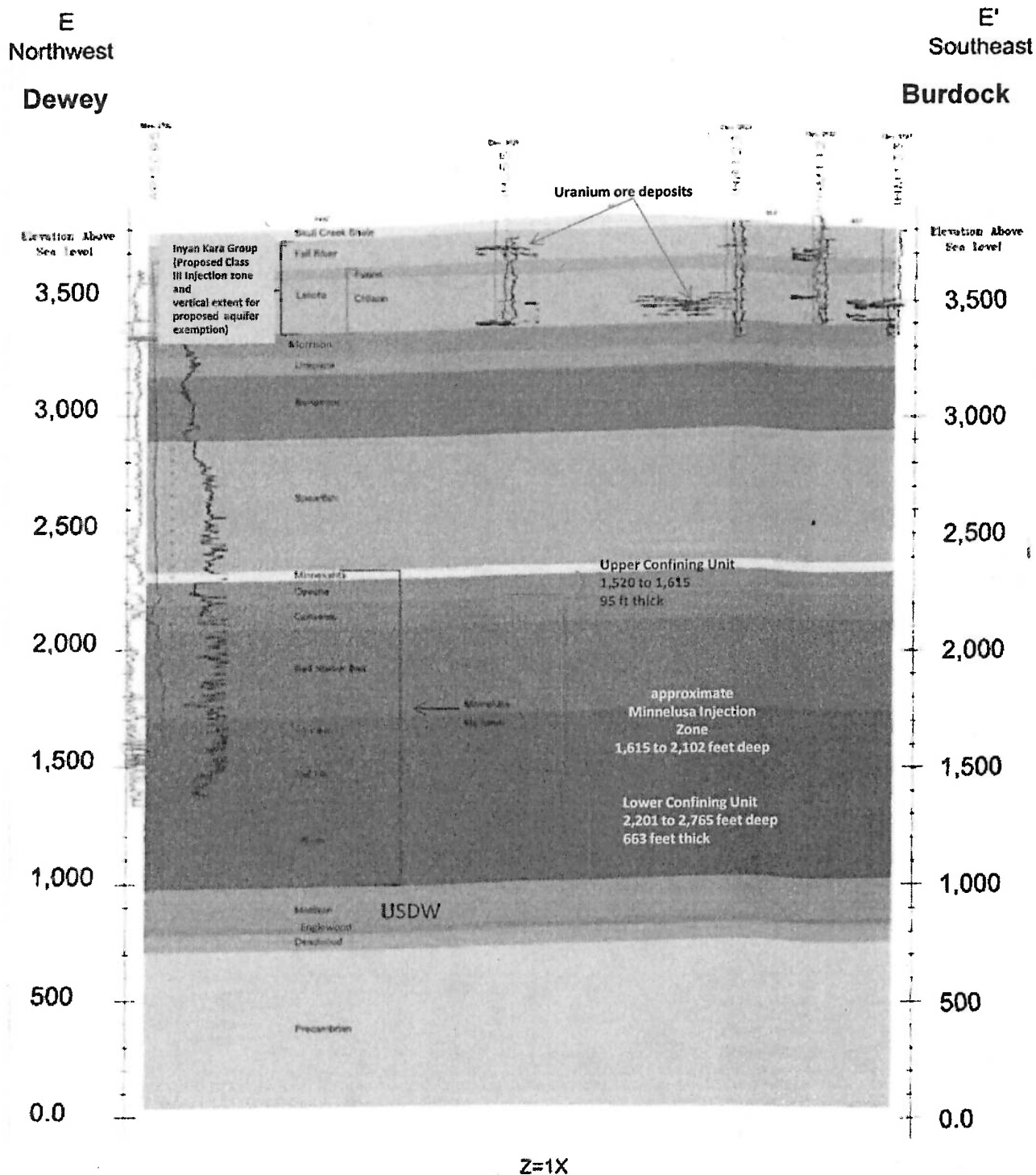


Figure 5. Stratigraphic cross-section of geologic formations present at the Dewey Burdock site and proposed injection zones for the Class III and deep Class V injections wells.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

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FEB 14 2020

Ref: 8WD-SDU

Honorable Julian Bear Runner
President
Oglala Sioux Tribe
P.O. BOX 2070
107 West Main Street
Pine Ridge South Dakota 57770

Re: U.S. Environmental Protection Agency Underground Injection Control Program
Invitation and Deadline for Scheduling Tribal Consultation on the EPA's Proposed Actions for the
Dewey-Burdock Uranium Recovery Site near Edgemont, South Dakota

Dear President Bear Runner:

The EPA is reaching out to you again to assure the Oglala Sioux Tribe of the EPA's commitment to conduct meaningful tribal consultation and request your assistance in scheduling a tribal consultation meeting as soon as possible. I have enclosed the July 8, 2019, letter we sent to you that lists the topics we would particularly like to discuss with you. We also welcome additional topics of discussion.

As you are aware, the EPA *Policy on Consultation and Coordination with Indian Tribes* outlines the EPA's procedures for conducting tribal consultation. The EPA is endeavoring to honor the procedure in Oglala Sioux Tribe Ordinance 11-10 for scheduling consultation with the Oglala Sioux Tribe by sending the enclosed letter to Tribal Secretary Jennifer Spotted Bear. However, we must ultimately adhere to the standards set out in the EPA *Policy*.


The EPA intends to move forward and work towards timely final Underground Injection Control (UIC) permit decisions. Therefore, we are setting a deadline of February 28, 2020, for any requests to schedule a tribal consultation meeting to be held by April 30, 2020. The EPA believes setting these deadlines is necessary to provide the EPA adequate time to give the Tribe's comments due consideration and develop a response to the Tribe on how the EPA has addressed the comments in the final UIC permit decisions.

The EPA has endeavored to schedule tribal consultation meetings with the Oglala Sioux Tribe since transmitting its first consultation invitation letter dated May 28, 2013. The request was reiterated in subsequent letters dated November 25, 2015; August 12, 2016; June 9, 2017 and July 8, 2019. In addition, as documented in the enclosed communication log, the EPA called and emailed the designated Tribal contacts numerous times attempting to schedule a tribal consultation meeting with the Oglala Sioux Tribe.

I now request that you contact me or have one of your staff contact Omar Sierra-Lopez of my staff by February 28 to schedule a tribal consultation meeting before April 10, 2020. If we do not receive a response from the Tribe by February 28, we will interpret the lack of response to indicate that, at this time, the Tribe has conveyed all the information it wishes to provide the EPA face-to-face on these proposed EPA actions at the Dewey-Burdock uranium in-situ recovery site, as well as through the comment letters previously submitted, meetings and tribal consultation held to date. If the Oglala Sioux Tribe prefers to submit any additional comments in writing, please inform us of your intentions by February 28, 2020.

I encourage you to contact me at by phone at 303-312-6392 or by email at oconnor.darcy@epa.gov or have one of your staff contact Omar Sierra-Lopez at your earliest convenience by the above deadlines. He can be reached at (800) 227-8917, extension 312-7045 or (303) 312-7045; or by email at sierra-lopez.omar@epa.gov. The EPA will follow up with a phone call to confirm that you received this letter and are aware of the timeframes discussed above.

Sincerely,


for Darcy O'Connor, Director
Water Division

Enclosures (2)

cc: Ms. Jennifer Spotted Bear, Tribal Secretary
Mr. Michael Catches Enemy, Legislative Liaison, President's Office
Mr. Andre Janis, Environmental Director



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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JUL 08 2019

Ref: 8WD-SDU

Honorable Julian Bear Runner
President
The Oglala Sioux Tribe
P.O. Box 2070
Pine Ridge, South Dakota 57770-2070

Re: U.S. Environmental Protection Agency Underground Injection Control Program
Invitation for Consultation on revised Draft Permits and related actions for the Dewey-Burdock
Uranium Recovery Site near Edgemont, South Dakota

Dear President Bear Runner:

The U.S. Environmental Protection Agency Region 8 Underground Injection Control (UIC) Program would like to consult with you, and any other representatives you would like to invite, on revised Draft Permits for injection wells and an updated draft Environmental Justice Analysis for the proposed Dewey-Burdock uranium in-situ recovery (ISR) site near Edgemont, South Dakota. The EPA anticipates issuing the revised Draft Permits in August 2019.

In March 2017, the EPA UIC Program issued two Draft Permits for Powertech (USA) Inc.: one for Class III injection wells used during the uranium recovery process; the second for deep injection wells for the disposal of treated ISR process waste water. The EPA also issued a draft Environmental Justice Analysis at that time. After considering comments received during the public comment period, the EPA has decided to issue revised Draft Permits, a revised draft Environmental Justice Analysis, a revised Aquifer Exemption Record of Decision and an updated document describing the EPA's plan for compliance with section 106 of the National Historic Preservation Act.

The location of the Dewey-Burdock site is shown in the enclosed Figure 1. For additional information about the proposed Dewey-Burdock site, please see the enclosed page entitled *Background Information on the Proposed Dewey-Burdock Uranium In-Situ Recovery Site* and enclosed Figures 1 through 5.

Environmental Justice Analysis

During consultation, we plan to present information about the revised draft Environmental Justice Analysis, specifically related to the The Oglala Sioux Tribe's interest in the Black Hills as a sacred site. We also welcome any input the Tribe would be willing to offer to assist the EPA in presenting an accurate picture of environmental justice issues related to the Black Hills.

The EPA Tribal Consultation Policy

It is the EPA's policy to consult on a government-to-government basis with federally recognized tribal governments when EPA actions and decisions may affect tribal interests. The EPA views consultation as a process of meaningful communication and coordination between the EPA and tribal officials prior to the EPA taking actions or implementing decisions that may affect tribes. For information about the EPA *Policy on Consultation and Coordination with Indian Tribes* please visit the following website: <https://www.epa.gov/tribal/forms/consultation-and-coordination-tribes>.

The EPA also developed the *Policy on Consultation and Coordination with Indian Tribes: Guidance for Discussing Tribal Treaty Rights* (Treaty Rights guidance) to complement the EPA's general *Policy on Consultation and Coordination with Indian Tribes*. The Treaty Rights guidance provides affirmative steps for the Agency to take during tribal consultations when an EPA action occurs in a specific geographic location and a resource-based treaty right, or an environmental condition necessary to support the resource, may be affected by the EPA's action. The Treaty Rights guidance was developed after nationwide tribal consultation. This guidance document is found at the following website: https://www.epa.gov/tribal/forms/consultation-and-coordination-tribes#treaty_rights.

Consistent with the Treaty Rights guidance, the EPA would also like input from the The Oglala Sioux Tribe on treaty rights related to our revised draft permitting actions. The EPA acknowledges that some tribes have previously provided written public comment stating their position that treaty rights would be impacted by the Draft Permits. Nevertheless, pursuant to the Treaty Rights guidance, EPA seeks input on the following questions:

- (1) Do treaties exist within the project area?
- (2) What treaty rights exist in or what treaty-protected resources rely upon the project area? Among other things, have treaty-based groundwater rights in the project area been recognized by judicial decree or congressional settlement?
- (3) How are treaty rights potentially affected by the revised Draft Permits?
- (4) Any concerns you have related to treaty rights.

The EPA has a separate responsibility under section 106 of the National Historic Preservation Act (NHPA) to consult with tribes that attach religious and cultural significance to historic properties that may be affected by an undertaking. Accordingly, we invite the The Oglala Sioux Tribe to engage in government-to-government consultation under section 106. Wherever appropriate, the EPA attempts to integrate this section 106 consultation with general consultation under our Tribal Consultation Policy. Therefore, we propose the following potential topics for consultation:

- (1) Changes from the first Draft UIC permits to the second Draft UIC permits;
- (2) Any concerns you may have about the proposed Dewey-Burdock project and the UIC permitting actions; and
- (3) Potential historic properties, including those of traditional religious and cultural importance, within the Dewey-Burdock area of potential effect.

We understand that the The Oglala Sioux Tribe may raise issues in consultation that should be kept confidential and nonpublic. During our consultation process, if there is information that you would like to provide, but that you believe should remain confidential, please specifically identify this information during our consultation meeting and we will explore options for keeping the information confidential in accordance with 36 CFR § 800.11(c). As we move forward with the consultation process, please be aware

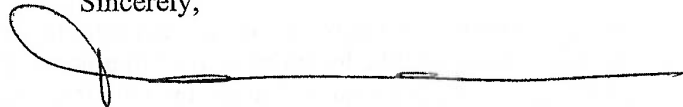
that any information you provide to the EPA in writing will become a part of the public record unless other arrangements are made to maintain confidentiality.

We are requesting a reply from you as to whether the The Oglala Sioux Tribe wishes to consult with the EPA. If you are interested in meeting with the EPA, please reply by August 2, 2019. Consultation requests should be submitted to Valois Robinson of my staff, who can be reached at (800) 227-8917, extension 312-6276 or (303) 312-6276; or by email at robinson.valois@epa.gov. Please include a point of contact for the Tribe so we can keep you informed as the EPA moves forward with this consultation process.

If we do not hear from you by August 2, 2019, we will interpret this to mean that you do not wish to consult with the EPA at this time. The EPA would also welcome the opportunity to consult after the revised Draft Permits are issued to discuss these important issues.

We appreciate the The Oglala Sioux Tribe's prompt attention to this important matter.

Sincerely,

A handwritten signature in black ink, consisting of a large, stylized loop followed by a long horizontal line.

Darcy O'Connor, Director
Water Division

Enclosures (6)

cc: Dalinda Simmons, Acting Environmental Director
Thomas Brings, Tribal Historic Preservation Officer

Background Information on the Proposed Dewey-Burdock Uranium In-Situ Recovery Site

The Dewey-Burdock site is located north of Edgemont, South Dakota, in Fall River and Custer Counties as shown in the enclosed Figure 1. The EPA Region 8 UIC Program has received Class III and Class V injection well permit applications for this site from Powertech (USA) Inc. The Class III injection wells are related to uranium recovery; the Class V injection wells are deep wells for the disposal of treated process wastewater. The Class III permit application requests authorization for 14 injection well fields including approximately 2,330 wells to inject and recover fluids for the in-situ recovery of uranium. The Class V area permit application requests authorization for the injection of ISR process waste fluids (treated to meet radioactive and hazardous waste standards) into two proposed wells injecting into the Minnelusa Formation. The Class V area permit application requests authorization for up to four deep injection wells in case the two currently proposed wells do not have the capacity to dispose of the anticipated total volume of all ISR process waste fluids.

Powertech proposes using ponds to treat and store treated water that will be injected into the deep injection wells. The locations and configuration of the treatment ponds are shown in Figure 2. These ponds are not regulated under the UIC Program. Powertech will submit an application for review and approval of the pond construction design plan to the EPA Region 8 Air Program. The ponds will not allow infiltration into the subsurface. The ponds are not designed to be evaporation ponds, although some amount of evaporation will occur during storage of the treated water before it is injected into the deep injection wells. The evaporation process does not involve release of heavy metals, including uranium or other radioactive elements, into the air. The EPA has information about radiation at <http://www2.epa.gov/radiation>.

The total proposed project area consists of approximately 10,580 acres (4,282 ha) east and west of the Dewey Road (County Road 6463), including portions of Sections 1-5, 10-12, 14 and 15 in Township 7 South, Range 1 East and Sections 20, 21, 27, 28, 29, and 30-35 in Township 6 South, Range 1 East, Black Hills Meridian. The surface area that will actually be impacted by the uranium ore processing plants, the 14 proposed uranium in-situ recovery well fields, the two proposed deep injection wells, treatment and storage ponds, roads and other surface-disturbing facilities is less than the 10,580-acre project area. The enclosed Figure 1 is a map showing the project site location. Figure 3 is a map showing the locations of the proposed wellfields containing Class III injection wells and the site project boundary. Figure 4 shows the locations for the two proposed deep Class V injection wells. Figure 5 shows a stratigraphic cross section of geologic formations at the Dewey Burdock site and the proposed injection zones for both the Class III and Class V injection wells. The Powertech Dewey-Burdock Project Class III and Class V area permit applications, and other documents that are part of the permit administrative record, are available for public review on the EPA Region 8 UIC Program website at <https://www.epa.gov/uic/epa-dewey-burdock-class-iii-and-class-v-injection-well-draft-area-permits>.

Dewey Burdock Location Map

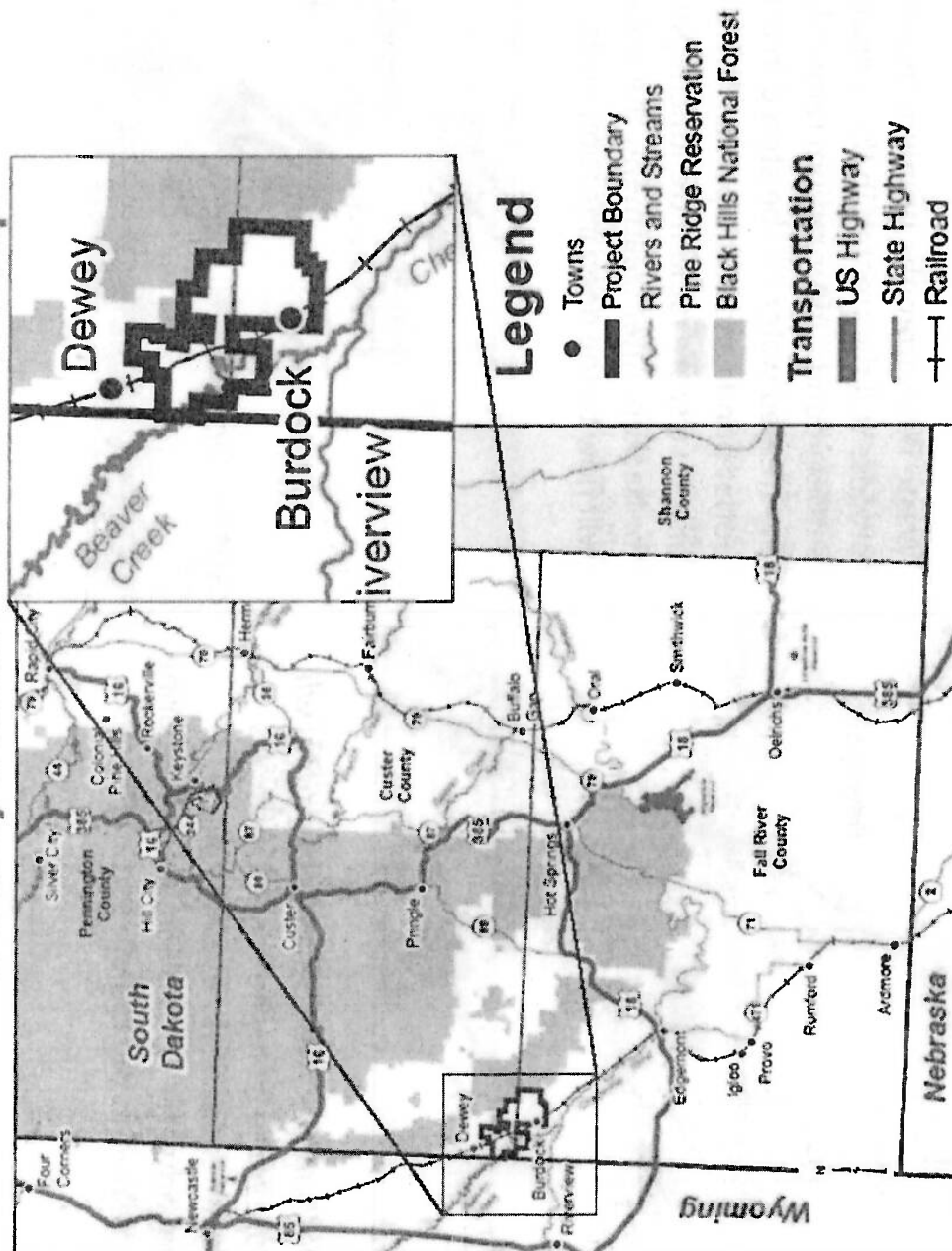
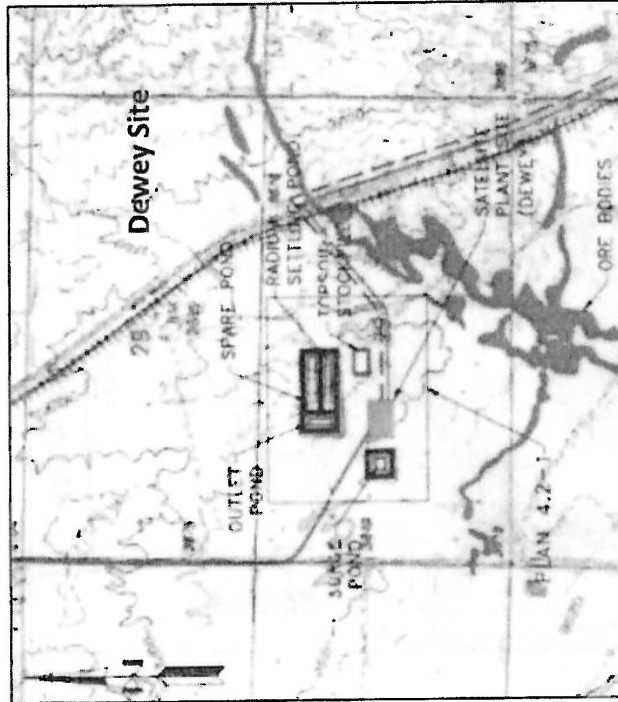


Figure 1. Map showing the location of the proposed Dewey-Burdock uranium recovery site.

Treatment and Storage Ponds for Deep Well Injectate



The Burdock Area central plant pond will store brine from the reverse osmosis treatment process used during groundwater restoration before the brine is treated in the radium settling ponds.

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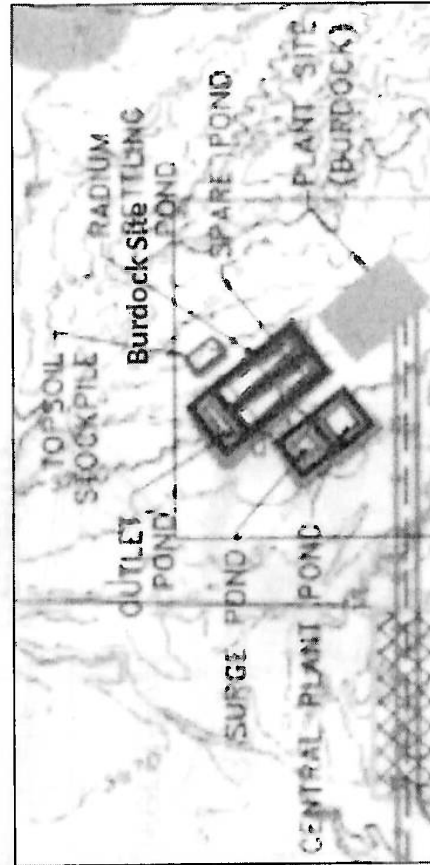


Figure 2. The Proposed Ponds for the Treatment and Storage of the Deep Injection Well Injectate.

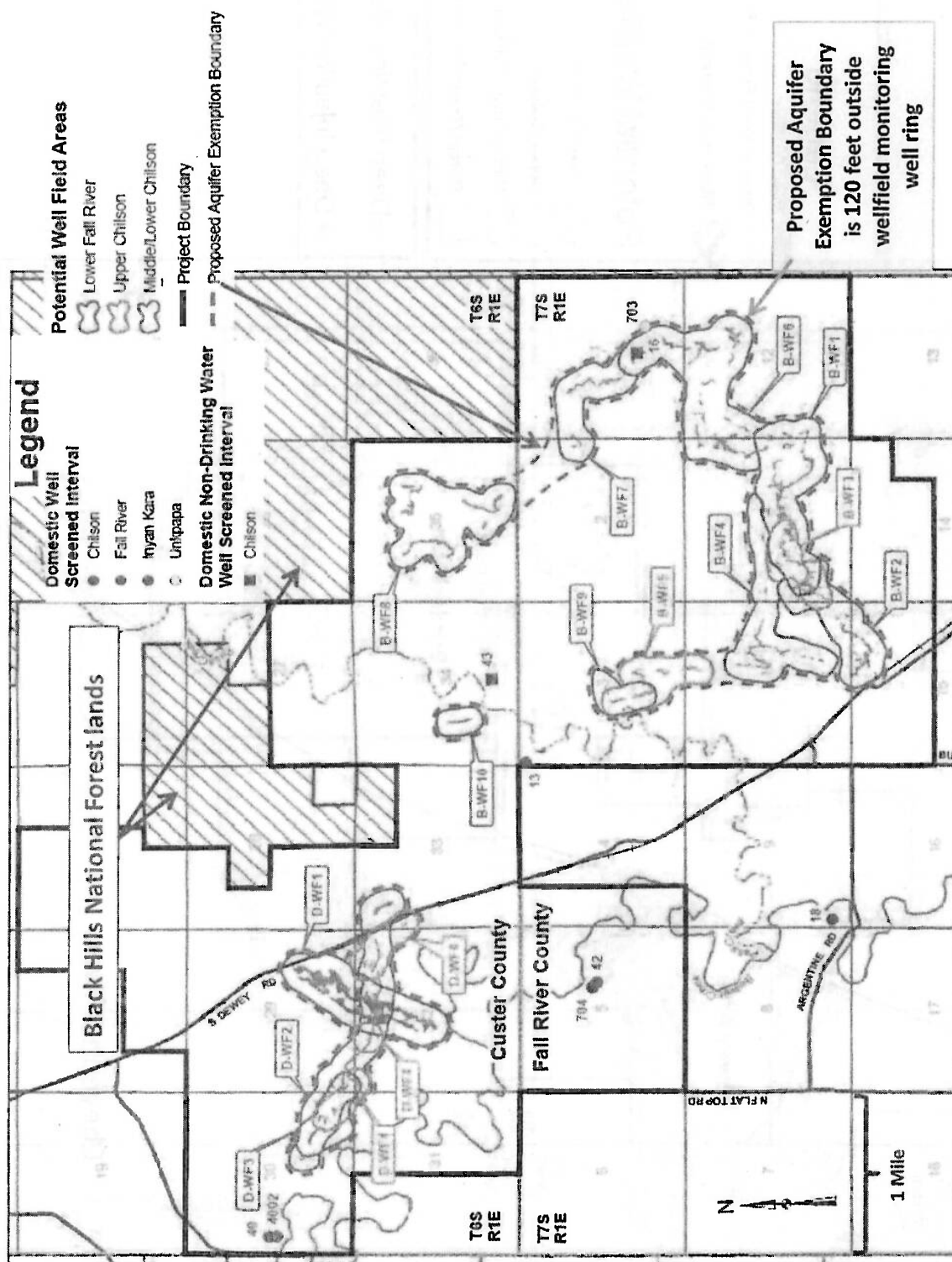
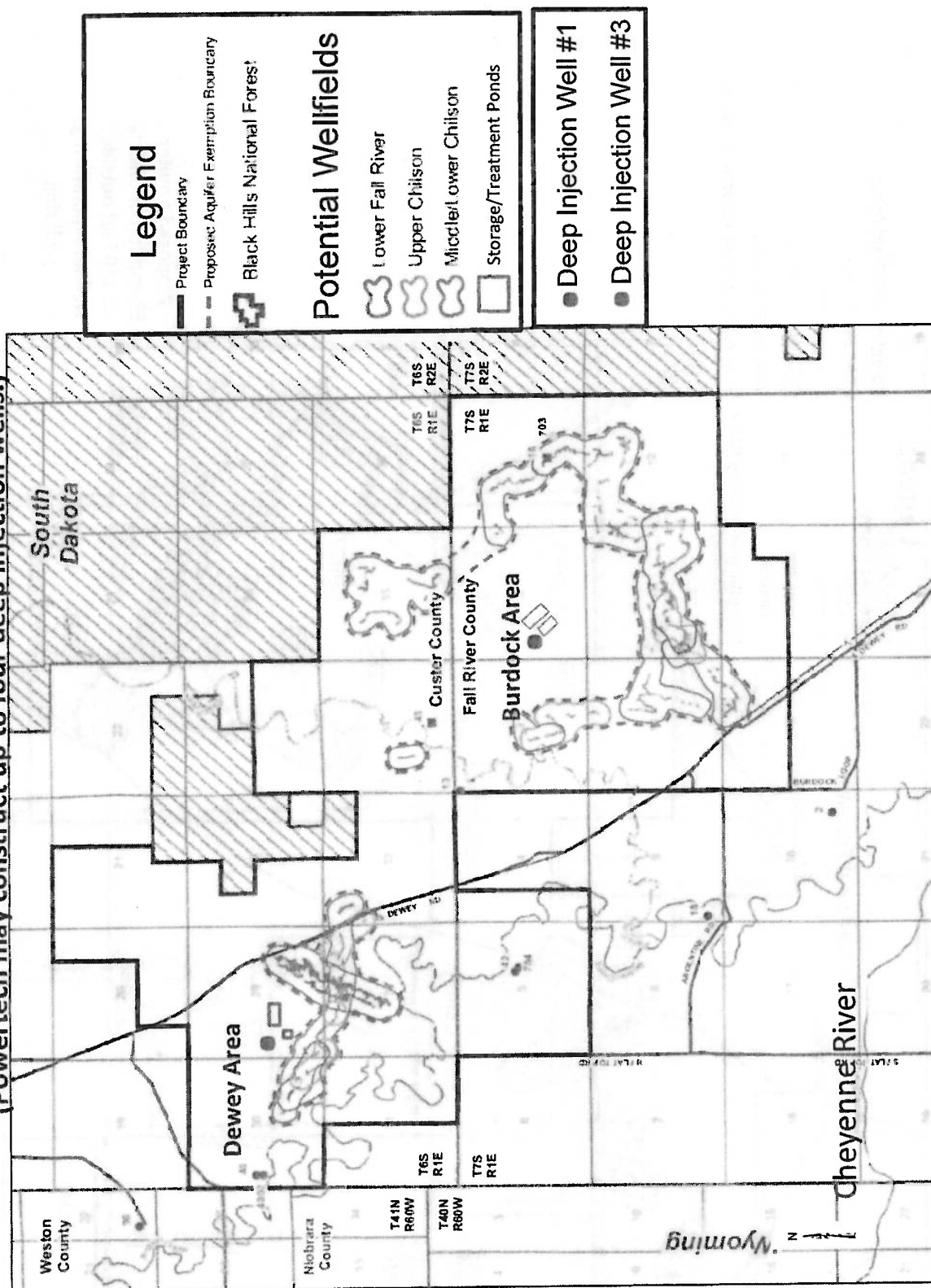


Figure 3. Map showing locations of the proposed wellfields containing Class III injection wells, the aquifer exemption boundary and the UIC permit boundary.

Figure 4. Map showing locations for the two currently proposed deep injection wells.
(Powertech may construct up to four deep injection wells.)



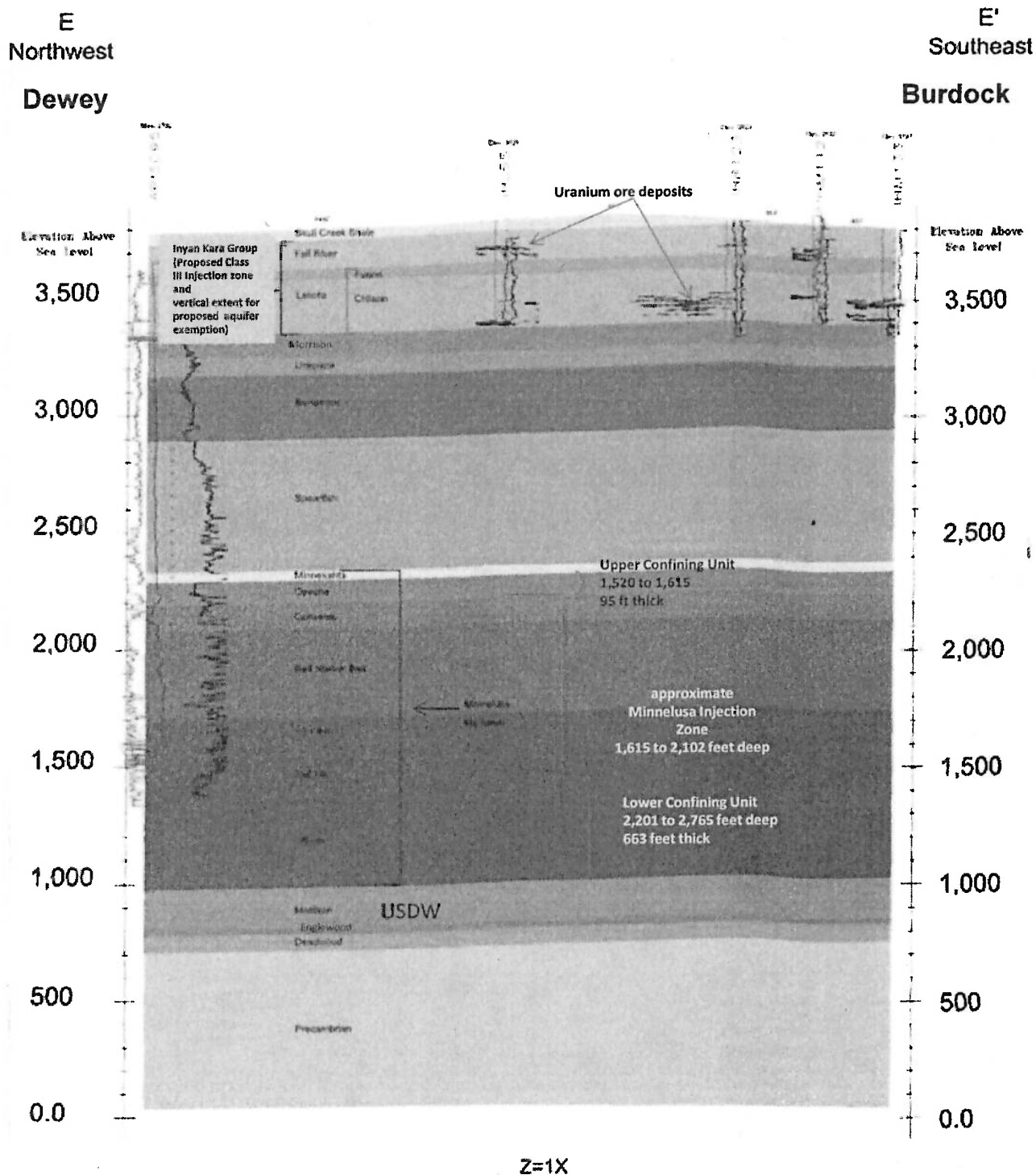


Figure 5. Stratigraphic cross-section of geologic formations present at the Dewey Burdock site and proposed injection zones for the Class III and deep Class V injections wells.



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FEB 14 2020

Ref: 8WD-SDU

Honorable Mike Faith, Jr.
Chairman
Standing Rock Sioux Tribe
P.O. Box D
Fort Yates, North Dakota 58538-5516

Re: U.S. Environmental Protection Agency Underground Injection Control Program
Invitation and Timeframe for Scheduling Tribal Consultation on the EPA's proposed actions for the
Dewey-Burdock Uranium Recovery Site near Edgemont, South Dakota

Dear Chairman Faith:

The EPA is reaching out to you to assure the Standing Rock Sioux Tribe of the EPA's commitment to conduct meaningful tribal consultation and request your assistance in scheduling a tribal consultation meeting as requested in your letter dated December 9, 2019. I have enclosed the July 8, 2019, letter we sent to you that lists the topics we would particularly like to discuss with you. We also welcome additional topics of discussion.


The EPA is moving forward on final Underground Injection Control (UIC) permit decisions. Therefore, we are setting a deadline of February 28, 2020, for any requests to schedule a tribal consultation meeting to be held by April 30, 2020. The EPA believes setting these deadlines is necessary to provide the EPA adequate time to give the Tribe's comments due consideration and develop a response to the Tribe on how the EPA has addressed the comments in the final UIC permit decisions.

I now request that you contact me by phone at (303) 312-6392 or by email at oconnor.darcy@epa.gov or have one of your staff contact Omar Sierra-Lopez of my staff by February 28 to schedule a tribal consultation meeting before April 30, 2020. Mr. Sierra-Lopez can be reached at (800) 227-8917, extension 312-7045 or (303) 312-7045; or by email at sierra-lopez.omar@epa.gov.

If we do not receive a response from the Tribe by February 28 we will interpret the lack of response to indicate that at this time the Tribe has conveyed all the information it wishes to provide the EPA on these proposed EPA actions at the Dewey-Burdock uranium in-situ recovery site through the 2017 and 2019 comment letters the Standing Rock Sioux Tribe submitted and the consultation meeting the EPA attended in Fort Yates on May 5, 2016.

The EPA will follow up with a phone call to confirm that you received this letter and are aware of the timeframes discussed above.

Sincerely,


for Darcy O'Connor, Director
Water Division

Enclosure (2)

cc: Ms. Allyson Two Bears, Director, Environmental Protection Agency/Department of Environmental
Regulation Program
Mr. Doug Crow Ghost, Director, Department of Water Resources



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REGION 8

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JUL 08 2019

Ref: 8WD-SDU

Honorable Mike Faith
Chairman
The Standing Rock Sioux Tribe
P.O. Box D
Ft. Yates, North Dakota 58538-5516

Re: U.S. Environmental Protection Agency Underground Injection Control Program
Invitation for Consultation on revised Draft Permits and related actions for the Dewey-Burdock
Uranium Recovery Site near Edgemont, South Dakota

Dear Chairman Faith:

The U.S. Environmental Protection Agency Region 8 Underground Injection Control (UIC) Program would like to consult with you, and any other representatives you would like to invite, on revised Draft Permits for injection wells and an updated draft Environmental Justice Analysis for the proposed Dewey-Burdock uranium in-situ recovery (ISR) site near Edgemont, South Dakota. The EPA anticipates issuing the revised Draft Permits in August 2019.

In March 2017, the EPA UIC Program issued two Draft Permits for Powertech (USA) Inc.: one for Class III injection wells used during the uranium recovery process; the second for deep injection wells for the disposal of treated ISR process waste water. The EPA also issued a draft Environmental Justice Analysis at that time. After considering comments received during the public comment period, the EPA has decided to issue revised Draft Permits, a revised draft Environmental Justice Analysis, a revised Aquifer Exemption Record of Decision and an updated document describing the EPA's plan for compliance with section 106 of the National Historic Preservation Act.

The location of the Dewey-Burdock site is shown in the enclosed Figure 1. For additional information about the proposed Dewey-Burdock site, please see the enclosed page entitled *Background Information on the Proposed Dewey-Burdock Uranium In-Situ Recovery Site* and enclosed Figures 1 through 5.

Environmental Justice Analysis

During consultation, we plan to present information about the revised draft Environmental Justice Analysis, specifically related to the The Standing Rock Sioux Tribe's interest in the Black Hills as a sacred site. We also welcome any input the Tribe would be willing to offer to assist the EPA in presenting an accurate picture of environmental justice issues related to the Black Hills.

The EPA Tribal Consultation Policy

It is the EPA's policy to consult on a government-to-government basis with federally recognized tribal governments when EPA actions and decisions may affect tribal interests. The EPA views consultation as a process of meaningful communication and coordination between the EPA and tribal officials prior to the EPA taking actions or implementing decisions that may affect tribes. For information about the EPA *Policy on Consultation and Coordination with Indian Tribes* please visit the following website: <https://www.epa.gov/tribal/forms/consultation-and-coordination-tribes>.

The EPA also developed the *Policy on Consultation and Coordination with Indian Tribes: Guidance for Discussing Tribal Treaty Rights* (Treaty Rights guidance) to complement the EPA's general *Policy on Consultation and Coordination with Indian Tribes*. The Treaty Rights guidance provides affirmative steps for the Agency to take during tribal consultations when an EPA action occurs in a specific geographic location and a resource-based treaty right, or an environmental condition necessary to support the resource, may be affected by the EPA's action. The Treaty Rights guidance was developed after nationwide tribal consultation. This guidance document is found at the following website: https://www.epa.gov/tribal/forms/consultation-and-coordination-tribes#treaty_rights.

Consistent with the Treaty Rights guidance, the EPA would also like input from the The Standing Rock Sioux Tribe on treaty rights related to our revised draft permitting actions. The EPA acknowledges that some tribes have previously provided written public comment stating their position that treaty rights would be impacted by the Draft Permits. Nevertheless, pursuant to the Treaty Rights guidance, EPA seeks input on the following questions:

- (1) Do treaties exist within the project area?
- (2) What treaty rights exist in or what treaty-protected resources rely upon the project area? Among other things, have treaty-based groundwater rights in the project area been recognized by judicial decree or congressional settlement?
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The EPA has a separate responsibility under section 106 of the National Historic Preservation Act (NHPA) to consult with tribes that attach religious and cultural significance to historic properties that may be affected by an undertaking. Accordingly, we invite the The Standing Rock Sioux Tribe to engage in government-to-government consultation under section 106. Wherever appropriate, the EPA attempts to integrate this section 106 consultation with general consultation under our Tribal Consultation Policy. Therefore, we propose the following potential topics for consultation:

- (1) Changes from the first Draft UIC permits to the second Draft UIC permits;
- (2) Any concerns you may have about the proposed Dewey-Burdock project and the UIC permitting actions; and
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please be aware that any information you provide to the EPA in writing will become a part of the public record unless other arrangements are made to maintain confidentiality.

We are requesting a reply from you as to whether the The Standing Rock Sioux Tribe wishes to consult with the EPA. If you are interested in meeting with the EPA, please reply by August 2, 2019. Consultation requests should be submitted to Valois Robinson of my staff, who can be reached at (800) 227-8917, extension 312-6276 or (303) 312-6276; or by email at robinson.valois@epa.gov. Please include a point of contact for the Tribe so we can keep you informed as the EPA moves forward with this consultation process.

If we do not hear from you by August 2, 2019, we will interpret this to mean that you do not wish to consult with the EPA at this time. The EPA would also welcome the opportunity to consult after the revised Draft Permits are issued to discuss these important issues.

We appreciate the The Standing Rock Sioux Tribe's prompt attention to this important matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Darcy O'Connor", with a long horizontal flourish extending to the right.

Darcy O'Connor, Director
Water Division

Enclosures (6)

cc: Allyson Two Bears, Environmental Director
Jon Eagle, Tribal Historic Preservation Officer

Background Information on the Proposed Dewey-Burdock Uranium In-Situ Recovery Site

The Dewey-Burdock site is located north of Edgemont, South Dakota, in Fall River and Custer Counties as shown in the enclosed Figure 1. The EPA Region 8 UIC Program has received Class III and Class V injection well permit applications for this site from Powertech (USA) Inc. The Class III injection wells are related to uranium recovery; the Class V injection wells are deep wells for the disposal of treated process wastewater. The Class III permit application requests authorization for 14 injection well fields including approximately 2,330 wells to inject and recover fluids for the in-situ recovery of uranium. The Class V area permit application requests authorization for the injection of ISR process waste fluids (treated to meet radioactive and hazardous waste standards) into two proposed wells injecting into the Minnelusa Formation. The Class V area permit application requests authorization for up to four deep injection wells in case the two currently proposed wells do not have the capacity to dispose of the anticipated total volume of all ISR process waste fluids.

Powertech proposes using ponds to treat and store treated water that will be injected into the deep injection wells. The locations and configuration of the treatment ponds are shown in Figure 2. These ponds are not regulated under the UIC Program. Powertech will submit an application for review and approval of the pond construction design plan to the EPA Region 8 Air Program. The ponds will not allow infiltration into the subsurface. The ponds are not designed to be evaporation ponds, although some amount of evaporation will occur during storage of the treated water before it is injected into the deep injection wells. The evaporation process does not involve release of heavy metals, including uranium or other radioactive elements, into the air. The EPA has information about radiation at <http://www2.epa.gov/radiation>.

The total proposed project area consists of approximately 10,580 acres (4,282 ha) east and west of the Dewey Road (County Road 6463), including portions of Sections 1-5, 10-12, 14 and 15 in Township 7 South, Range 1 East and Sections 20, 21, 27, 28, 29, and 30-35 in Township 6 South, Range 1 East, Black Hills Meridian. The surface area that will actually be impacted by the uranium ore processing plants, the 14 proposed uranium in-situ recovery well fields, the two proposed deep injection wells, treatment and storage ponds, roads and other surface-disturbing facilities is less than the 10,580-acre project area. The enclosed Figure 1 is a map showing the project site location. Figure 3 is a map showing the locations of the proposed wellfields containing Class III injection wells and the site project boundary. Figure 4 shows the locations for the two proposed deep Class V injection wells. Figure 5 shows a stratigraphic cross section of geologic formations at the Dewey Burdock site and the proposed injection zones for both the Class III and Class V injection wells. The Powertech Dewey-Burdock Project Class III and Class V area permit applications, and other documents that are part of the permit administrative record, are available for public review on the EPA Region 8 UIC Program website at <https://www.epa.gov/uic/epa-dewey-burdock-class-iii-and-class-v-injection-well-draft-area-permits>.

Dewey Burdock Location Map

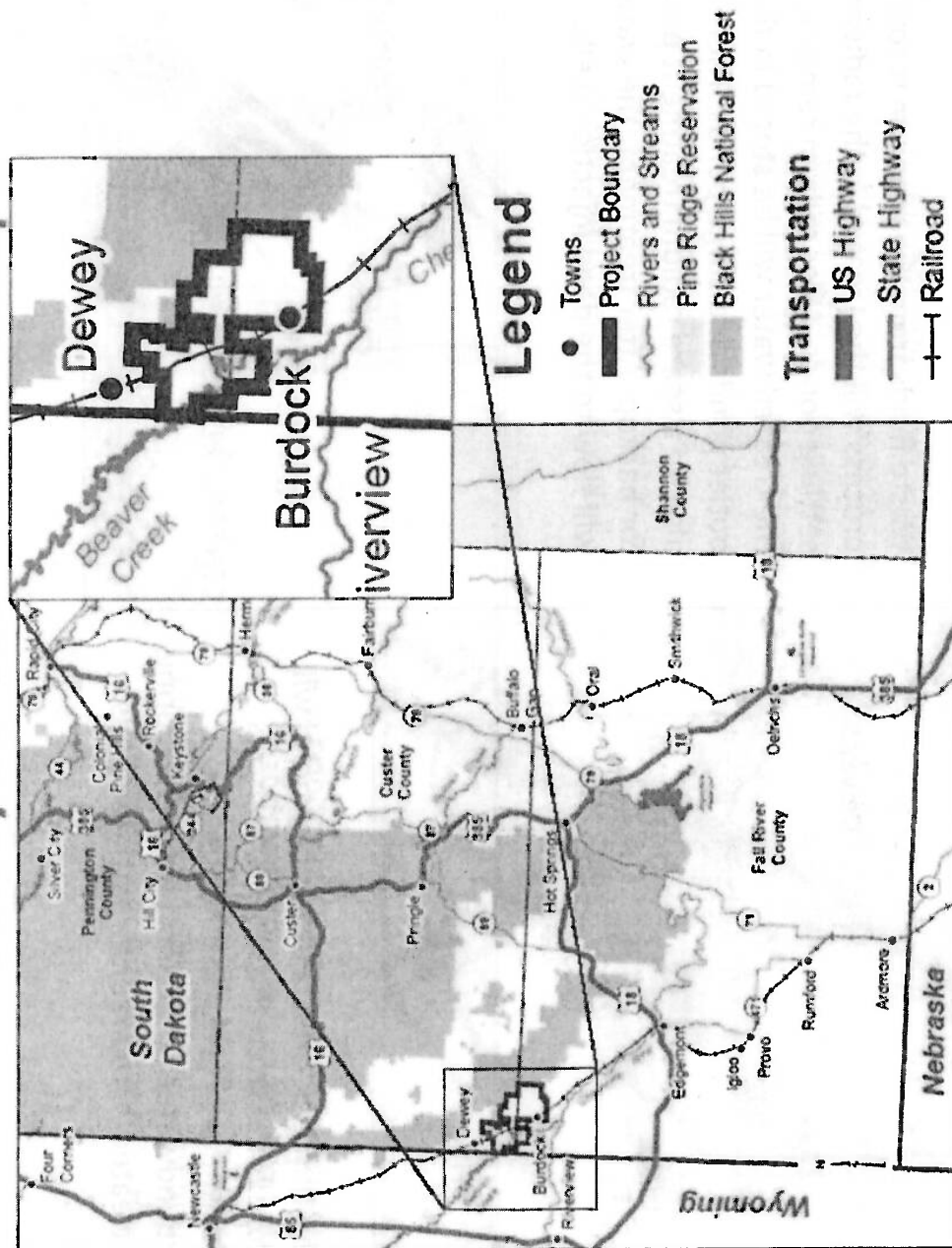
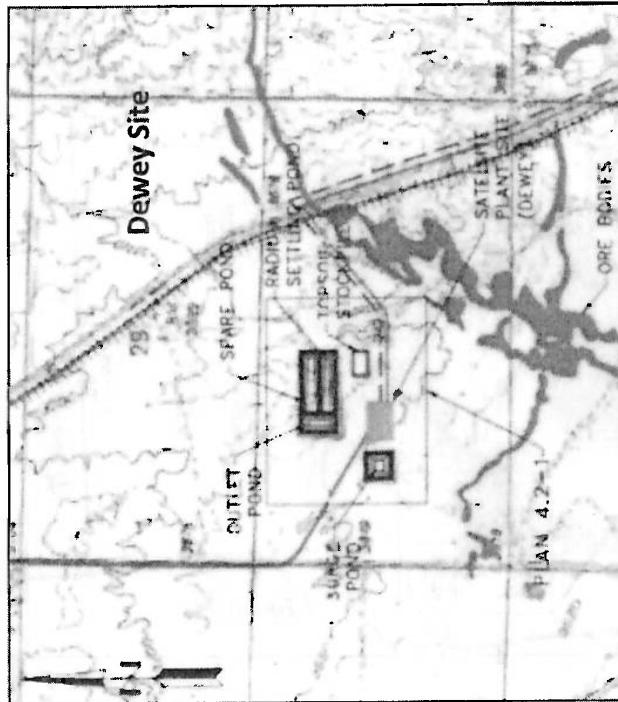


Figure 1. Map showing the location of the proposed Dewey-Burdock uranium recovery site.

Treatment and Storage Ponds for Deep Well Injectate

Waste fluids from the uranium recovery process will be treated in the radium settling ponds. After radium removal, the treated water will be stored in the outlet ponds and surge ponds. There will also be a spare radium treatment pond for backup. After treatment, the water will flow to the deep injection wells.



The Burdock Area central plant pond will store brine from the reverse osmosis treatment process used during groundwater restoration before the brine is treated in the radium settling ponds.

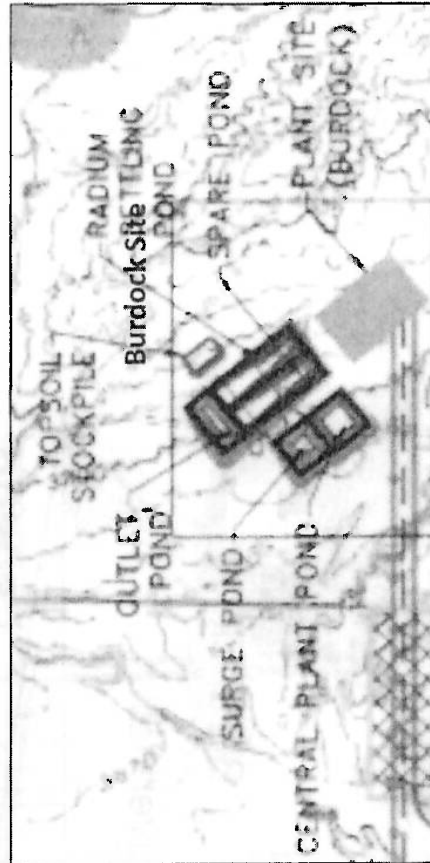


Figure 2. The Proposed Ponds for the Treatment and Storage of the Deep Injection Well Injectate.

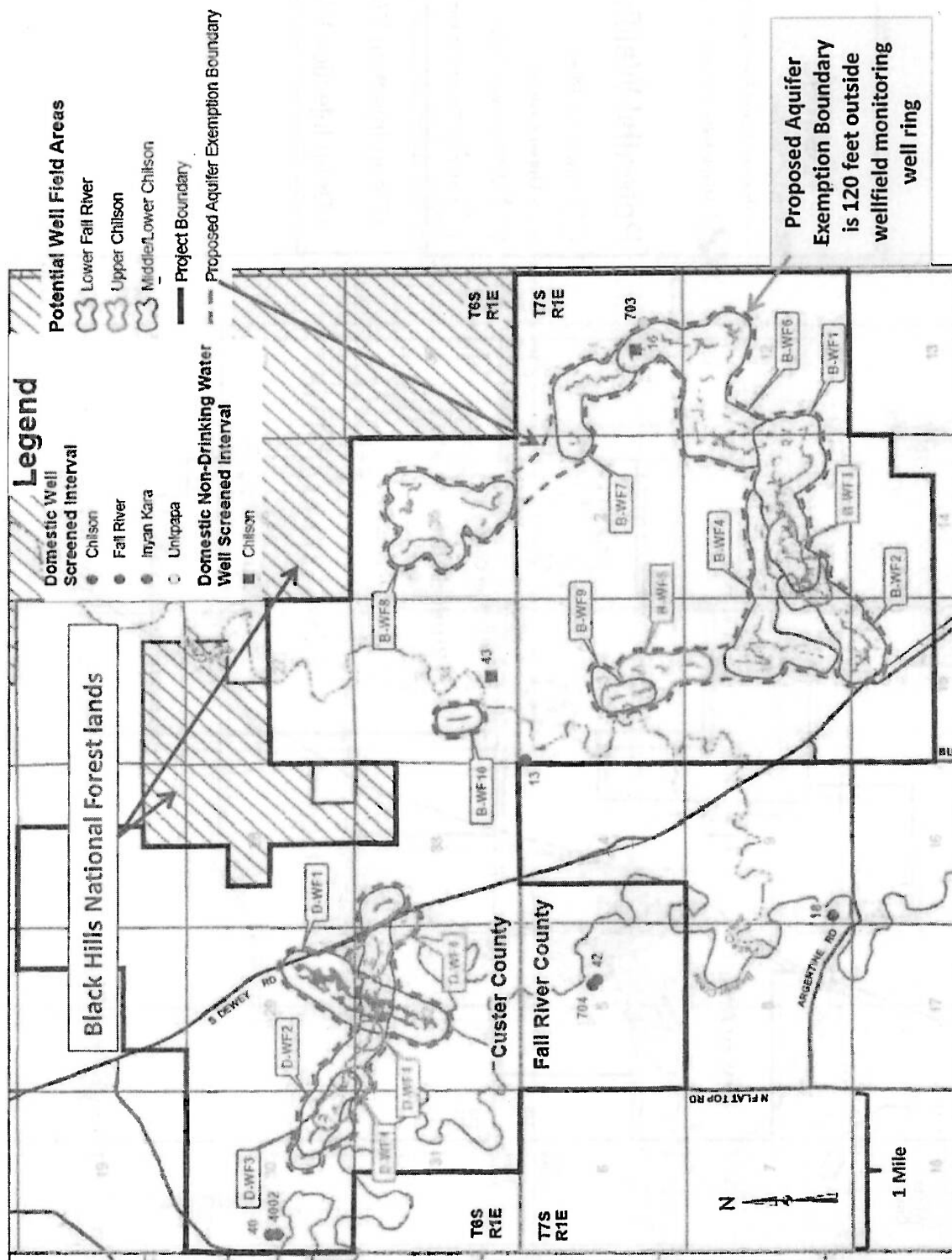
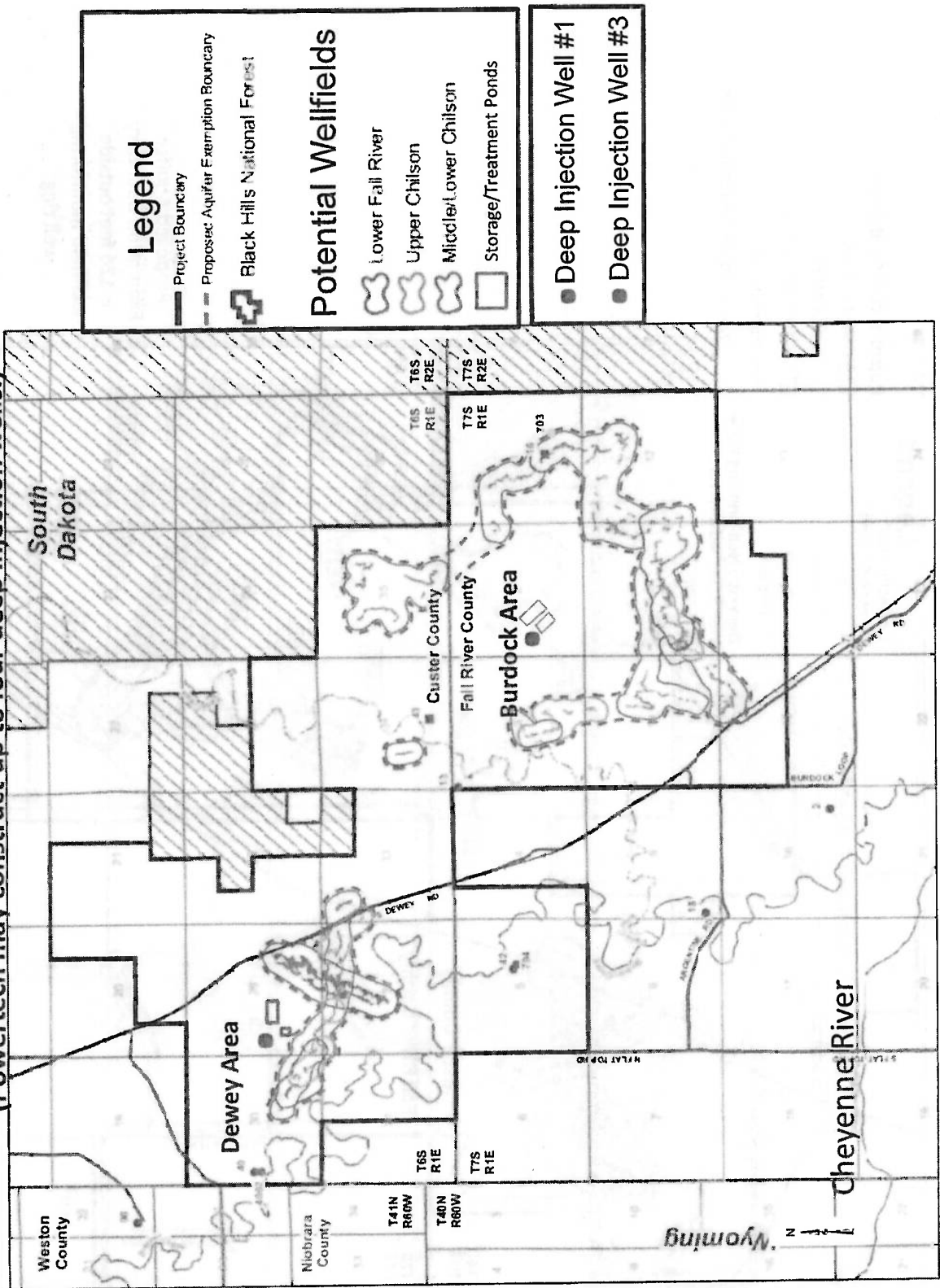


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Figure 4. Map showing locations for the two currently proposed deep injection wells.
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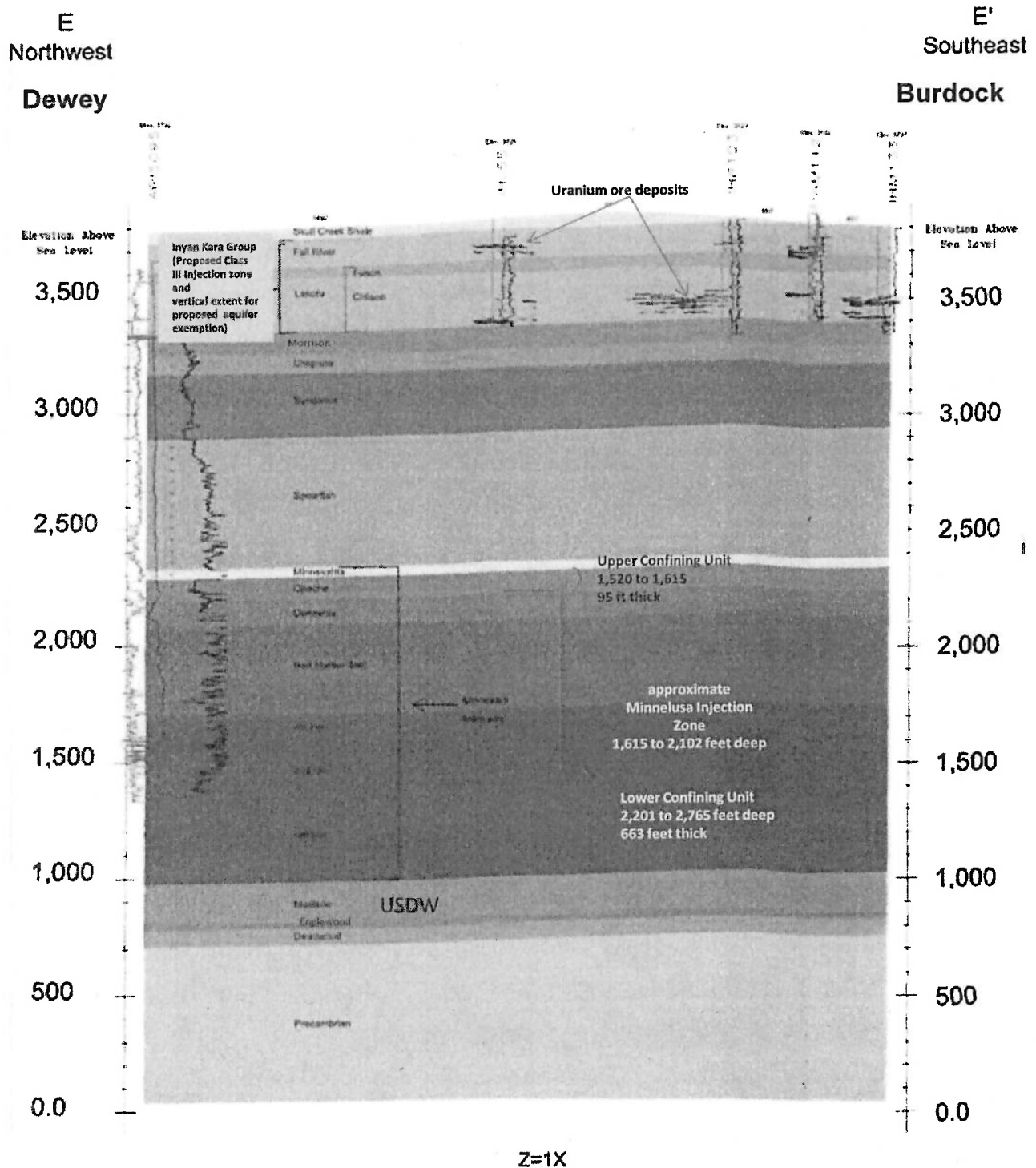


Figure 5. Stratigraphic cross-section of geologic formations present at the Dewey Burdock site and proposed injection zones for the Class III and deep Class V injections wells.

From: [Minter, Douglas](#)
To: [Robinson, Valois](#)
Subject: FW: EPA R8: Underground Injection Control Program for Dewey-Burdock Draft Permits - Consultation Invitation and Timeline
Date: Wednesday, December 16, 2020 1:45:15 PM
Attachments: [EPA Letter CrowTribe.pdf](#)

From: Minter, Douglas
Sent: Monday, February 24, 2020 4:51 PM
To: aj.notafraid@crow-nsn.gov
Cc: william.bigday@crow-nsn.gov; connie.howe@crow-nsn.gov; Varilek, Kimberly <Varilek.Kimberly@epa.gov>; Sierra-Lopez, Omar <Sierra-Lopez.Omar@epa.gov>; Wintersteen, Jennifer <Wintersteen.Jennifer@epa.gov>
Subject: EPA R8: Underground Injection Control Program for Dewey-Burdock Draft Permits - Consultation Invitation and Timeline

Greetings Chairman Not Afraid: I'm forwarding a digital copy of the letter the EPA Region 8 Water Division is mailing to you regarding the Crow Tribe's interest in consulting on EPA Region 8's Dewey Burdock In-Situ Draft Permits re-issued in 2019.

Given the Tribe's stated interest during a March 1, 2016 meeting with EPA, please let us know if you are still interested in scheduling consultation with EPA Region 8 by contacting our offices as soon as possible. In the letter enclosed, the Region asks for your response by March 6, 2020, in communicating the Tribe's interest to consult with the expectation that we would hold a consultation meeting with you by April 30, 2020 to inform our Final Permit decisions later this year.

Please let me know if you have any questions, or feel free to reach out to Darcy O'Connor at (303) 312-6392 or connor.darcy@epa.gov, or Kim Varilek at (303) 312-6264 or varilek.kimberly@epa.gov.

We look forward to hearing from you as soon as possible and preferably by March 6, 2020.

Sincerely,

Douglas Minter, MPH
UIC Section Chief
1595 Wynkoop Street
USEPA Region 8

(303) 312 6079

"Practicing Public Servant Leadership"



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

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Ref: 8WD-SDU

FEB 21 2020

Honorable Alvin Not Afraid, Jr.
Chairman
Crow Nation
P.O. Box 159
Crow Agency, Montana 59022

Re: U.S. Environmental Protection Agency Underground Injection Control Program
Timeframe for Tribal Consultation on the EPA's Proposed Actions for the Dewey-Burdock Uranium
Recovery Site near Edgemont, South Dakota

Dear Chairman Not Afraid:

The EPA is approaching the end of the tribal consultation process on the EPA's proposed actions for the Dewey-Burdock Uranium Recovery Site near Edgemont, South Dakota. Because we have previously consulted with the Crow Nation regarding this matter, we are reaching out to remind you of EPA's July 8, 2019 letter requesting tribal consultation with your Tribe.

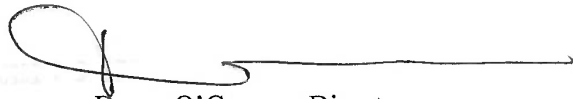
The EPA is moving forward on final Underground Injection Control (UIC) permit decisions. Therefore, we are setting a deadline of March 6, 2020, for scheduling a tribal consultation meeting to be held by April 30, 2020. The EPA believes setting these deadlines is necessary to provide the EPA adequate time to give the Tribe's comments due consideration and develop a response to the Tribe on how the EPA has addressed the comments in the final UIC permit decisions.

If you have interest in following up on our previous tribal consultation, or consulting in response to EPA's July 8, 2019 letter, please contact me by phone at 303-312-6392 or by email at oconnor.darcy@epa.gov or have one of your staff contact Omar Sierra-Lopez of my staff by March 6 and work with him to schedule a tribal consultation meeting before April 30, 2020. Mr. Sierra-Lopez can be reached at (800) 227-8917, extension 312-7045 or (303) 312-7045; or by email at sierra-lopez.omar@epa.gov. I have enclosed the July 8, 2019, letter we sent to you that lists the topics we would particularly like to discuss with you.

If we do not hear from the Tribe by March 6, we will interpret the lack of response to indicate that at this time the Tribe has conveyed all the information it wishes to provide the EPA on these proposed EPA actions at the Dewey-Burdock uranium in-situ recovery site through previous consultation activities, specifically our meeting on March 1, 2016.

The EPA will follow up with a phone call to confirm that you received this letter and are aware of the timeframes discussed above.

Sincerely,

A handwritten signature in black ink, consisting of a large, stylized loop followed by a horizontal line extending to the right.

Darcy O'Connor, Director
Water Division

Enclosure (1)

cc: Mr. William Big Day, Tribal Historic Preservation Officer
Ms. Connie Howe, Environmental Director



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JUL 08 2019

Ref: 8WD-SDU

Honorable Alvin Not Afraid Jr.
Chairman
The Crow Nation
P.O. Box 159
Crow Agency, Montana 59022

Re: U.S. Environmental Protection Agency Underground Injection Control Program
Invitation for Consultation on revised Draft Permits and related actions for the Dewey-Burdock
Uranium Recovery Site near Edgemont, South Dakota

Dear Chairman Not Afraid Jr.:

The U.S. Environmental Protection Agency Region 8 Underground Injection Control (UIC) Program would like to consult with you, and any other representatives you would like to invite, on revised Draft Permits for injection wells and an updated draft Environmental Justice Analysis for the proposed Dewey-Burdock uranium in-situ recovery (ISR) site near Edgemont, South Dakota. The EPA anticipates issuing the revised Draft Permits in August 2019.

In March 2017, the EPA UIC Program issued two Draft Permits for Powertech (USA) Inc.: one for Class III injection wells used during the uranium recovery process; the second for deep injection wells for the disposal of treated ISR process waste water. The EPA also issued a draft Environmental Justice Analysis at that time. After considering comments received during the public comment period, the EPA has decided to issue revised Draft Permits, a revised draft Environmental Justice Analysis, a revised Aquifer Exemption Record of Decision and an updated document describing the EPA's plan for compliance with section 106 of the National Historic Preservation Act.

The location of the Dewey-Burdock site is shown in the enclosed Figure 1. For additional information about the proposed Dewey-Burdock site, please see the enclosed page entitled *Background Information on the Proposed Dewey-Burdock Uranium In-Situ Recovery Site* and enclosed Figures 1 through 5.

Environmental Justice Analysis

During consultation, we plan to present information about the revised draft Environmental Justice Analysis, specifically related to the The Crow Nation's interest in the Black Hills as a sacred site. We also welcome any input the Tribe would be willing to offer to assist the EPA in presenting an accurate picture of environmental justice issues related to the Black Hills.

The EPA Tribal Consultation Policy

It is the EPA's policy to consult on a government-to-government basis with federally recognized tribal governments when EPA actions and decisions may affect tribal interests. The EPA views consultation as a process of meaningful communication and coordination between the EPA and tribal officials prior to the EPA taking actions or implementing decisions that may affect tribes. For information about the EPA *Policy on Consultation and Coordination with Indian Tribes* please visit the following website: <https://www.epa.gov/tribal/forms/consultation-and-coordination-tribes>.

The EPA also developed the *Policy on Consultation and Coordination with Indian Tribes: Guidance for Discussing Tribal Treaty Rights* (Treaty Rights guidance) to complement the EPA's general *Policy on Consultation and Coordination with Indian Tribes*. The Treaty Rights guidance provides affirmative steps for the Agency to take during tribal consultations when an EPA action occurs in a specific geographic location and a resource-based treaty right, or an environmental condition necessary to support the resource, may be affected by the EPA's action. The Treaty Rights guidance was developed after nationwide tribal consultation. This guidance document is found at the following website: https://www.epa.gov/tribal/forms/consultation-and-coordination-tribes#treaty_rights.

Consistent with the Treaty Rights guidance, the EPA would also like input from the The Crow Nation on treaty rights related to our revised draft permitting actions. The EPA acknowledges that some tribes have previously provided written public comment stating their position that treaty rights would be impacted by the Draft Permits. Nevertheless, pursuant to the Treaty Rights guidance, EPA seeks input on the following questions:

- (1) Do treaties exist within the project area?
- (2) What treaty rights exist in or what treaty-protected resources rely upon the project area? Among other things, have treaty-based groundwater rights in the project area been recognized by judicial decree or congressional settlement?
- (3) How are treaty rights potentially affected by the revised Draft Permits?
- (4) Any concerns you have related to treaty rights.

The EPA has a separate responsibility under section 106 of the National Historic Preservation Act (NHPA) to consult with tribes that attach religious and cultural significance to historic properties that may be affected by an undertaking. Accordingly, we invite the The Crow Nation to engage in government-to-government consultation under section 106. Wherever appropriate, the EPA attempts to integrate this section 106 consultation with general consultation under our Tribal Consultation Policy. Therefore, we propose the following potential topics for consultation:

- (1) Changes from the first Draft UIC permits to the second Draft UIC permits;
- (2) Any concerns you may have about the proposed Dewey-Burdock project and the UIC permitting actions; and
- (3) Potential historic properties, including those of traditional religious and cultural importance, within the Dewey-Burdock area of potential effect.

We understand that the The Crow Nation may raise issues in consultation that should be kept confidential and nonpublic. During our consultation process, if there is information that you would like to provide, but that you believe should remain confidential, please specifically identify this information during our consultation meeting and we will explore options for keeping the information confidential in accordance with 36 CFR § 800.11(c). As we move forward with the consultation process, please be aware that any

information you provide to the EPA in writing will become a part of the public record unless other arrangements are made to maintain confidentiality.

We are requesting a reply from you as to whether the The Crow Nation wishes to consult with the EPA. If you are interested in meeting with the EPA, please reply by August 2, 2019. Consultation requests should be submitted to Valois Robinson of my staff, who can be reached at (800) 227-8917, extension 312-6276 or (303) 312-6276; or by email at robinson.valois@epa.gov. Please include a point of contact for the Tribe so we can keep you informed as the EPA moves forward with this consultation process.

If we do not hear from you by August 2, 2019, we will interpret this to mean that you do not wish to consult with the EPA at this time. The EPA would also welcome the opportunity to consult after the revised Draft Permits are issued to discuss these important issues.

We appreciate the The Crow Nation's prompt attention to this important matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Darcy O'Connor', with a long horizontal line extending to the right.

Darcy O'Connor, Director
Water Division

Enclosures (6)

cc: Connie Howe, Environmental Director
William Big Day, Tribal Historic Preservation Officer

Background Information on the Proposed Dewey-Burdock Uranium In-Situ Recovery Site

The Dewey-Burdock site is located north of Edgemont, South Dakota, in Fall River and Custer Counties as shown in the enclosed Figure 1. The EPA Region 8 UIC Program has received Class III and Class V injection well permit applications for this site from Powertech (USA) Inc. The Class III injection wells are related to uranium recovery; the Class V injection wells are deep wells for the disposal of treated process wastewater. The Class III permit application requests authorization for 14 injection well fields including approximately 2,330 wells to inject and recover fluids for the in-situ recovery of uranium. The Class V area permit application requests authorization for the injection of ISR process waste fluids (treated to meet radioactive and hazardous waste standards) into two proposed wells injecting into the Minnelusa Formation. The Class V area permit application requests authorization for up to four deep injection wells in case the two currently proposed wells do not have the capacity to dispose of the anticipated total volume of all ISR process waste fluids.

Powertech proposes using ponds to treat and store treated water that will be injected into the deep injection wells. The locations and configuration of the treatment ponds are shown in Figure 2. These ponds are not regulated under the UIC Program. Powertech will submit an application for review and approval of the pond construction design plan to the EPA Region 8 Air Program. The ponds will not allow infiltration into the subsurface. The ponds are not designed to be evaporation ponds, although some amount of evaporation will occur during storage of the treated water before it is injected into the deep injection wells. The evaporation process does not involve release of heavy metals, including uranium or other radioactive elements, into the air. The EPA has information about radiation at <http://www2.epa.gov/radiation>.

The total proposed project area consists of approximately 10,580 acres (4,282 ha) east and west of the Dewey Road (County Road 6463), including portions of Sections 1-5, 10-12, 14 and 15 in Township 7 South, Range 1 East and Sections 20, 21, 27, 28, 29, and 30-35 in Township 6 South, Range 1 East, Black Hills Meridian. The surface area that will actually be impacted by the uranium ore processing plants, the 14 proposed uranium in-situ recovery well fields, the two proposed deep injection wells, treatment and storage ponds, roads and other surface-disturbing facilities is less than the 10,580-acre project area. The enclosed Figure 1 is a map showing the project site location. Figure 3 is a map showing the locations of the proposed wellfields containing Class III injection wells and the site project boundary. Figure 4 shows the locations for the two proposed deep Class V injection wells. Figure 5 shows a stratigraphic cross section of geologic formations at the Dewey Burdock site and the proposed injection zones for both the Class III and Class V injection wells. The Powertech Dewey-Burdock Project Class III and Class V area permit applications, and other documents that are part of the permit administrative record, are available for public review on the EPA Region 8 UIC Program website at <https://www.epa.gov/uic/epa-dewey-burdock-class-iii-and-class-v-injection-well-draft-area-permits>.

Dewey Burdock Location Map

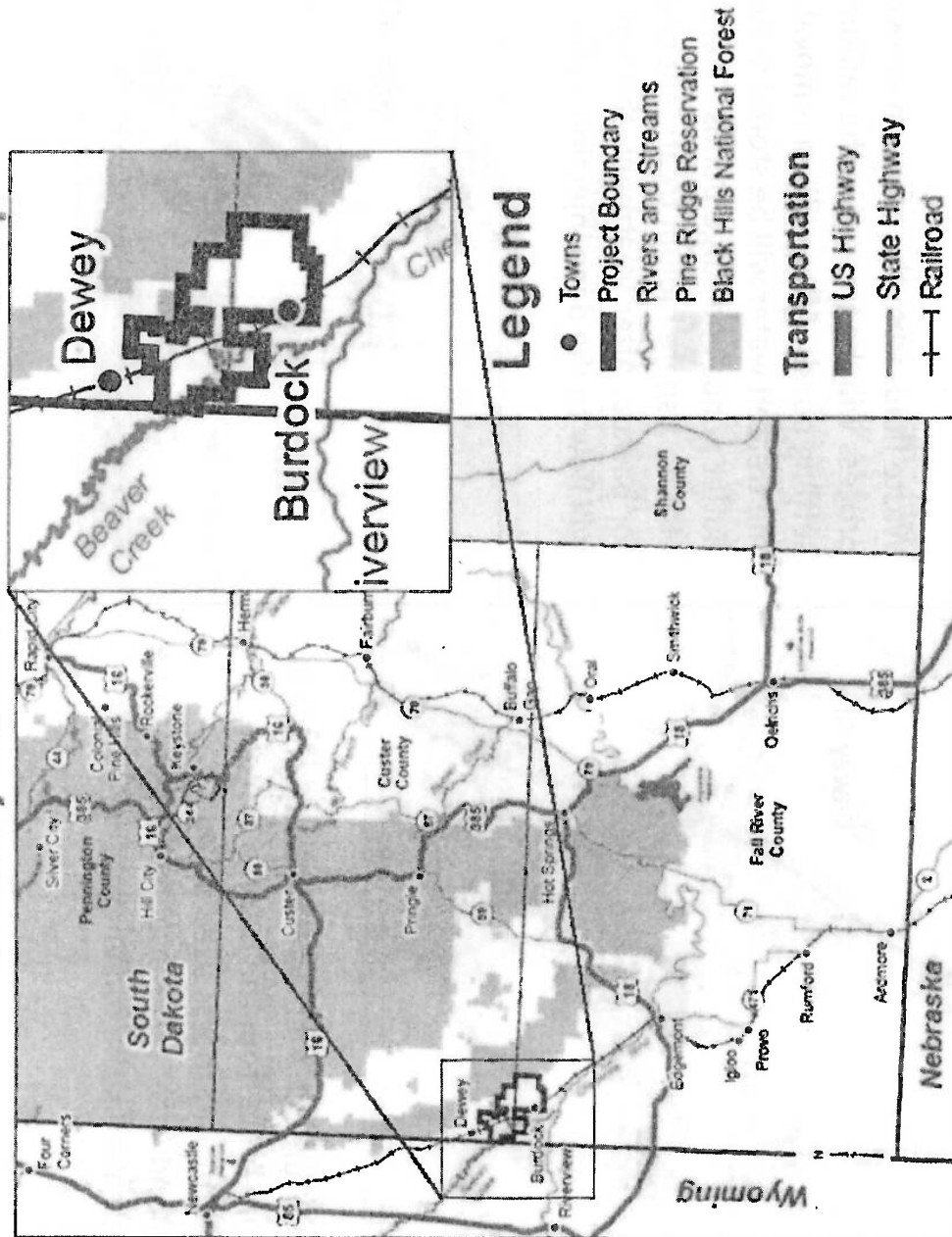


Figure 1. Map showing the location of the proposed Dewey-Burdock uranium recovery site.

Treatment and Storage Ponds for Deep Well Injectate

Waste fluids from the uranium recovery process will be treated in the radium settling ponds. After radium removal, the treated water will be stored in the outlet ponds and surge ponds. There will also be a spare radium treatment pond for backup. After treatment, the water will flow to the deep injection wells.



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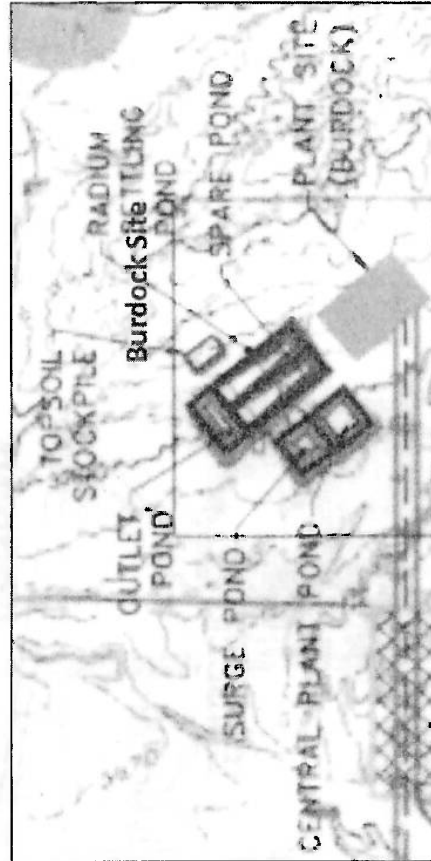


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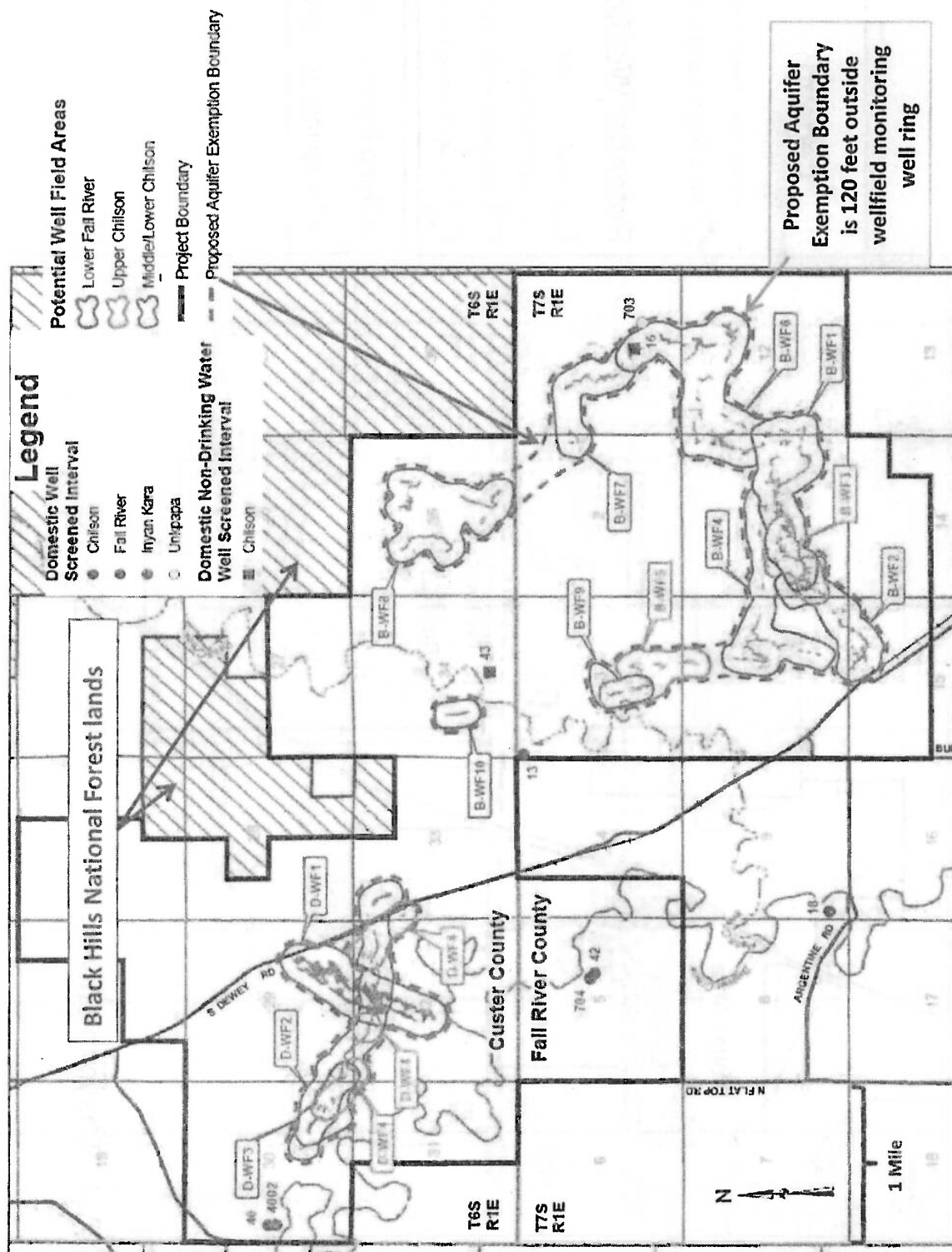
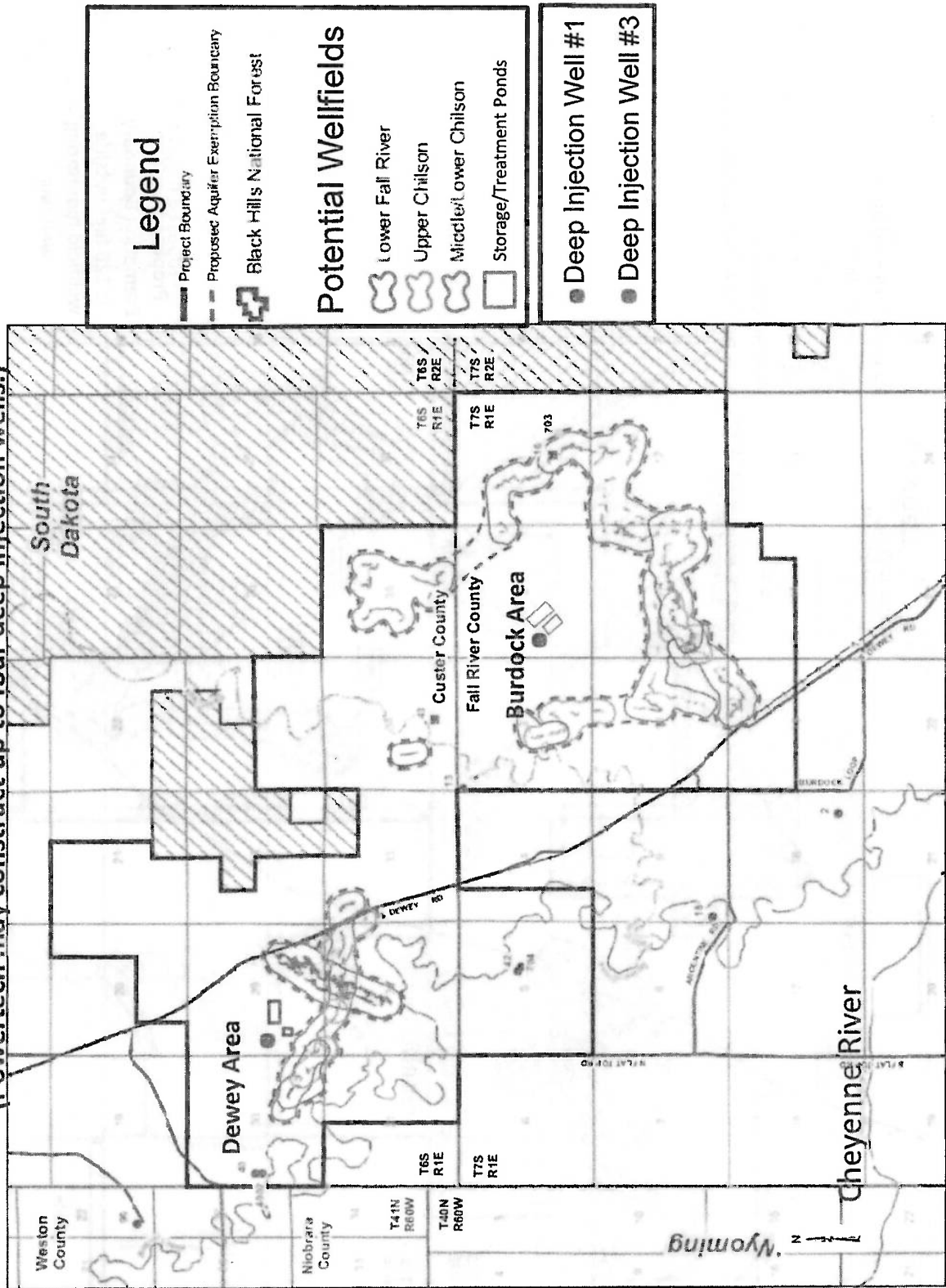


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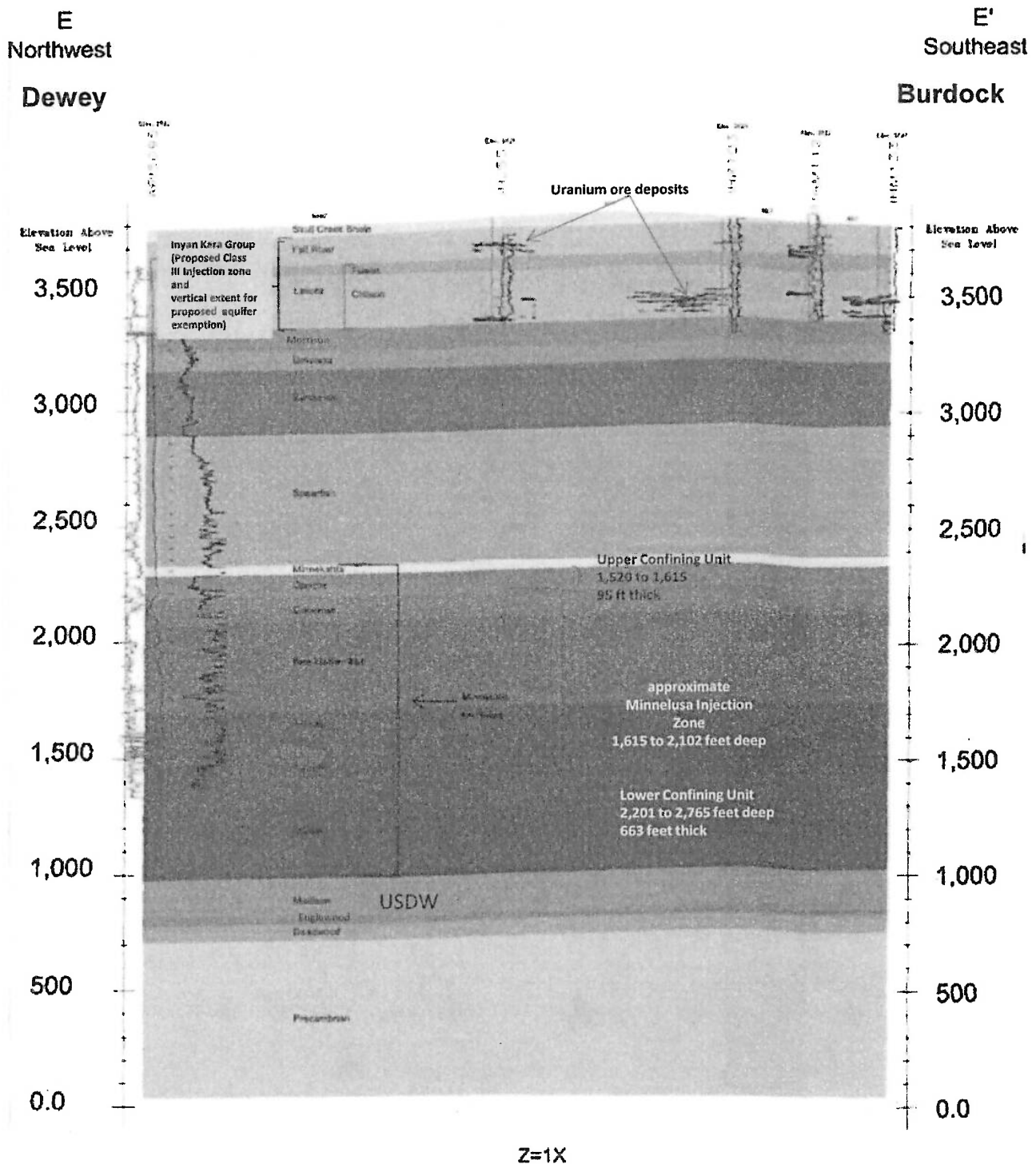


Figure 5. Stratigraphic cross-section of geologic formations present at the Dewey Burdock site and proposed injection zones for the Class III and deep Class V injections wells.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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Ref: 8WD-SDU

FEB 21 2020

Honorable Reggie Wassana
Governor
Cheyenne and Arapaho Tribes of Oklahoma
100 Red Moon Circle
P.O. Box 145
Concho, Oklahoma 73022

Re: U.S. Environmental Protection Agency Underground Injection Control Program
Timeframe for Tribal Consultation on the EPA's Proposed Actions for the Dewey-Burdock Uranium
Recovery Site near Edgemont, South Dakota

Dear Governor Wassana:

The EPA is approaching the end of the tribal consultation process on the EPA's proposed actions for the Dewey-Burdock Uranium Recovery Site near Edgemont, South Dakota. Because we have previously consulted with the Cheyenne and Arapaho Tribes of Oklahoma regarding this matter, we are reaching out to remind you of EPA's July 8, 2019 letter requesting tribal consultation with your Tribes.

The EPA is moving forward on final Underground Injection Control (UIC) permit decisions. Therefore, we are setting a deadline of March 6, 2020, for scheduling a tribal consultation meeting to be held by April 30, 2020. The EPA believes setting these deadlines is necessary to provide the EPA adequate time to give the Tribes' comments due consideration and develop a response to the Tribes on how the EPA has addressed the comments in the final UIC permit decisions.

If you have interest in following up on our previous tribal consultation, or consulting in response to EPA's July 8, 2019 letter, please contact me by phone at 303-312-6392 or by email at oconnor.darcy@epa.gov or have one of your staff contact Omar Sierra-Lopez of my staff by March 6 and work with him to schedule a tribal consultation meeting before April 30, 2020. Mr. Sierra-Lopez can be reached at (800) 227-8917, extension 312-7045 or (303) 312-7045; or by email at sierra-lopez.omar@epa.gov. I have enclosed the July 8, 2019, letter we sent to you that lists the topics we would particularly like to discuss with you.

If we do not hear from the Tribes by March 6, we will interpret the lack of response to indicate that at this time the Tribes have conveyed all the information it wishes to provide the EPA on these proposed EPA actions at the Dewey-Burdock uranium in-situ recovery site through previous consultation activities, specifically our meeting on September 11, 2019.

The EPA will follow up with a phone call to confirm that you received this letter and are aware of the timeframes discussed above.

Sincerely,

A handwritten signature in black ink, appearing to read 'Darcy O'Connor', with a long horizontal flourish extending to the right.

Darcy O'Connor, Director
Water Division

Enclosure (1)

cc: Mr. William Tall Bear
Mr. Damon Dunbar, Environmental Director
Mr. Max Bear, Historic Preservation Director
Mr. Antonio Church, Esq., Attorney



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
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JUL 08 2019

Ref: 8WD-SDU

Honorable Reggie Wassana
Governor
The Cheyenne and Arapaho Tribes of Oklahoma
100 Red Moon Circle P.O. Box 145
Concho, Oklahoma 73022

Re: U.S. Environmental Protection Agency Underground Injection Control Program
Invitation for Consultation on revised Draft Permits and related actions for the Dewey-Burdock
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Dear Governor Wassana:

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Consistent with the Treaty Rights guidance, the EPA would also like input from the The Cheyenne and Arapaho Tribes of Oklahoma on treaty rights related to our revised draft permitting actions. The EPA acknowledges that some tribes have previously provided written public comment stating their position that treaty rights would be impacted by the Draft Permits. Nevertheless, pursuant to the Treaty Rights guidance, EPA seeks input on the following questions:

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- (1) Changes from the first Draft UIC permits to the second Draft UIC permits;
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We understand that the The Cheyenne and Arapaho Tribes of Oklahoma may raise issues in consultation that should be kept confidential and nonpublic. During our consultation process, if there is information that you would like to provide, but that you believe should remain confidential, please specifically identify this information during our consultation meeting and we will explore options for keeping the information confidential in accordance with 36 CFR § 800.11(c). As we move forward with the

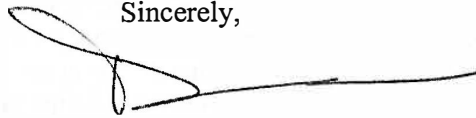
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If we do not hear from you by August 2, 2019, we will interpret this to mean that you do not wish to consult with the EPA at this time. The EPA would also welcome the opportunity to consult after the revised Draft Permits are issued to discuss these important issues.

We appreciate the The Cheyenne and Arapaho Tribes of Oklahoma's prompt attention to this important matter.

Sincerely,

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Darcy O'Connor, Director
Water Division

Enclosures (6)

cc: Damon Dunbar, Environmental Director
Max Bear, Tribal Historic Preservation Officer

Background Information on the Proposed Dewey-Burdock Uranium In-Situ Recovery Site

The Dewey-Burdock site is located north of Edgemont, South Dakota, in Fall River and Custer Counties as shown in the enclosed Figure 1. The EPA Region 8 UIC Program has received Class III and Class V injection well permit applications for this site from Powertech (USA) Inc. The Class III injection wells are related to uranium recovery; the Class V injection wells are deep wells for the disposal of treated process wastewater. The Class III permit application requests authorization for 14 injection well fields including approximately 2,330 wells to inject and recover fluids for the in-situ recovery of uranium. The Class V area permit application requests authorization for the injection of ISR process waste fluids (treated to meet radioactive and hazardous waste standards) into two proposed wells injecting into the Minnelusa Formation. The Class V area permit application requests authorization for up to four deep injection wells in case the two currently proposed wells do not have the capacity to dispose of the anticipated total volume of all ISR process waste fluids.

Powertech proposes using ponds to treat and store treated water that will be injected into the deep injection wells. The locations and configuration of the treatment ponds are shown in Figure 2. These ponds are not regulated under the UIC Program. Powertech will submit an application for review and approval of the pond construction design plan to the EPA Region 8 Air Program. The ponds will not allow infiltration into the subsurface. The ponds are not designed to be evaporation ponds, although some amount of evaporation will occur during storage of the treated water before it is injected into the deep injection wells. The evaporation process does not involve release of heavy metals, including uranium or other radioactive elements, into the air. The EPA has information about radiation at <http://www2.epa.gov/radiation>.

The total proposed project area consists of approximately 10,580 acres (4,282 ha) east and west of the Dewey Road (County Road 6463), including portions of Sections 1-5, 10-12, 14 and 15 in Township 7 South, Range 1 East and Sections 20, 21, 27, 28, 29, and 30-35 in Township 6 South, Range 1 East, Black Hills Meridian. The surface area that will actually be impacted by the uranium ore processing plants, the 14 proposed uranium in-situ recovery well fields, the two proposed deep injection wells, treatment and storage ponds, roads and other surface-disturbing facilities is less than the 10,580-acre project area. The enclosed Figure 1 is a map showing the project site location. Figure 3 is a map showing the locations of the proposed wellfields containing Class III injection wells and the site project boundary. Figure 4 shows the locations for the two proposed deep Class V injection wells. Figure 5 shows a stratigraphic cross section of geologic formations at the Dewey Burdock site and the proposed injection zones for both the Class III and Class V injection wells. The Powertech Dewey-Burdock Project Class III and Class V area permit applications, and other documents that are part of the permit administrative record, are available for public review on the EPA Region 8 UIC Program website at <https://www.epa.gov/uic/epa-dewey-burdock-class-iii-and-class-v-injection-well-draft-area-permits>.

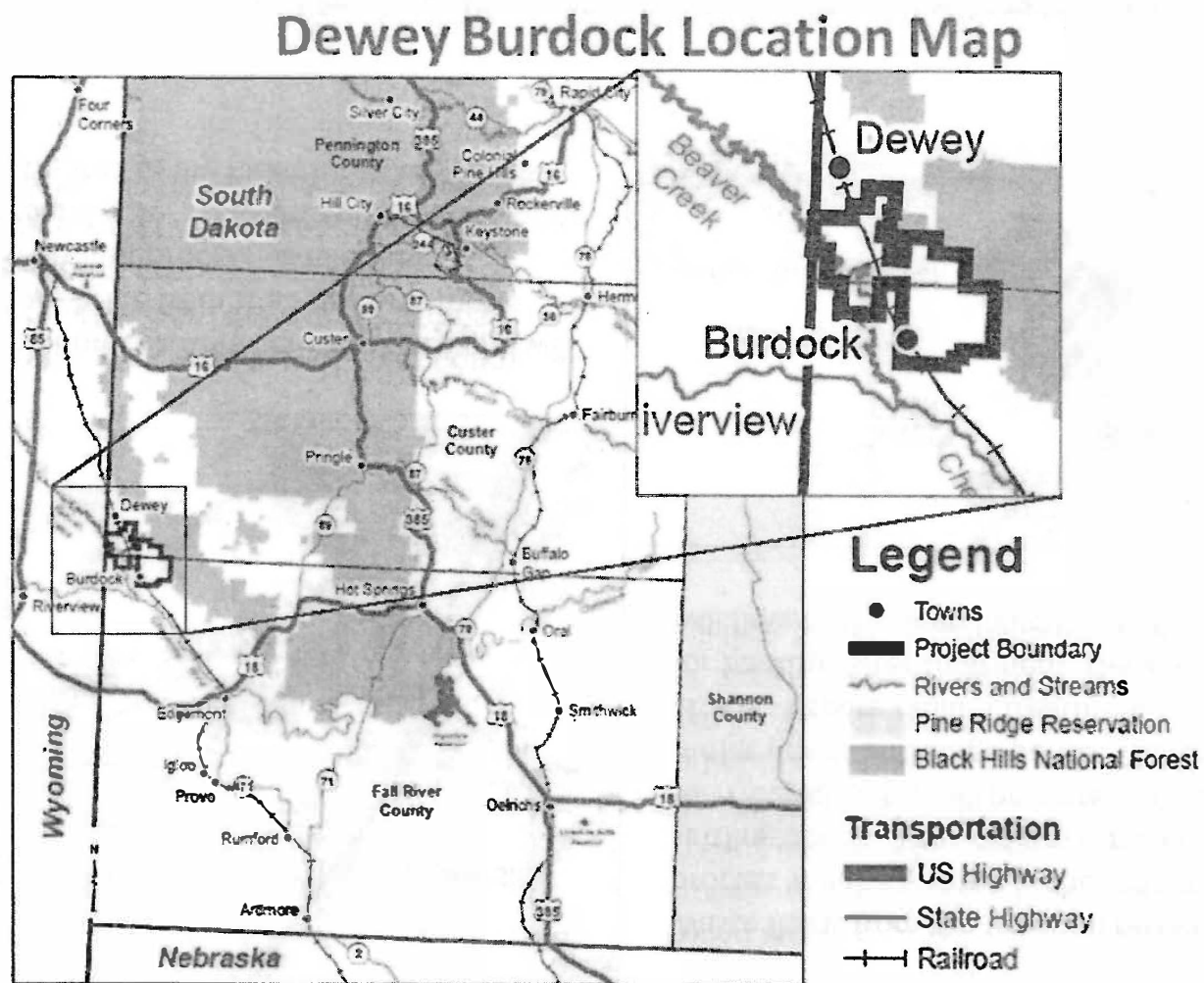
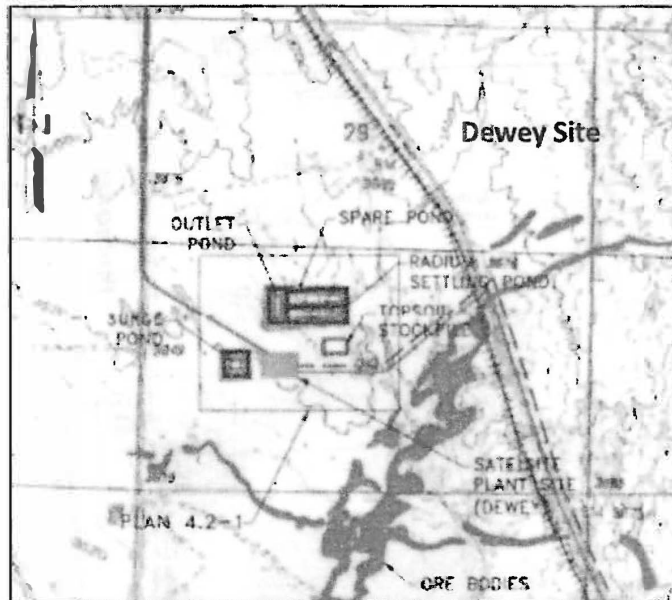


Figure 1. Map showing the location of the proposed Dewey-Burdock uranium recovery site.

Treatment and Storage Ponds for Deep Well Injectate



The Burdock Area central plant pond will store brine from the reverse osmosis treatment process used during groundwater restoration before the brine is treated in the radium settling ponds.

Waste fluids from the uranium recovery process will be treated in the radium settling ponds. After radium removal, the treated water will be stored in the outlet ponds and surge ponds. There will also be a spare radium treatment pond for backup. After treatment, the water will flow to the deep injection wells.

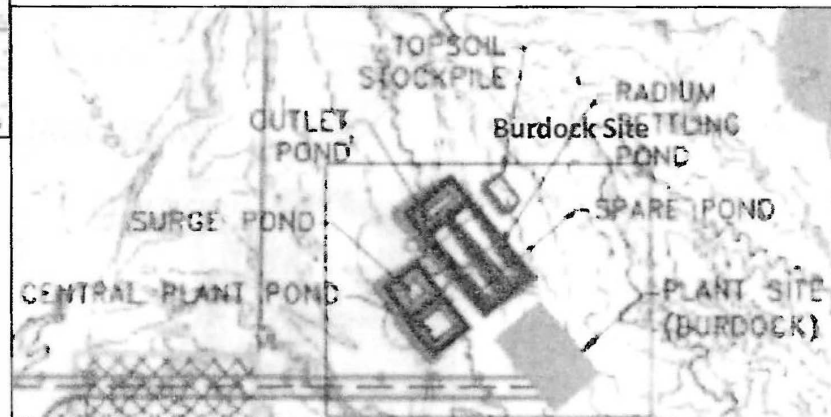


Figure 2. The Proposed Ponds for the Treatment and Storage of the Deep Injection Well Injectate.

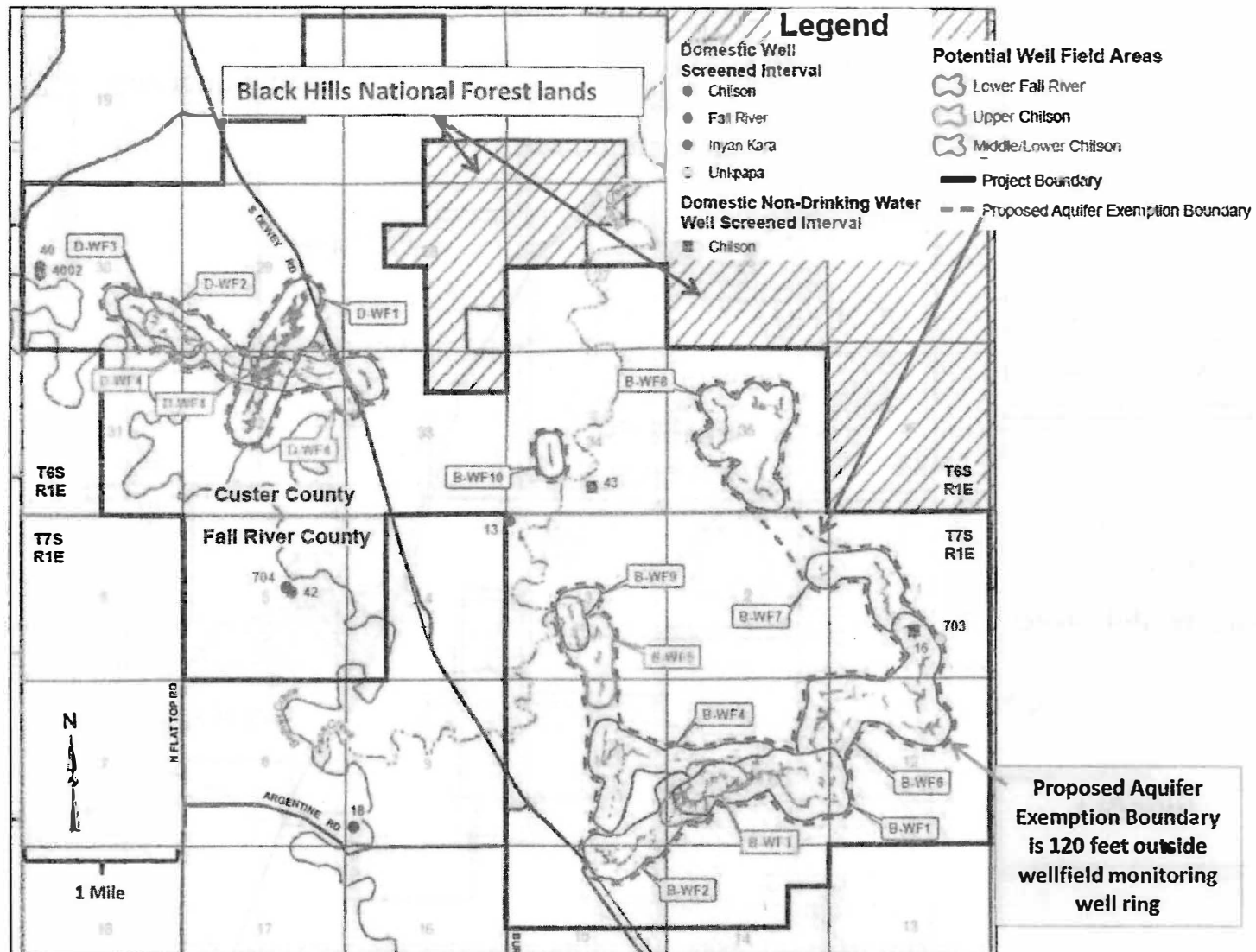


Figure 3. Map showing locations of the proposed wellfields containing Class III injection wells, the aquifer exemption boundary and the UIC permit boundary.

(Powertech may construct up to four deep injection wells.)



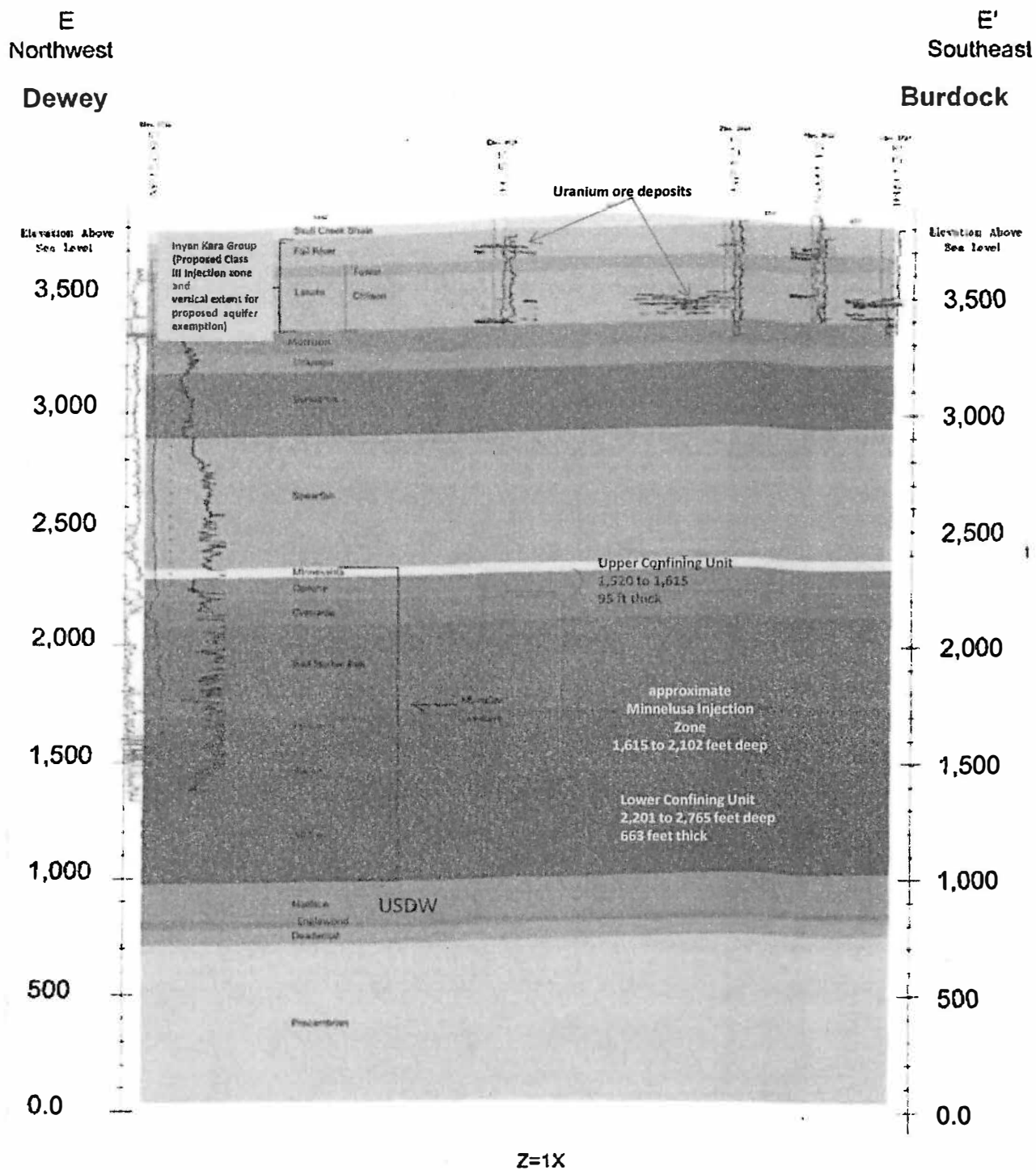


Figure 5. Stratigraphic cross-section of geologic formations present at the Dewey Burdock site and proposed injection zones for the Class III and deep Class V injections wells.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

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

Ref: 8WD-SDU

FEB 21 2020

Honorable Andrew Werk, Jr.
President
Fort Belknap Indian Community
The Gros Ventre and Assiniboine Tribes
656 Agency Main Street
Harlem, Montana 59526-9455

Re: U.S. Environmental Protection Agency Underground Injection Control Program
Timeframe for Tribal Consultation on the EPA's Proposed Actions for the Dewey-Burdock Uranium
Recovery Site near Edgemont, South Dakota

Dear President Werk:

The EPA is approaching the end of the tribal consultation process on the EPA's proposed actions for the Dewey-Burdock Uranium Recovery Site near Edgemont, South Dakota. Because we have previously consulted with the Fort Belknap Indian Community of the Fort Belknap Reservation of Montana regarding this matter, we are reaching out to remind you of EPA's July 8, 2019 letter requesting tribal consultation with your Tribes.

The EPA is moving forward on final Underground Injection Control (UIC) permit decisions. Therefore, we are setting a deadline of March 6, 2020, for scheduling a tribal consultation meeting to be held by April 30, 2020. The EPA believes setting these deadlines is necessary to provide the EPA adequate time to give the Tribes' comments due consideration and develop a response to the Tribes on how the EPA has addressed the comments in the final UIC permit decisions.

If you have interest in following up on our previous tribal consultation, or consulting in response to EPA's July 8, 2019 letter, please contact me by phone at 303-312-6392 or by email at occonnor.darcy@epa.gov or have one of your staff contact Omar Sierra-Lopez of my staff by March 6 and work with him to schedule a tribal consultation meeting before April 30, 2020. Mr. Sierra-Lopez can be reached at (800) 227-8917, extension 312-7045 or (303) 312-7045; or by email at sierra-lopez.omar@epa.gov. I have enclosed the July 8, 2019, letter we sent to you that lists the topics we would particularly like to discuss with you.

If we do not hear from the Tribes by March 6, we will interpret the lack of response to indicate that at this time the Tribes have conveyed all the information it wishes to provide the EPA on these proposed EPA actions at the Dewey-Burdock uranium in-situ recovery site through previous consultation activities, specifically our meeting on March 3, 2016.

The EPA will follow up with a phone call to confirm that you received this letter and are aware of the timeframes discussed above.

Sincerely,

A handwritten signature in black ink, appearing to read 'Darcy O'Connor', with a long horizontal flourish extending to the right.

Darcy O'Connor, Director
Water Division

Enclosure (1)

cc: Mr. Michael J. Black Wolf, Tribal Historic Preservation Officer
Ms. Ina Nez Perce, Environmental Manager



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JUL 08 2019

Ref: 8WD-SDU

Honorable Andrew Werk Jr.
President
The Gros Ventre and Assiniboine Tribes
656 Agency Main St
Harlem, Montana 59526-9455

Re: U.S. Environmental Protection Agency Underground Injection Control Program
Invitation for Consultation on revised Draft Permits and related actions for the Dewey-Burdock
Uranium Recovery Site near Edgemont, South Dakota

Dear President Werk Jr.:

The U.S. Environmental Protection Agency Region 8 Underground Injection Control (UIC) Program would like to consult with you, and any other representatives you would like to invite, on revised Draft Permits for injection wells and an updated draft Environmental Justice Analysis for the proposed Dewey-Burdock uranium in-situ recovery (ISR) site near Edgemont, South Dakota. The EPA anticipates issuing the revised Draft Permits in August 2019.

In March 2017, the EPA UIC Program issued two Draft Permits for Powertech (USA) Inc.: one for Class III injection wells used during the uranium recovery process; the second for deep injection wells for the disposal of treated ISR process waste water. The EPA also issued a draft Environmental Justice Analysis at that time. After considering comments received during the public comment period, the EPA has decided to issue revised Draft Permits, a revised draft Environmental Justice Analysis, a revised Aquifer Exemption Record of Decision and an updated document describing the EPA's plan for compliance with section 106 of the National Historic Preservation Act.

The location of the Dewey-Burdock site is shown in the enclosed Figure 1. For additional information about the proposed Dewey-Burdock site, please see the enclosed page entitled *Background Information on the Proposed Dewey-Burdock Uranium In-Situ Recovery Site* and enclosed Figures 1 through 5.

Environmental Justice Analysis

During consultation, we plan to present information about the revised draft Environmental Justice Analysis, specifically related to the The Gros Ventre and Assiniboine Tribes' interest in the Black Hills as a sacred site. We also welcome any input the Tribe would be willing to offer to assist the EPA in presenting an accurate picture of environmental justice issues related to the Black Hills.

The EPA Tribal Consultation Policy

It is the EPA's policy to consult on a government-to-government basis with federally recognized tribal governments when EPA actions and decisions may affect tribal interests. The EPA views consultation as a process of meaningful communication and coordination between the EPA and tribal officials prior to the EPA taking actions or implementing decisions that may affect tribes. For information about the EPA *Policy on Consultation and Coordination with Indian Tribes* please visit the following website: <https://www.epa.gov/tribal/forms/consultation-and-coordination-tribes>.

The EPA also developed the *Policy on Consultation and Coordination with Indian Tribes: Guidance for Discussing Tribal Treaty Rights* (Treaty Rights guidance) to complement the EPA's general *Policy on Consultation and Coordination with Indian Tribes*. The Treaty Rights guidance provides affirmative steps for the Agency to take during tribal consultations when an EPA action occurs in a specific geographic location and a resource-based treaty right, or an environmental condition necessary to support the resource, may be affected by the EPA's action. The Treaty Rights guidance was developed after nationwide tribal consultation. This guidance document is found at the following website: https://www.epa.gov/tribal/forms/consultation-and-coordination-tribes#treaty_rights.

Consistent with the Treaty Rights guidance, the EPA would also like input from the The Gros Ventre and Assiniboine Tribes on treaty rights related to our revised draft permitting actions. The EPA acknowledges that some tribes have previously provided written public comment stating their position that treaty rights would be impacted by the Draft Permits. Nevertheless, pursuant to the Treaty Rights guidance, EPA seeks input on the following questions:

- (1) Do treaties exist within the project area?
- (2) What treaty rights exist in or what treaty-protected resources rely upon the project area? Among other things, have treaty-based groundwater rights in the project area been recognized by judicial decree or congressional settlement?
- (3) How are treaty rights potentially affected by the revised Draft Permits?
- (4) Any concerns you have related to treaty rights.

The EPA has a separate responsibility under section 106 of the National Historic Preservation Act (NHPA) to consult with tribes that attach religious and cultural significance to historic properties that may be affected by an undertaking. Accordingly, we invite the The Gros Ventre and Assiniboine Tribes to engage in government-to-government consultation under section 106. Wherever appropriate, the EPA attempts to integrate this section 106 consultation with general consultation under our Tribal Consultation Policy. Therefore, we propose the following potential topics for consultation:

- (1) Changes from the first Draft UIC permits to the second Draft UIC permits;
- (2) Any concerns you may have about the proposed Dewey-Burdock project and the UIC permitting actions; and
- (3) Potential historic properties, including those of traditional religious and cultural importance, within the Dewey-Burdock area of potential effect.

We understand that the The Gros Ventre and Assiniboine Tribes may raise issues in consultation that should be kept confidential and nonpublic. During our consultation process, if there is information that you would like to provide, but that you believe should remain confidential, please specifically identify this information during our consultation meeting and we will explore options for keeping the information confidential in accordance with 36 CFR § 800.11(c). As we move forward with the consultation process,


please be aware that any information you provide to the EPA in writing will become a part of the public record unless other arrangements are made to maintain confidentiality.

We are requesting a reply from you as to whether the The Gros Ventre and Assiniboine Tribes wishes to consult with the EPA. If you are interested in meeting with the EPA, please reply by August 2, 2019. Consultation requests should be submitted to Valois Robinson of my staff, who can be reached at (800) 227-8917, extension 312-6276 or (303) 312-6276; or by email at robinson.valois@epa.gov. Please include a point of contact for the Tribe so we can keep you informed as the EPA moves forward with this consultation process.

If we do not hear from you by August 2, 2019, we will interpret this to mean that you do not wish to consult with the EPA at this time. The EPA would also welcome the opportunity to consult after the revised Draft Permits are issued to discuss these important issues.

We appreciate the The Gros Ventre and Assiniboine Tribes' prompt attention to this important matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Darcy O'Connor', with a long horizontal flourish extending to the right.

Darcy O'Connor, Director
Water Division

Enclosures (6)

cc: Ina Nez Perce, Environmental Director
Michael J. Black Wolf, Tribal Historic Preservation Officer

Background Information on the Proposed Dewey-Burdock Uranium In-Situ Recovery Site

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The total proposed project area consists of approximately 10,580 acres (4,282 ha) east and west of the Dewey Road (County Road 6463), including portions of Sections 1-5, 10-12, 14 and 15 in Township 7 South, Range 1 East and Sections 20, 21, 27, 28, 29, and 30-35 in Township 6 South, Range 1 East, Black Hills Meridian. The surface area that will actually be impacted by the uranium ore processing plants, the 14 proposed uranium in-situ recovery well fields, the two proposed deep injection wells, treatment and storage ponds, roads and other surface-disturbing facilities is less than the 10,580-acre project area. The enclosed Figure 1 is a map showing the project site location. Figure 3 is a map showing the locations of the proposed wellfields containing Class III injection wells and the site project boundary. Figure 4 shows the locations for the two proposed deep Class V injection wells. Figure 5 shows a stratigraphic cross section of geologic formations at the Dewey Burdock site and the proposed injection zones for both the Class III and Class V injection wells. The Powertech Dewey-Burdock Project Class III and Class V area permit applications, and other documents that are part of the permit administrative record, are available for public review on the EPA Region 8 UIC Program website at <https://www.epa.gov/uic/epa-dewey-burdock-class-iii-and-class-v-injection-well-draft-area-permits>.

Dewey Burdock Location Map

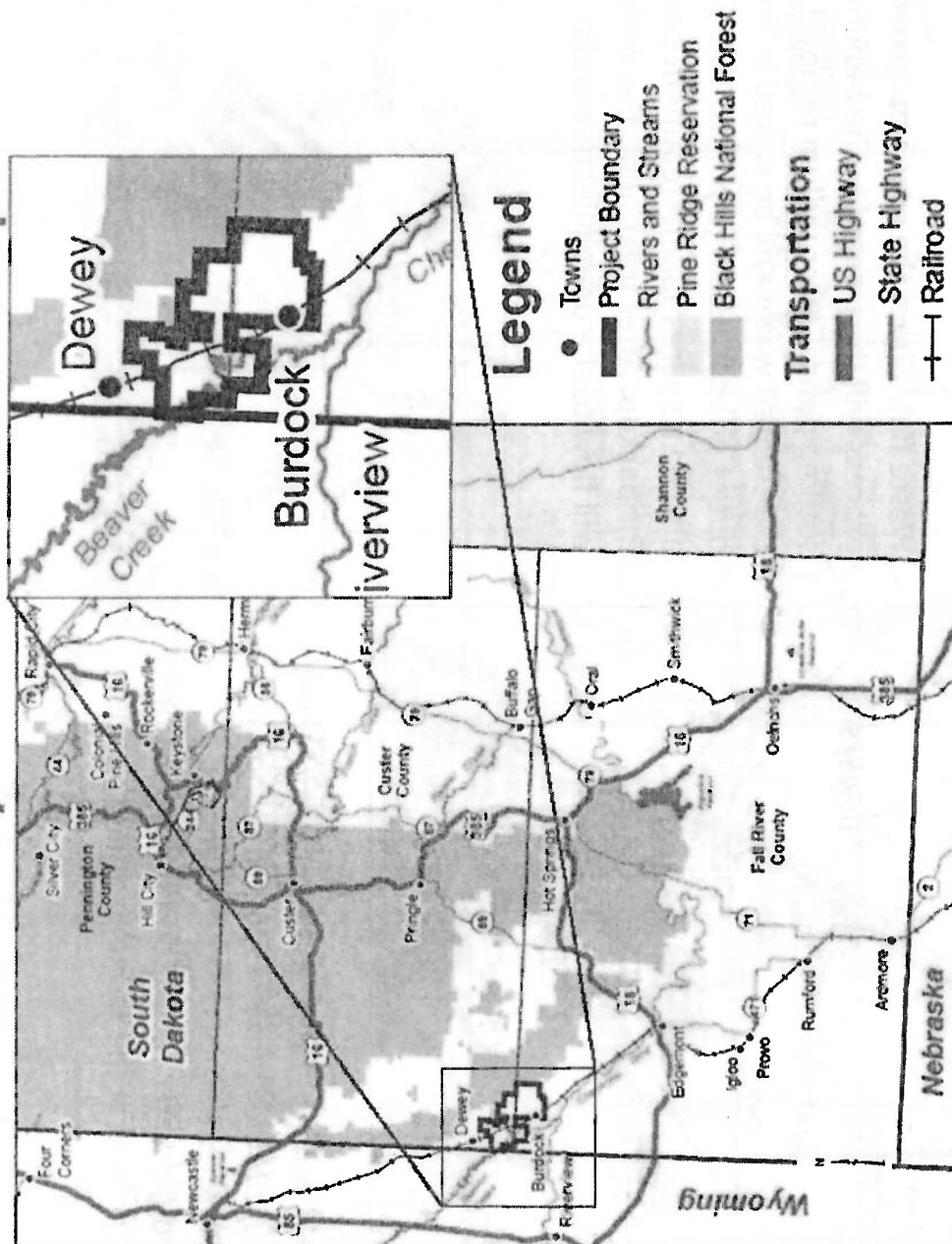
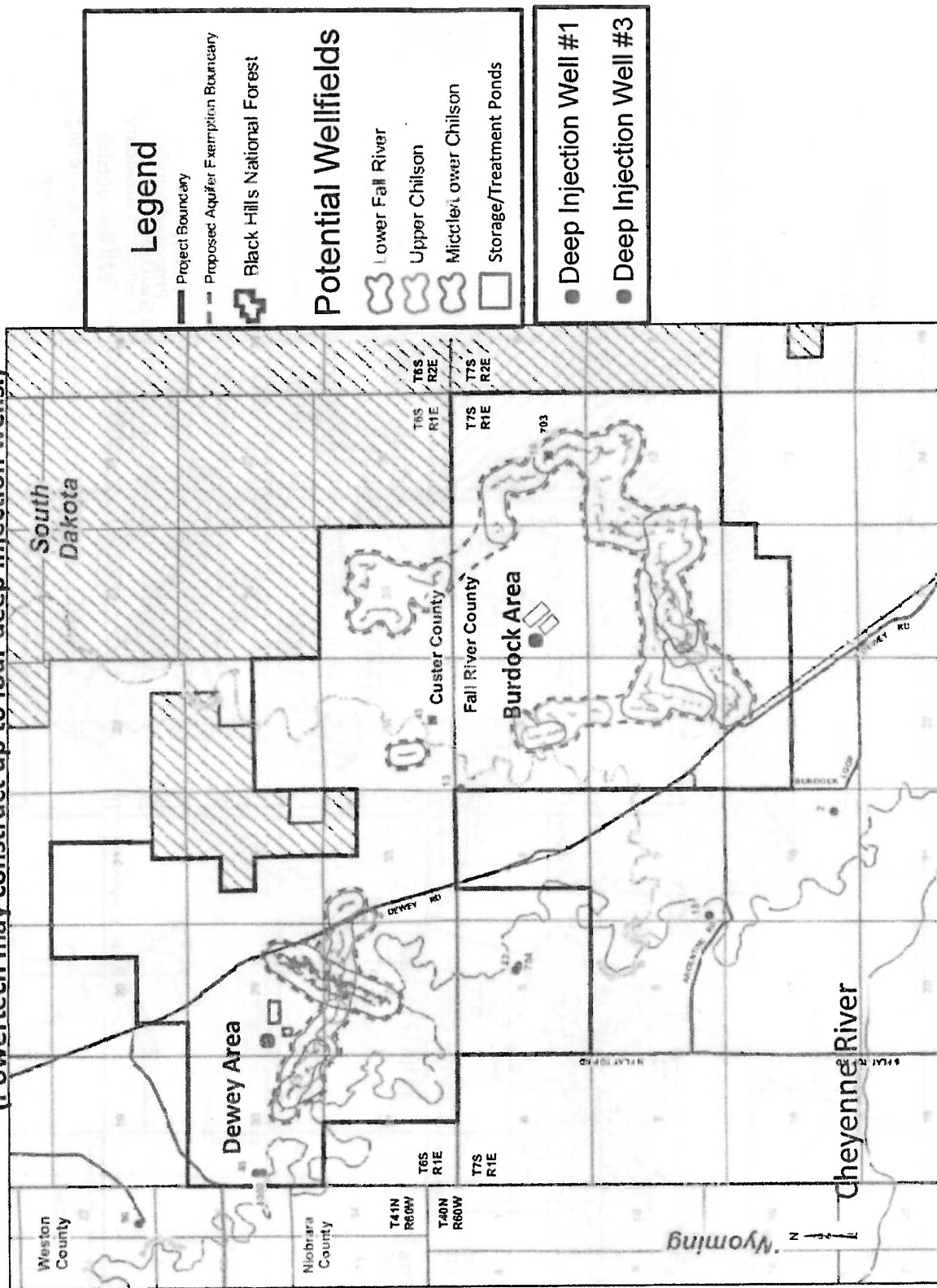


Figure 1. Map showing the location of the proposed Dewey-Burdock uranium recovery site.

**Figure 4. Map showing locations for the two currently proposed deep injection wells.
(Powertech may construct up to four deep injection wells.)**



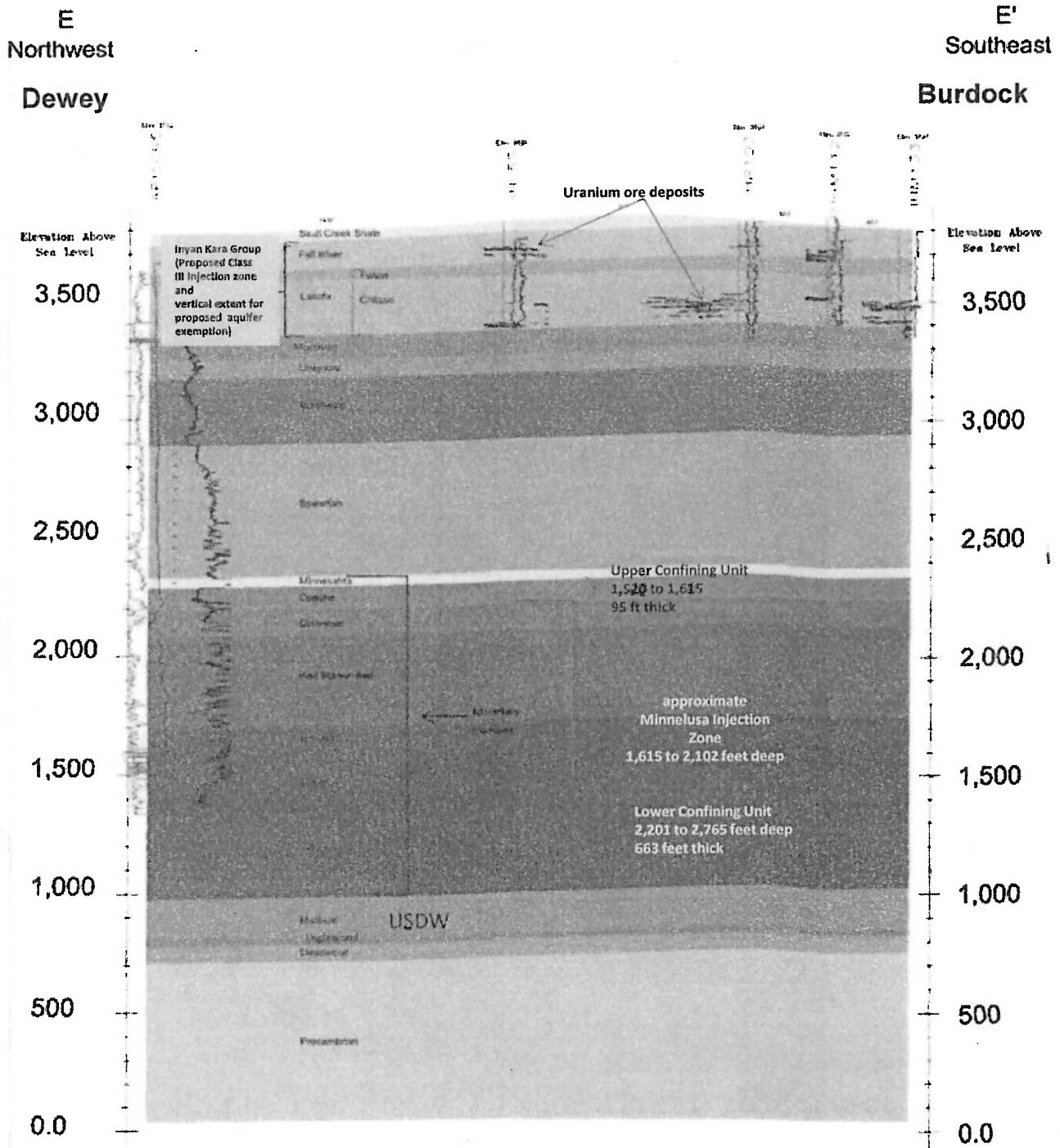


Figure 5. Stratigraphic cross-section of geologic formations present at the Dewey Burdock site and proposed injection zones for the Class III and deep Class V injections wells.



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Ref: 8WD-SDU

FEB 21 2020

Honorable Shelley Buck
President
Prairie Island Indian Community
5636 Sturgeon Lake Road
Welch, Minnesota 55089

Re: U.S. Environmental Protection Agency Underground Injection Control Program
Timeframe for Tribal Consultation on the EPA's Proposed Actions for the Dewey-Burdock Uranium
Recovery Site near Edgemont, South Dakota

Dear President Buck:

The EPA is approaching the end of the tribal consultation process on the EPA's proposed actions for the Dewey-Burdock Uranium Recovery Site near Edgemont, South Dakota. Because we have previously consulted with the Prairie Island Indian Community regarding this matter, we are reaching out to remind you of EPA's July 8, 2019 letter requesting tribal consultation with your Tribe.

The EPA is moving forward on final Underground Injection Control (UIC) permit decisions. Therefore, we are setting a deadline of March 6, 2020, for scheduling a tribal consultation meeting to be held by April 30, 2020. The EPA believes setting these deadlines is necessary to provide the EPA adequate time to give the Tribe's comments due consideration and develop a response to the Tribe on how the EPA has addressed the comments in the final UIC permit decisions.

If you have interest in following up on our previous tribal consultation, or consulting in response to EPA's July 8, 2019 letter, please contact me by phone at 303-312-6392 or by email at connor.darcy@epa.gov or have one of your staff contact Omar Sierra-Lopez of my staff by March 6 and work with him to schedule a tribal consultation meeting before April 30, 2020. Mr. Sierra-Lopez can be reached at (800) 227-8917, extension 312-7045 or (303) 312-7045; or by email at sierra-lopez.omar@epa.gov. I have enclosed the July 8, 2019, letter we sent to you that lists the topics we would particularly like to discuss with you.

If we do not hear from the Tribe by March 6, we will interpret the lack of response to indicate that at this time the Tribe has conveyed all the information it wishes to provide the EPA on these proposed EPA actions at the Dewey-Burdock uranium in-situ recovery site through previous consultation activities, specifically our webinar on February 22, 2016.

The EPA will follow up with a phone call to confirm that you received this letter and are aware of the timeframes discussed above.

Sincerely,

A handwritten signature in black ink, consisting of a large, stylized loop followed by a horizontal line that tapers off to the right.

Darcy O'Connor, Director
Water Division

Enclosure (1)

cc: Mr. Noah White, Tribal Historic Preservation Officer
Mr. Gabriel Miller, Environmental Manager



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JUL 08 2019

Ref: 8WD-SDU

Honorable Shelley Buck
President
The Prairie Island Indian Community
5636 Sturgeon Lake Road
Welch, Minnesota 55089

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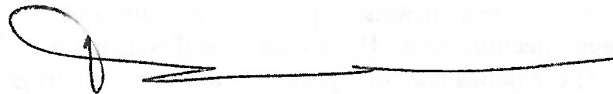
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Darcy O'Connor, Director
Water Division

Enclosures (6)

cc: Gabe Miller, Environmental Program Manager
Noah White, Tribal Historic Preservation Officer

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Dewey Burdock Location Map

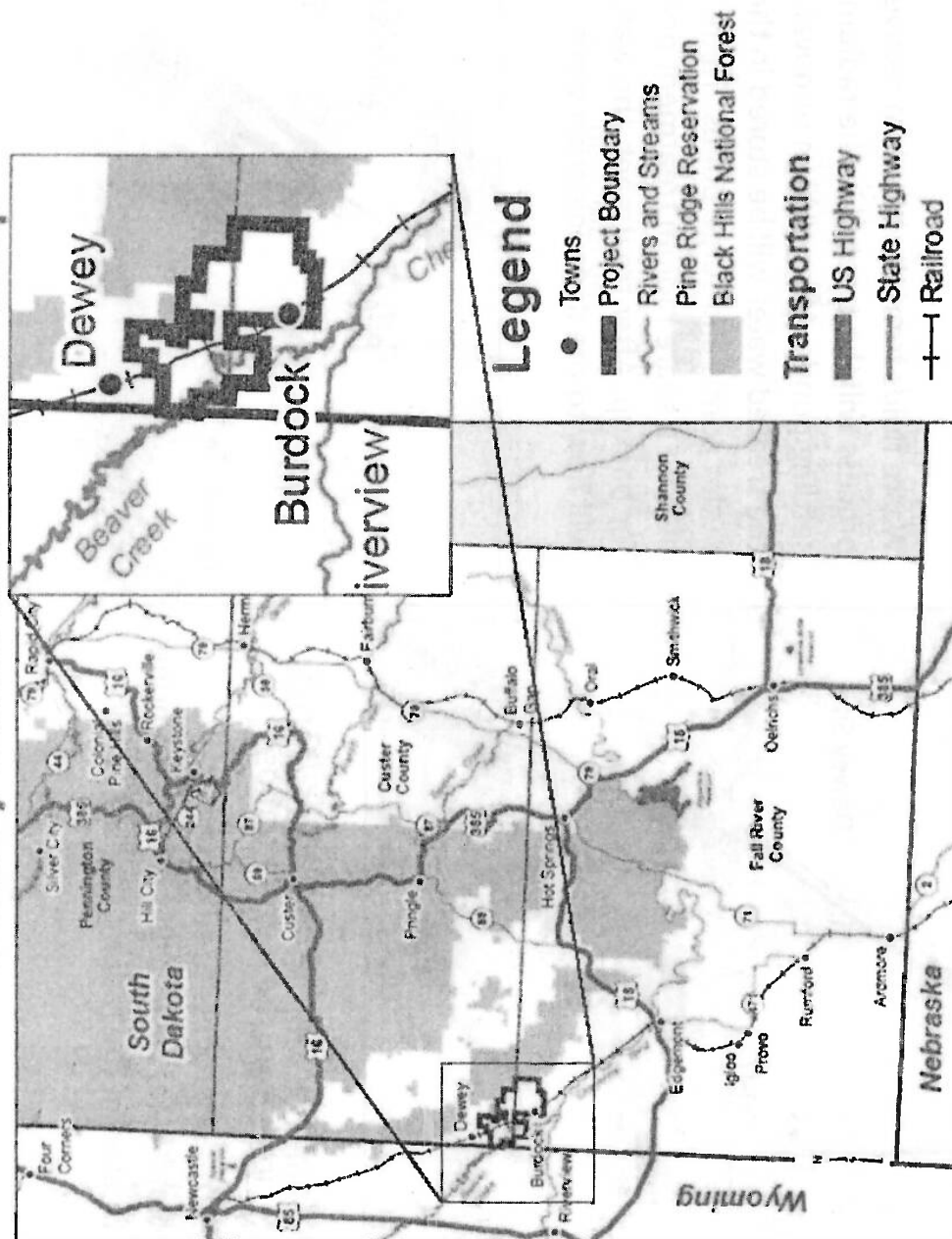
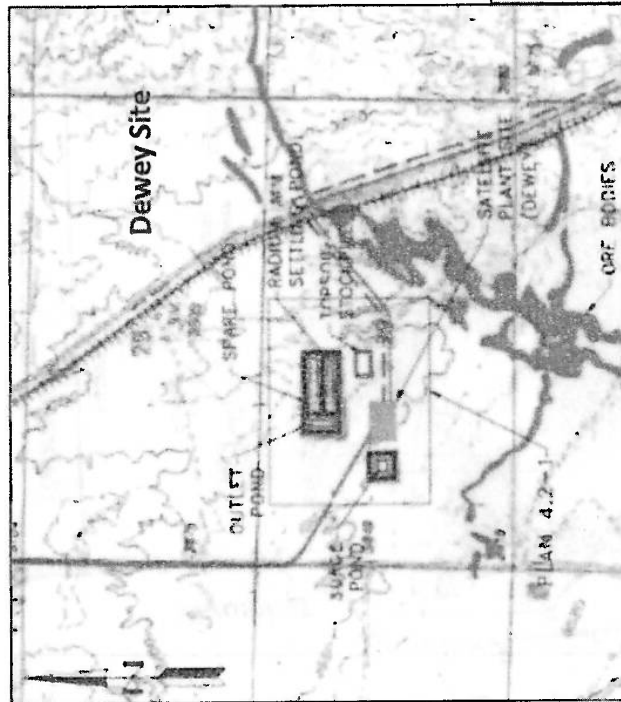


Figure 1. Map showing the location of the proposed Dewey-Burdock uranium recovery site.

Treatment and Storage Ponds for Deep Well Injectate



The Burdock Area central plant pond will store brine from the reverse osmosis treatment process used during groundwater restoration before the brine is treated in the radium settling ponds.

Waste fluids from the uranium recovery process will be treated in the radium settling ponds. After radium removal, the treated water will be stored in the outlet ponds and surge ponds. There will also be a spare radium treatment pond for backup. After treatment, the water will flow to the deep injection wells.

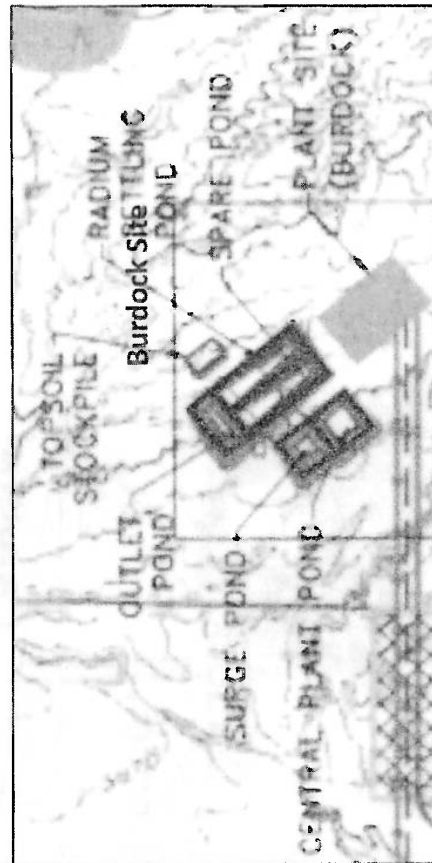


Figure 2. The Proposed Ponds for the Treatment and Storage of the Deep Injection Well Injectate.

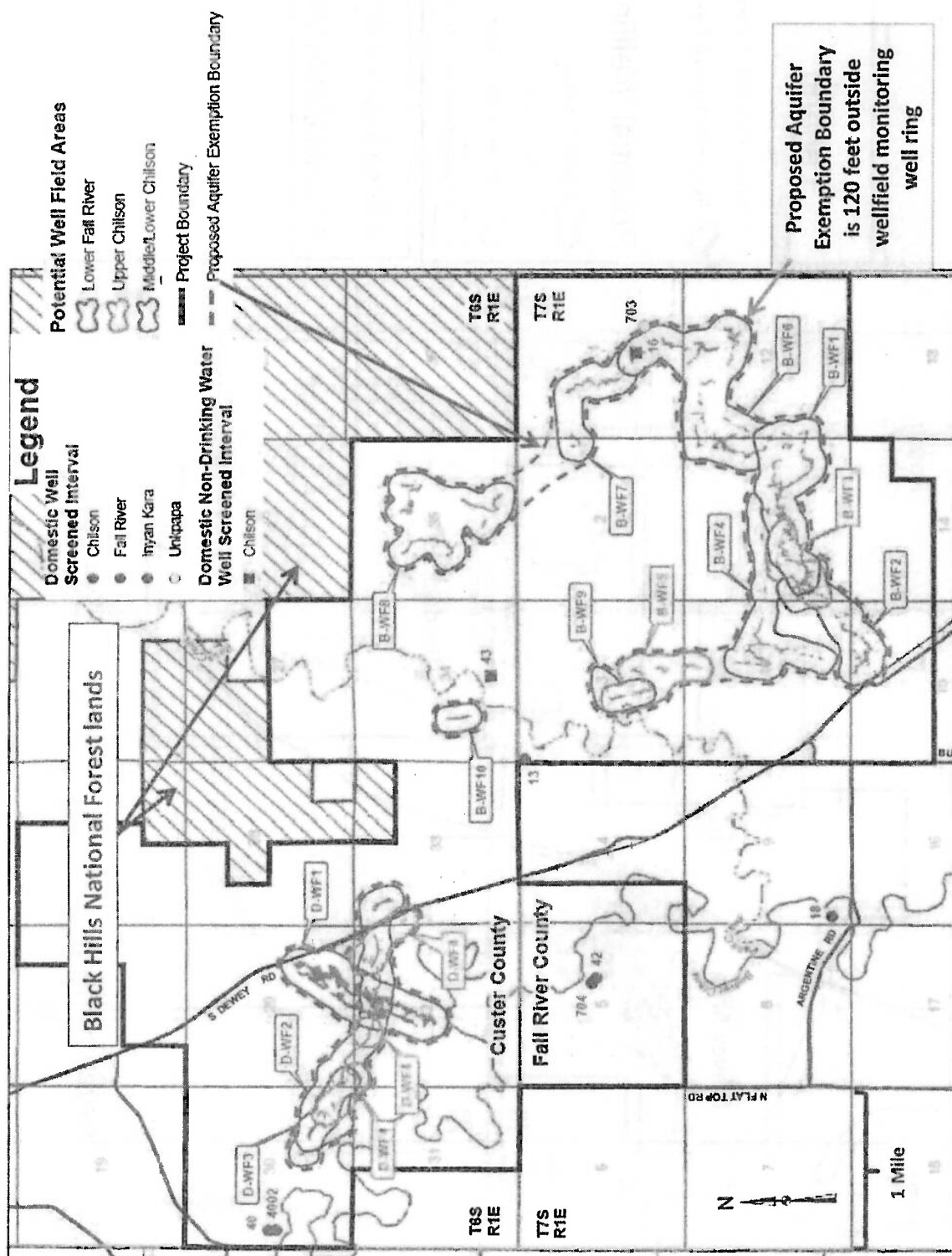
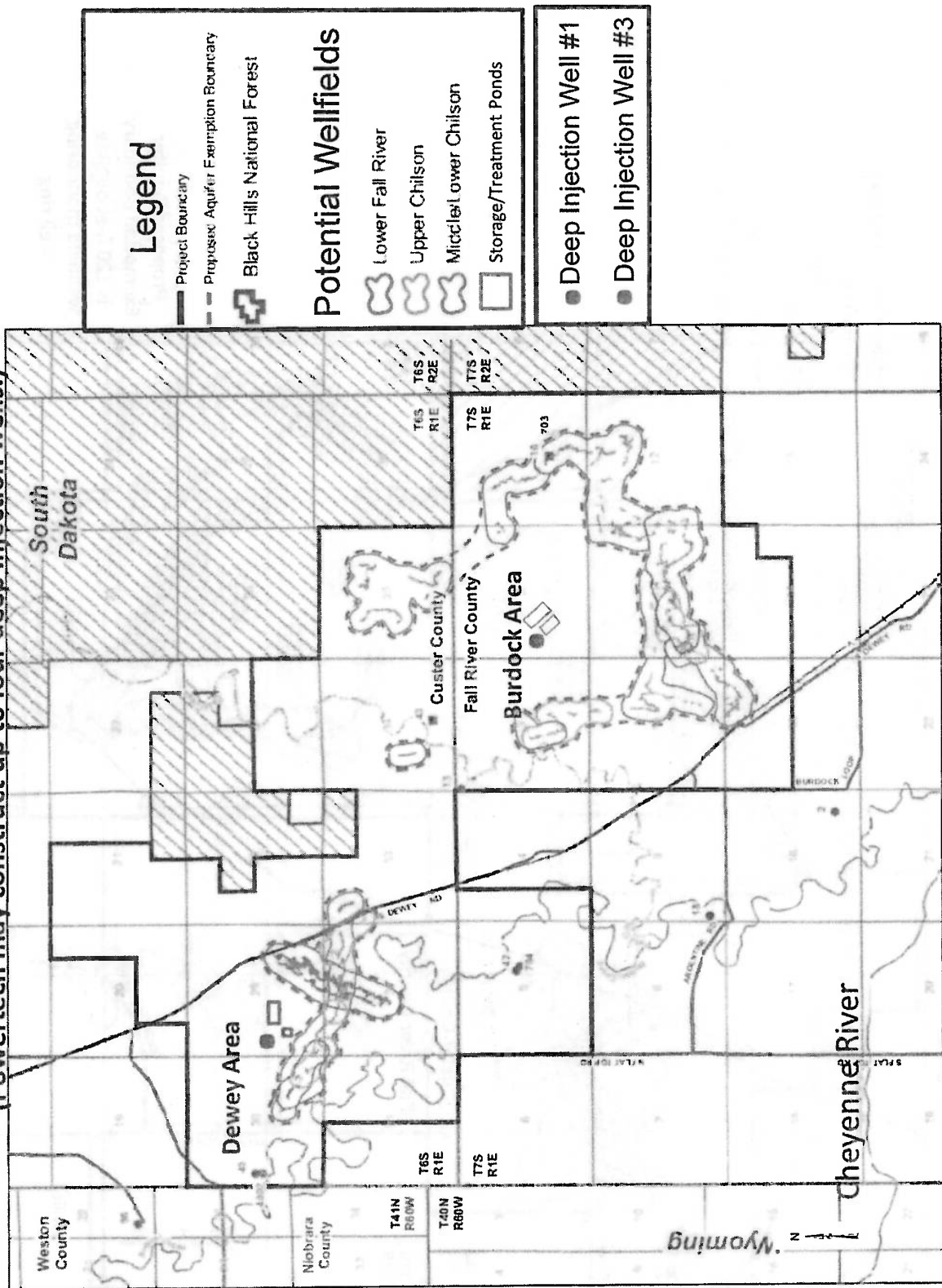


Figure 3. Map showing locations of the proposed wellfields containing Class III injection wells, the aquifer exemption boundary and the UIC permit boundary.

Figure 4. Map showing locations for the two currently proposed deep injection wells.
(Powertech may construct up to four deep injection wells.)



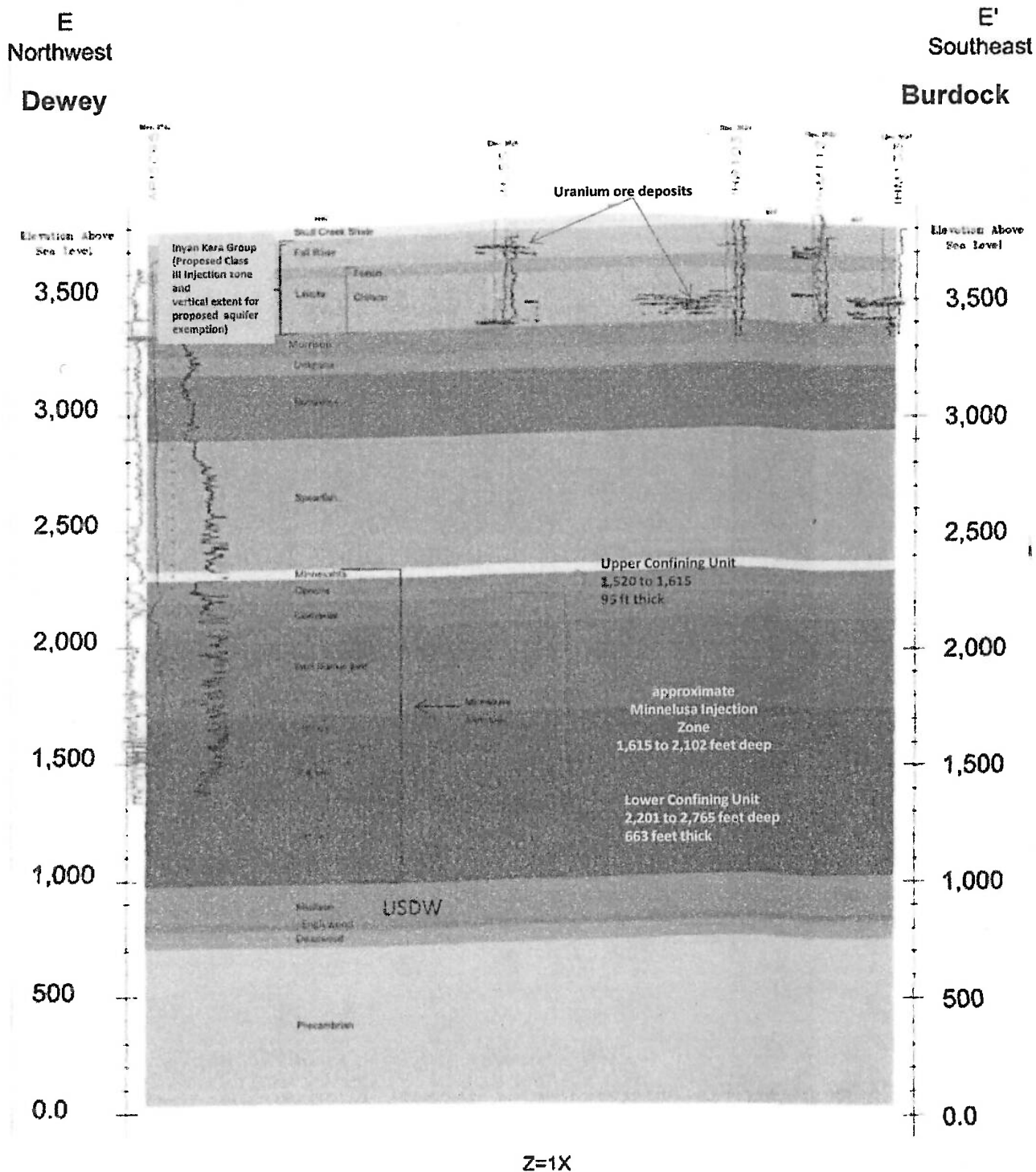


Figure 5. Stratigraphic cross-section of geologic formations present at the Dewey Burdock site and proposed injection zones for the Class III and deep Class V injections wells.

From: [Minter, Douglas](#)
To: [Robinson, Valois](#)
Subject: FW: EPA R8: Underground Injection Control Program for Dewey-Burdock Draft Permits - Consultation Invitation and Timeline
Date: Wednesday, December 16, 2020 1:41:22 PM
Attachments: [EPA Letter FtPeck.pdf](#)

From: Minter, Douglas
Sent: Tuesday, February 25, 2020 7:39 AM
To: d.youpee@fortpecktribes.net
Subject: EPA R8: Underground Injection Control Program for Dewey-Burdock Draft Permits - Consultation Invitation and Timeline

Greetings Diane: I am resending this as a courtesy copy since we didn't have your address quite right previously.

Sincerely,

Douglas Minter

From: Minter, Douglas
Sent: Monday, February 24, 2020 4:50 PM
To: fazure@fortpecktribes.net
Cc: dyoupee@fortpecktribes.net; martinawilson@fortpecktribes.net; Varilek, Kimberly <Varilek.Kimberly@epa.gov>; Sierra-Lopez, Omar <Sierra-Lopez.Omar@epa.gov>; Hammer, Diana <Hammer.Diana@epa.gov>
Subject: EPA R8: Underground Injection Control Program for Dewey-Burdock Draft Permits - Consultation Invitation and Timeline

Greetings Chairman Azure: I'm forwarding a digital copy of the letter the EPA Region 8 Water Division is mailing to you regarding the Fort Peck Tribes' interest in consulting on EPA Region 8's Dewey Burdock In-Situ Draft Permits re-issued in 2019.

Given the Tribes' stated interest during an August 20, 2019 web conference meeting in response to our July 8, 2019 invitation to consult, please let us know if you are still interested in scheduling consultation with EPA Region 8 by contacting our offices as soon as possible. In the letter enclosed, the Region asks for your response by March 6, 2020, in communicating the Tribes' interest to consult with the expectation that we would hold a consultation meeting with you by April 30, 2020 to inform our Final Permit decisions later this year.

Please let me know if you have any questions, or feel free to reach out to Darcy O'Connor at (303) 312-6392 or oonconnor.darcy@epa.gov, or Kim Varilek at (303) 312-6264 or varilek.kimberly@epa.gov.

We look forward to hearing from you as soon as possible and preferably by March 6, 2020.

Sincerely,

Douglas Minter, MPH
UIC Section Chief
1595 Wynkoop Street
USEPA Region 8

(303) 312 6079

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

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Denver, CO 80202-1129
Phone 800-227-8917
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Ref: 8WD-SDU

FEB 21 2020

Honorable Floyd Azure
Chairman
Fort Peck Assiniboine and Sioux Tribes
501 Medicine Bear Road
PO Box 1027
Poplar, Montana 59255

Re: U.S. Environmental Protection Agency Underground Injection Control Program
Timeframe for Tribal Consultation on the EPA's Proposed Actions for the Dewey-Burdock Uranium
Recovery Site near Edgemont, South Dakota

Dear Chairman Azure:

The EPA is approaching the end of the tribal consultation process on the EPA's proposed actions for the Dewey-Burdock Uranium Recovery Site near Edgemont, South Dakota. Because we have previously consulted with the Fort Peck Assiniboine and Sioux Tribes regarding this matter, we are reaching out to remind you of EPA's July 8, 2019 letter requesting tribal consultation with your Tribes.

The EPA is moving forward on final Underground Injection Control (UIC) permit decisions. Therefore, we are setting a deadline of March 6, 2020, for scheduling a tribal consultation meeting to be held by April 30, 2020. The EPA believes setting these deadlines is necessary to provide the EPA adequate time to give the Tribes' comments due consideration and develop a response to the Tribes on how the EPA has addressed the comments in the final UIC permit decisions.

If you have interest in following up on our previous tribal consultation, or consulting in response to EPA's July 8, 2019 letter, please contact me by phone at 303-312-6392 or by email at oconnor.darcy@epa.gov or have one of your staff contact Omar Sierra-Lopez of my staff by March 6 and work with him to schedule a tribal consultation meeting before April 30, 2020. Mr. Sierra-Lopez can be reached at (800) 227-8917, extension 312-7045 or (303) 312-7045; or by email at sierra-lopez.omar@epa.gov. I have enclosed the July 8, 2019, letter we sent to you that lists the topics we would particularly like to discuss with you.

If we do not hear from the Tribes by March 6, we will interpret the lack of response to indicate that at this time the Tribes have conveyed all the information it wishes to provide the EPA on these proposed EPA actions at the Dewey-Burdock uranium in-situ recovery site through previous consultation activities, specifically our web conference meeting on August 20, 2019.

The EPA will follow up with a phone call to confirm that you received this letter and are aware of the timeframes discussed above.

Sincerely,

A handwritten signature in black ink, consisting of a large, stylized loop followed by a long, horizontal stroke that tapers off to the right.

Darcy O'Connor, Director
Water Division

Enclosure (1)

cc: Mr. Damon Dunbar, Environmental Director
Mr. Max Bear, Historic Preservation Director
Mr. Antonio Church, Esq., Attorney



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REGION 8

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Denver, CO 80202-1129
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JUL 08 2019

Ref: 8WD-SDU

Honorable Floyd Azure
Chairman
The Fort Peck Assiniboiné and Sioux Tribes
P.O. Box 1027
Poplar, Montana 59255

Re: U.S. Environmental Protection Agency Underground Injection Control Program
Invitation for Consultation on revised Draft Permits and related actions for the Dewey-Burdock
Uranium Recovery Site near Edgemont, South Dakota

Dear Chairman Azure:

The U.S. Environmental Protection Agency Region 8 Underground Injection Control (UIC) Program would like to consult with you, and any other representatives you would like to invite, on revised Draft Permits for injection wells and an updated draft Environmental Justice Analysis for the proposed Dewey-Burdock uranium in-situ recovery (ISR) site near Edgemont, South Dakota. The EPA anticipates issuing the revised Draft Permits in August 2019.

In March 2017, the EPA UIC Program issued two Draft Permits for Powertech (USA) Inc.: one for Class III injection wells used during the uranium recovery process; the second for deep injection wells for the disposal of treated ISR process waste water. The EPA also issued a draft Environmental Justice Analysis at that time. After considering comments received during the public comment period, the EPA has decided to issue revised Draft Permits, a revised draft Environmental Justice Analysis, a revised Aquifer Exemption Record of Decision and an updated document describing the EPA's plan for compliance with section 106 of the National Historic Preservation Act.

The location of the Dewey-Burdock site is shown in the enclosed Figure 1. For additional information about the proposed Dewey-Burdock site, please see the enclosed page entitled *Background Information on the Proposed Dewey-Burdock Uranium In-Situ Recovery Site* and enclosed Figures 1 through 5.

Environmental Justice Analysis

During consultation, we plan to present information about the revised draft Environmental Justice Analysis, specifically related to the The Fort Peck Assiniboiné and Sioux Tribes' interest in the Black Hills as a sacred site. We also welcome any input the Tribe would be willing to offer to assist the EPA in presenting an accurate picture of environmental justice issues related to the Black Hills.

The EPA Tribal Consultation Policy

It is the EPA's policy to consult on a government-to-government basis with federally recognized tribal governments when EPA actions and decisions may affect tribal interests. The EPA views consultation as a process of meaningful communication and coordination between the EPA and tribal officials prior to the EPA taking actions or implementing decisions that may affect tribes. For information about the EPA *Policy on Consultation and Coordination with Indian Tribes* please visit the following website: <https://www.epa.gov/tribal/forms/consultation-and-coordination-tribes>.

The EPA also developed the *Policy on Consultation and Coordination with Indian Tribes: Guidance for Discussing Tribal Treaty Rights* (Treaty Rights guidance) to complement the EPA's general *Policy on Consultation and Coordination with Indian Tribes*. The Treaty Rights guidance provides affirmative steps for the Agency to take during tribal consultations when an EPA action occurs in a specific geographic location and a resource-based treaty right, or an environmental condition necessary to support the resource, may be affected by the EPA's action. The Treaty Rights guidance was developed after nationwide tribal consultation. This guidance document is found at the following website: https://www.epa.gov/tribal/forms/consultation-and-coordination-tribes#treaty_rights.

Consistent with the Treaty Rights guidance, the EPA would also like input from the The Fort Peck Assiniboiné and Sioux Tribes on treaty rights related to our revised draft permitting actions. The EPA acknowledges that some tribes have previously provided written public comment stating their position that treaty rights would be impacted by the Draft Permits. Nevertheless, pursuant to the Treaty Rights guidance, EPA seeks input on the following questions:

- (1) Do treaties exist within the project area?
- (2) What treaty rights exist in or what treaty-protected resources rely upon the project area? Among other things, have treaty-based groundwater rights in the project area been recognized by judicial decree or congressional settlement?
- (3) How are treaty rights potentially affected by the revised Draft Permits?
- (4) Any concerns you have related to treaty rights.

The EPA has a separate responsibility under section 106 of the National Historic Preservation Act (NHPA) to consult with tribes that attach religious and cultural significance to historic properties that may be affected by an undertaking. Accordingly, we invite the The Fort Peck Assiniboiné and Sioux Tribes to engage in government-to-government consultation under section 106. Wherever appropriate, the EPA attempts to integrate this section 106 consultation with general consultation under our Tribal Consultation Policy. Therefore, we propose the following potential topics for consultation:

- (1) Changes from the first Draft UIC permits to the second Draft UIC permits;
- (2) Any concerns you may have about the proposed Dewey-Burdock project and the UIC permitting actions; and
- (3) Potential historic properties, including those of traditional religious and cultural importance, within the Dewey-Burdock area of potential effect.

We understand that the The Fort Peck Assiniboiné and Sioux Tribes may raise issues in consultation that should be kept confidential and nonpublic. During our consultation process, if there is information that you would like to provide, but that you believe should remain confidential, please specifically identify this information during our consultation meeting and we will explore options for keeping the information confidential in accordance with 36 CFR § 800.11(c). As we move forward with the consultation process,

please be aware that any information you provide to the EPA in writing will become a part of the public record unless other arrangements are made to maintain confidentiality.

We are requesting a reply from you as to whether the The Fort Peck Assiniboiné and Sioux Tribes wishes to consult with the EPA. If you are interested in meeting with the EPA, please reply by August 2, 2019. Consultation requests should be submitted to Valois Robinson of my staff, who can be reached at (800) 227-8917, extension 312-6276 or (303) 312-6276; or by email at robinson.valois@epa.gov. Please include a point of contact for the Tribe so we can keep you informed as the EPA moves forward with this consultation process.

If we do not hear from you by August 2, 2019, we will interpret this to mean that you do not wish to consult with the EPA at this time. The EPA would also welcome the opportunity to consult after the revised Draft Permits are issued to discuss these important issues.

We appreciate the The Fort Peck Assiniboiné and Sioux Tribes' prompt attention to this important matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Darcy O'Connor', with a long horizontal line extending to the right.

Darcy O'Connor, Director
Water Division

Enclosures (6)

cc: Martina Wilson, Environmental Director
Diane Youpee, Tribal Historic Preservation Officer

Background Information on the Proposed Dewey-Burdock Uranium In-Situ Recovery Site

The Dewey-Burdock site is located north of Edgemont, South Dakota, in Fall River and Custer Counties as shown in the enclosed Figure 1. The EPA Region 8 UIC Program has received Class III and Class V injection well permit applications for this site from Powertech (USA) Inc. The Class III injection wells are related to uranium recovery; the Class V injection wells are deep wells for the disposal of treated process wastewater. The Class III permit application requests authorization for 14 injection well fields including approximately 2,330 wells to inject and recover fluids for the in-situ recovery of uranium. The Class V area permit application requests authorization for the injection of ISR process waste fluids (treated to meet radioactive and hazardous waste standards) into two proposed wells injecting into the Minnelusa Formation. The Class V area permit application requests authorization for up to four deep injection wells in case the two currently proposed wells do not have the capacity to dispose of the anticipated total volume of all ISR process waste fluids.

Powertech proposes using ponds to treat and store treated water that will be injected into the deep injection wells. The locations and configuration of the treatment ponds are shown in Figure 2. These ponds are not regulated under the UIC Program. Powertech will submit an application for review and approval of the pond construction design plan to the EPA Region 8 Air Program. The ponds will not allow infiltration into the subsurface. The ponds are not designed to be evaporation ponds, although some amount of evaporation will occur during storage of the treated water before it is injected into the deep injection wells. The evaporation process does not involve release of heavy metals, including uranium or other radioactive elements, into the air. The EPA has information about radiation at <http://www2.epa.gov/radiation>.

The total proposed project area consists of approximately 10,580 acres (4,282 ha) east and west of the Dewey Road (County Road 6463), including portions of Sections 1-5, 10-12, 14 and 15 in Township 7 South, Range 1 East and Sections 20, 21, 27, 28, 29, and 30-35 in Township 6 South, Range 1 East, Black Hills Meridian. The surface area that will actually be impacted by the uranium ore processing plants, the 14 proposed uranium in-situ recovery well fields, the two proposed deep injection wells, treatment and storage ponds, roads and other surface-disturbing facilities is less than the 10,580-acre project area. The enclosed Figure 1 is a map showing the project site location. Figure 3 is a map showing the locations of the proposed wellfields containing Class III injection wells and the site project boundary. Figure 4 shows the locations for the two proposed deep Class V injection wells. Figure 5 shows a stratigraphic cross section of geologic formations at the Dewey Burdock site and the proposed injection zones for both the Class III and Class V injection wells. The Powertech Dewey-Burdock Project Class III and Class V area permit applications, and other documents that are part of the permit administrative record, are available for public review on the EPA Region 8 UIC Program website at <https://www.epa.gov/uic/epa-dewey-burdock-class-iii-and-class-v-injection-well-draft-area-permits>.

Dewey Burdock Location Map

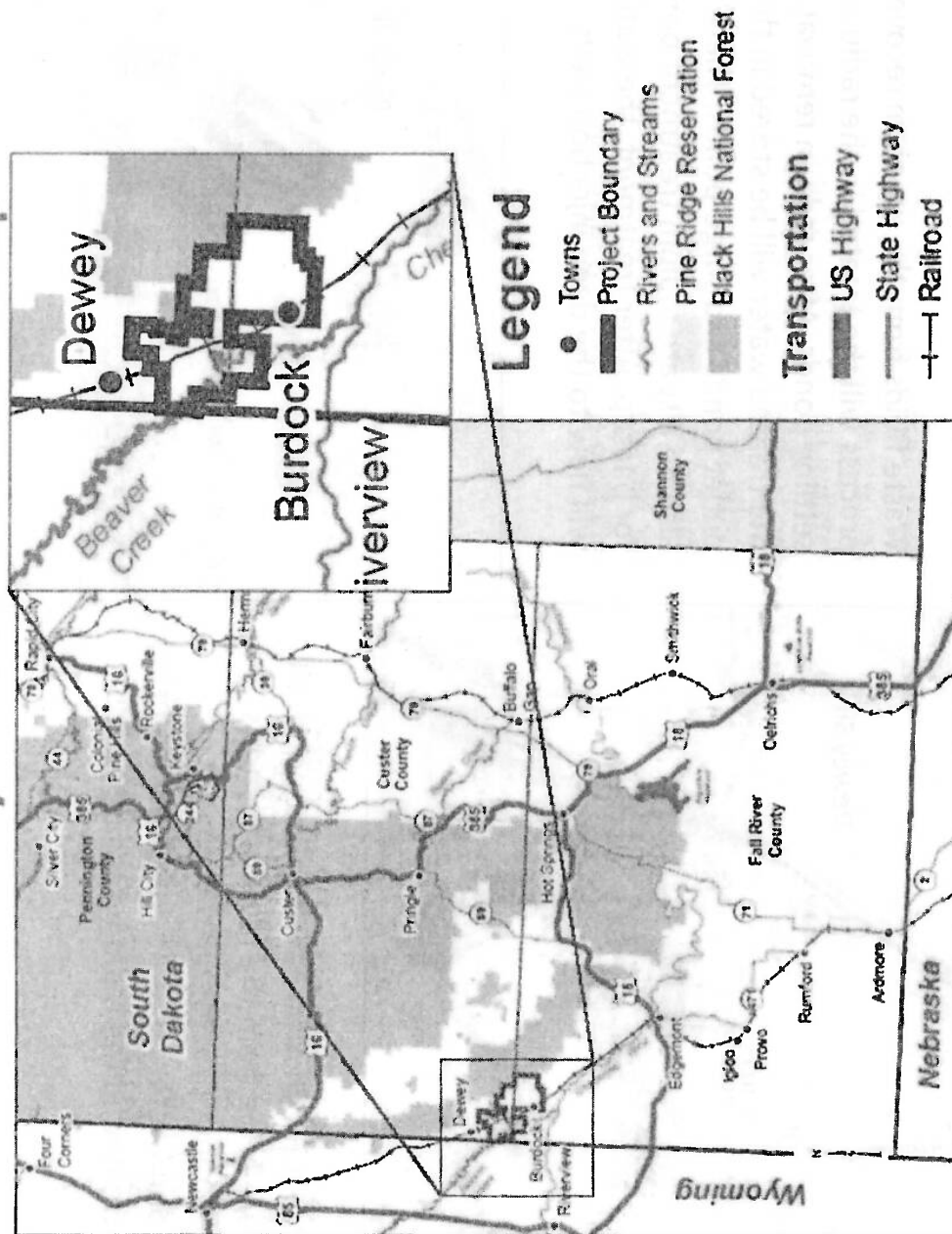
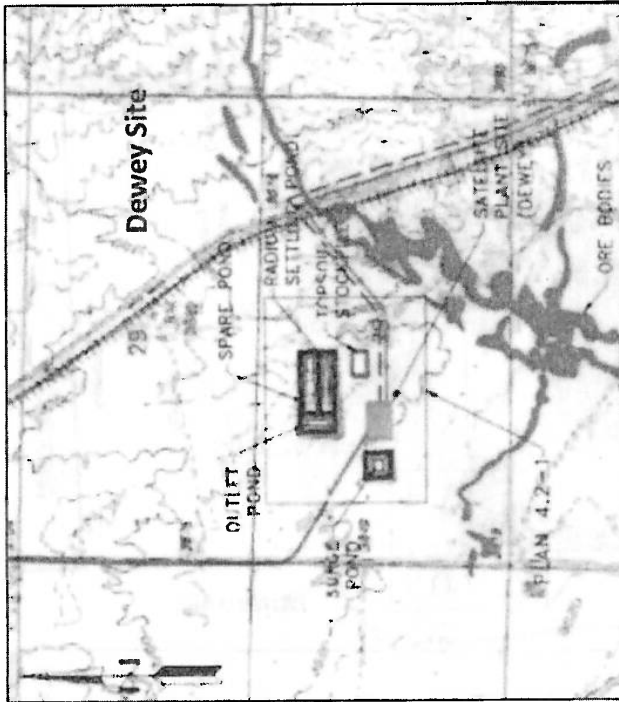


Figure 1. Map showing the location of the proposed Dewey-Burdock uranium recovery site.

Treatment and Storage Ponds for Deep Well Injectate



The Burdock Area central plant pond will store brine from the reverse osmosis treatment process used during groundwater restoration before the brine is treated in the radium settling ponds.

Waste fluids from the uranium recovery process will be treated in the radium settling ponds. After radium removal, the treated water will be stored in the outlet ponds and surge ponds. There will also be a spare radium treatment pond for backup. After treatment, the water will flow to the deep injection wells.

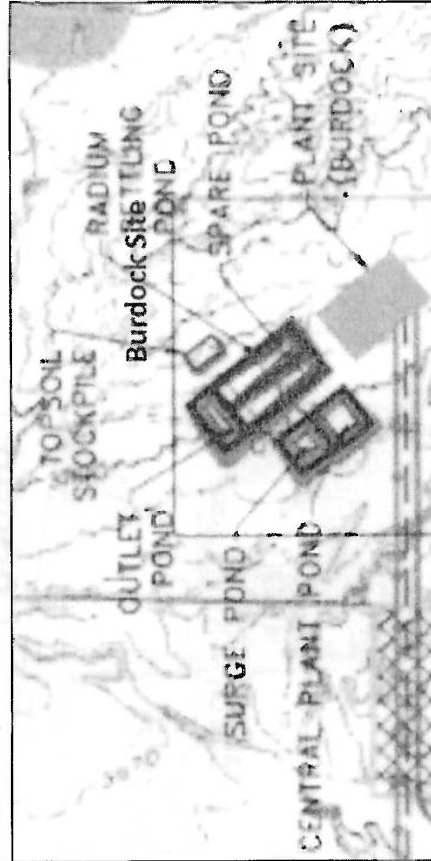


Figure 2. The Proposed Ponds for the Treatment and Storage of the Deep Injection Well Injectate.

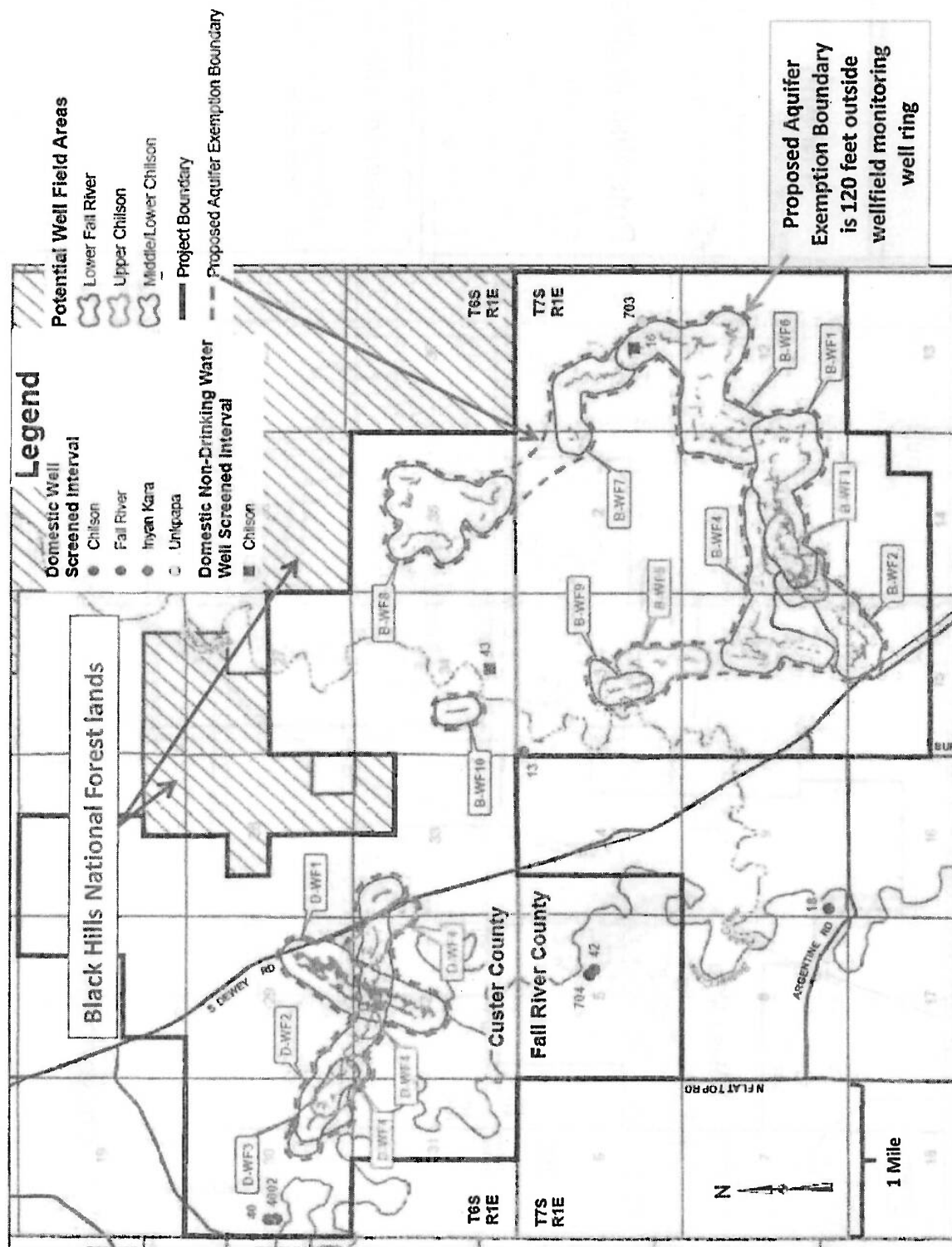
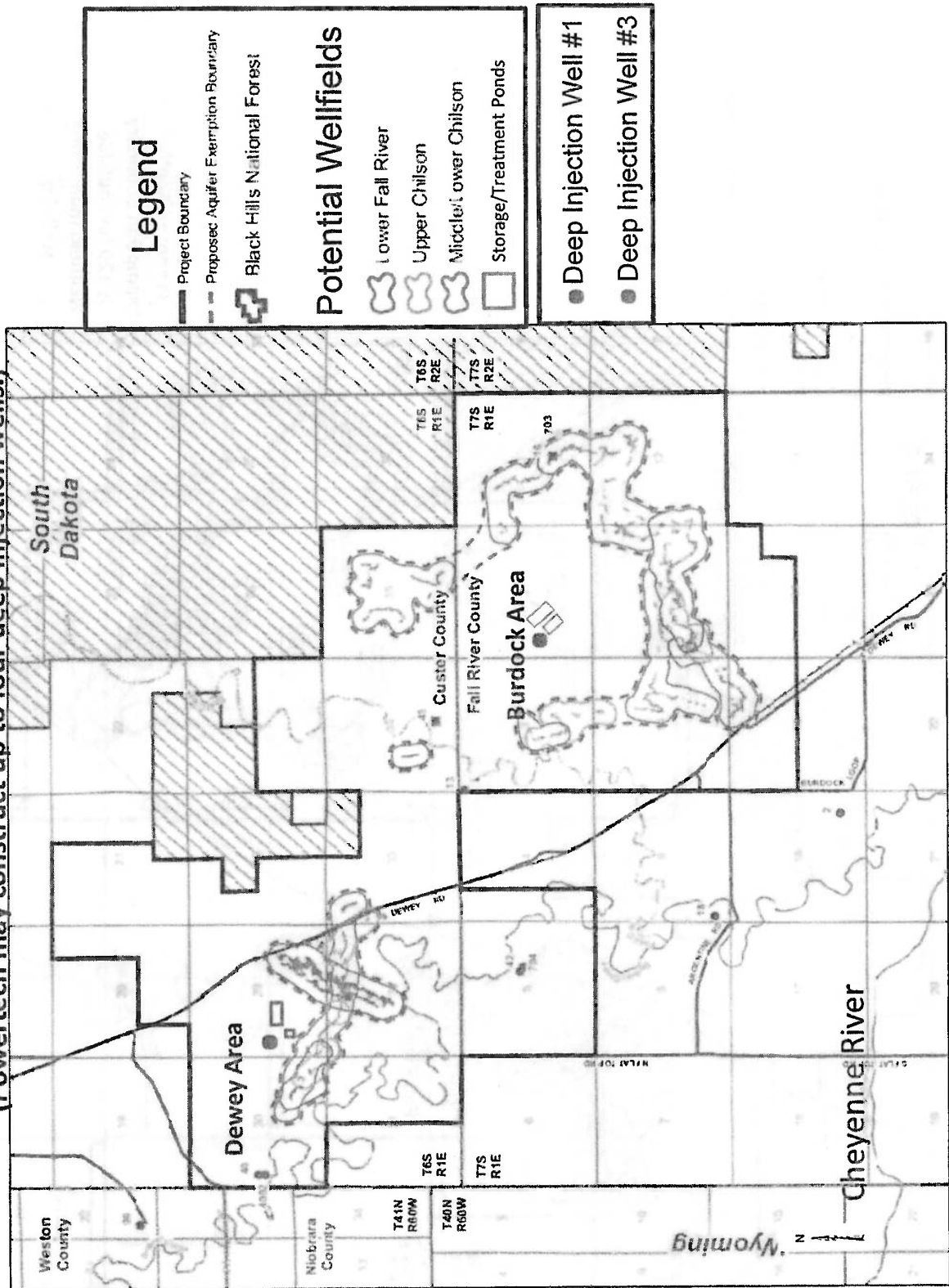


Figure 3. Map showing locations of the proposed wellfields containing Class III injection wells, the aquifer exemption boundary and the UIC permit boundary.

Figure 4. Map showing locations for the two currently proposed deep injection wells.
(Powertech may construct up to four deep injection wells.)



From: [Minter, Douglas](#)
To: [Robinson, Valois](#)
Subject: FW: EPA R8: Underground Injection Control Program for Dewey-Burdock Draft Permits - Consultation Invitation and Timeline
Date: Wednesday, December 16, 2020 1:46:36 PM
Attachments: [EPA Letter MHA Nation.pdf](#)

From: Minter, Douglas
Sent: Monday, February 24, 2020 4:52 PM
To: chairmanfox@mhanation.com
Cc: pcoffey@mhanation.com; edmundbaker@mhanation.com; Varilek, Kimberly <Varilek.Kimberly@epa.gov>; Sierra-Lopez, Omar <Sierra-Lopez.Omar@epa.gov>; Hammer, Diana <Hammer.Diana@epa.gov>
Subject: EPA R8: Underground Injection Control Program for Dewey-Burdock Draft Permits - Consultation Invitation and Timeline

Greetings Chairman Fox: I'm forwarding a digital copy of the letter the EPA Region 8 Water Division is mailing to you regarding the MHA Nation's interest in consulting on EPA Region 8's Dewey Burdock In-Situ Draft Permits re-issued in 2019.

Given the Tribe's apparent stated interest in response to our July 8, 2019 invitation to consult, please let us know if you are still interested in scheduling consultation with EPA Region 8 by contacting our offices as soon as possible. In the letter enclosed, the Region asks for your response by March 6, 2020, in communicating the Tribe's interest to consult with the expectation that we would hold a consultation meeting with you by April 30, 2020 to inform our Final Permit decisions later this year.

Please let me know if you have any questions, or feel free to reach out to Darcy O'Connor at (303) 312-6392 or oconnor.darcy@epa.gov, or Kim Varilek at (303) 312-6264 or varilek.kimberly@epa.gov.

Douglas Minter, MPH
UIC Section Chief
1595 Wynkoop Street
USEPA Region 8

(303) 312 6079

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REGION 8

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Ref: 8WD-SDU

FEB 21 2020

Honorable Mark Fox
Chairman
The Three Affiliated Tribes
Mandan, Hidatsa and Arikara Nation
404 Frontage Road
New Town, North Dakota 58763-9404

Re: U.S. Environmental Protection Agency Underground Injection Control Program
Timeframe for Tribal Consultation on the EPA's Proposed Actions for the Dewey-Burdock Uranium
Recovery Site near Edgemont, South Dakota

Dear Chairman Fox:

The EPA is approaching the end of the tribal consultation process on the EPA's proposed actions for the Dewey-Burdock Uranium Recovery Site near Edgemont, South Dakota. We are reaching out to remind you of EPA's July 8, 2019 letter requesting tribal consultation with the Mandan, Hidatsa and Arikara Nation regarding this matter.

The EPA is moving forward on final Underground Injection Control (UIC) permit decisions. Therefore, we are setting a deadline of March 6, 2020, for scheduling a tribal consultation meeting to be held by April 30, 2020. The EPA believes setting these deadlines is necessary to provide the EPA adequate time to give the Tribes' comments due consideration and develop a response to the Tribes on how the EPA has addressed the comments in the final UIC permit decisions.

In response to the EPA's July 8, 2019 letter, the Mandan, Hidatsa and Arikara Nation indicated that it might be interested in tribal consultation, and the EPA offered to schedule consultation. On August 20, 2019, Environmental Director Edmund Baker had questions regarding the consultation procedures after receiving the July 8, 2019 letter. EPA addressed his questions on August 21, 2019. However, Mr. Baker and the Tribes never confirmed whether they wanted to schedule a consultation meeting. If you have interest in scheduling a consultation meeting, please contact me by phone at 303-312-6392 or by email at oconnor.darcy@epa.gov or have one of your staff contact Omar Sierra-Lopez of my staff by March 6 and work with him to schedule a tribal consultation meeting before April 30, 2020. Mr. Sierra-Lopez can be reached at (800) 227-8917, extension 312-7045 or (303) 312-7045; or by email at sierra-lopez.omar@epa.gov. I have enclosed the July 8, 2019, letter we sent to you that lists the topics we would particularly like to discuss with you.

If we do not hear from the Tribes by March 6, we will interpret the lack of response to indicate that the Tribes do not wish to conduct tribal consultation regarding these proposed EPA actions at the Dewey-Burdock uranium in-situ recovery site.

The EPA will follow up with a phone call to confirm that you received this letter and are aware of the timeframes discussed above.

Sincerely,

A handwritten signature in black ink, appearing to read 'Darcy O'Connor', with a long horizontal flourish extending to the right.

Darcy O'Connor, Director
Water Division

Enclosure (1)

cc: Mr. Edmund Baker, Environmental Director
Mr. Pete Coffey, Tribal Historic Preservation Officer



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REGION 8

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Denver, CO 80202-1129
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www.epa.gov/region8

JUL 08 2019

Ref: 8WD-SDU

Honorable Mark Fox
Chairman
The Three Affiliated Tribes
406 Frontage Road
New Town, North Dakota 58763-9406

Re: U.S. Environmental Protection Agency Underground Injection Control Program
Invitation for Consultation on revised Draft Permits and related actions for the Dewey-Burdock
Uranium Recovery Site near Edgemont, South Dakota

Dear Chairman Fox:

The U.S. Environmental Protection Agency Region 8 Underground Injection Control (UIC) Program would like to consult with you, and any other representatives you would like to invite, on revised Draft Permits for injection wells and an updated draft Environmental Justice Analysis for the proposed Dewey-Burdock uranium in-situ recovery (ISR) site near Edgemont, South Dakota. The EPA anticipates issuing the revised Draft Permits in August 2019.

In March 2017, the EPA UIC Program issued two Draft Permits for Powertech (USA) Inc.: one for Class III injection wells used during the uranium recovery process; the second for deep injection wells for the disposal of treated ISR process waste water. The EPA also issued a draft Environmental Justice Analysis at that time. After considering comments received during the public comment period, the EPA has decided to issue revised Draft Permits, a revised draft Environmental Justice Analysis, a revised Aquifer Exemption Record of Decision and an updated document describing the EPA's plan for compliance with section 106 of the National Historic Preservation Act.

The location of the Dewey-Burdock site is shown in the enclosed Figure 1. For additional information about the proposed Dewey-Burdock site, please see the enclosed page entitled *Background Information on the Proposed Dewey-Burdock Uranium In-Situ Recovery Site* and enclosed Figures 1 through 5.

Environmental Justice Analysis

During consultation, we plan to present information about the revised draft Environmental Justice Analysis, specifically related to the The Three Affiliated Tribes' interest in the Black Hills as a sacred site. We also welcome any input the Tribe would be willing to offer to assist the EPA in presenting an accurate picture of environmental justice issues related to the Black Hills.

The EPA Tribal Consultation Policy

It is the EPA's policy to consult on a government-to-government basis with federally recognized tribal governments when EPA actions and decisions may affect tribal interests. The EPA views consultation as a process of meaningful communication and coordination between the EPA and tribal officials prior to the EPA taking actions or implementing decisions that may affect tribes. For information about the EPA *Policy on Consultation and Coordination with Indian Tribes* please visit the following website: <https://www.epa.gov/tribal/forms/consultation-and-coordination-tribes>.

The EPA also developed the *Policy on Consultation and Coordination with Indian Tribes: Guidance for Discussing Tribal Treaty Rights* (Treaty Rights guidance) to complement the EPA's general *Policy on Consultation and Coordination with Indian Tribes*. The Treaty Rights guidance provides affirmative steps for the Agency to take during tribal consultations when an EPA action occurs in a specific geographic location and a resource-based treaty right, or an environmental condition necessary to support the resource, may be affected by the EPA's action. The Treaty Rights guidance was developed after nationwide tribal consultation. This guidance document is found at the following website: https://www.epa.gov/tribal/forms/consultation-and-coordination-tribes#treaty_rights.

Consistent with the Treaty Rights guidance, the EPA would also like input from the The Three Affiliated Tribes on treaty rights related to our revised draft permitting actions. The EPA acknowledges that some tribes have previously provided written public comment stating their position that treaty rights would be impacted by the Draft Permits. Nevertheless, pursuant to the Treaty Rights guidance, EPA seeks input on the following questions:

- (1) Do treaties exist within the project area?
- (2) What treaty rights exist in or what treaty-protected resources rely upon the project area? Among other things, have treaty-based groundwater rights in the project area been recognized by judicial decree or congressional settlement?
- (3) How are treaty rights potentially affected by the revised Draft Permits?
- (4) Any concerns you have related to treaty rights.

The EPA has a separate responsibility under section 106 of the National Historic Preservation Act (NHPA) to consult with tribes that attach religious and cultural significance to historic properties that may be affected by an undertaking. Accordingly, we invite the The Three Affiliated Tribes to engage in government-to-government consultation under section 106. Wherever appropriate, the EPA attempts to integrate this section 106 consultation with general consultation under our Tribal Consultation Policy. Therefore, we propose the following potential topics for consultation:

- (1) Changes from the first Draft UIC permits to the second Draft UIC permits;
- (2) Any concerns you may have about the proposed Dewey-Burdock project and the UIC permitting actions; and
- (3) Potential historic properties, including those of traditional religious and cultural importance, within the Dewey-Burdock area of potential effect.

We understand that the The Three Affiliated Tribes may raise issues in consultation that should be kept confidential and nonpublic. During our consultation process, if there is information that you would like to provide, but that you believe should remain confidential, please specifically identify this information during our consultation meeting and we will explore options for keeping the information confidential in accordance with 36 CFR § 800.11(c). As we move forward with the consultation process, please be aware

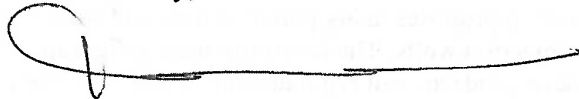
that any information you provide to the EPA in writing will become a part of the public record unless other arrangements are made to maintain confidentiality.

We are requesting a reply from you as to whether the The Three Affiliated Tribes wishes to consult with the EPA. If you are interested in meeting with the EPA, please reply by August 2, 2019. Consultation requests should be submitted to Valois Robinson of my staff, who can be reached at (800) 227-8917, extension 312-6276 or (303) 312-6276; or by email at robinson.valois@epa.gov. Please include a point of contact for the Tribe so we can keep you informed as the EPA moves forward with this consultation process.

If we do not hear from you by August 2, 2019, we will interpret this to mean that you do not wish to consult with the EPA at this time. The EPA would also welcome the opportunity to consult after the revised Draft Permits are issued to discuss these important issues.

We appreciate the The Three Affiliated Tribes' prompt attention to this important matter.

Sincerely,

A handwritten signature in black ink, consisting of a large, stylized 'D' followed by a horizontal line that tapers to the right.

Darcy O'Connor, Director
Water Division

Enclosures (6)

cc: Edmund Baker, Environmental Director
Elgin Crows Beast, Tribal Historic Preservation Officer

Background Information on the Proposed Dewey-Burdock Uranium In-Situ Recovery Site

The Dewey-Burdock site is located north of Edgemont, South Dakota, in Fall River and Custer Counties as shown in the enclosed Figure 1. The EPA Region 8 UIC Program has received Class III and Class V injection well permit applications for this site from Powertech (USA) Inc. The Class III injection wells are related to uranium recovery; the Class V injection wells are deep wells for the disposal of treated process wastewater. The Class III permit application requests authorization for 14 injection well fields including approximately 2,330 wells to inject and recover fluids for the in-situ recovery of uranium. The Class V area permit application requests authorization for the injection of ISR process waste fluids (treated to meet radioactive and hazardous waste standards) into two proposed wells injecting into the Minnelusa Formation. The Class V area permit application requests authorization for up to four deep injection wells in case the two currently proposed wells do not have the capacity to dispose of the anticipated total volume of all ISR process waste fluids.

Powertech proposes using ponds to treat and store treated water that will be injected into the deep injection wells. The locations and configuration of the treatment ponds are shown in Figure 2. These ponds are not regulated under the UIC Program. Powertech will submit an application for review and approval of the pond construction design plan to the EPA Region 8 Air Program. The ponds will not allow infiltration into the subsurface. The ponds are not designed to be evaporation ponds, although some amount of evaporation will occur during storage of the treated water before it is injected into the deep injection wells. The evaporation process does not involve release of heavy metals, including uranium or other radioactive elements, into the air. The EPA has information about radiation at <http://www2.epa.gov/radiation>.

The total proposed project area consists of approximately 10,580 acres (4,282 ha) east and west of the Dewey Road (County Road 6463), including portions of Sections 1-5, 10-12, 14 and 15 in Township 7 South, Range 1 East and Sections 20, 21, 27, 28, 29, and 30-35 in Township 6 South, Range 1 East, Black Hills Meridian. The surface area that will actually be impacted by the uranium ore processing plants, the 14 proposed uranium in-situ recovery well fields, the two proposed deep injection wells, treatment and storage ponds, roads and other surface-disturbing facilities is less than the 10,580-acre project area. The enclosed Figure 1 is a map showing the project site location. Figure 3 is a map showing the locations of the proposed wellfields containing Class III injection wells and the site project boundary. Figure 4 shows the locations for the two proposed deep Class V injection wells. Figure 5 shows a stratigraphic cross section of geologic formations at the Dewey Burdock site and the proposed injection zones for both the Class III and Class V injection wells. The Powertech Dewey-Burdock Project Class III and Class V area permit applications, and other documents that are part of the permit administrative record, are available for public review on the EPA Region 8 UIC Program website at <https://www.epa.gov/uic/epa-dewey-burdock-class-iii-and-class-v-injection-well-draft-area-permits>.

Dewey Burdock Location Map

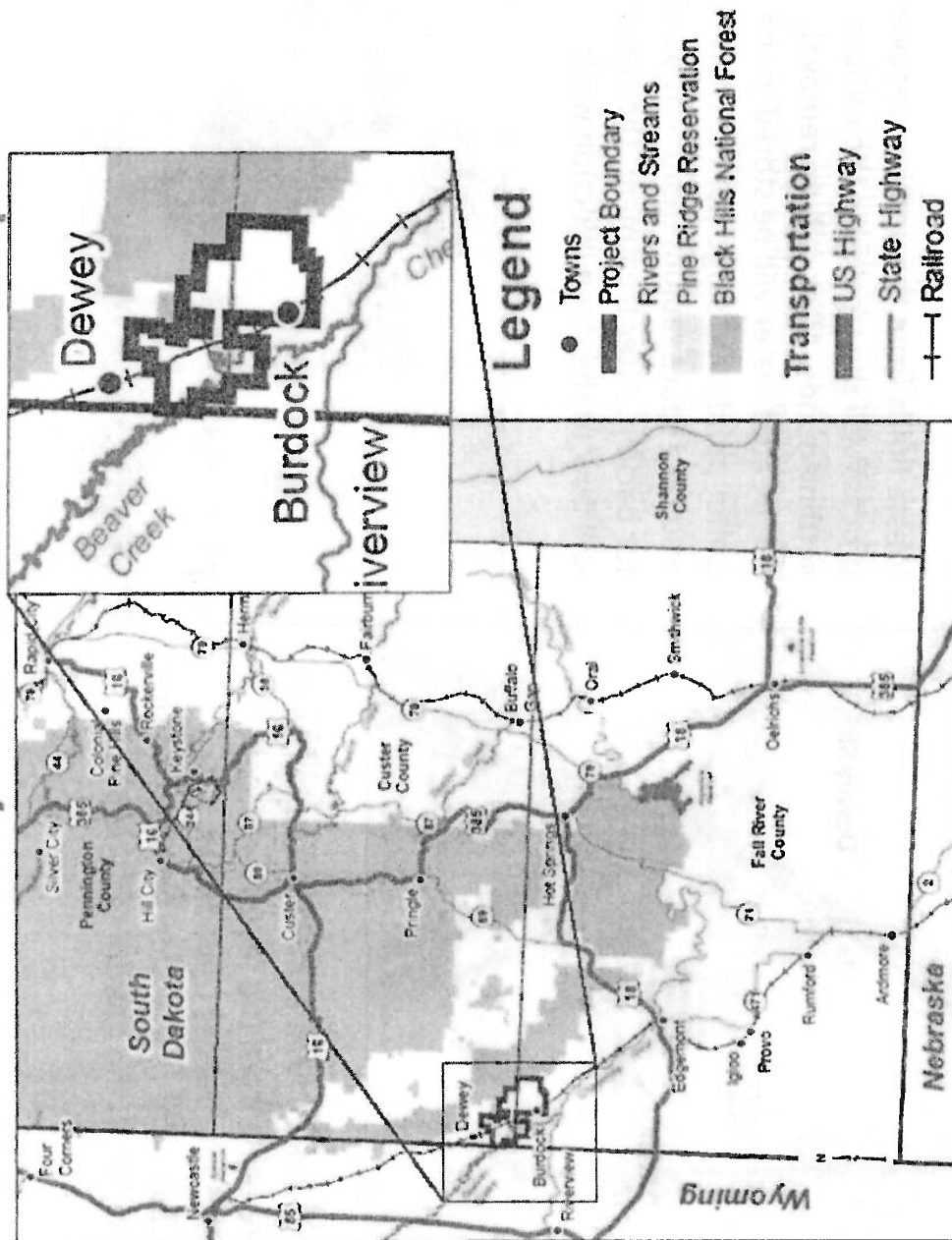
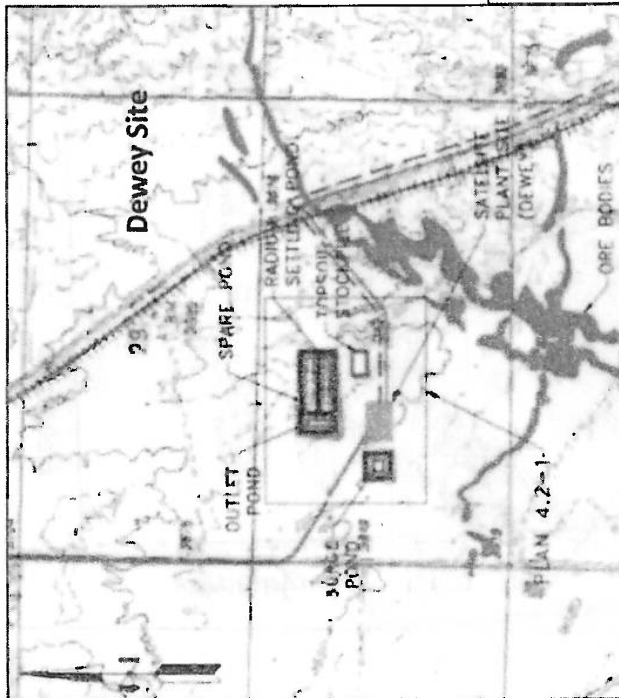


Figure 1. Map showing the location of the proposed Dewey-Burdock uranium recovery site.

Treatment and Storage Ponds for Deep Well Injectate

Waste fluids from the uranium recovery process will be treated in the radium settling ponds. After radium removal, the treated water will be stored in the outlet ponds and surge ponds. There will also be a spare radium treatment pond for backup. After treatment, the water will flow to the deep injection wells.



The Burdock Area central plant pond will store brine from the reverse osmosis treatment process used during groundwater restoration before the brine is treated in the radium settling ponds.

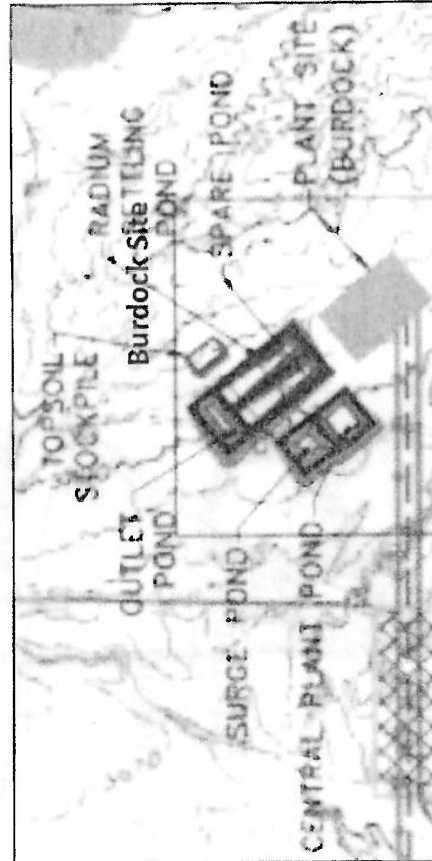


Figure 2. The Proposed Ponds for the Treatment and Storage of the Deep Injection Well Injectate.

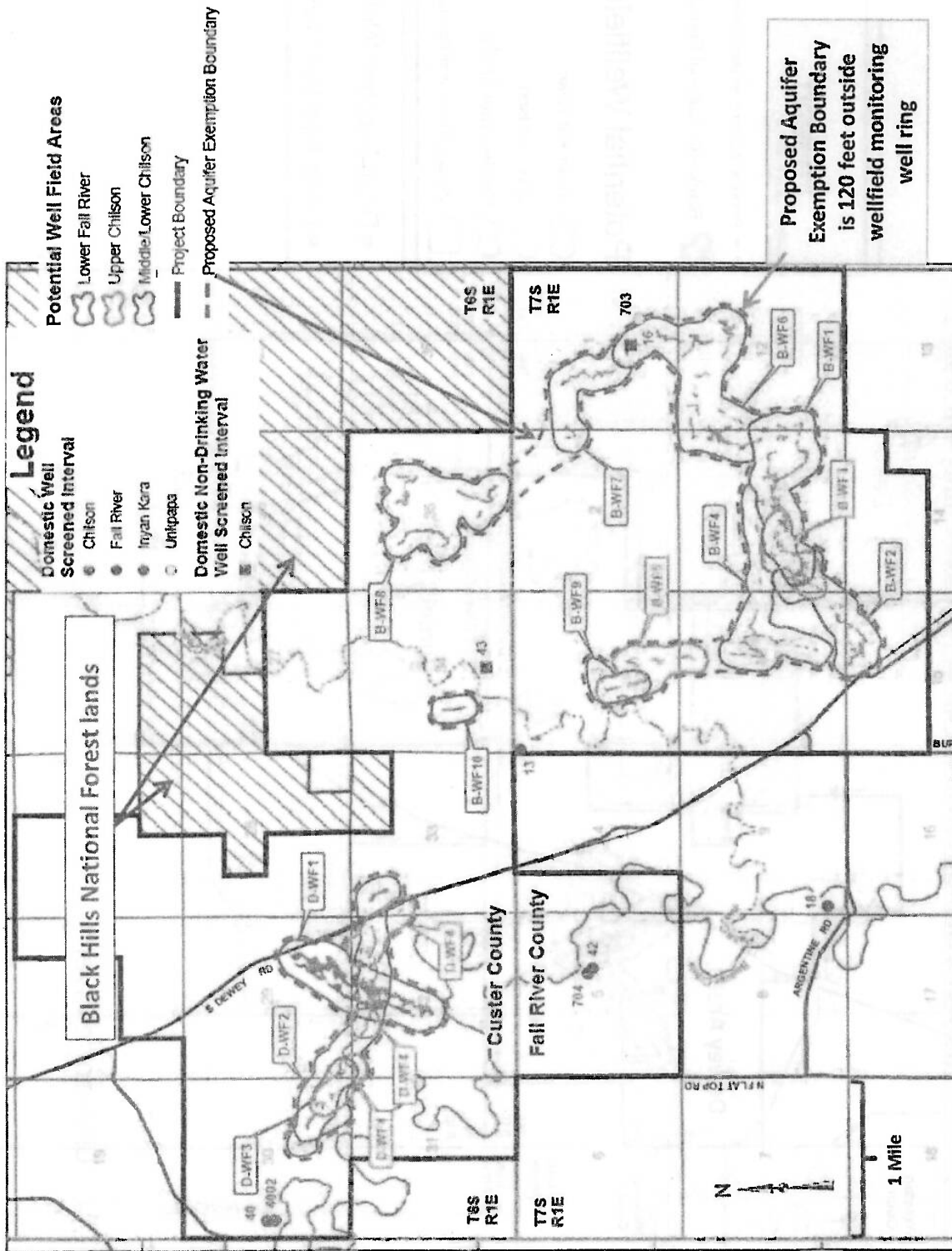
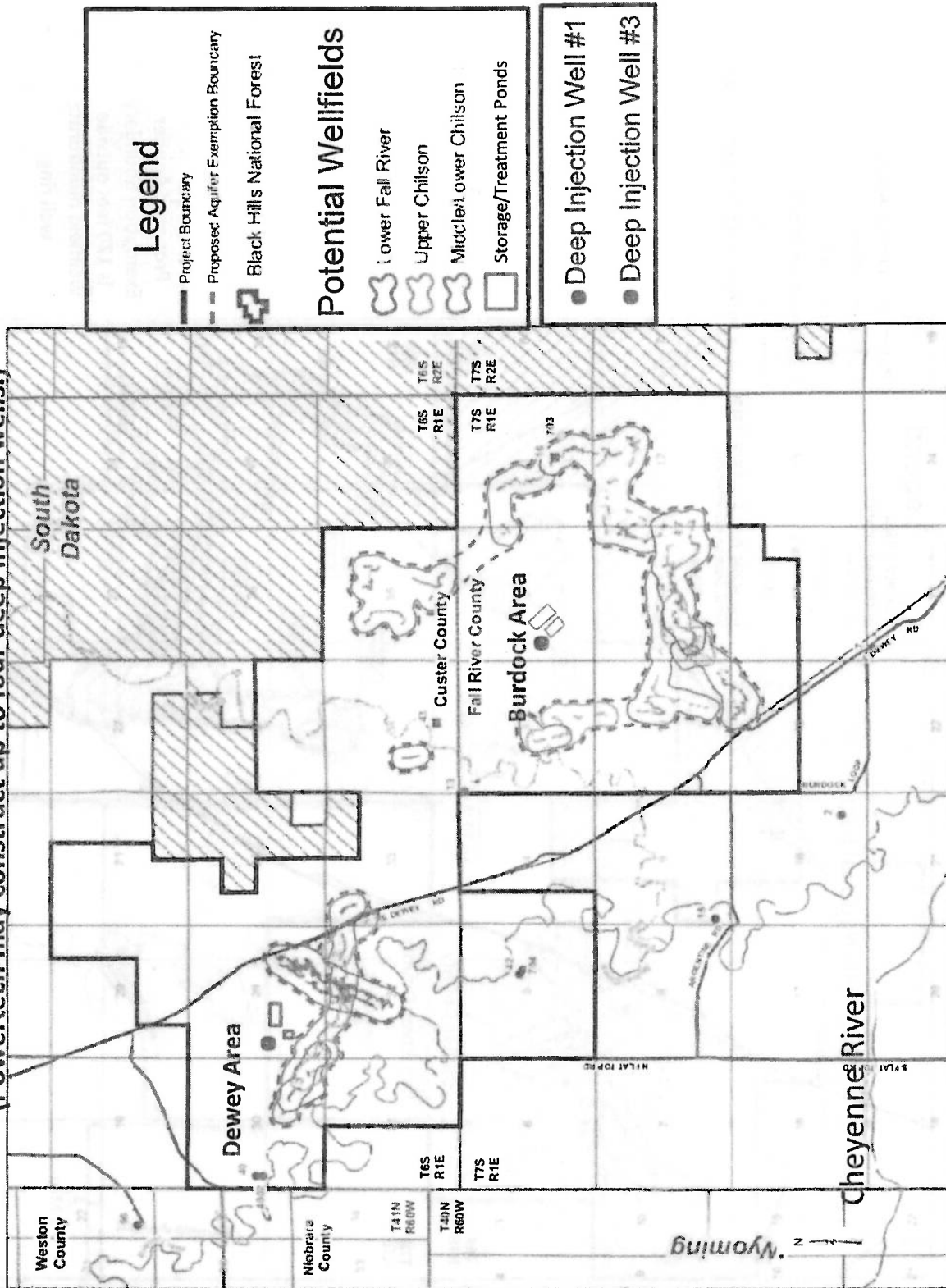


Figure 3. Map showing locations of the proposed wellfields containing Class III injection wells, the aquifer exemption boundary and the UIC permit boundary.

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(Powertech may construct up to four deep injection wells.)



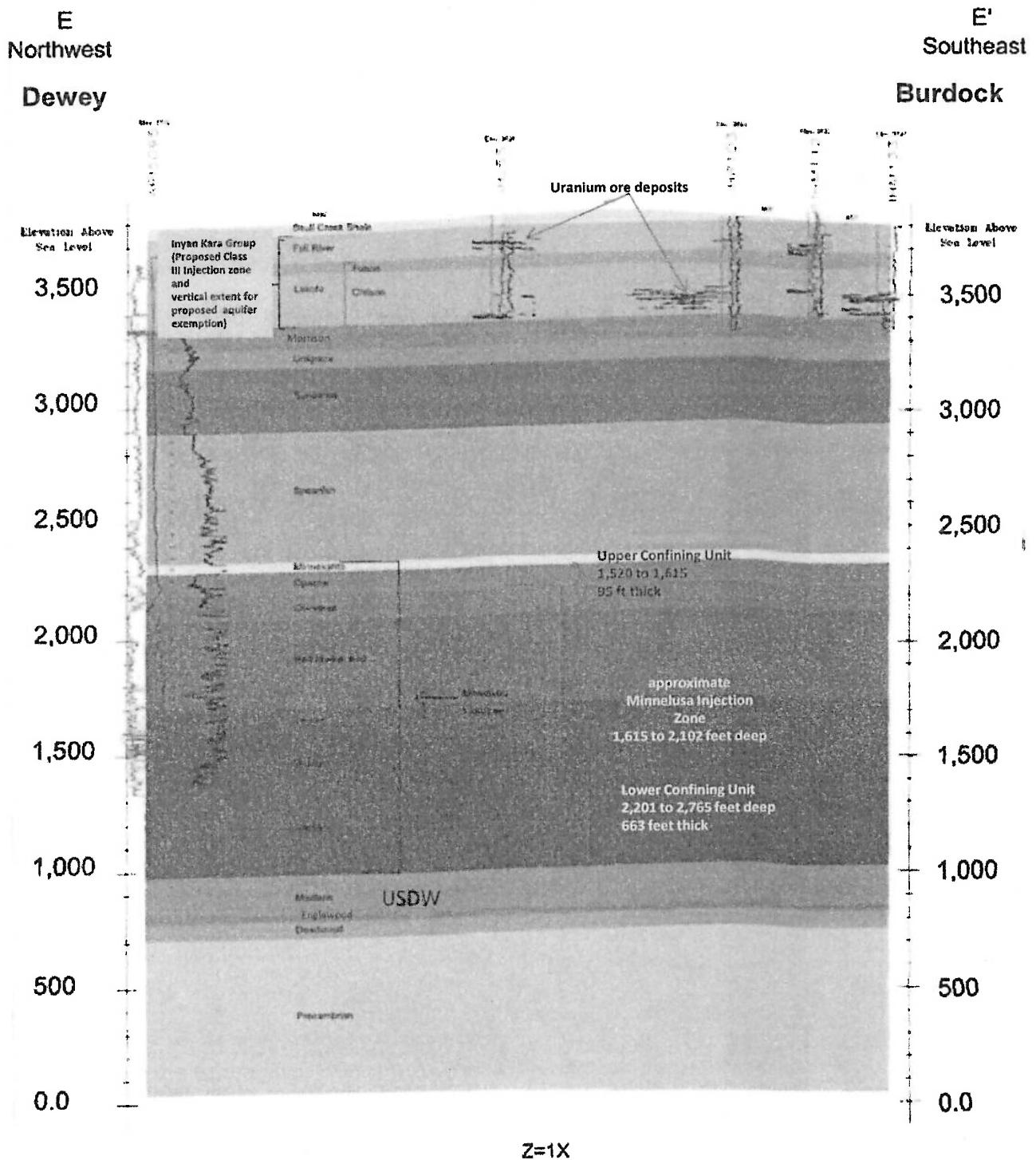


Figure 5. Stratigraphic cross-section of geologic formations present at the Dewey Burdock site and proposed injection zones for the Class III and deep Class V injections wells.

From: [Minter, Douglas](#)
To: [Robinson, Valois](#)
Subject: FW: EPA R8: Underground Injection Control Program for Dewey-Burdock Draft Permits - Consultation Invitation and Timeline
Date: Wednesday, December 16, 2020 1:49:30 PM
Attachments: [EPA Letter NorthernArapaho.pdf](#)

From: Minter, Douglas
Sent: Monday, February 24, 2020 4:55 PM
To: lee.spoonhunter@northernarapaho.com
Cc: nathpodd@gmail.com; dean.goggles@northernarapaho.org; Varilek, Kimberly <Varilek.Kimberly@epa.gov>; Sierra-Lopez, Omar <Sierra-Lopez.Omar@epa.gov>
Subject: EPA R8: Underground Injection Control Program for Dewey-Burdock Draft Permits - Consultation Invitation and Timeline

Greetings Chairman Spoonhunter: I'm forwarding a digital copy of the letter the EPA Region 8 Water Division is mailing to you regarding the Northern Arapaho Tribe's interest in consulting on EPA Region 8's Dewey Burdock In-Situ Draft Permits re-issued in 2019.

Given the Tribe's stated interest during a March 2, 2016 conference call with EPA, please let us know if you are still interested in scheduling consultation with EPA Region 8 by contacting our offices as soon as possible. In the letter enclosed, the Region asks for your response by March 6, 2020, in communicating the Tribe's interest to consult with the expectation that we would hold a consultation meeting with you by April 30, 2020 to inform our Final Permit decisions later this year.

Please let me know if you have any questions, or feel free to reach out to Darcy O'Connor at (303) 312-6392 or oonnor.darcy@epa.gov, or Kim Varilek at (303) 312-6264 or varilek.kimberly@epa.gov.

We look forward to hearing from you as soon as possible and preferably by March 6, 2020.

Sincerely,

Douglas Minter, MPH
UIC Section Chief
1595 Wynkoop Street
USEPA Region 8

(303) 312 6079

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

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

Ref: 8WD-SDU

FEB 21 2020

Honorable Lee Spoonhunter
Chairman
The Northern Arapaho Tribe
P.O. Box 396
Fort Washakie, Wyoming 82514-0217

Re: U.S. Environmental Protection Agency Underground Injection Control Program
Timeframe for Tribal Consultation on the EPA's Proposed Actions for the Dewey-Burdock Uranium
Recovery Site near Edgemont, South Dakota

Dear Chairman Spoonhunter:

The EPA is approaching the end of the tribal consultation process on the EPA's proposed actions for the Dewey-Burdock Uranium Recovery Site near Edgemont, South Dakota. Because we have previously consulted with the Northern Arapaho Tribe regarding this matter, we are reaching out to remind you of EPA's July 8, 2019 letter requesting tribal consultation with your Tribe.

The EPA is moving forward on final Underground Injection Control (UIC) permit decisions. Therefore, we are setting a deadline of March 6, 2020, for scheduling a tribal consultation meeting to be held by April 30, 2020. The EPA believes setting these deadlines is necessary to provide the EPA adequate time to give the Tribe's comments due consideration and develop a response to the Tribe on how the EPA has addressed the comments in the final UIC permit decisions.

If you have interest in following up on our previous tribal consultation, or consulting in response to EPA's July 8, 2019 letter, please contact me by phone at 303-312-6392 or by email at oconnor.darcy@epa.gov or have one of your staff contact Omar Sierra-Lopez of my staff by March 6 and work with him to schedule a tribal consultation meeting before April 30, 2020. Mr. Sierra-Lopez can be reached at (800) 227-8917, extension 312-7045 or (303) 312-7045; or by email at sierra-lopez.omar@epa.gov. I have enclosed the July 8, 2019, letter we sent to you that lists the topics we would particularly like to discuss with you.

If we do not hear from the Tribe by March 6, we will interpret the lack of response to indicate that at this time the Tribe has conveyed all the information it wishes to provide the EPA on these proposed EPA actions at the Dewey-Burdock uranium in-situ recovery site through previous consultation activities, specifically our conference call with the Tribal Historic Preservation Officer on March 2, 2016.

087768

The EPA will follow up with a phone call to confirm that you received this letter and are aware of the timeframes discussed above.

Sincerely,

A handwritten signature in black ink, consisting of a large, stylized loop followed by a horizontal line.

Darcy O'Connor, Director
Water Division

Enclosure (1)

cc: Mr. Devin Oldman, Tribal Historic Preservation Officer
Mr. Ryan Ortiz, Environmental Director



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REGION 8

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JUL 08 2019

Ref: 8WD-SDU

Honorable Lee Spoonhunter
Chairman
The Northern Arapaho Tribe
P.O. Box 396
Ft. Washakie, Wyoming 82514-0217

Re: U.S. Environmental Protection Agency Underground Injection Control Program
Invitation for Consultation on revised Draft Permits and related actions for the Dewey-Burdock
Uranium Recovery Site near Edgemont, South Dakota

Dear Chairman Spoonhunter:

The U.S. Environmental Protection Agency Region 8 Underground Injection Control (UIC) Program would like to consult with you, and any other representatives you would like to invite, on revised Draft Permits for injection wells and an updated draft Environmental Justice Analysis for the proposed Dewey-Burdock uranium in-situ recovery (ISR) site near Edgemont, South Dakota. The EPA anticipates issuing the revised Draft Permits in August 2019.

In March 2017, the EPA UIC Program issued two Draft Permits for Powertech (USA) Inc.: one for Class III injection wells used during the uranium recovery process; the second for deep injection wells for the disposal of treated ISR process waste water. The EPA also issued a draft Environmental Justice Analysis at that time. After considering comments received during the public comment period, the EPA has decided to issue revised Draft Permits, a revised draft Environmental Justice Analysis, a revised Aquifer Exemption Record of Decision and an updated document describing the EPA's plan for compliance with section 106 of the National Historic Preservation Act.

The location of the Dewey-Burdock site is shown in the enclosed Figure 1. For additional information about the proposed Dewey-Burdock site, please see the enclosed page entitled *Background Information on the Proposed Dewey-Burdock Uranium In-Situ Recovery Site* and enclosed Figures 1 through 5.

Environmental Justice Analysis

During consultation, we plan to present information about the revised draft Environmental Justice Analysis, specifically related to the The Northern Arapaho Tribe's interest in the Black Hills as a sacred site. We also welcome any input the Tribe would be willing to offer to assist the EPA in presenting an accurate picture of environmental justice issues related to the Black Hills.

The EPA Tribal Consultation Policy

It is the EPA's policy to consult on a government-to-government basis with federally recognized tribal governments when EPA actions and decisions may affect tribal interests. The EPA views consultation as a process of meaningful communication and coordination between the EPA and tribal officials prior to the EPA taking actions or implementing decisions that may affect tribes. For information about the EPA *Policy on Consultation and Coordination with Indian Tribes* please visit the following website: <https://www.epa.gov/tribal/forms/consultation-and-coordination-tribes>.

The EPA also developed the *Policy on Consultation and Coordination with Indian Tribes: Guidance for Discussing Tribal Treaty Rights* (Treaty Rights guidance) to complement the EPA's general *Policy on Consultation and Coordination with Indian Tribes*. The Treaty Rights guidance provides affirmative steps for the Agency to take during tribal consultations when an EPA action occurs in a specific geographic location and a resource-based treaty right, or an environmental condition necessary to support the resource, may be affected by the EPA's action. The Treaty Rights guidance was developed after nationwide tribal consultation. This guidance document is found at the following website: https://www.epa.gov/tribal/forms/consultation-and-coordination-tribes#treaty_rights.

Consistent with the Treaty Rights guidance, the EPA would also like input from the The Northern Arapaho Tribe on treaty rights related to our revised draft permitting actions. The EPA acknowledges that some tribes have previously provided written public comment stating their position that treaty rights would be impacted by the Draft Permits. Nevertheless, pursuant to the Treaty Rights guidance, EPA seeks input on the following questions:

- (1) Do treaties exist within the project area?
- (2) What treaty rights exist in or what treaty-protected resources rely upon the project area? Among other things, have treaty-based groundwater rights in the project area been recognized by judicial decree or congressional settlement?
- (3) How are treaty rights potentially affected by the revised Draft Permits?
- (4) Any concerns you have related to treaty rights.

The EPA has a separate responsibility under section 106 of the National Historic Preservation Act (NHPA) to consult with tribes that attach religious and cultural significance to historic properties that may be affected by an undertaking. Accordingly, we invite the The Northern Arapaho Tribe to engage in government-to-government consultation under section 106. Wherever appropriate, the EPA attempts to integrate this section 106 consultation with general consultation under our Tribal Consultation Policy. Therefore, we propose the following potential topics for consultation:

- (1) Changes from the first Draft UIC permits to the second Draft UIC permits;
- (2) Any concerns you may have about the proposed Dewey-Burdock project and the UIC permitting actions; and
- (3) Potential historic properties, including those of traditional religious and cultural importance, within the Dewey-Burdock area of potential effect.

We understand that the The Northern Arapaho Tribe may raise issues in consultation that should be kept confidential and nonpublic. During our consultation process, if there is information that you would like to provide, but that you believe should remain confidential, please specifically identify this information during our consultation meeting and we will explore options for keeping the information confidential in accordance with 36 CFR § 800.11(c). As we move forward with the consultation process, please be aware

that any information you provide to the EPA in writing will become a part of the public record unless other arrangements are made to maintain confidentiality.

We are requesting a reply from you as to whether the The Northern Arapaho Tribe wishes to consult with the EPA. If you are interested in meeting with the EPA, please reply by August 2, 2019. Consultation requests should be submitted to Valois Robinson of my staff, who can be reached at (800) 227-8917, extension 312-6276 or (303) 312-6276; or by email at robinson.valois@epa.gov. Please include a point of contact for the Tribe so we can keep you informed as the EPA moves forward with this consultation process.

If we do not hear from you by August 2, 2019, we will interpret this to mean that you do not wish to consult with the EPA at this time. The EPA would also welcome the opportunity to consult after the revised Draft Permits are issued to discuss these important issues.

We appreciate the The Northern Arapaho Tribe's prompt attention to this important matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Darcy O'Connor', with a long horizontal line extending to the right.

Darcy O'Connor, Director
Water Division

Enclosures (6)

cc: Michael Yellowplume, Environmental Director
Devon Oldman, Tribal Historic Preservation Officer

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The Dewey-Burdock site is located north of Edgemont, South Dakota, in Fall River and Custer Counties as shown in the enclosed Figure 1. The EPA Region 8 UIC Program has received Class III and Class V injection well permit applications for this site from Powertech (USA) Inc. The Class III injection wells are related to uranium recovery; the Class V injection wells are deep wells for the disposal of treated process wastewater. The Class III permit application requests authorization for 14 injection well fields including approximately 2,330 wells to inject and recover fluids for the in-situ recovery of uranium. The Class V area permit application requests authorization for the injection of ISR process waste fluids (treated to meet radioactive and hazardous waste standards) into two proposed wells injecting into the Minnelusa Formation. The Class V area permit application requests authorization for up to four deep injection wells in case the two currently proposed wells do not have the capacity to dispose of the anticipated total volume of all ISR process waste fluids.

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The total proposed project area consists of approximately 10,580 acres (4,282 ha) east and west of the Dewey Road (County Road 6463), including portions of Sections 1-5, 10-12, 14 and 15 in Township 7 South, Range 1 East and Sections 20, 21, 27, 28, 29, and 30-35 in Township 6 South, Range 1 East, Black Hills Meridian. The surface area that will actually be impacted by the uranium ore processing plants, the 14 proposed uranium in-situ recovery well fields, the two proposed deep injection wells, treatment and storage ponds, roads and other surface-disturbing facilities is less than the 10,580-acre project area. The enclosed Figure 1 is a map showing the project site location. Figure 3 is a map showing the locations of the proposed wellfields containing Class III injection wells and the site project boundary. Figure 4 shows the locations for the two proposed deep Class V injection wells. Figure 5 shows a stratigraphic cross section of geologic formations at the Dewey Burdock site and the proposed injection zones for both the Class III and Class V injection wells. The Powertech Dewey-Burdock Project Class III and Class V area permit applications, and other documents that are part of the permit administrative record, are available for public review on the EPA Region 8 UIC Program website at <https://www.epa.gov/uic/epa-dewey-burdock-class-iii-and-class-v-injection-well-draft-area-permits>.

Dewey Burdock Location Map

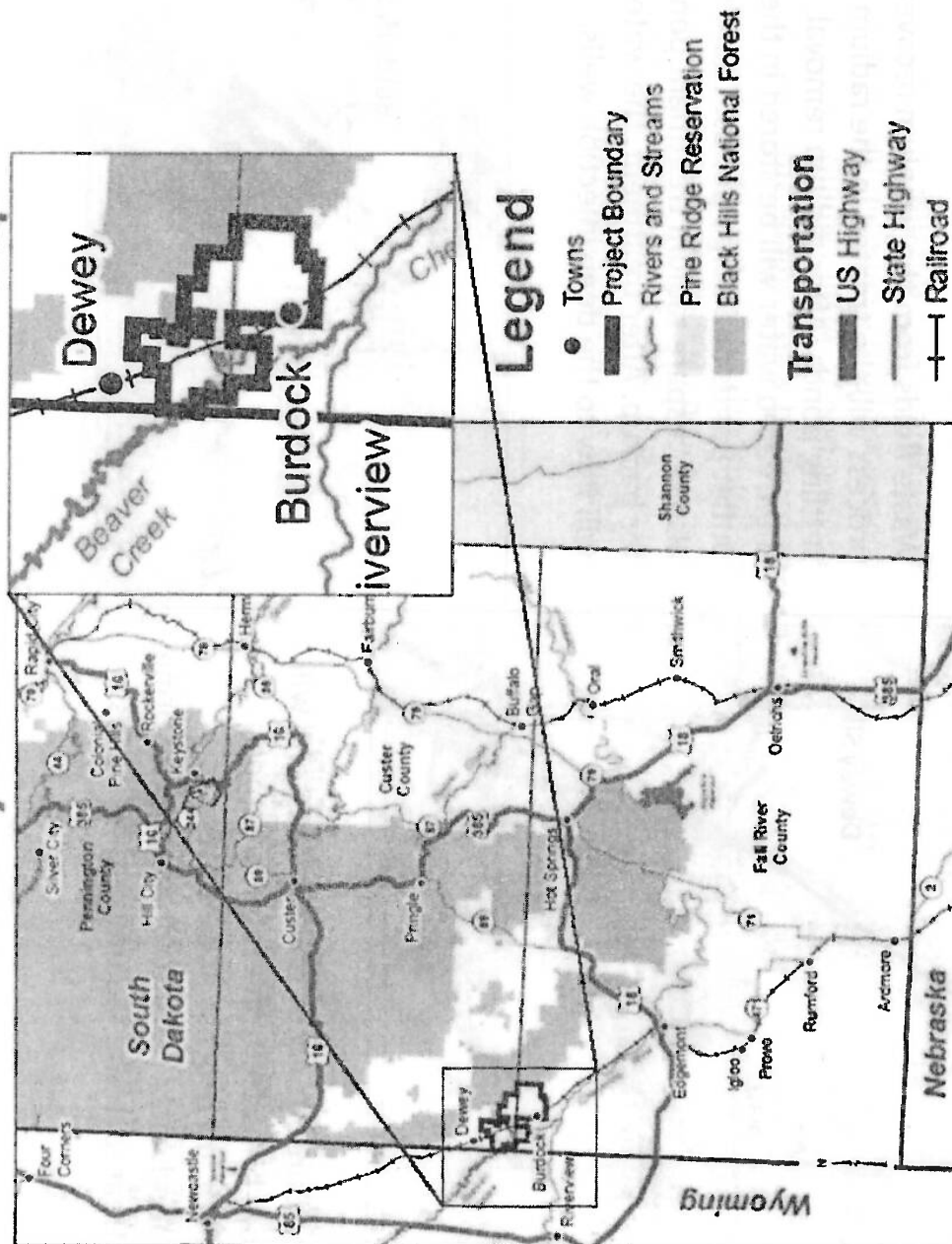
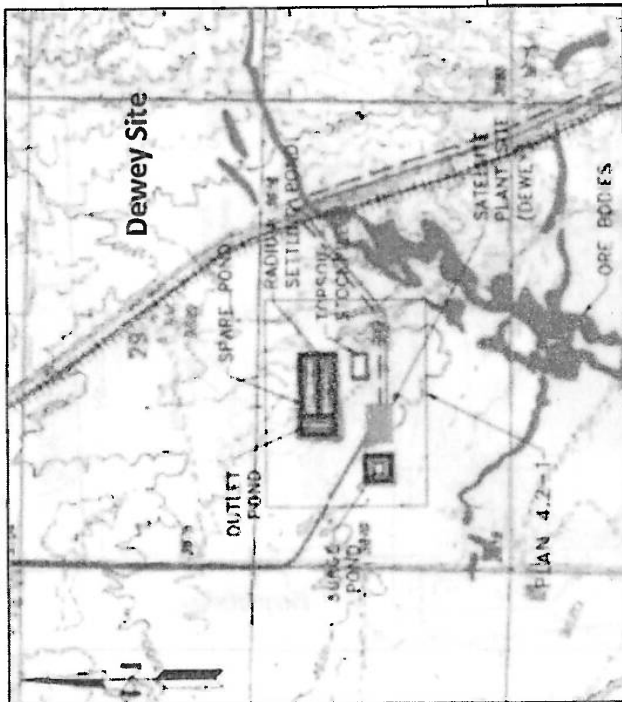
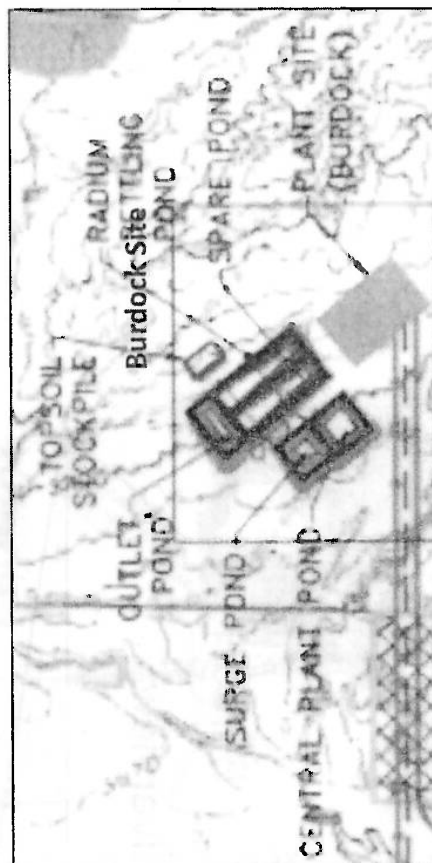


Figure 1. Map showing the location of the proposed Dewey-Burdock uranium recovery site.

Treatment and Storage Ponds for Deep Well Injectate



Waste fluids from the uranium recovery process will be treated in the radium settling ponds. After radium removal, the treated water will be stored in the outlet ponds and surge ponds. There will also be a spare radium treatment pond for backup. After treatment, the water will flow to the deep injection wells.



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Figure 2. The Proposed Ponds for the Treatment and Storage of the Deep Injection Well Injectate.

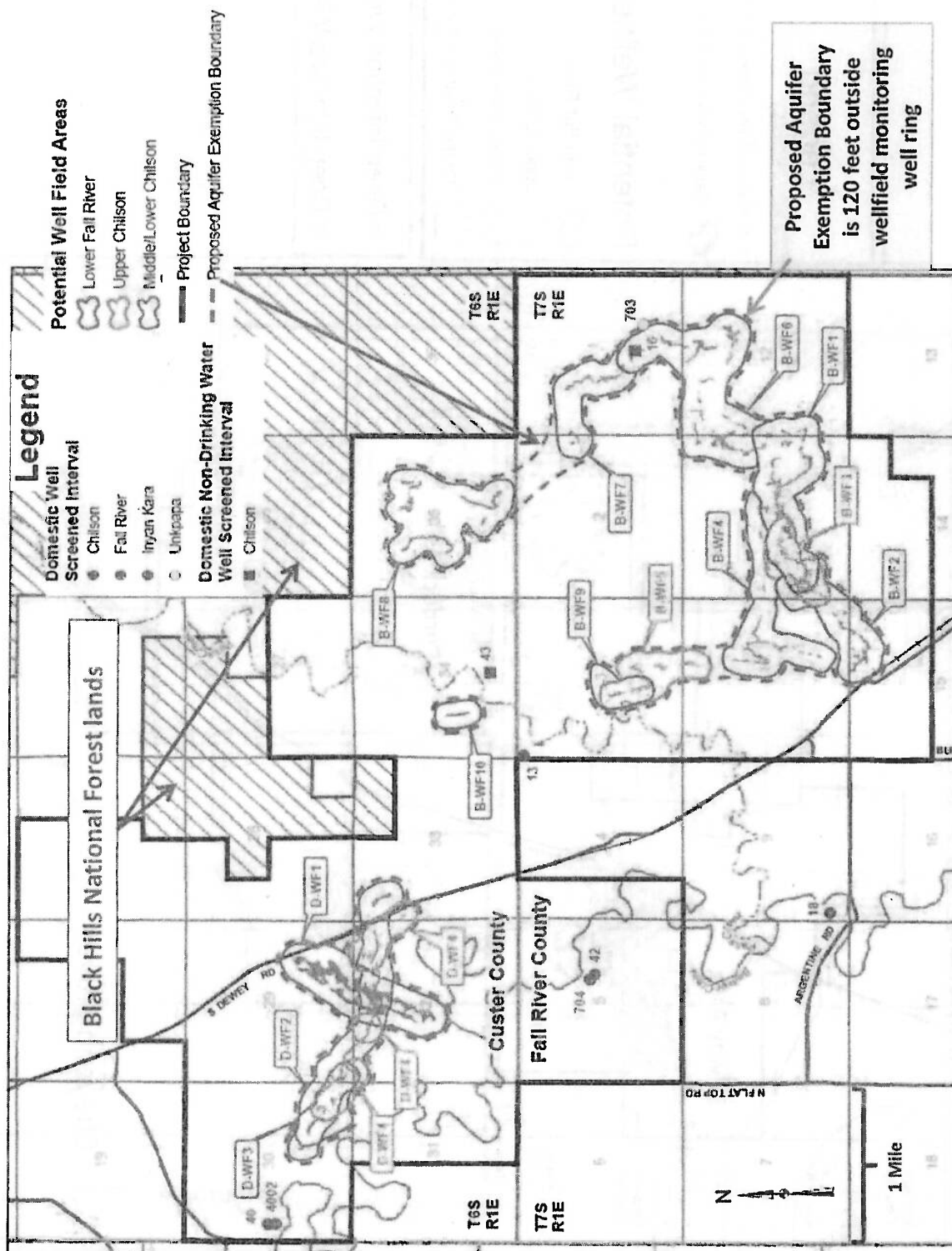
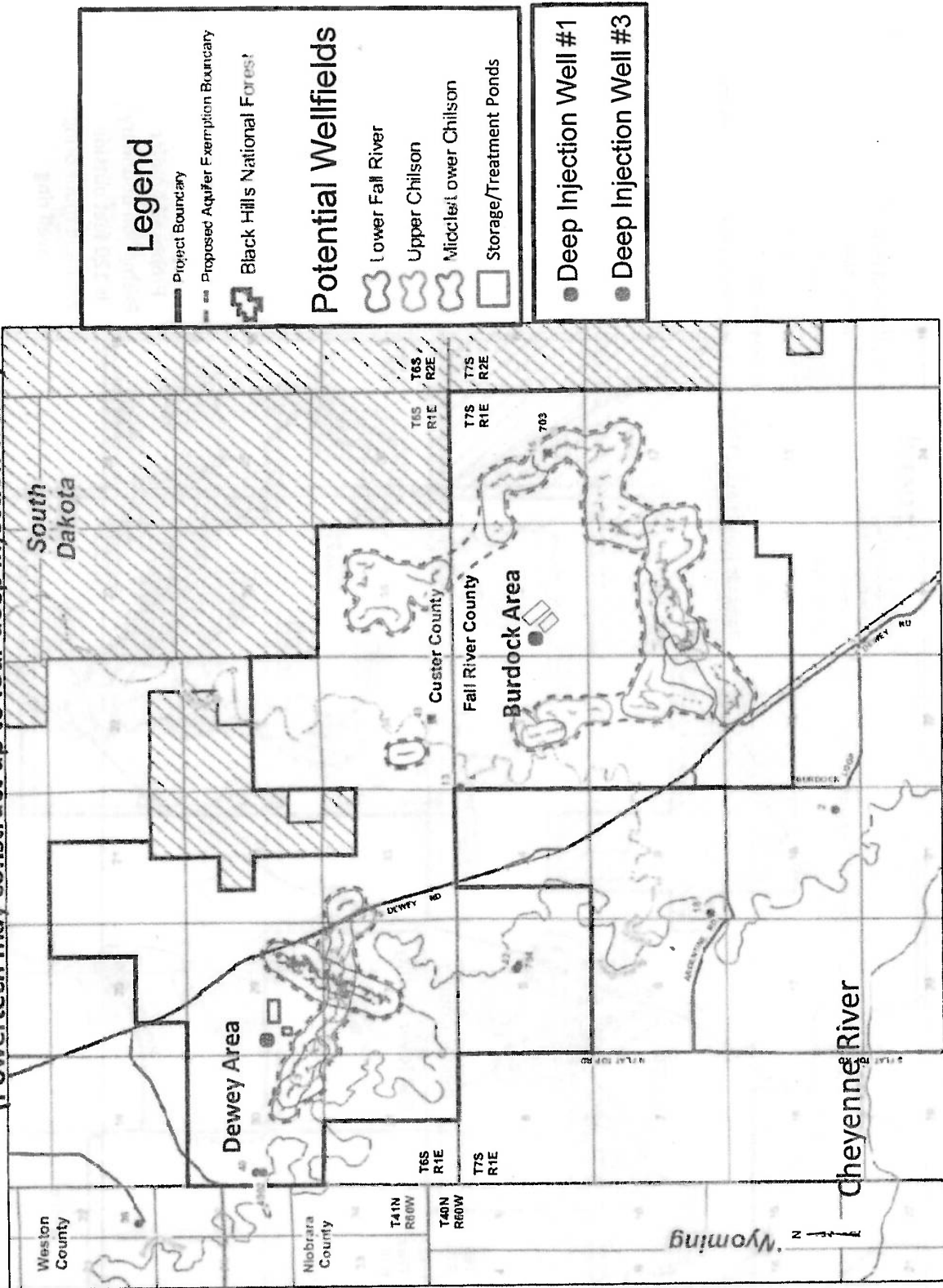


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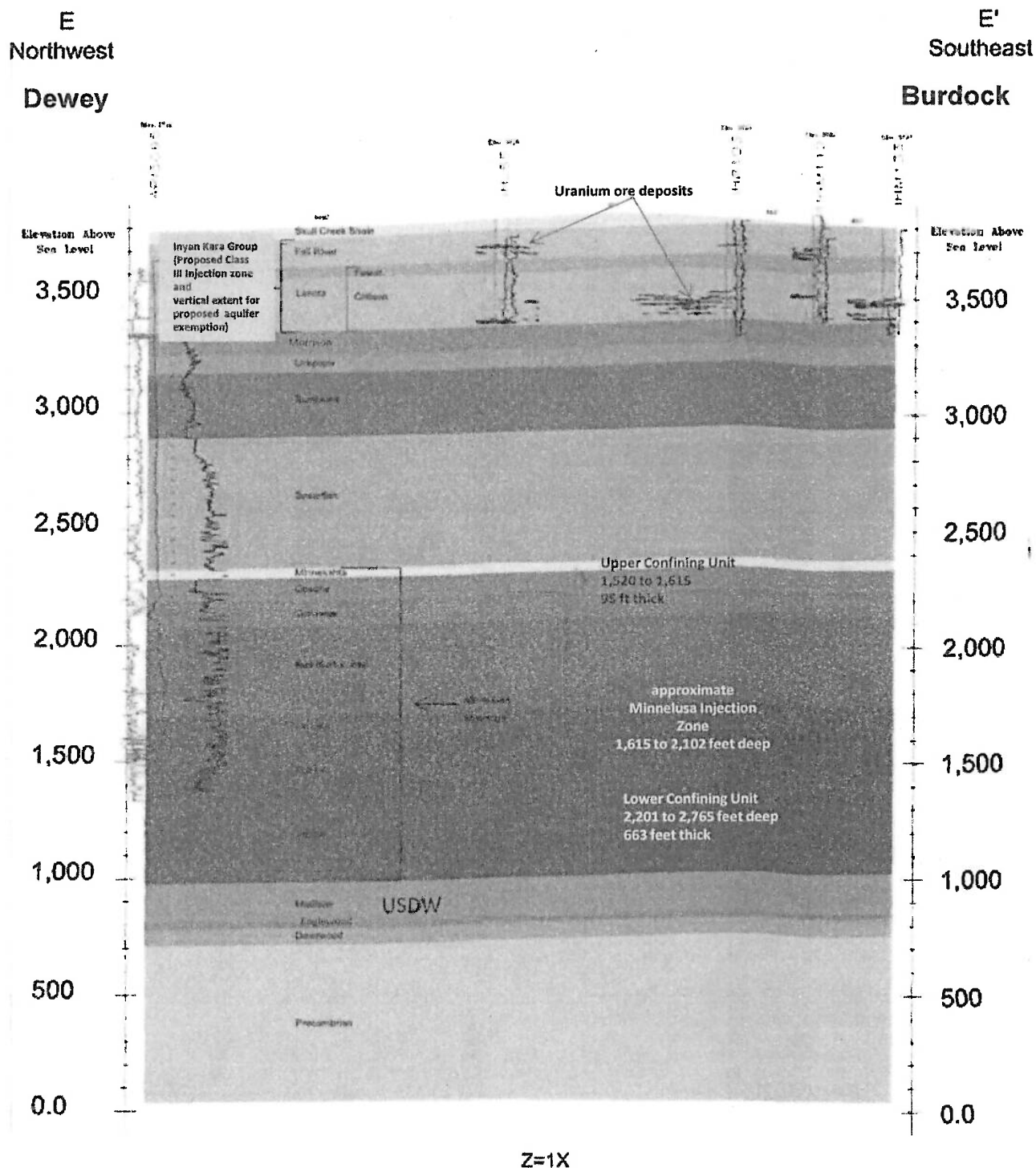


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From: [Minter, Douglas](#)
To: [Robinson, Valois](#)
Subject: FW: EPA R8: Underground Injection Control Program for Dewey-Burdock Draft Permits - Consultation Invitation and Timeline
Date: Wednesday, December 16, 2020 1:45:55 PM
Attachments: [EPA Letter PoncaNE.pdf](#)

From: Minter, Douglas
Sent: Monday, February 24, 2020 4:51 PM
To: ldwrightjr@gmail.com
Cc: nmauro@poncatribе-ne.org; gkriebs@poncatribе-ne.org; Varilek, Kimberly <Varilek.Kimberly@epa.gov>; Sierra-Lopez, Omar <Sierra-Lopez.Omar@epa.gov>; Mindrup, Mary <Mindrup.Mary@epa.gov>; Bustos, Patrick <Bustos.Patrick@epa.gov>
Subject: EPA R8: Underground Injection Control Program for Dewey-Burdock Draft Permits - Consultation Invitation and Timeline

Greetings Chairman Wright: I'm forwarding a digital copy of the letter the EPA Region 8 Water Division is mailing to you regarding the Ponca Tribe's interest in consulting on EPA Region 8's Dewey Burdock In-Situ Draft Permits re-issued in 2019.

Given the Tribe's stated interest during an August 23, 2017 meeting with EPA, please let us know if you are still interested in scheduling consultation with EPA Region 8 by contacting our offices as soon as possible. In the letter enclosed, the Region asks for your response by March 6, 2020, in communicating the Tribe's interest to consult with the expectation that we would hold a consultation meeting with you by April 30, 2020 to inform our Final Permit decisions later this year.

Please let me know if you have any questions, or feel free to reach out to Darcy O'Connor at (303) 312-6392 or dconnor.darcy@epa.gov, or Kim Varilek at (303) 312-6264 or varilek.kimberly@epa.gov.

We look forward to hearing from you as soon as possible and preferably by March 6, 2020.

Sincerely,

Douglas Minter, MPH
UIC Section Chief
1595 Wynkoop Street
USEPA Region 8

(303) 312 6079

"Practicing Public Servant Leadership"



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

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Phone 800-227-8917
www.epa.gov/region8

Ref: 8WD-SDU

FEB 21 2020

Honorable Larry Wright Jr.
Chairman
Ponca Tribe of Nebraska
P.O. Box 288
Niobrara, Nebraska 68760-0288

Re: U.S. Environmental Protection Agency Underground Injection Control Program
Timeframe for Tribal Consultation on the EPA's Proposed Actions for the Dewey-Burdock Uranium
Recovery Site near Edgemont, South Dakota

Dear Chairman Wright:

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The EPA will follow up with a phone call to confirm that you received this letter and are aware of the timeframes discussed above.

Sincerely,

A handwritten signature in black ink, consisting of a large, stylized loop followed by a horizontal line that ends in a small flourish.

Darcy O'Connor, Director
Water Division

Enclosure (1)

cc: Mr. Nick Mauro, Tribal Historic Preservation Officer
Ms. Georja Kriebs, Environmental Manager



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
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JUL 08 2019

Ref: 8WD-SDU

Honorable Larry Wright Jr.
Chairman
The Ponca Tribe of Nebraska
P.O. Box 288
Niobrara, Nebraska 68760-0288

Re: U.S. Environmental Protection Agency Underground Injection Control Program
Invitation for Consultation on revised Draft Permits and related actions for the Dewey-Burdock
Uranium Recovery Site near Edgemont, South Dakota

Dear Chairman Wright Jr.:

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- (1) Changes from the first Draft UIC permits to the second Draft UIC permits;
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that any information you provide to the EPA in writing will become a part of the public record unless other arrangements are made to maintain confidentiality.

We are requesting a reply from you as to whether the The Ponca Tribe of Nebraska wishes to consult with the EPA. If you are interested in meeting with the EPA, please reply by August 2, 2019. Consultation requests should be submitted to Valois Robinson of my staff, who can be reached at (800) 227-8917, extension 312-6276 or (303) 312-6276; or by email at robinson.valois@epa.gov. Please include a point of contact for the Tribe so we can keep you informed as the EPA moves forward with this consultation process.

If we do not hear from you by August 2, 2019, we will interpret this to mean that you do not wish to consult with the EPA at this time. The EPA would also welcome the opportunity to consult after the revised Draft Permits are issued to discuss these important issues.

We appreciate the The Ponca Tribe of Nebraska's prompt attention to this important matter.

Sincerely,

A handwritten signature in black ink, consisting of a large loop followed by a horizontal line.

Darcy O'Connor, Director
Water Division

Enclosures (6)

cc: Georja Kriebs, Environmental Manager
Nick Mauro, Tribal Historic Preservation Officer

Background Information on the Proposed Dewey-Burdock Uranium In-Situ Recovery Site

The Dewey-Burdock site is located north of Edgemont, South Dakota, in Fall River and Custer Counties as shown in the enclosed Figure 1. The EPA Region 8 UIC Program has received Class III and Class V injection well permit applications for this site from Powertech (USA) Inc. The Class III injection wells are related to uranium recovery; the Class V injection wells are deep wells for the disposal of treated process wastewater. The Class III permit application requests authorization for 14 injection well fields including approximately 2,330 wells to inject and recover fluids for the in-situ recovery of uranium. The Class V area permit application requests authorization for the injection of ISR process waste fluids (treated to meet radioactive and hazardous waste standards) into two proposed wells injecting into the Minnelusa Formation. The Class V area permit application requests authorization for up to four deep injection wells in case the two currently proposed wells do not have the capacity to dispose of the anticipated total volume of all ISR process waste fluids.

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The total proposed project area consists of approximately 10,580 acres (4,282 ha) east and west of the Dewey Road (County Road 6463), including portions of Sections 1-5, 10-12, 14 and 15 in Township 7 South, Range 1 East and Sections 20, 21, 27, 28, 29, and 30-35 in Township 6 South, Range 1 East, Black Hills Meridian. The surface area that will actually be impacted by the uranium ore processing plants, the 14 proposed uranium in-situ recovery well fields, the two proposed deep injection wells, treatment and storage ponds, roads and other surface-disturbing facilities is less than the 10,580-acre project area. The enclosed Figure 1 is a map showing the project site location. Figure 3 is a map showing the locations of the proposed wellfields containing Class III injection wells and the site project boundary. Figure 4 shows the locations for the two proposed deep Class V injection wells. Figure 5 shows a stratigraphic cross section of geologic formations at the Dewey Burdock site and the proposed injection zones for both the Class III and Class V injection wells. The Powertech Dewey-Burdock Project Class III and Class V area permit applications, and other documents that are part of the permit administrative record, are available for public review on the EPA Region 8 UIC Program website at <https://www.epa.gov/uic/epa-dewey-burdock-class-iii-and-class-v-injection-well-draft-area-permits>.

Dewey Burdock Location Map

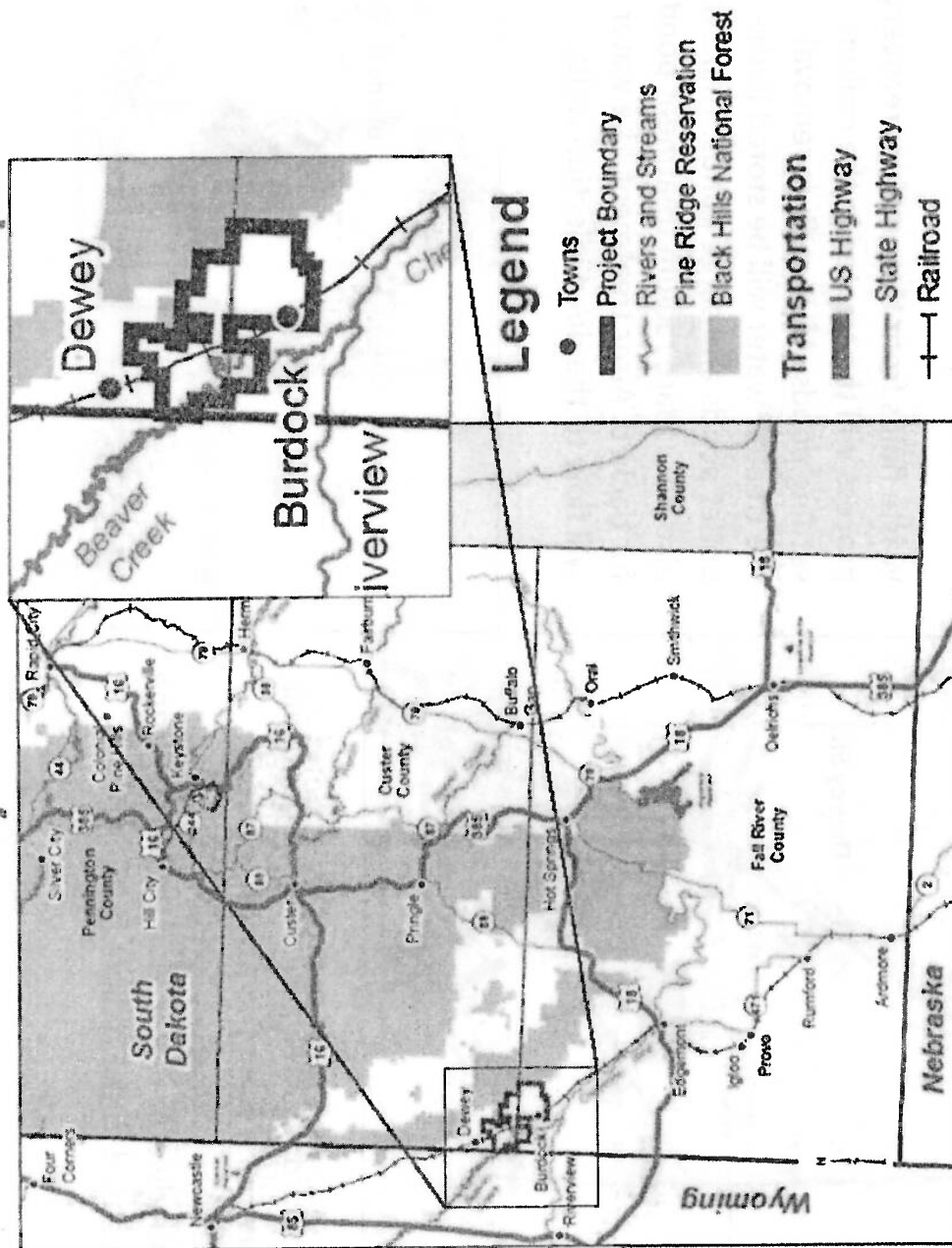
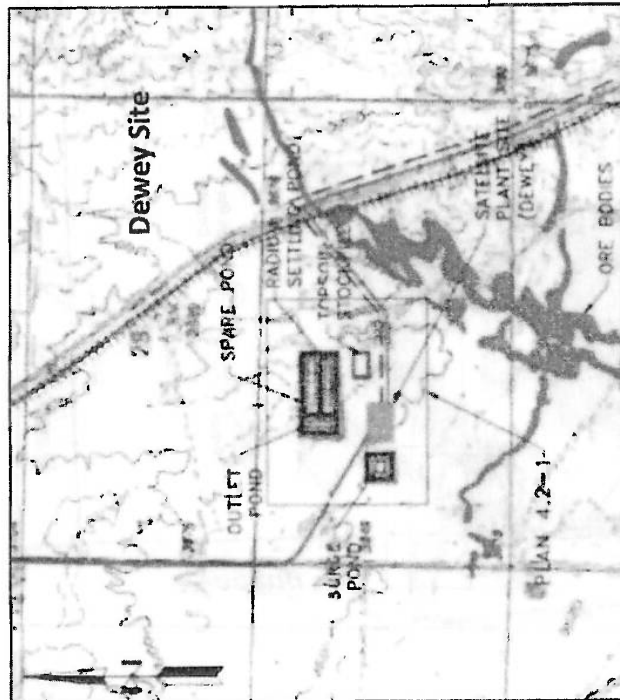


Figure 1. Map showing the location of the proposed Dewey-Burdock uranium recovery site.

Treatment and Storage Ponds for Deep Well Injectate



The Burdock Area central plant pond will store brine from the reverse osmosis treatment process used during groundwater restoration before the brine is treated in the radium settling ponds.

Waste fluids from the uranium recovery process will be treated in the radium settling ponds. After radium removal, the treated water will be stored in the outlet ponds and surge ponds. There will also be a spare radium treatment pond for backup. After treatment, the water will flow to the deep injection wells.

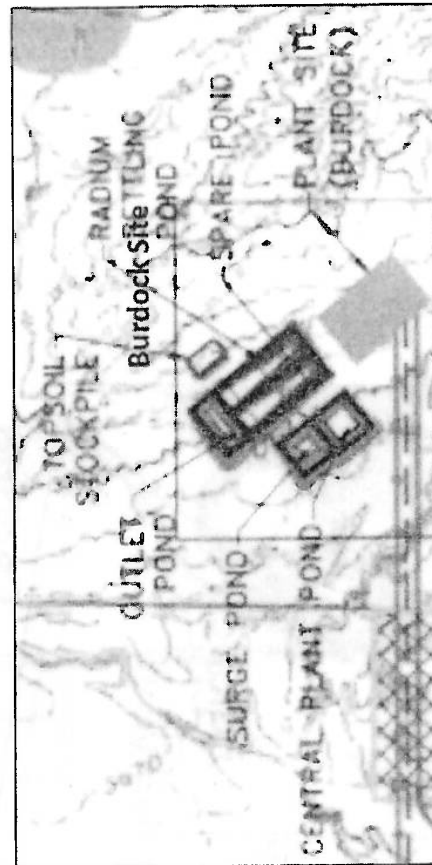


Figure 2. The Proposed Ponds for the Treatment and Storage of the Deep Injection Well Injectate.

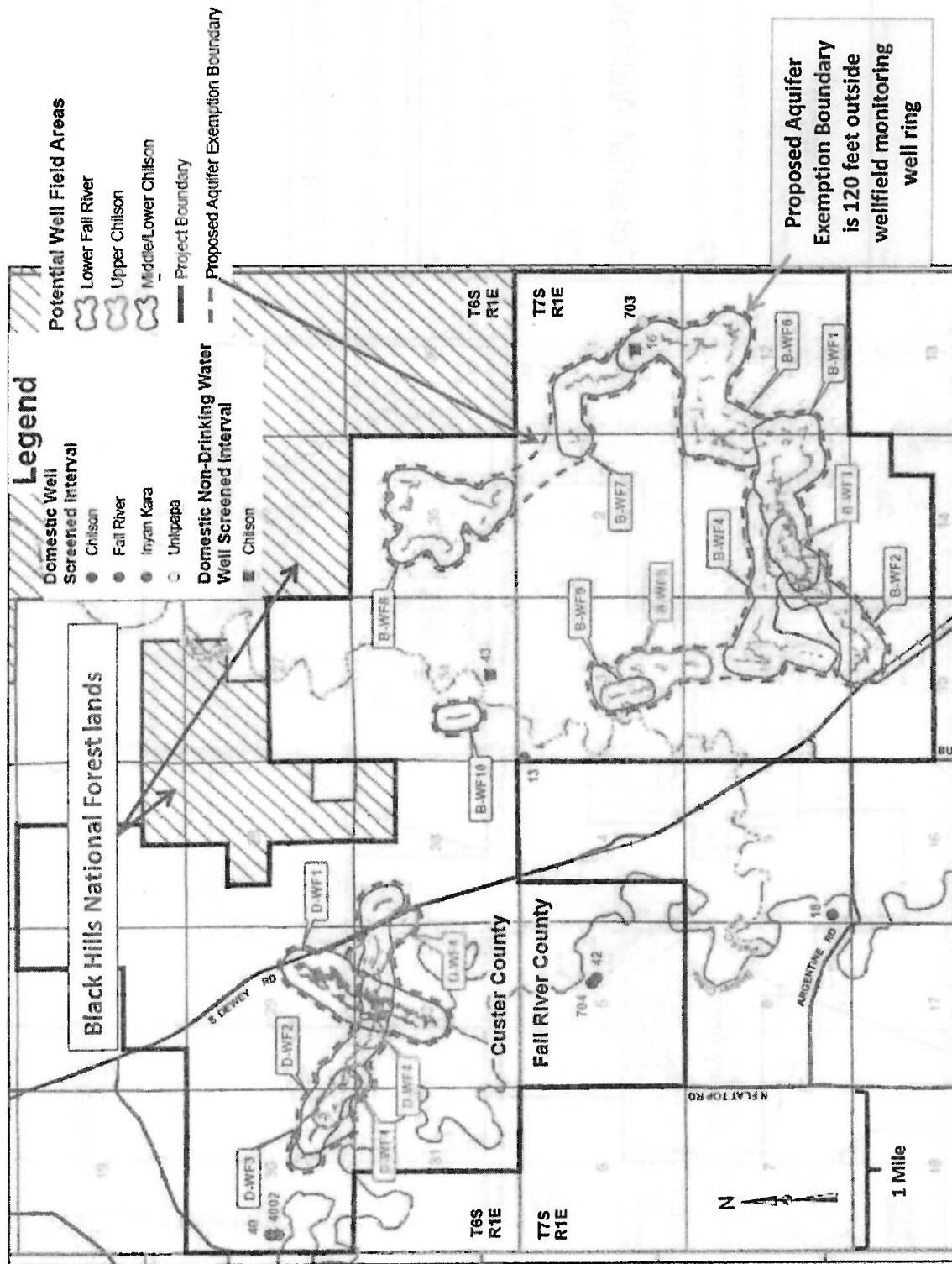
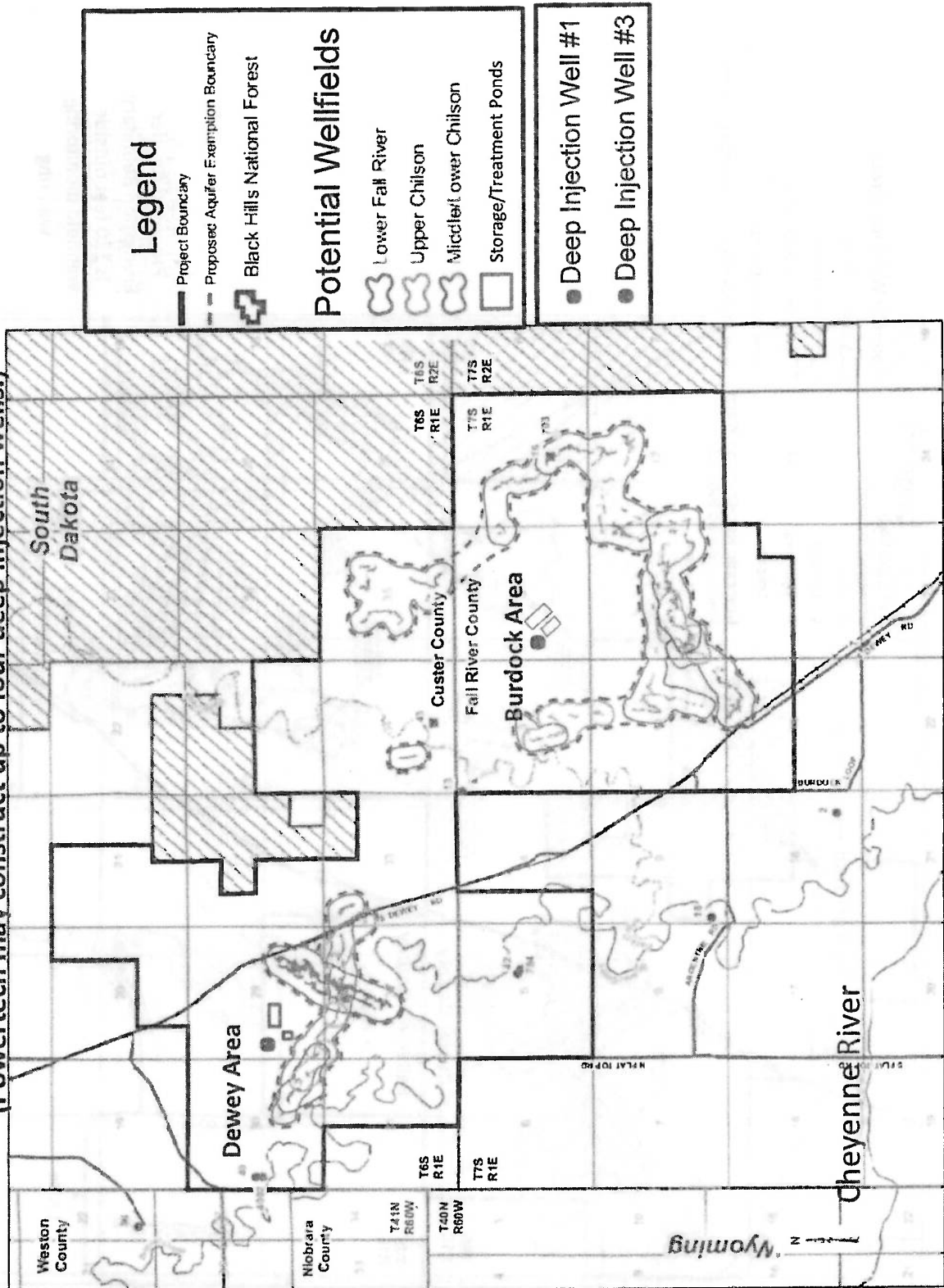


Figure 3. Map showing locations of the proposed wellfields containing Class III injection wells, the aquifer exemption boundary and the UIC permit boundary.

Figure 4. Map showing locations for the two currently proposed deep injection wells.
(Powertech may construct up to four deep injection wells.)



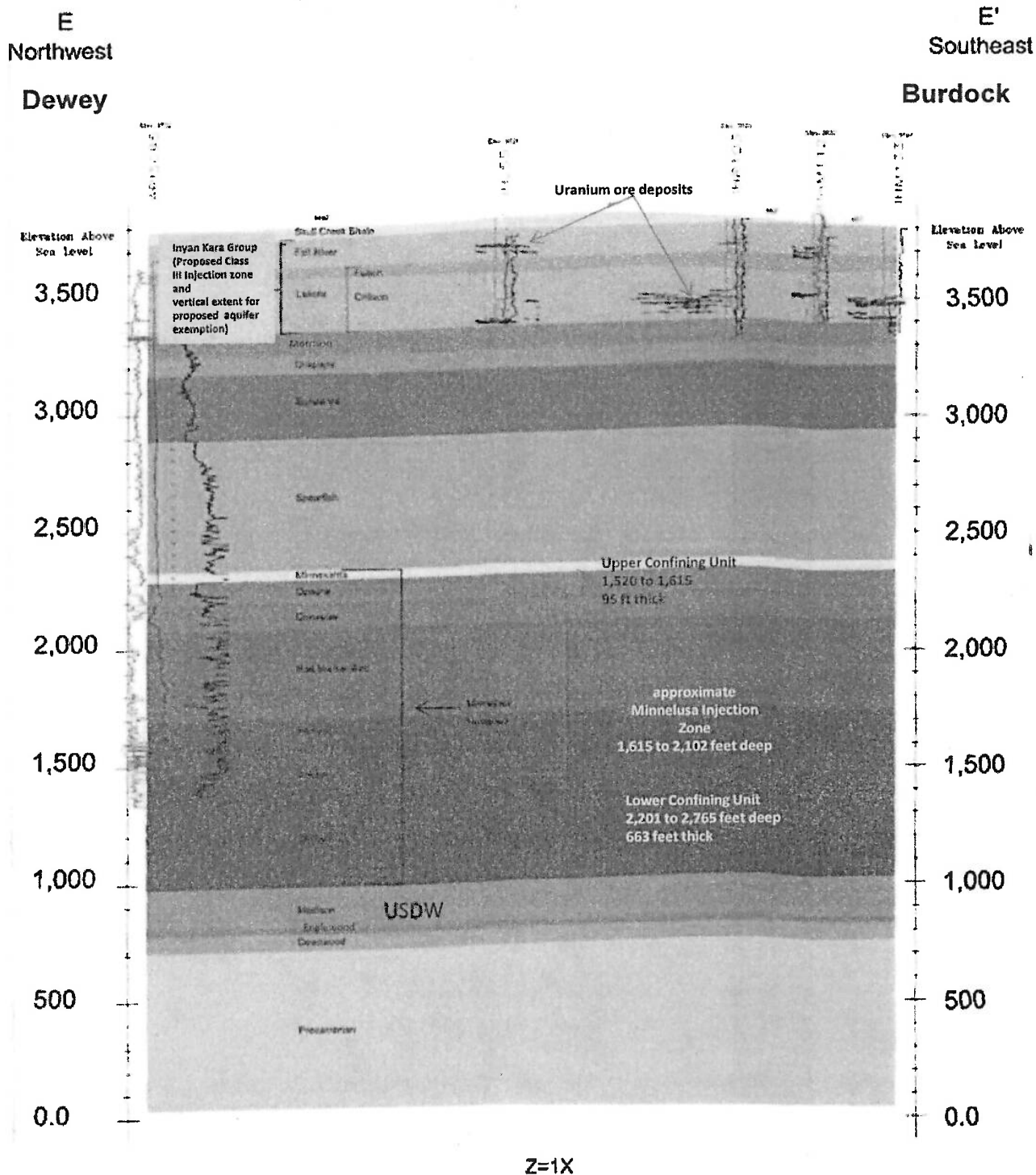


Figure 5. Stratigraphic cross-section of geologic formations present at the Dewey Burdock site and proposed injection zones for the Class III and deep Class V injections wells.

From: [Minter, Douglas](#)
To: [Robinson, Valois](#)
Subject: FW: EPA R8: Underground Injection Control Program for Dewey-Burdock Draft Permits - Consultation Invitation and Timeline
Date: Wednesday, December 16, 2020 1:48:16 PM
Attachments: [EPA Letter SanteeSioux.pdf](#)

From: Minter, Douglas

Sent: Monday, February 24, 2020 4:54 PM

To: rtrudell@santeedakota.org

Cc: Alisha Bartling <alisha.bartling@santeeoep.com>; pegasixx@yahoo.com; Varilek, Kimberly <Varilek.Kimberly@epa.gov>; Sierra-Lopez, Omar <Sierra-Lopez.Omar@epa.gov>; Mindrup, Mary <Mindrup.Mary@epa.gov>; Bustos, Patrick <Bustos.Patrick@epa.gov>

Subject: EPA R8: Underground Injection Control Program for Dewey-Burdock Draft Permits - Consultation Invitation and Timeline

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Please let me know if you have any questions, or feel free to reach out to Darcy O'Connor at (303) 312-6392 or odonnor.darcy@epa.gov, or Kim Varilek at (303) 312-6264 or varilek.kimberly@epa.gov.

We look forward to hearing from you as soon as possible and preferably by March 6, 2020.

Sincerely,

Douglas Minter, MPH
UIC Section Chief
1595 Wynkoop Street
USEPA Region 8

(303) 312 6079

"Practicing Public Servant Leadership"

From: [Minter, Douglas](#)
To: [Robinson, Valois](#)
Subject: FW: EPA R8: Underground Injection Control Program for Dewey-Burdock Draft Permits - Consultation Invitation and Timeline
Date: Wednesday, December 16, 2020 1:50:50 PM

From: Minter, Douglas
Sent: Thursday, February 27, 2020 3:52 PM
To: Bahrman, Sarah <Bahrman.Sarah@epa.gov>; O'Connor, Darcy <oconnor.darcy@epa.gov>; Robinson, Valois <Robinson.Valois@epa.gov>
Subject: FW: EPA R8: Underground Injection Control Program for Dewey-Burdock Draft Permits - Consultation Invitation and Timeline

fyi

From: alisha.bartling@santeeoep.com <alisha.bartling@santeeoep.com>
Sent: Thursday, February 27, 2020 3:13 PM
To: Minter, Douglas <Minter.Douglas@epa.gov>; rtrudell@santeedakota.org
Cc: pegasixx@yahoo.com; Varilek, Kimberly <Varilek.Kimberly@epa.gov>; Sierra-Lopez, Omar <Sierra-Lopez.Omar@epa.gov>; Mindrup, Mary <Mindrup.Mary@epa.gov>; Bustos, Patrick <Bustos.Patrick@epa.gov>
Subject: RE: EPA R8: Underground Injection Control Program for Dewey-Burdock Draft Permits - Consultation Invitation and Timeline

Douglas

Thank you for reaching out to us in regards to the Dewey-Burdock consultation. The Santee Sioux Nation would like to accept your invitation to consult. Please keep us informed on the steps going forward.

Thank you.

Alisha J. Bartling
Santee Sioux Nation
Environmental Director
52948 Hwy 12
Niobrara Ne. 68783

402-857-3347 Office
402-358-1333 Work Cell
402-857-3339 Fax
Alisha.bartling@santeeoep.com

From: Minter, Douglas <Minter.Douglas@epa.gov>

Sent: Monday, February 24, 2020 5:54 PM

To: rtrudell@santeedakota.org

Cc: Alisha.bartling@santeeoep.com; pegasixx@yahoo.com; Varilek, Kimberly <Varilek.Kimberly@epa.gov>; Sierra-Lopez, Omar <Sierra-Lopez.Omar@epa.gov>; Mindrup, Mary <Mindrup.Mary@epa.gov>; Bustos, Patrick <Bustos.Patrick@epa.gov>

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Douglas Minter, MPH
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1595 Wynkoop Street
USEPA Region 8

(303) 312 6079

"Practicing Public Servant Leadership"

Re: EPA R8: Underground Injection Control Program for Dewey-Burdock Draft Permits - Consultation Invitation and Timeline**Sierra-Lopez, Omar <Sierra-Lopez.Omar@epa.gov>**

Fri 2/28/2020 1:28 PM

To: rtrudell@santeedakota.org <rtrudell@santeedakota.org> 1 attachments (1 MB)

EPA_Letter_SanteeSioux.pdf;

Greetings Chairman Trudell: I'm forwarding a copy of the email and attachment the EPA Region 8 Water Division emailed you last Monday regarding the Santee Sioux Nation's interest in consulting on EPA Region 8's Dewey Burdock In-Situ Draft Permits re-issued in 2019. I received information from your staff over the phone just recently that you did not received this information. Let me now if you have any questions. Have a wonderful day!

Regards,

Omar Sierra-Lopez**Physical Scientist (Environmental)****U. S. Environmental Protection Agency**

Water Division

Underground Injection Control

Mail Code: 8WD-SDU

1595 Wynkoop Street

Denver, Colorado 80202-1129

Phone 303.312.7045

Fax 303.312.7084

Sierra-Lopez.Omar@epa.gov**EPA Region 8 website:**<http://www.epa.gov/uic/underground-injection-control-epa-region-8-co-mt-nd-sd-ut-and-wy>

From: Minter, Douglas <Minter.Douglas@epa.gov>**Sent:** Monday, February 24, 2020 4:53 PM**To:** rtrudell@santeedakota.org <rtrudell@santeedakota.org>**Cc:** Alisha.bartling@santeeoep.com <Alisha.bartling@santeeoep.com>; pegasixx@yahoo.com <pegasixx@yahoo.com>; Varilek, Kimberly <Varilek.Kimberly@epa.gov>; Sierra-Lopez, Omar <Sierra-Lopez.Omar@epa.gov>; Mindrup, Mary <Mindrup.Mary@epa.gov>; Bustos, Patrick <Bustos.Patrick@epa.gov>

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"Practicing Public Servant Leadership"



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

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

Ref: 8WD-SDU

FEB 21 2020

Honorable Roger Trudell
Chairman
Santee Sioux Nation
108 Spirit Lake Avenue West
Niobrara, Nebraska 68760

Re: U.S. Environmental Protection Agency Underground Injection Control Program
Timeframe for Tribal Consultation on the EPA's Proposed Actions for the Dewey-Burdock Uranium
Recovery Site near Edgemont, South Dakota

Dear Chairman Trudell:

The EPA is approaching the end of the tribal consultation process on the EPA's proposed actions for the Dewey-Burdock Uranium Recovery Site near Edgemont, South Dakota. Because we have previously consulted with the Santee Sioux Nation regarding this matter, we are reaching out to remind you of EPA's July 8, 2019 letter requesting tribal consultation with your Tribe.

The EPA is moving forward on final Underground Injection Control (UIC) permit decisions. Therefore, we are setting a deadline of March 6, 2020, for scheduling a tribal consultation meeting to be held by April 30, 2020. The EPA believes setting these deadlines is necessary to provide the EPA adequate time to give the Tribe's comments due consideration and develop a response to the Tribe on how the EPA has addressed the comments in the final UIC permit decisions.

If you have interest in following up on our previous tribal consultation, or consulting in response to EPA's July 8, 2019 letter, please contact me by phone at 303-312-6392 or by email at oconnor.darcy@epa.gov or have one of your staff contact Omar Sierra-Lopez of my staff by March 6 and work with him to schedule a tribal consultation meeting before April 30, 2020. Mr. Sierra-Lopez can be reached at (800) 227-8917, extension 312-7045 or (303) 312-7045; or by email at sierra-lopez.omar@epa.gov. I have enclosed the July 8, 2019, letter we sent to you that lists the topics we would particularly like to discuss with you.

If we do not hear from the Tribe by March 6, we will interpret the lack of response to indicate that at this time the Tribe has conveyed all the information it wishes to provide the EPA on these proposed EPA actions at the Dewey-Burdock uranium in-situ recovery site through previous consultation activities, specifically our meeting on November 20, 2019.

The EPA will follow up with a phone call to confirm that you received this letter and are aware of the timeframes discussed above.

Sincerely,

A handwritten signature in black ink, consisting of a large, stylized loop followed by a long, horizontal stroke that tapers to the right.

Darcy O'Connor, Director
Water Division

Enclosure (1)

cc: Mr. Rick Thomas, THPO Director
Ms. Alisha Bartling, Environmental Manager



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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

JUL 08 2019

Ref: 8WD-SDU

Honorable Roger Trudell
Chairman
The Santee Sioux Tribe of Nebraska
108 Spirit Lake Ave. W.
Niobrara, Nebraska 68760-7207

Re: U.S. Environmental Protection Agency Underground Injection Control Program
Invitation for Consultation on revised Draft Permits and related actions for the Dewey-Burdock
Uranium Recovery Site near Edgemont, South Dakota

Dear Chairman Trudell:

The U.S. Environmental Protection Agency Region 8 Underground Injection Control (UIC) Program would like to consult with you, and any other representatives you would like to invite, on revised Draft Permits for injection wells and an updated draft Environmental Justice Analysis for the proposed Dewey-Burdock uranium in-situ recovery (ISR) site near Edgemont, South Dakota. The EPA anticipates issuing the revised Draft Permits in August 2019.

In March 2017, the EPA UIC Program issued two Draft Permits for Powertech (USA) Inc.: one for Class III injection wells used during the uranium recovery process; the second for deep injection wells for the disposal of treated ISR process waste water. The EPA also issued a draft Environmental Justice Analysis at that time. After considering comments received during the public comment period, the EPA has decided to issue revised Draft Permits, a revised draft Environmental Justice Analysis, a revised Aquifer Exemption Record of Decision and an updated document describing the EPA's plan for compliance with section 106 of the National Historic Preservation Act.

The location of the Dewey-Burdock site is shown in the enclosed Figure 1. For additional information about the proposed Dewey-Burdock site, please see the enclosed page entitled *Background Information on the Proposed Dewey-Burdock Uranium In-Situ Recovery Site* and enclosed Figures 1 through 5.

Environmental Justice Analysis

During consultation, we plan to present information about the revised draft Environmental Justice Analysis, specifically related to the The Santee Sioux Tribe of Nebraska's interest in the Black Hills as a sacred site. We also welcome any input the Tribe would be willing to offer to assist the EPA in presenting an accurate picture of environmental justice issues related to the Black Hills.

The EPA Tribal Consultation Policy

It is the EPA's policy to consult on a government-to-government basis with federally recognized tribal governments when EPA actions and decisions may affect tribal interests. The EPA views consultation as a process of meaningful communication and coordination between the EPA and tribal officials prior to the EPA taking actions or implementing decisions that may affect tribes. For information about the EPA *Policy on Consultation and Coordination with Indian Tribes* please visit the following website: <https://www.epa.gov/tribal/forms/consultation-and-coordination-tribes>.

The EPA also developed the *Policy on Consultation and Coordination with Indian Tribes: Guidance for Discussing Tribal Treaty Rights* (Treaty Rights guidance) to complement the EPA's general *Policy on Consultation and Coordination with Indian Tribes*. The Treaty Rights guidance provides affirmative steps for the Agency to take during tribal consultations when an EPA action occurs in a specific geographic location and a resource-based treaty right, or an environmental condition necessary to support the resource, may be affected by the EPA's action. The Treaty Rights guidance was developed after nationwide tribal consultation. This guidance document is found at the following website: https://www.epa.gov/tribal/forms/consultation-and-coordination-tribes#treaty_rights.

Consistent with the Treaty Rights guidance, the EPA would also like input from the The Santee Sioux Tribe of Nebraska on treaty rights related to our revised draft permitting actions. The EPA acknowledges that some tribes have previously provided written public comment stating their position that treaty rights would be impacted by the Draft Permits. Nevertheless, pursuant to the Treaty Rights guidance, EPA seeks input on the following questions:

- (1) Do treaties exist within the project area?
- (2) What treaty rights exist in or what treaty-protected resources rely upon the project area? Among other things, have treaty-based groundwater rights in the project area been recognized by judicial decree or congressional settlement?
- (3) How are treaty rights potentially affected by the revised Draft Permits?
- (4) Any concerns you have related to treaty rights.

The EPA has a separate responsibility under section 106 of the National Historic Preservation Act (NHPA) to consult with tribes that attach religious and cultural significance to historic properties that may be affected by an undertaking. Accordingly, we invite the The Santee Sioux Tribe of Nebraska to engage in government-to-government consultation under section 106. Wherever appropriate, the EPA attempts to integrate this section 106 consultation with general consultation under our Tribal Consultation Policy. Therefore, we propose the following potential topics for consultation:

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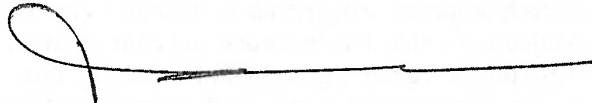
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We appreciate the The Santee Sioux Tribe of Nebraska's prompt attention to this important matter.

Sincerely,

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Darcy O'Connor, Director
Water Division

Enclosures (6)

cc: Alisha Bartling, Environmental Director
Duane Whipple, Tribal Historic Preservation Officer

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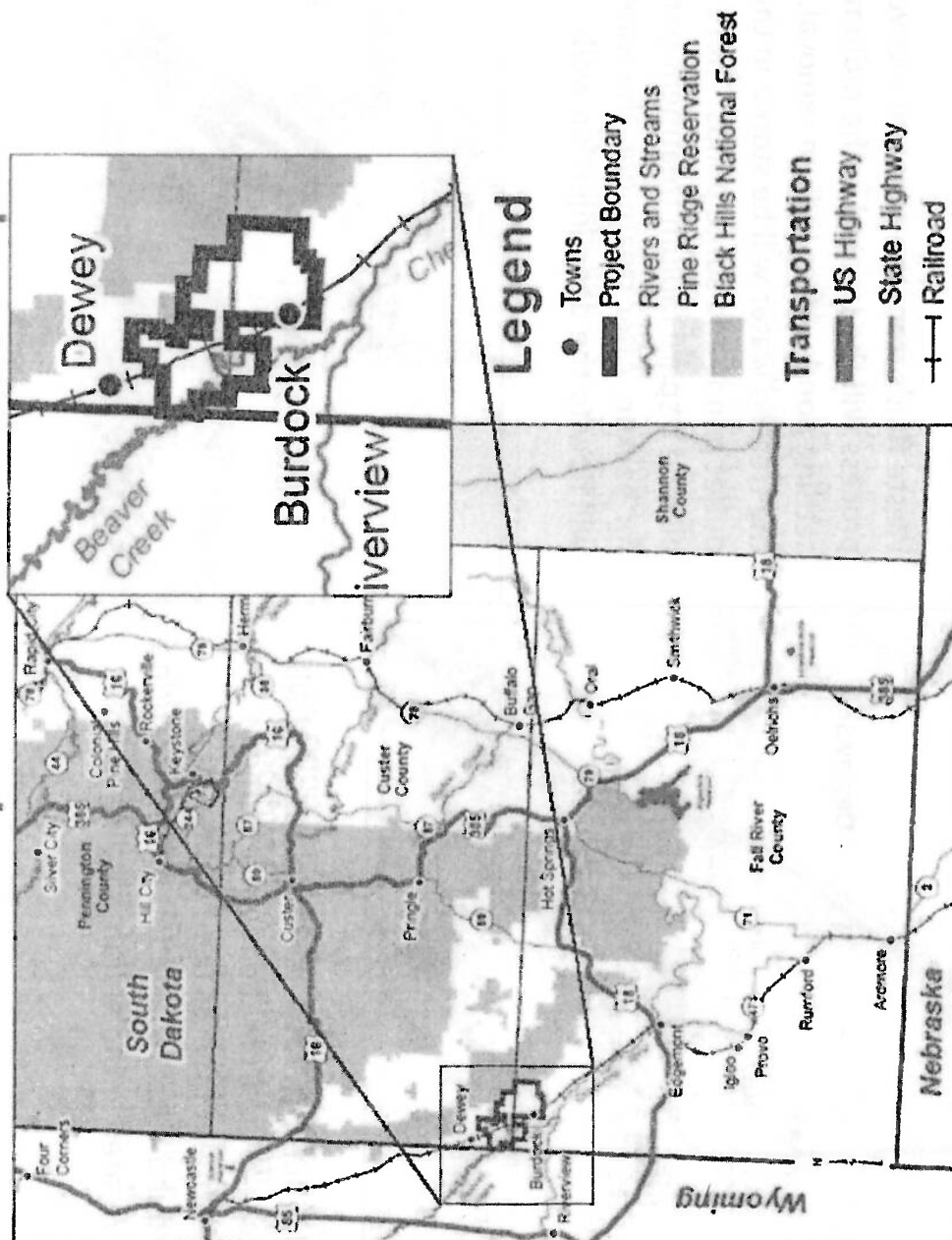
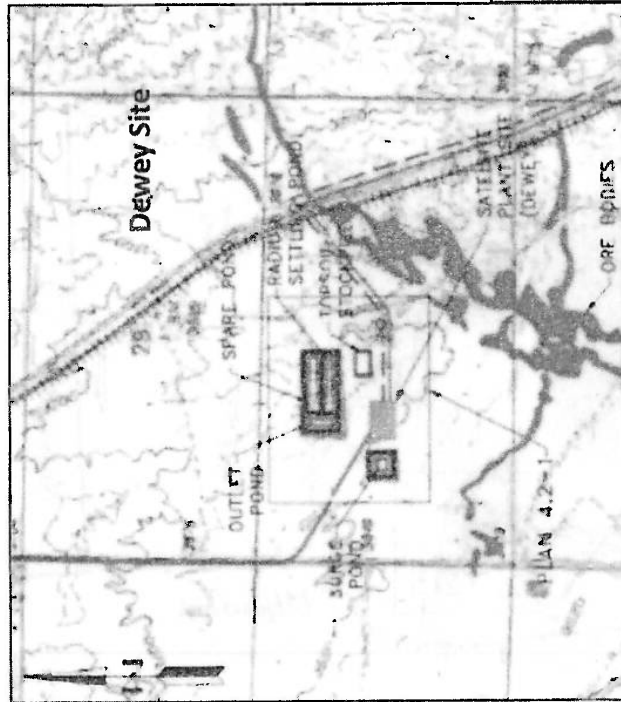


Figure 1. Map showing the location of the proposed Dewey-Burdock uranium recovery site.

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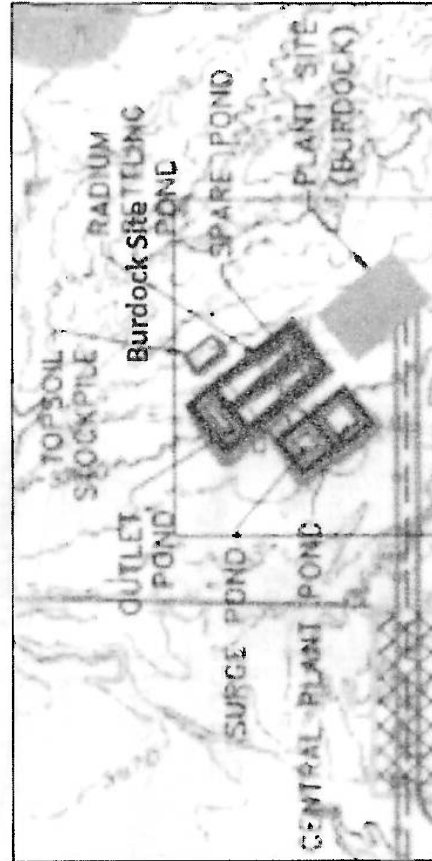


Figure 2. The Proposed Ponds for the Treatment and Storage of the Deep Injection Well Injectate.

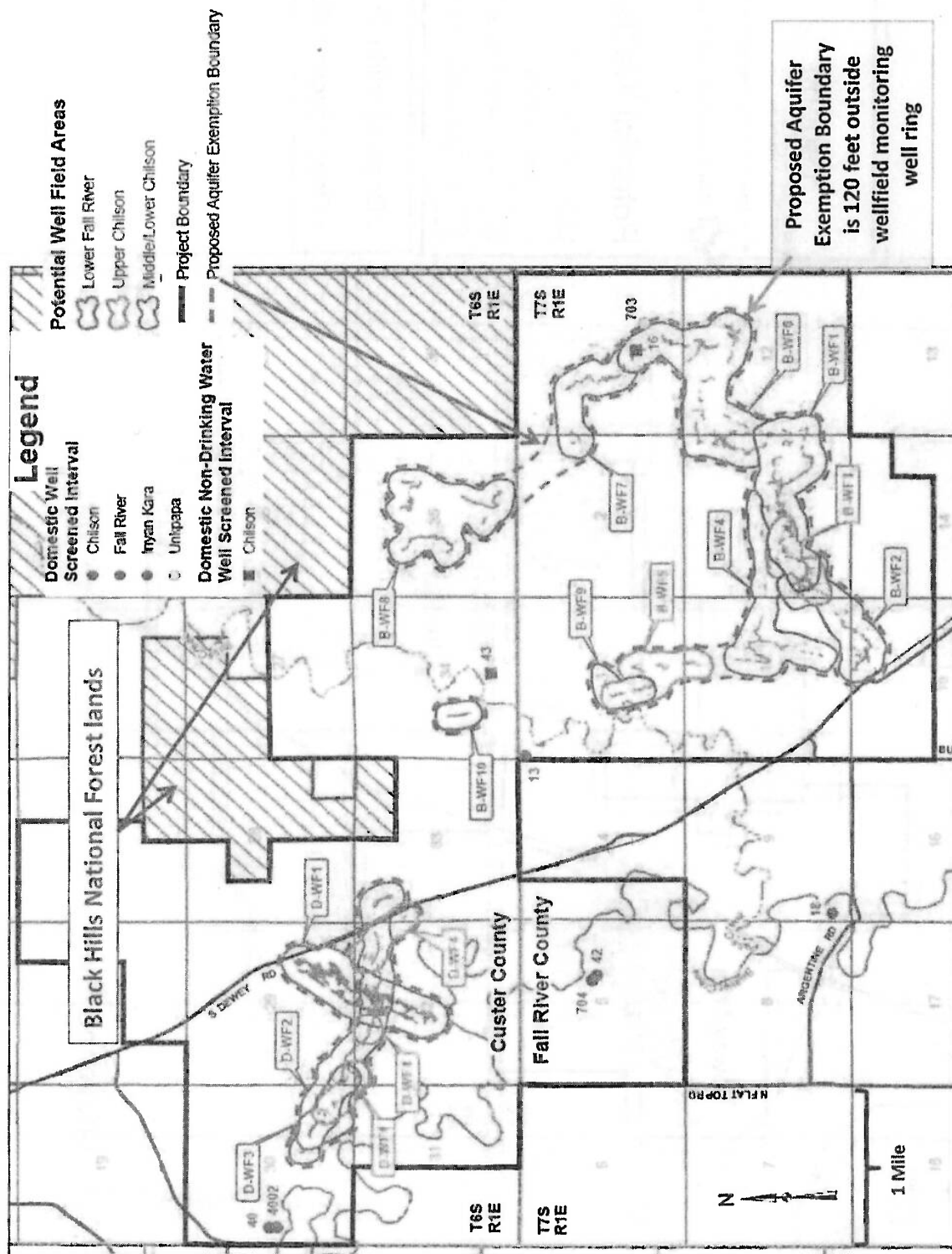
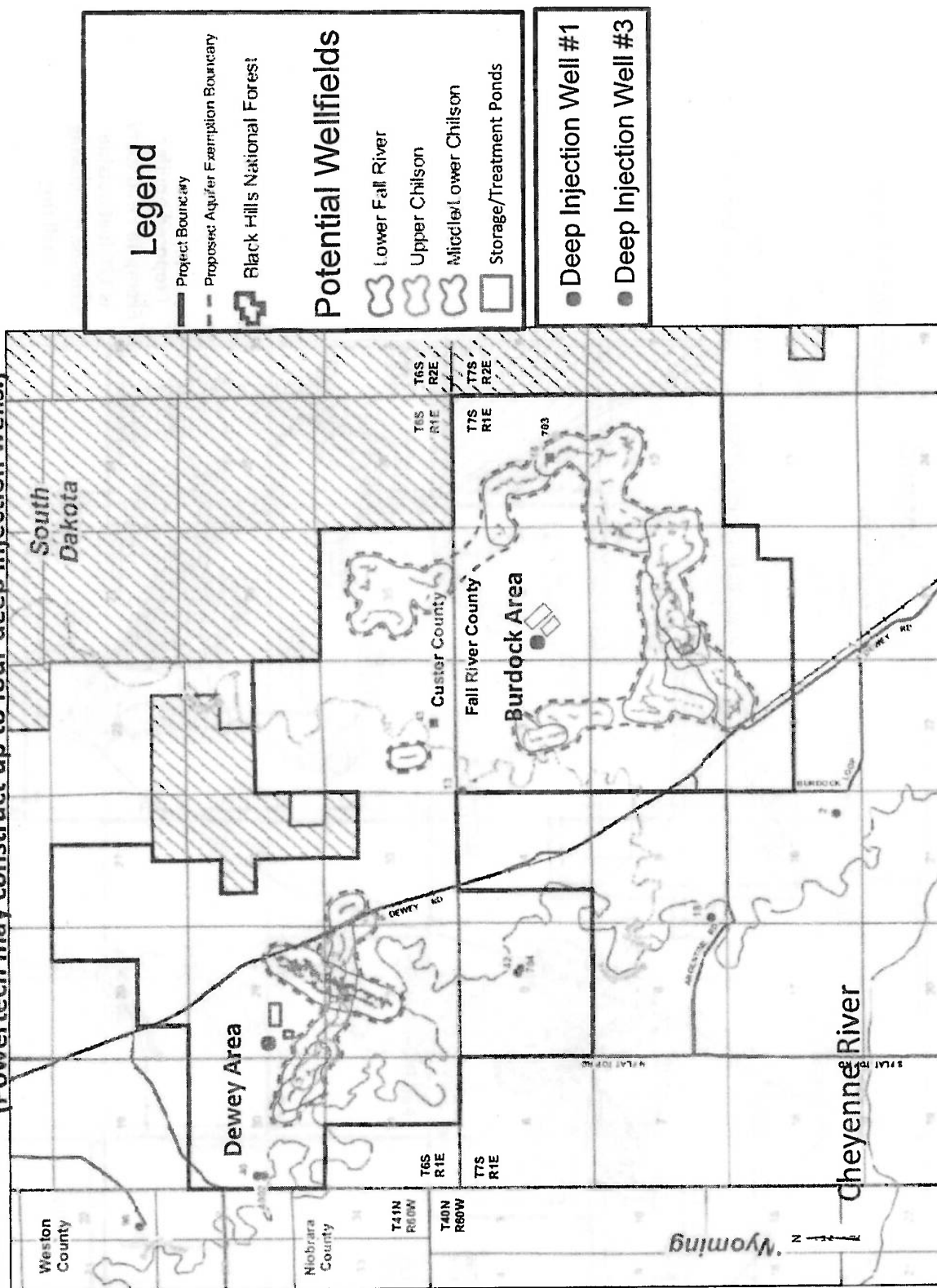


Figure 3. Map showing locations of the proposed wellfields containing Class III injection wells, the aquifer exemption boundary and the UIC permit boundary.

Figure 4. Map showing locations for the two currently proposed deep injection wells.
(Powertech may construct up to four deep injection wells.)



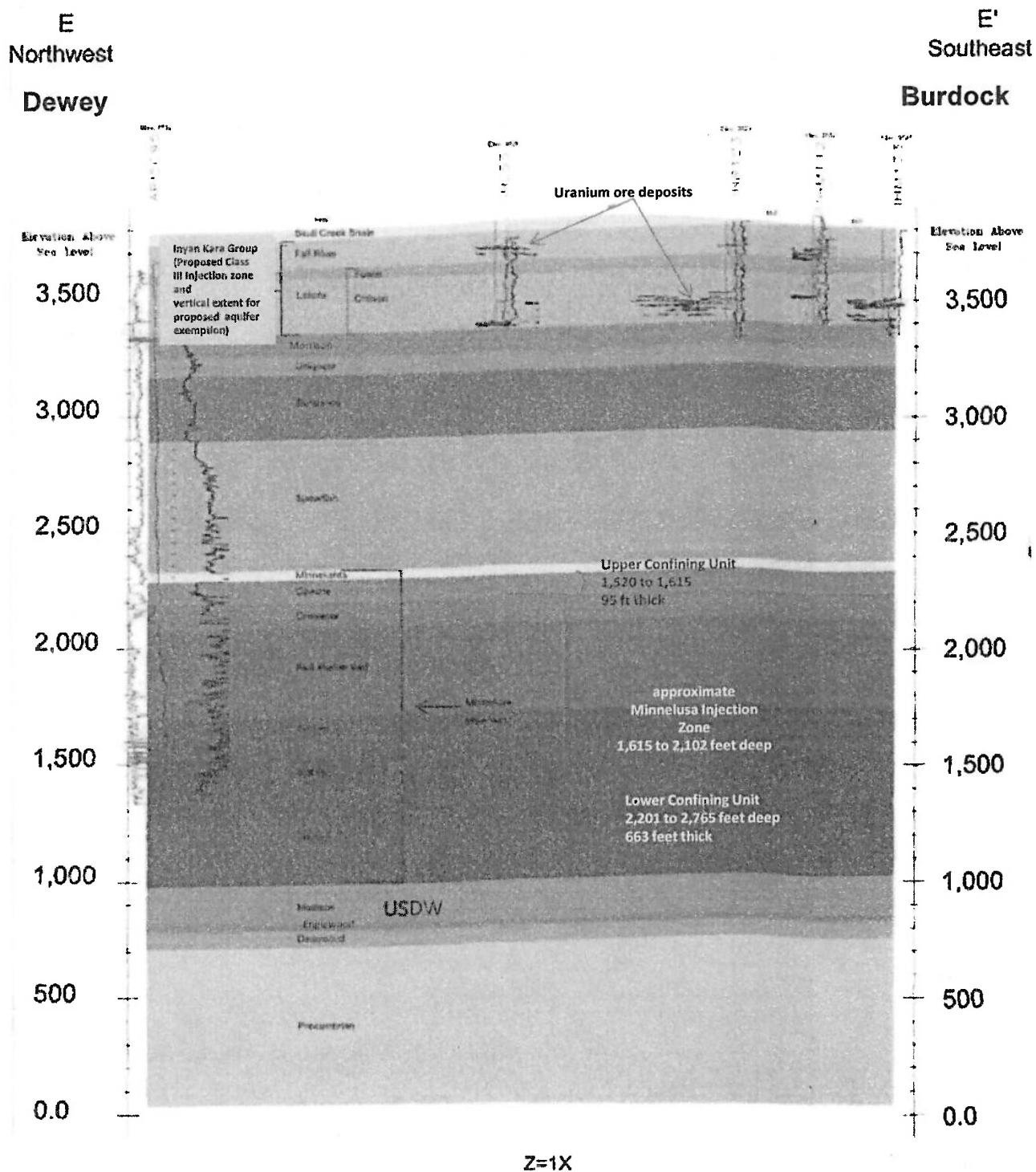


Figure 5. Stratigraphic cross-section of geologic formations present at the Dewey Burdock site and proposed injection zones for the Class III and deep Class V injections wells.

From: [Minter, Douglas](#)
To: [Robinson, Valois](#)
Subject: FW: EPA R8: Underground Injection Control Program for Dewey-Burdock Draft Permits - Consultation Invitation and Timeline
Date: Wednesday, December 16, 2020 1:48:59 PM
Attachments: [EPA Letter ShakopeeMdewakanton.pdf](#)

From: Minter, Douglas
Sent: Monday, February 24, 2020 4:54 PM
To: bill.rudnicki@shakopeedakota.org
Cc: leonard.wabasha@shakopeedakota.org; Stephen.Albrecht@Shakopeedakota.org; Varilek, Kimberly <Varilek.Kimberly@epa.gov>; Sierra-Lopez, Omar <Sierra-Lopez.Omar@epa.gov>; Jann, Stephen <jann.stephen@epa.gov>; Walts, Alan <walts.alan@epa.gov>
Subject: EPA R8: Underground Injection Control Program for Dewey-Burdock Draft Permits - Consultation Invitation and Timeline

Greetings Chairman Anderson: I'm forwarding a digital copy of the letter the EPA Region 8 Water Division is mailing to you regarding the Shakopee Mdewakanton Sioux Tribe's interest in consulting on EPA Region 8's Dewey Burdock In-Situ Draft Permits re-issued in 2019.

Given the Tribe's stated interest during a February 22, 2016 webinar with EPA, please let us know if you are still interested in scheduling consultation with EPA Region 8 by contacting our offices as soon as possible. In the letter enclosed, the Region asks for your response by March 6, 2020, in communicating the Tribe's interest to consult with the expectation that we would hold a consultation meeting with you by April 30, 2020 to inform our Final Permit decisions later this year.

Please let me know if you have any questions, or feel free to reach out to Darcy O'Connor at (303) 312-6392 or connor.darcy@epa.gov, or Kim Varilek at (303) 312-6264 or varilek.kimberly@epa.gov.

We look forward to hearing from you as soon as possible and preferably by March 6, 2020.

Sincerely,

Douglas Minter, MPH
UIC Section Chief
1595 Wynkoop Street
USEPA Region 8

(303) 312 6079

"Practicing Public Servant Leadership"

From: [Minter, Douglas](#)
To: [Robinson, Valois](#)
Subject: FW: EPA R8: Underground Injection Control Program for Dewey-Burdock Draft Permits - Consultation Invitation and Timeline
Date: Wednesday, December 16, 2020 1:51:45 PM
Attachments: [image002.png](#)

From: Minter, Douglas
Sent: Tuesday, February 25, 2020 2:09 PM
To: Leonard Wabasha (TO) <leonard.wabasha@shakopeedakota.org>; Bill Rudnicki (TO) <bill.rudnicki@shakopeedakota.org>
Cc: Steve Albrecht (TO) <Steve.Albrecht@shakopeedakota.org>; Varilek, Kimberly <Varilek.Kimberly@epa.gov>; Sierra-Lopez, Omar <Sierra-Lopez.Omar@epa.gov>; Jann, Stephen <jann.stephen@epa.gov>; Walts, Alan <walts.alan@epa.gov>; Robinson, Valois <Robinson.Valois@epa.gov>
Subject: RE: EPA R8: Underground Injection Control Program for Dewey-Burdock Draft Permits - Consultation Invitation and Timeline

Thank you for your prompt reply Leonard. Your response has been received and we will keep you informed of our progress including our final permit decisions.

Sincerely,

Douglas Minter

From: Leonard Wabasha (TO) <leonard.wabasha@shakopeedakota.org>
Sent: Tuesday, February 25, 2020 1:55 PM
To: Minter, Douglas <Minter.Douglas@epa.gov>; Bill Rudnicki (TO) <bill.rudnicki@shakopeedakota.org>
Cc: Steve Albrecht (TO) <Steve.Albrecht@shakopeedakota.org>; Varilek, Kimberly <Varilek.Kimberly@epa.gov>; Sierra-Lopez, Omar <Sierra-Lopez.Omar@epa.gov>; Jann, Stephen <jann.stephen@epa.gov>; Walts, Alan <walts.alan@epa.gov>
Subject: RE: EPA R8: Underground Injection Control Program for Dewey-Burdock Draft Permits - Consultation Invitation and Timeline

Dear Douglas Minter,

Thank you for your correspondence regarding the Dewey-Burdock Uranium Recovery Project Permit process. The Shakopee Mdewakanton Sioux Community is concerned with any disturbances of areas of potential historical significance, especially those areas that may contain objects of Dakota Culture, History, or Religion. At this time the SMSC chooses to leave direct consultation to the local area Tribal Nations involved. However, Please keep us informed of the progress of this project. Also please feel free to contact me should you have any questions. Thank You and Have a Great Day.

Respectfully,



LEONARD WABASHA

Director of Cultural Resources • Cultural Resources
Shakopee Mdewakanton Sioux Community
d: 952.496.6120
hokokatati.org
leonard.wabasha@shakopeedakota.org

The Shakopee Mdewakanton Sioux Community is a federally recognized, sovereign Indian tribe located southwest of Minneapolis/St. Paul. With a focus on being a good neighbor, good steward of the earth, and good employer, the SMSC is committed to charitable donations, community partnerships, a healthy environment, and a strong economy.

From: Minter, Douglas <Minter.Douglas@epa.gov>

Sent: Monday, February 24, 2020 5:54 PM

To: Bill Rudnicki (TO) <bill.rudnicki@shakopeedakota.org>

Cc: Leonard Wabasha (TO) <leonard.wabasha@shakopeedakota.org>; Steve Albrecht (TO) <Steve.Albrecht@shakopeedakota.org>; Varilek, Kimberly <Varilek.Kimberly@epa.gov>; Sierra-Lopez, Omar <Sierra-Lopez.Omar@epa.gov>; Jann, Stephen <jann.stephen@epa.gov>; Walts, Alan <walts.alan@epa.gov>

Subject: EPA R8: Underground Injection Control Program for Dewey-Burdock Draft Permits - Consultation Invitation and Timeline

This message came from **outside the organization**. Do Not click on links, open attachments or respond unless you know the content is safe.

Greetings Chairman Anderson: I'm forwarding a digital copy of the letter the EPA Region 8 Water Division is mailing to you regarding the Shakopee Mdewakanton Sioux Tribe's interest in consulting on EPA Region 8's Dewey Burdock In-Situ Draft Permits re-issued in 2019.

Given the Tribe's stated interest during a February 22, 2016 webinar with EPA, please let us know if you are still interested in scheduling consultation with EPA Region 8 by contacting our offices as soon as possible. In the letter enclosed, the Region asks for your response by March 6, 2020, in communicating the Tribe's interest to consult with the expectation that we would hold a consultation meeting with you by April 30, 2020 to inform our Final Permit decisions later this year.

Please let me know if you have any questions, or feel free to reach out to Darcy O'Connor at (303) 312-6392 or odonnor.darcy@epa.gov, or Kim Varilek at (303) 312-6264 or varilek.kimberly@epa.gov.

We look forward to hearing from you as soon as possible and preferably by March 6, 2020.

Sincerely,

Douglas Minter, MPH
UIC Section Chief
1595 Wynkoop Street
USEPA Region 8

(303) 312 6079

087809

“Practicing Public Servant Leadership”

~~~~~

The information contained in this message is confidential. If you are not the intended recipient, dissemination or copying of this information is prohibited.

If you have received this communication in error, please notify the sender and delete the message from your system. Thank you!

~~~~~

From: [Minter, Douglas](#)
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Subject: FW: EPA R8: Underground Injection Control Program for Dewey-Burdock Draft Permits - Consultation Invitation and Timeline
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We look forward to hearing from you as soon as possible and preferably by March 6, 2020.

Sincerely,

Douglas Minter, MPH
UIC Section Chief
1595 Wynkoop Street
USEPA Region 8

(303) 312 6079

"Practicing Public Servant Leadership"



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

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

Ref: 8WD-SDU

FEB 21 2020

Honorable Keith B. Anderson
Chairman
Shakopee Mdewakanton Sioux Community
2330 Sioux Trail Northwest
Prior Lake, Minnesota 55372

Re: U.S. Environmental Protection Agency Underground Injection Control Program
Timeframe for Tribal Consultation on the EPA's Proposed Actions for the Dewey-Burdock Uranium
Recovery Site near Edgemont, South Dakota

Dear Chairman Anderson:

The EPA is approaching the end of the tribal consultation process on the EPA's proposed actions for the Dewey-Burdock Uranium Recovery Site near Edgemont, South Dakota. Because we have previously consulted with the Shakopee Mdewakanton Sioux Community regarding this matter, we are reaching out to remind you of EPA's July 8, 2019 letter requesting tribal consultation with your Tribe.

The EPA is moving forward on final Underground Injection Control (UIC) permit decisions. Therefore, we are setting a deadline of March 6, 2020, for scheduling a tribal consultation meeting to be held by April 30, 2020. The EPA believes setting these deadlines is necessary to provide the EPA adequate time to give the Tribe's comments due consideration and develop a response to the Tribe on how the EPA has addressed the comments in the final UIC permit decisions.

If you have interest in following up on our previous tribal consultation, or consulting in response to EPA's July 8, 2019 letter, please contact me by phone at 303-312-6392 or by email at oconnor.darcy@epa.gov or have one of your staff contact Omar Sierra-Lopez of my staff by March 6 and work with him to schedule a tribal consultation meeting before April 30, 2020. Mr. Sierra-Lopez can be reached at (800) 227-8917, extension 312-7045 or (303) 312-7045; or by email at sierra-lopez.omar@epa.gov. I have enclosed the July 8, 2019, letter we sent to you that lists the topics we would particularly like to discuss with you.

If we do not hear from the Tribe by March 6, we will interpret the lack of response to indicate that at this time the Tribe has conveyed all the information it wishes to provide the EPA on these proposed EPA actions at the Dewey-Burdock uranium in-situ recovery site through previous consultation activities, specifically our webinar on February 22, 2016.

The EPA will follow up with a phone call to confirm that you received this letter and are aware of the timeframes discussed above.

Sincerely,

A handwritten signature in black ink, consisting of a large loop followed by a horizontal line that ends in a small flourish.

Darcy O'Connor, Director
Water Division

Enclosure (1)

cc: Mr. Leonard Wabasha, Director of Cultural Resources
Mr. Stephen Albrecht, Director of Land and Natural Resources



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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

JUL 08 2019

Ref: 8WD-SDU

Honorable Charlie Vig
Chairman
The Shakopee Mdewakanton Sioux Community
2330 Sioux Trail NW
Prior Lake, Minnesota 55372

Re: U.S. Environmental Protection Agency Underground Injection Control Program
Invitation for Consultation on revised Draft Permits and related actions for the Dewey-Burdock
Uranium Recovery Site near Edgemont, South Dakota

Dear Chairman Vig:

The U.S. Environmental Protection Agency Region 8 Underground Injection Control (UIC) Program would like to consult with you, and any other representatives you would like to invite, on revised Draft Permits for injection wells and an updated draft Environmental Justice Analysis for the proposed Dewey-Burdock uranium in-situ recovery (ISR) site near Edgemont, South Dakota. The EPA anticipates issuing the revised Draft Permits in August 2019.

In March 2017, the EPA UIC Program issued two Draft Permits for Powertech (USA) Inc.: one for Class III injection wells used during the uranium recovery process; the second for deep injection wells for the disposal of treated ISR process waste water. The EPA also issued a draft Environmental Justice Analysis at that time. After considering comments received during the public comment period, the EPA has decided to issue revised Draft Permits, a revised draft Environmental Justice Analysis, a revised Aquifer Exemption Record of Decision and an updated document describing the EPA's plan for compliance with section 106 of the National Historic Preservation Act.

The location of the Dewey-Burdock site is shown in the enclosed Figure 1. For additional information about the proposed Dewey-Burdock site, please see the enclosed page entitled *Background Information on the Proposed Dewey-Burdock Uranium In-Situ Recovery Site* and enclosed Figures 1 through 5.

Environmental Justice Analysis

During consultation, we plan to present information about the revised draft Environmental Justice Analysis, specifically related to the The Shakopee Mdewakanton Sioux Community's interest in the Black Hills as a sacred site. We also welcome any input the Tribe would be willing to offer to assist the EPA in presenting an accurate picture of environmental justice issues related to the Black Hills.

The EPA Tribal Consultation Policy

It is the EPA's policy to consult on a government-to-government basis with federally recognized tribal governments when EPA actions and decisions may affect tribal interests. The EPA views consultation as a process of meaningful communication and coordination between the EPA and tribal officials prior to the EPA taking actions or implementing decisions that may affect tribes. For information about the EPA *Policy on Consultation and Coordination with Indian Tribes* please visit the following website: <https://www.epa.gov/tribal/forms/consultation-and-coordination-tribes>.

The EPA also developed the *Policy on Consultation and Coordination with Indian Tribes: Guidance for Discussing Tribal Treaty Rights* (Treaty Rights guidance) to complement the EPA's general *Policy on Consultation and Coordination with Indian Tribes*. The Treaty Rights guidance provides affirmative steps for the Agency to take during tribal consultations when an EPA action occurs in a specific geographic location and a resource-based treaty right, or an environmental condition necessary to support the resource, may be affected by the EPA's action. The Treaty Rights guidance was developed after nationwide tribal consultation. This guidance document is found at the following website: https://www.epa.gov/tribal/forms/consultation-and-coordination-tribes#treaty_rights.

Consistent with the Treaty Rights guidance, the EPA would also like input from the The Shakopee Mdewakanton Sioux Community on treaty rights related to our revised draft permitting actions. The EPA acknowledges that some tribes have previously provided written public comment stating their position that treaty rights would be impacted by the Draft Permits. Nevertheless, pursuant to the Treaty Rights guidance, EPA seeks input on the following questions:

- (1) Do treaties exist within the project area?
- (2) What treaty rights exist in or what treaty-protected resources rely upon the project area? Among other things, have treaty-based groundwater rights in the project area been recognized by judicial decree or congressional settlement?
- (3) How are treaty rights potentially affected by the revised Draft Permits?
- (4) Any concerns you have related to treaty rights.

The EPA has a separate responsibility under section 106 of the National Historic Preservation Act (NHPA) to consult with tribes that attach religious and cultural significance to historic properties that may be affected by an undertaking. Accordingly, we invite the The Shakopee Mdewakanton Sioux Community to engage in government-to-government consultation under section 106. Wherever appropriate, the EPA attempts to integrate this section 106 consultation with general consultation under our Tribal Consultation Policy. Therefore, we propose the following potential topics for consultation:

- (1) Changes from the first Draft UIC permits to the second Draft UIC permits;
- (2) Any concerns you may have about the proposed Dewey-Burdock project and the UIC permitting actions; and
- (3) Potential historic properties, including those of traditional religious and cultural importance, within the Dewey-Burdock area of potential effect.

We understand that the The Shakopee Mdewakanton Sioux Community may raise issues in consultation that should be kept confidential and nonpublic. During our consultation process, if there is information that you would like to provide, but that you believe should remain confidential, please specifically identify this information during our consultation meeting and we will explore options for keeping the

information confidential in accordance with 36 CFR § 800.11(c). As we move forward with the consultation process, please be aware that any information you provide to the EPA in writing will become a part of the public record unless other arrangements are made to maintain confidentiality.

We are requesting a reply from you as to whether the The Shakopee Mdewakanton Sioux Community wishes to consult with the EPA. If you are interested in meeting with the EPA, please reply by August 2, 2019. Consultation requests should be submitted to Valois Robinson of my staff, who can be reached at (800) 227-8917, extension 312-6276 or (303) 312-6276; or by email at robinson.valois@epa.gov. Please include a point of contact for the Tribe so we can keep you informed as the EPA moves forward with this consultation process.

If we do not hear from you by August 2, 2019, we will interpret this to mean that you do not wish to consult with the EPA at this time. The EPA would also welcome the opportunity to consult after the revised Draft Permits are issued to discuss these important issues.

We appreciate the The Shakopee Mdewakanton Sioux Community's prompt attention to this important matter.

Sincerely,

A handwritten signature in black ink, consisting of a large, stylized 'D' followed by a horizontal line extending to the right.

Darcy O'Connor, Director
Water Division

Enclosures (6)

cc: Leonard Wabasha, Tribal Historic Preservation Officer

Background Information on the Proposed Dewey-Burdock Uranium In-Situ Recovery Site

The Dewey-Burdock site is located north of Edgemont, South Dakota, in Fall River and Custer Counties as shown in the enclosed Figure 1. The EPA Region 8 UIC Program has received Class III and Class V injection well permit applications for this site from Powertech (USA) Inc. The Class III injection wells are related to uranium recovery; the Class V injection wells are deep wells for the disposal of treated process wastewater. The Class III permit application requests authorization for 14 injection well fields including approximately 2,330 wells to inject and recover fluids for the in-situ recovery of uranium. The Class V area permit application requests authorization for the injection of ISR process waste fluids (treated to meet radioactive and hazardous waste standards) into two proposed wells injecting into the Minnelusa Formation. The Class V area permit application requests authorization for up to four deep injection wells in case the two currently proposed wells do not have the capacity to dispose of the anticipated total volume of all ISR process waste fluids.

Powertech proposes using ponds to treat and store treated water that will be injected into the deep injection wells. The locations and configuration of the treatment ponds are shown in Figure 2. These ponds are not regulated under the UIC Program. Powertech will submit an application for review and approval of the pond construction design plan to the EPA Region 8 Air Program. The ponds will not allow infiltration into the subsurface. The ponds are not designed to be evaporation ponds, although some amount of evaporation will occur during storage of the treated water before it is injected into the deep injection wells. The evaporation process does not involve release of heavy metals, including uranium or other radioactive elements, into the air. The EPA has information about radiation at <http://www2.epa.gov/radiation>.

The total proposed project area consists of approximately 10,580 acres (4,282 ha) east and west of the Dewey Road (County Road 6463), including portions of Sections 1-5, 10-12, 14 and 15 in Township 7 South, Range 1 East and Sections 20, 21, 27, 28, 29, and 30-35 in Township 6 South, Range 1 East, Black Hills Meridian. The surface area that will actually be impacted by the uranium ore processing plants, the 14 proposed uranium in-situ recovery well fields, the two proposed deep injection wells, treatment and storage ponds, roads and other surface-disturbing facilities is less than the 10,580-acre project area. The enclosed Figure 1 is a map showing the project site location. Figure 3 is a map showing the locations of the proposed wellfields containing Class III injection wells and the site project boundary. Figure 4 shows the locations for the two proposed deep Class V injection wells. Figure 5 shows a stratigraphic cross section of geologic formations at the Dewey Burdock site and the proposed injection zones for both the Class III and Class V injection wells. The Powertech Dewey-Burdock Project Class III and Class V area permit applications, and other documents that are part of the permit administrative record, are available for public review on the EPA Region 8 UIC Program website at <https://www.epa.gov/uic/epa-dewey-burdock-class-iii-and-class-v-injection-well-draft-area-permits>.

Dewey Burdock Location Map

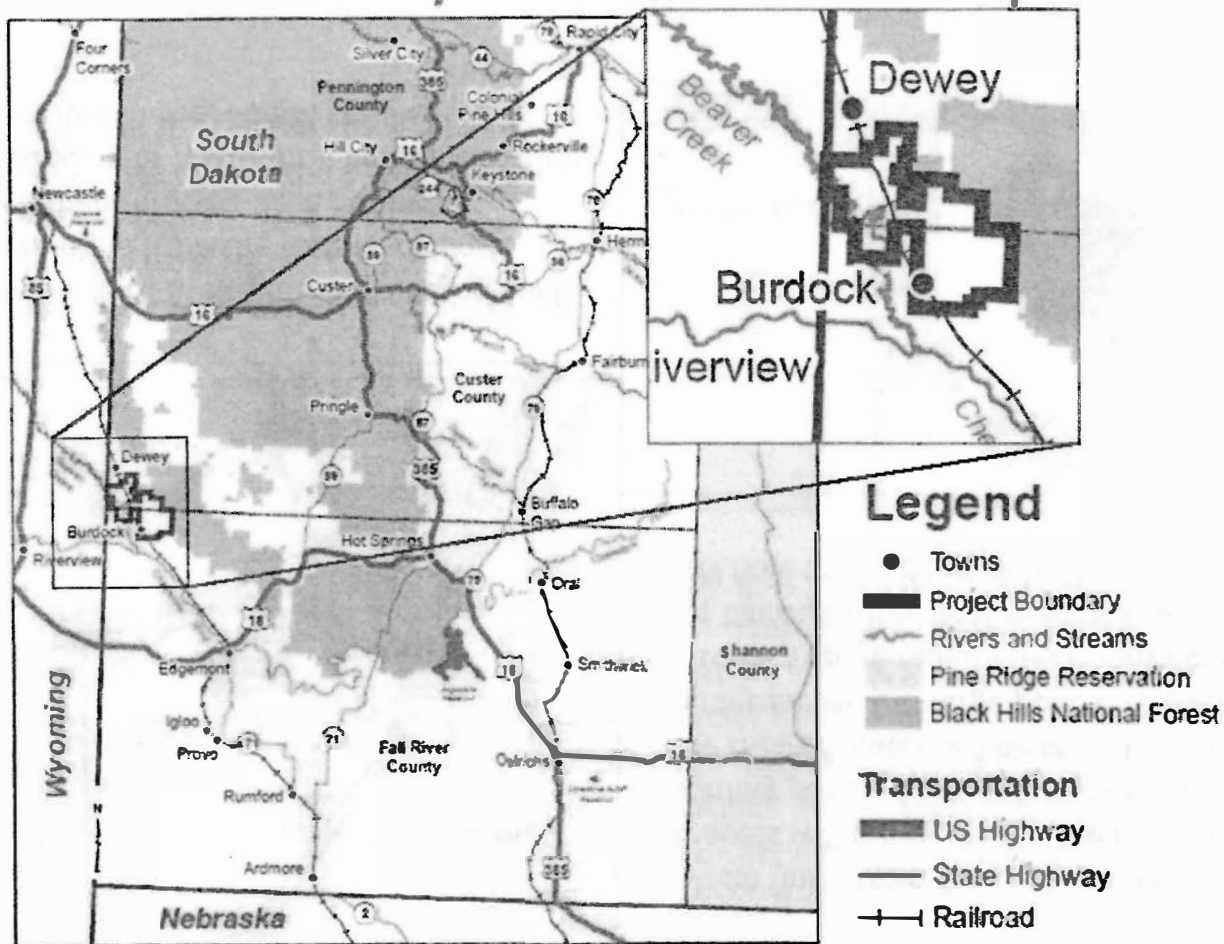
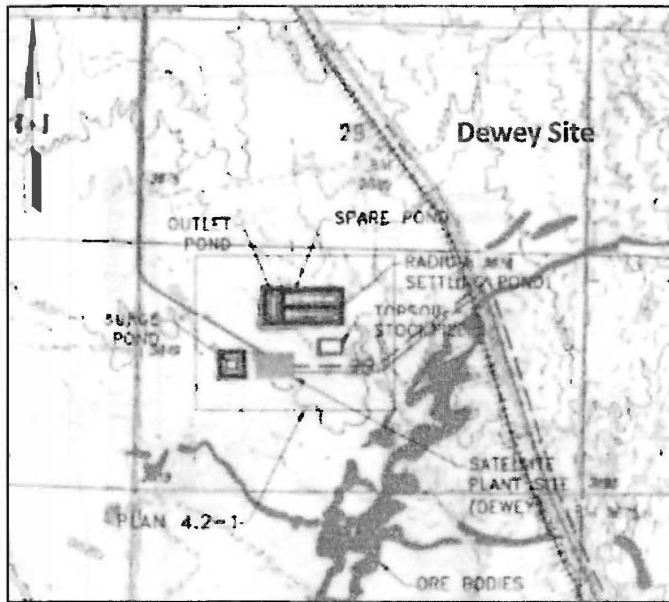


Figure 1. Map showing the location of the proposed Dewey-Burdock uranium recovery site.

Treatment and Storage Ponds for Deep Well Injectate



The Burdock Area central plant pond will store brine from the reverse osmosis treatment process used during groundwater restoration before the brine is treated in the radium settling ponds.

Waste fluids from the uranium recovery process will be treated in the radium settling ponds. After radium removal, the treated water will be stored in the outlet ponds and surge ponds. There will also be a spare radium treatment pond for backup. After treatment, the water will flow to the deep injection wells.

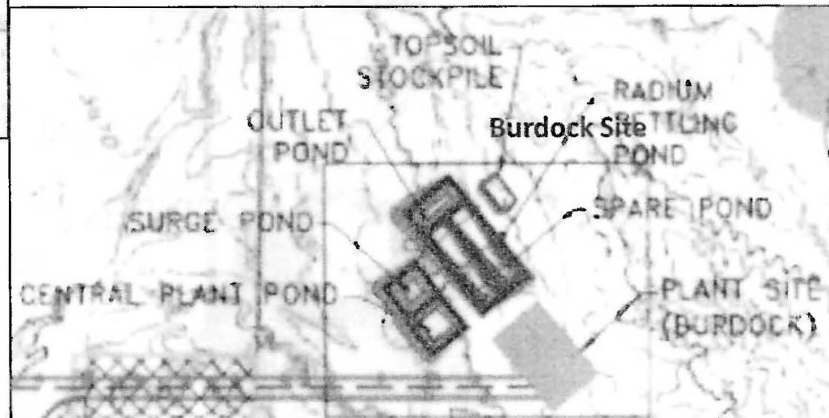


Figure 2. The Proposed Ponds for the Treatment and Storage of the Deep Injection Well Injectate.

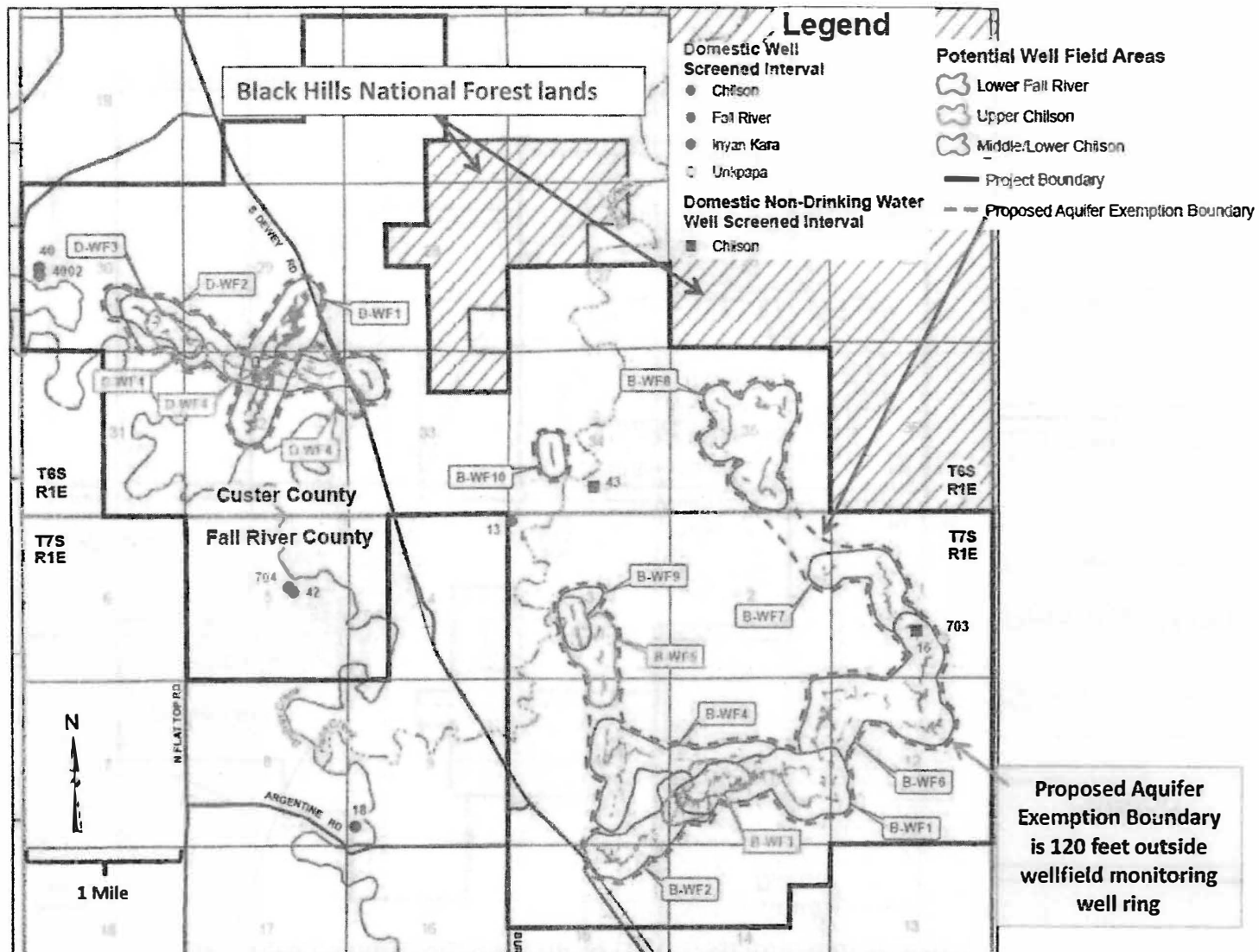
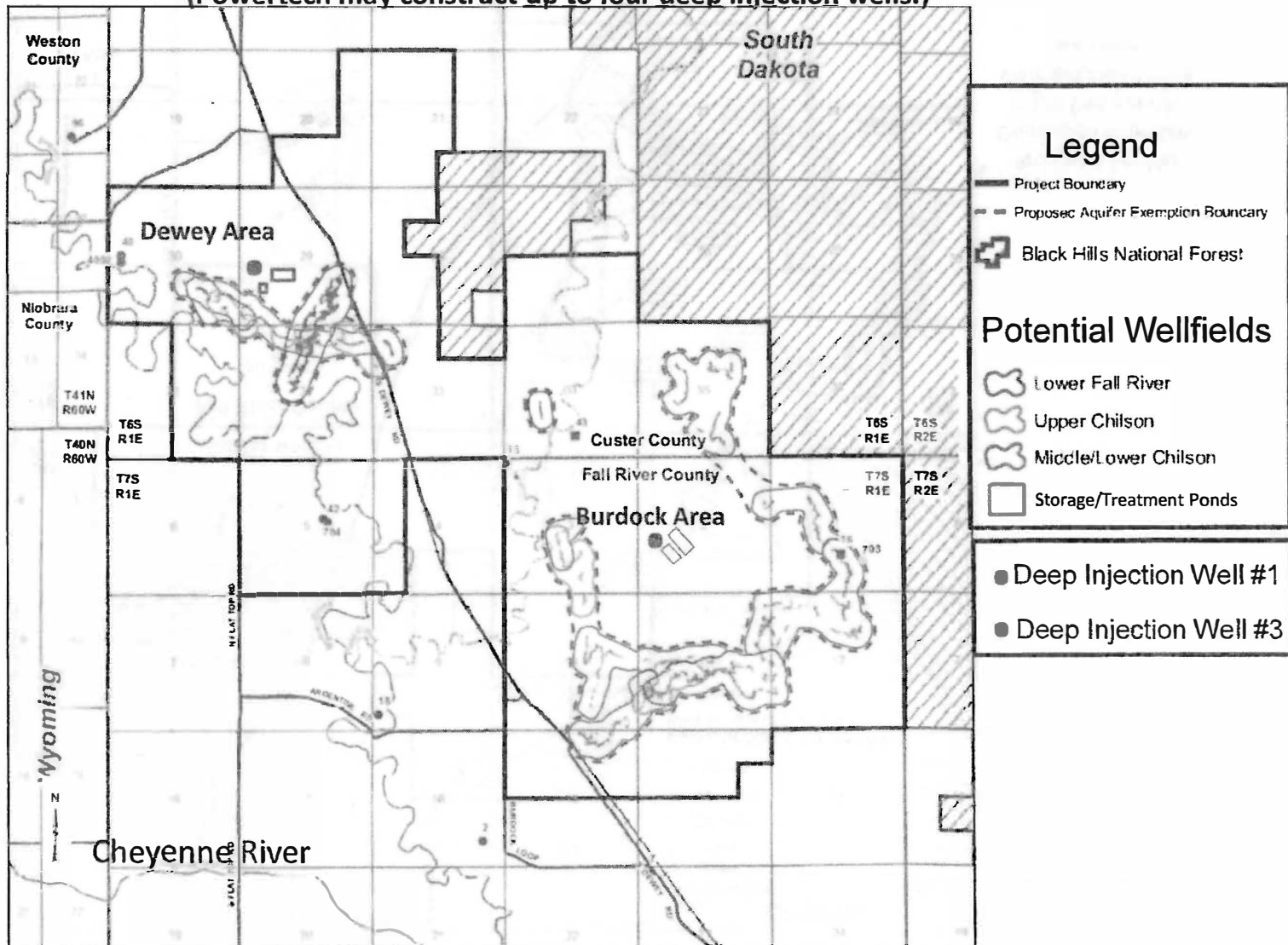


Figure 3. Map showing locations of the proposed wellfields containing Class III injection wells, the aquifer exemption boundary and the UIC permit boundary.

**Figure 4. Map showing locations for the two currently proposed deep injection wells.
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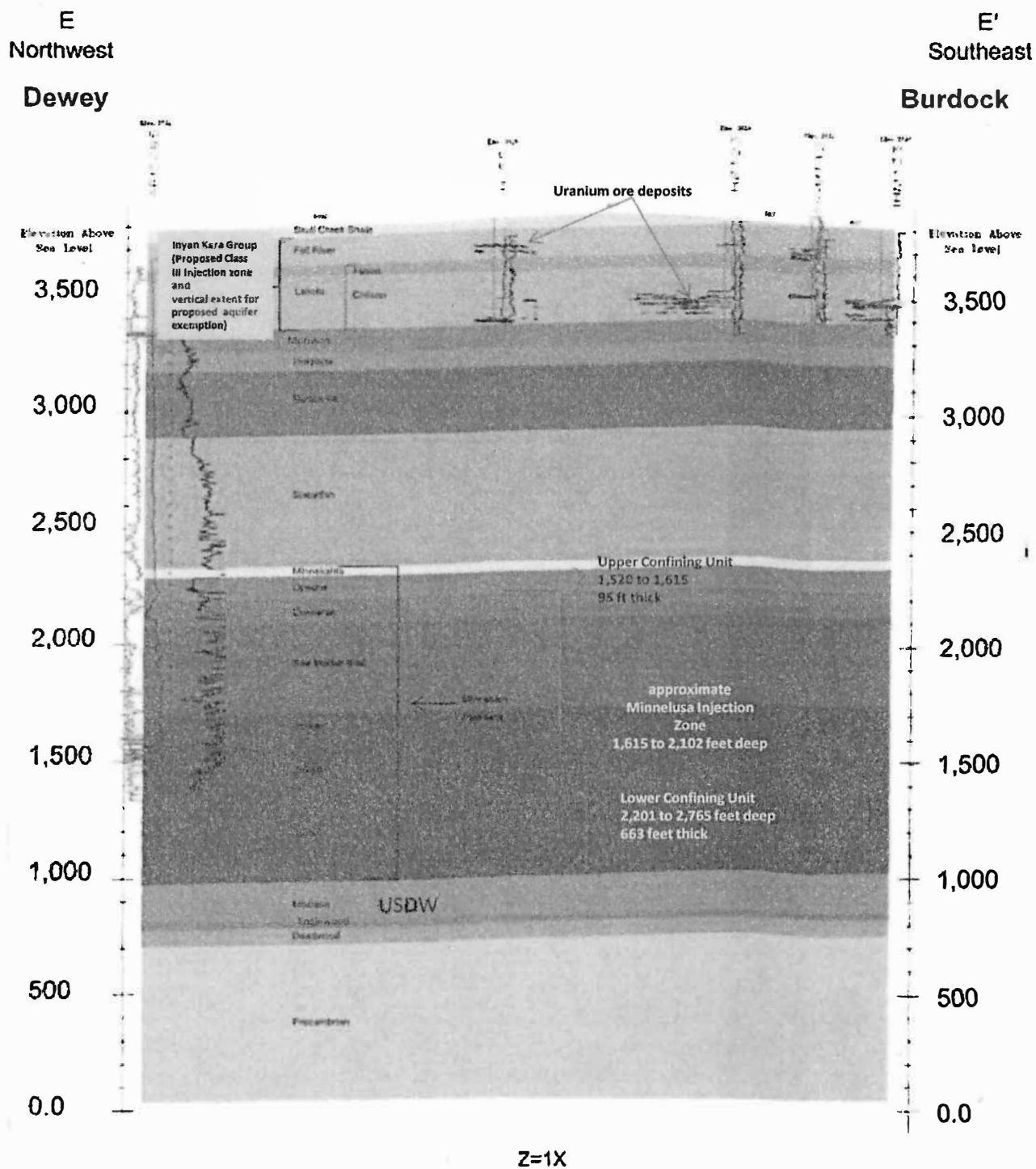


Figure 5. Stratigraphic cross-section of geologic formations present at the Dewey Burdock site and proposed injection zones for the Class III and deep Class V injections wells.

From: [Minter, Douglas](#)
To: [Robinson, Valois](#)
Subject: FW: EPA R8: Underground Injection Control Program for Dewey-Burdock Draft Permits - Consultation Invitation and Timeline
Date: Wednesday, December 16, 2020 1:47:40 PM
Attachments: [EPA Letter UpperSioux.pdf](#)

From: Minter, Douglas
Sent: Monday, February 24, 2020 4:53 PM
To: kevinj@uppersiouxcommunity-nsn.gov
Cc: Varilek, Kimberly <Varilek.Kimberly@epa.gov>; Sierra-Lopez, Omar <Sierra-Lopez.Omar@epa.gov>; THPO@uppersiouxcommunity-nsn.gov; amandaw@uppersiouxcommunity-nsn.gov; Walts, Alan <walts.alan@epa.gov>; Jann, Stephen <jann.stephen@epa.gov>
Subject: EPA R8: Underground Injection Control Program for Dewey-Burdock Draft Permits - Consultation Invitation and Timeline

Greetings Chairman Jensvold: I'm forwarding a digital copy of the letter the EPA Region 8 Water Division is mailing to you regarding the Upper Sioux Community's interest in consulting on EPA Region 8's Dewey Burdock In-Situ Draft Permits re-issued in 2019.

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We look forward to hearing from you as soon as possible and preferably by March 6, 2020.

Sincerely,

Douglas Minter, MPH
UIC Section Chief
1595 Wynkoop Street
USEPA Region 8

(303) 312 6079

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REGION 8

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

Ref: 8WD-SDU

FEB 21 2020

Honorable Kevin Jensvold
Chairman
Upper Sioux Community
5722 Travers Lane
P.O. Box 147
Granite Falls, Minnesota 56241

Re: U.S. Environmental Protection Agency Underground Injection Control Program
Timeframe for Tribal Consultation on the EPA's Proposed Actions for the Dewey-Burdock Uranium
Recovery Site near Edgemont, South Dakota

Dear Chairman Jensvold:

The EPA is approaching the end of the tribal consultation process on the EPA's proposed actions for the Dewey-Burdock Uranium Recovery Site near Edgemont, South Dakota. Because we have previously consulted with the Upper Sioux Community regarding this matter, we are reaching out to remind you of EPA's July 8, 2019 letter requesting tribal consultation with your Tribe.

The EPA is moving forward on final Underground Injection Control (UIC) permit decisions. Therefore, we are setting a deadline of March 6, 2020, for scheduling a tribal consultation meeting to be held by April 30, 2020. The EPA believes setting these deadlines is necessary to provide the EPA adequate time to give the Tribe's comments due consideration and develop a response to the Tribe on how the EPA has addressed the comments in the final UIC permit decisions.

If you have interest in following up on our previous tribal consultation, or consulting in response to EPA's July 8, 2019 letter, please contact me by phone at 303-312-6392 or by email at [oconnor.darcy@epa.gov](mailto:connor.darcy@epa.gov) or have one of your staff contact Omar Sierra-Lopez of my staff by March 6 and work with him to schedule a tribal consultation meeting before April 30, 2020. Mr. Sierra-Lopez can be reached at (800) 227-8917, extension 312-7045 or (303) 312-7045; or by email at sierra-lopez.omar@epa.gov. I have enclosed the July 8, 2019, letter we sent to you that lists the topics we would particularly like to discuss with you.

If we do not hear from the Tribe by March 6, we will interpret the lack of response to indicate that at this time the Tribe has conveyed all the information it wishes to provide the EPA on these proposed EPA actions at the Dewey-Burdock uranium in-situ recovery site through previous consultation activities, specifically our webinar on February 22, 2016.

The EPA will follow up with a phone call to confirm that you received this letter and are aware of the timeframes discussed above.

Sincerely,

A handwritten signature in black ink, appearing to read 'Darcy O'Connor', with a long horizontal flourish extending to the right.

Darcy O'Connor, Director
Water Division

Enclosure (1)

cc: Ms. Samantha Odegard, Tribal Historic Preservation Officer
Ms. Amanda Wold, Environmental Director



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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

JUL 08 2019

Ref: 8WD-SDU

Honorable Kevin Jensvold
Chairman
The Upper Sioux Community
5722 Travers Lane P.O. Box 147
Granite Falls, Minnesota 56241

Re: U.S. Environmental Protection Agency Underground Injection Control Program
Invitation for Consultation on revised Draft Permits and related actions for the Dewey-Burdock
Uranium Recovery Site near Edgemont, South Dakota

Dear Chairman Jensvold:

The U.S. Environmental Protection Agency Region 8 Underground Injection Control (UIC) Program would like to consult with you, and any other representatives you would like to invite, on revised Draft Permits for injection wells and an updated draft Environmental Justice Analysis for the proposed Dewey-Burdock uranium in-situ recovery (ISR) site near Edgemont, South Dakota. The EPA anticipates issuing the revised Draft Permits in August 2019.

In March 2017, the EPA UIC Program issued two Draft Permits for Powertech (USA) Inc.: one for Class III injection wells used during the uranium recovery process; the second for deep injection wells for the disposal of treated ISR process waste water. The EPA also issued a draft Environmental Justice Analysis at that time. After considering comments received during the public comment period, the EPA has decided to issue revised Draft Permits, a revised draft Environmental Justice Analysis, a revised Aquifer Exemption Record of Decision and an updated document describing the EPA's plan for compliance with section 106 of the National Historic Preservation Act.

The location of the Dewey-Burdock site is shown in the enclosed Figure 1. For additional information about the proposed Dewey-Burdock site, please see the enclosed page entitled *Background Information on the Proposed Dewey-Burdock Uranium In-Situ Recovery Site* and enclosed Figures 1 through 5.

Environmental Justice Analysis

During consultation, we plan to present information about the revised draft Environmental Justice Analysis, specifically related to the The Upper Sioux Community's interest in the Black Hills as a sacred site. We also welcome any input the Tribe would be willing to offer to assist the EPA in presenting an accurate picture of environmental justice issues related to the Black Hills.

The EPA Tribal Consultation Policy

It is the EPA's policy to consult on a government-to-government basis with federally recognized tribal governments when EPA actions and decisions may affect tribal interests. The EPA views consultation as a process of meaningful communication and coordination between the EPA and tribal officials prior to the EPA taking actions or implementing decisions that may affect tribes. For information about the EPA *Policy on Consultation and Coordination with Indian Tribes* please visit the following website: <https://www.epa.gov/tribal/forms/consultation-and-coordination-tribes>.

The EPA also developed the *Policy on Consultation and Coordination with Indian Tribes: Guidance for Discussing Tribal Treaty Rights* (Treaty Rights guidance) to complement the EPA's general *Policy on Consultation and Coordination with Indian Tribes*. The Treaty Rights guidance provides affirmative steps for the Agency to take during tribal consultations when an EPA action occurs in a specific geographic location and a resource-based treaty right, or an environmental condition necessary to support the resource, may be affected by the EPA's action. The Treaty Rights guidance was developed after nationwide tribal consultation. This guidance document is found at the following website: https://www.epa.gov/tribal/forms/consultation-and-coordination-tribes#treaty_rights.

Consistent with the Treaty Rights guidance, the EPA would also like input from the The Upper Sioux Community on treaty rights related to our revised draft permitting actions. The EPA acknowledges that some tribes have previously provided written public comment stating their position that treaty rights would be impacted by the Draft Permits. Nevertheless, pursuant to the Treaty Rights guidance, EPA seeks input on the following questions:

- (1) Do treaties exist within the project area?
- (2) What treaty rights exist in or what treaty-protected resources rely upon the project area? Among other things, have treaty-based groundwater rights in the project area been recognized by judicial decree or congressional settlement?
- (3) How are treaty rights potentially affected by the revised Draft Permits?
- (4) Any concerns you have related to treaty rights.

The EPA has a separate responsibility under section 106 of the National Historic Preservation Act (NHPA) to consult with tribes that attach religious and cultural significance to historic properties that may be affected by an undertaking. Accordingly, we invite the The Upper Sioux Community to engage in government-to-government consultation under section 106. Wherever appropriate, the EPA attempts to integrate this section 106 consultation with general consultation under our Tribal Consultation Policy. Therefore, we propose the following potential topics for consultation:

- (1) Changes from the first Draft UIC permits to the second Draft UIC permits;
- (2) Any concerns you may have about the proposed Dewey-Burdock project and the UIC permitting actions; and
- (3) Potential historic properties, including those of traditional religious and cultural importance, within the Dewey-Burdock area of potential effect.

We understand that the The Upper Sioux Community may raise issues in consultation that should be kept confidential and nonpublic. During our consultation process, if there is information that you would like to provide, but that you believe should remain confidential, please specifically identify this information during our consultation meeting and we will explore options for keeping the information confidential in accordance with 36 CFR § 800.11(c). As we move forward with the consultation process, please be aware

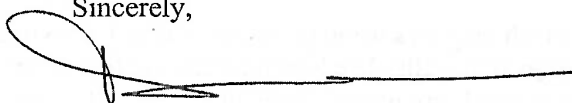
that any information you provide to the EPA in writing will become a part of the public record unless other arrangements are made to maintain confidentiality.

We are requesting a reply from you as to whether the The Upper Sioux Community wishes to consult with the EPA. If you are interested in meeting with the EPA, please reply by August 2, 2019. Consultation requests should be submitted to Valois Robinson of my staff, who can be reached at (800) 227-8917, extension 312-6276 or (303) 312-6276; or by email at robinson.valois@epa.gov. Please include a point of contact for the Tribe so we can keep you informed as the EPA moves forward with this consultation process.

If we do not hear from you by August 2, 2019, we will interpret this to mean that you do not wish to consult with the EPA at this time. The EPA would also welcome the opportunity to consult after the revised Draft Permits are issued to discuss these important issues.

We appreciate the The Upper Sioux Community's prompt attention to this important matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Darcy O'Connor', with a long horizontal line extending to the right.

Darcy O'Connor, Director
Water Division

Enclosures (6)

cc: Barbara Long, Environmental Director
Samantha Odegard, Tribal Historic Preservation Officer

Background Information on the Proposed Dewey-Burdock Uranium In-Situ Recovery Site

The Dewey-Burdock site is located north of Edgemont, South Dakota, in Fall River and Custer Counties as shown in the enclosed Figure 1. The EPA Region 8 UIC Program has received Class III and Class V injection well permit applications for this site from Powertech (USA) Inc. The Class III injection wells are related to uranium recovery; the Class V injection wells are deep wells for the disposal of treated process wastewater. The Class III permit application requests authorization for 14 injection well fields including approximately 2,330 wells to inject and recover fluids for the in-situ recovery of uranium. The Class V area permit application requests authorization for the injection of ISR process waste fluids (treated to meet radioactive and hazardous waste standards) into two proposed wells injecting into the Minnelusa Formation. The Class V area permit application requests authorization for up to four deep injection wells in case the two currently proposed wells do not have the capacity to dispose of the anticipated total volume of all ISR process waste fluids.

Powertech proposes using ponds to treat and store treated water that will be injected into the deep injection wells. The locations and configuration of the treatment ponds are shown in Figure 2. These ponds are not regulated under the UIC Program. Powertech will submit an application for review and approval of the pond construction design plan to the EPA Region 8 Air Program. The ponds will not allow infiltration into the subsurface. The ponds are not designed to be evaporation ponds, although some amount of evaporation will occur during storage of the treated water before it is injected into the deep injection wells. The evaporation process does not involve release of heavy metals, including uranium or other radioactive elements, into the air. The EPA has information about radiation at <http://www2.epa.gov/radiation>.

The total proposed project area consists of approximately 10,580 acres (4,282 ha) east and west of the Dewey Road (County Road 6463), including portions of Sections 1-5, 10-12, 14 and 15 in Township 7 South, Range 1 East and Sections 20, 21, 27, 28, 29, and 30-35 in Township 6 South, Range 1 East, Black Hills Meridian. The surface area that will actually be impacted by the uranium ore processing plants, the 14 proposed uranium in-situ recovery well fields, the two proposed deep injection wells, treatment and storage ponds, roads and other surface-disturbing facilities is less than the 10,580-acre project area. The enclosed Figure 1 is a map showing the project site location. Figure 3 is a map showing the locations of the proposed wellfields containing Class III injection wells and the site project boundary. Figure 4 shows the locations for the two proposed deep Class V injection wells. Figure 5 shows a stratigraphic cross section of geologic formations at the Dewey Burdock site and the proposed injection zones for both the Class III and Class V injection wells. The Powertech Dewey-Burdock Project Class III and Class V area permit applications, and other documents that are part of the permit administrative record, are available for public review on the EPA Region 8 UIC Program website at <https://www.epa.gov/uic/epa-dewey-burdock-class-iii-and-class-v-injection-well-draft-area-permits>.

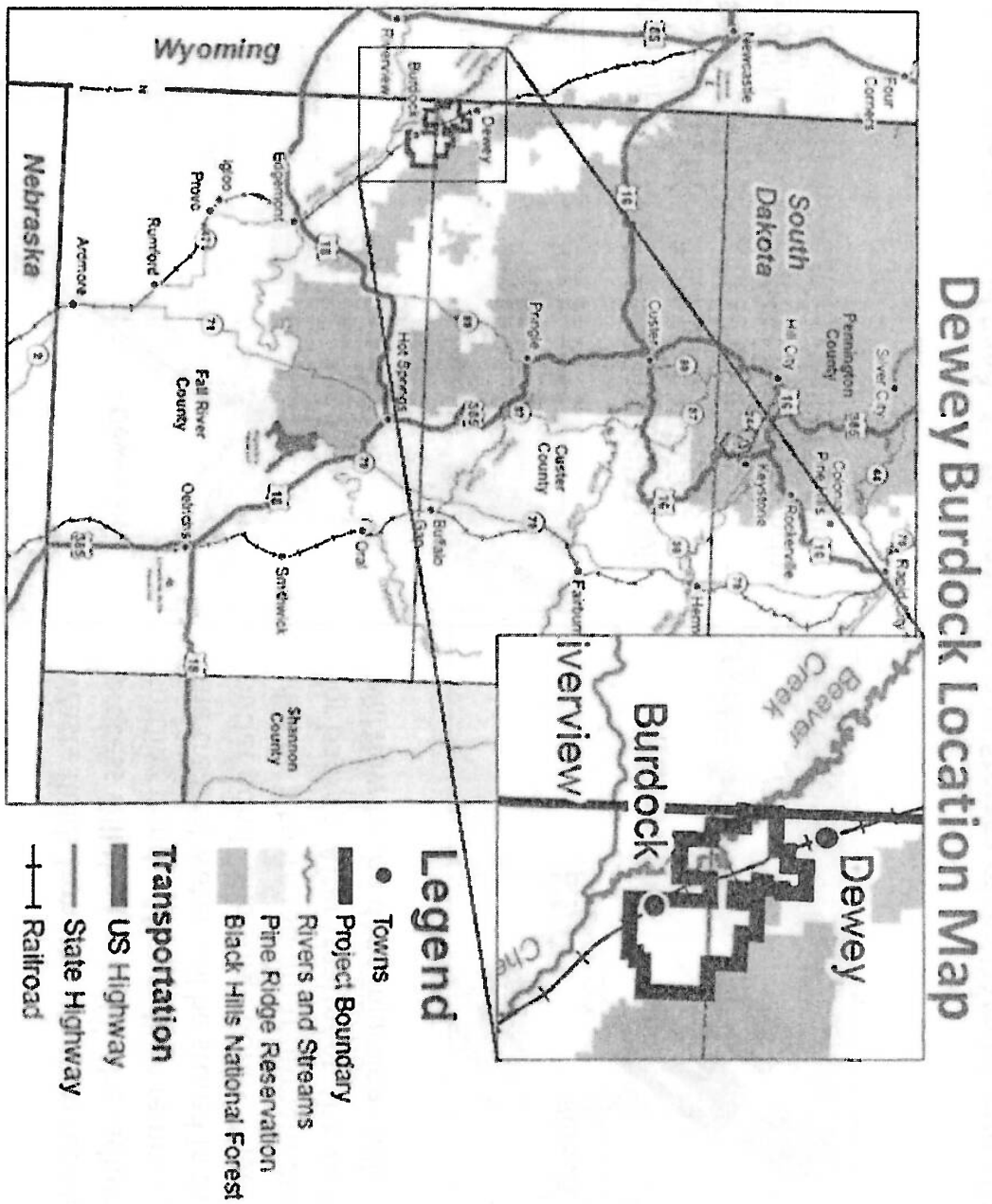
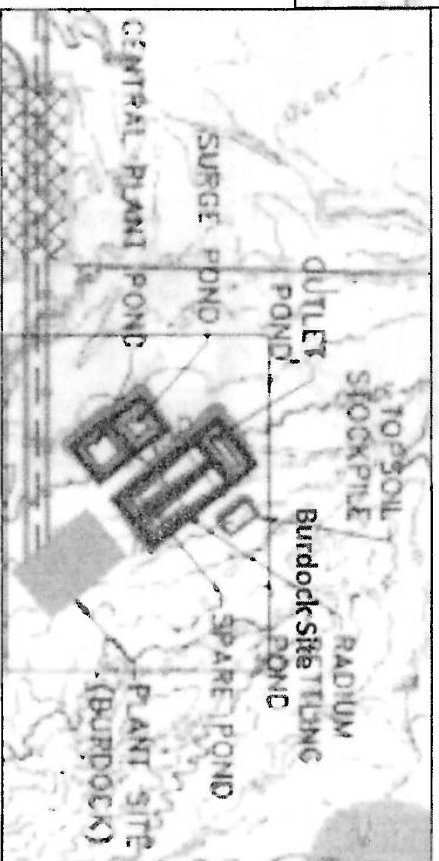
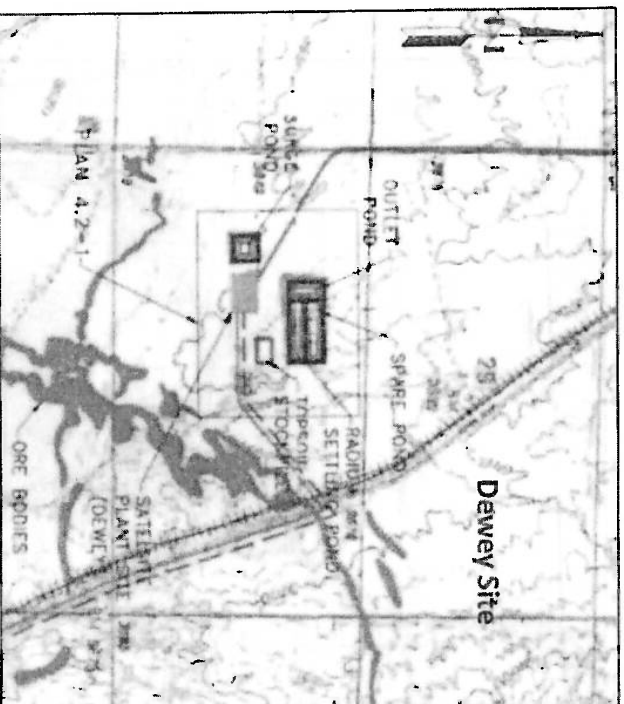


Figure 1. Map showing the location of the proposed Dewey-Burdock uranium recovery site.

Treatment and Storage Ponds for Deep Well Injectate

Waste fluids from the uranium recovery process will be treated in the radium settling ponds. After radium removal, the treated water will be stored in the outlet ponds and surge ponds. There will also be a spare radium treatment pond for backup. After treatment, the water will flow to the deep injection wells.



The Burdock Area central plant pond will store brine from the reverse osmosis treatment process used during groundwater restoration before the brine is treated in the radium settling ponds.

Figure 2. The Proposed Ponds for the Treatment and Storage of the Deep Injection Well Injectate.

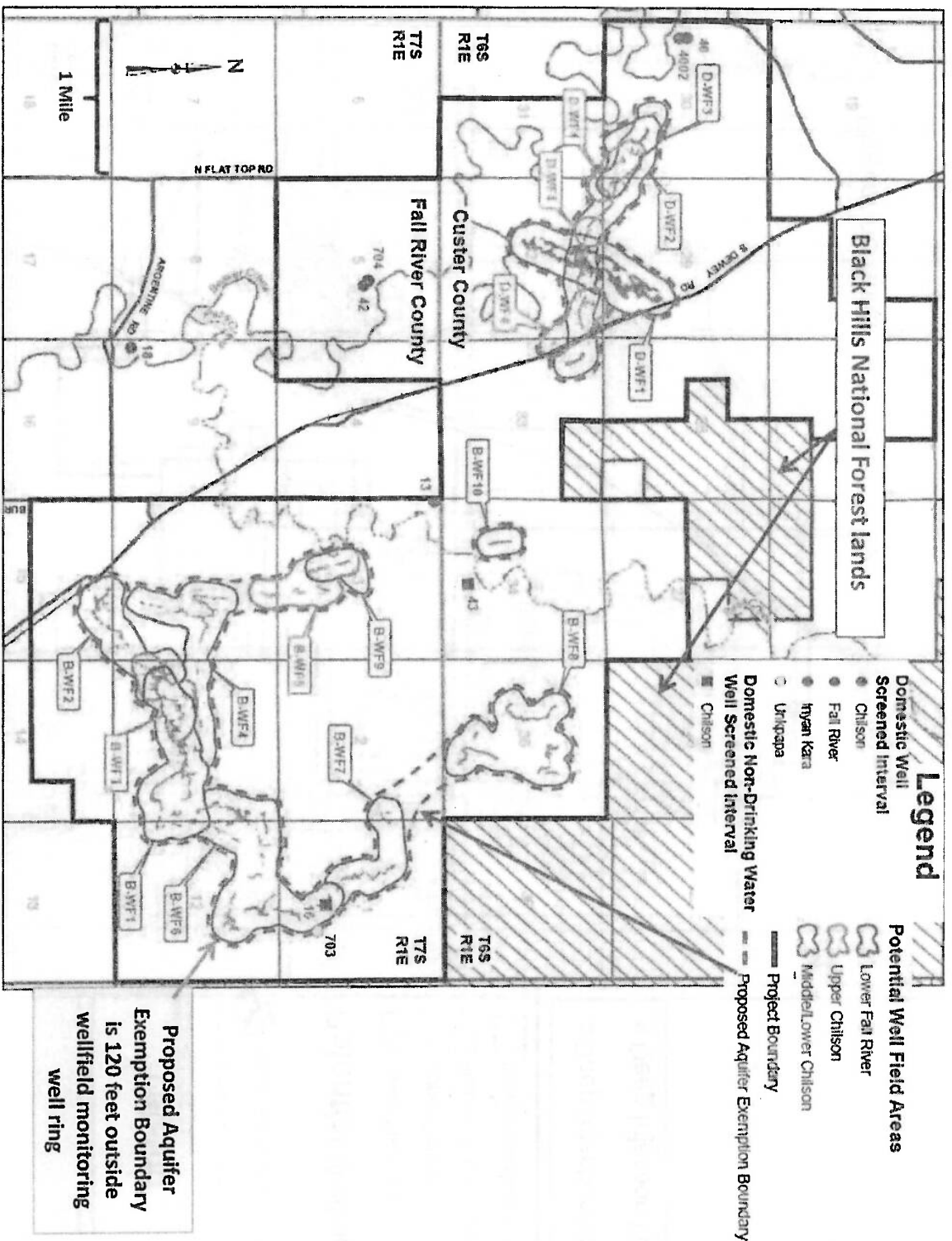
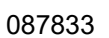


Figure 3. Map showing locations of the proposed wellfields containing Class III injection wells, the aquifer exemption boundary and the UIC permit boundary.



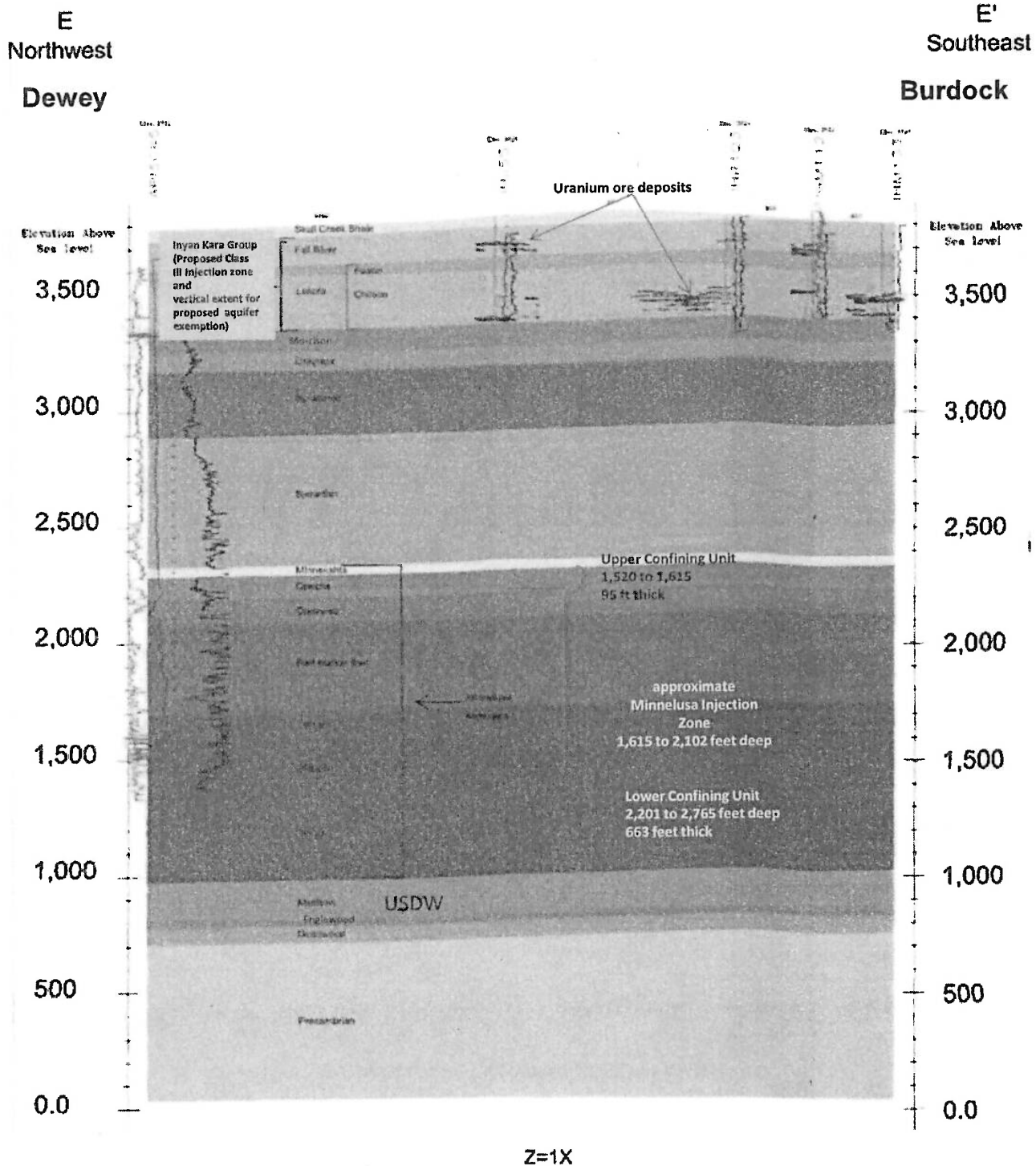


Figure 5. Stratigraphic cross-section of geologic formations present at the Dewey Burdock site and proposed injection zones for the Class III and deep Class V injections wells.

From: [Minter, Douglas](#)
To: [Robinson, Valois](#)
Subject: FW: EPA R8: Underground Injection Control Program for Dewey-Burdock Draft Permits - Consultation Invitation and Timeline
Date: Wednesday, December 16, 2020 1:47:09 PM
Attachments: [EPA Letter Yankton.pdf](#)

From: Minter, Douglas
Sent: Monday, February 24, 2020 4:52 PM
To: robertflyinghawk@gmail.com
Cc: yst.thpo@gmail.com; ysteppgap4@hotmail.com; Varilek, Kimberly <Varilek.Kimberly@epa.gov>; Sierra-Lopez, Omar <Sierra-Lopez.Omar@epa.gov>; Deardorff, Jason <Deardorff.Jason@epa.gov>
Subject: EPA R8: Underground Injection Control Program for Dewey-Burdock Draft Permits - Consultation Invitation and Timeline

Greetings Chairman Flying Hawk: I'm forwarding a digital copy of the letter the EPA Region 8 Water Division is mailing to you regarding the Yankton Sioux Tribe's interest in consulting on EPA Region 8's Dewey Burdock In-Situ Draft Permits re-issued in 2019.

Given the Tribe's apparent stated interest in response to our July 8, 2019 invitation to consult, please let us know if you are still interested in scheduling consultation with EPA Region 8 by contacting our offices as soon as possible. In the letter enclosed, the Region asks for your response by March 6, 2020, in communicating the Tribe's interest to consult with the expectation that we would hold a consultation meeting with you by April 30, 2020 to inform our Final Permit decisions later this year.

Please let me know if you have any questions, or feel free to reach out to Darcy O'Connor at (303) 312-6392 or connor.darcy@epa.gov, or Kim Varilek at (303) 312-6264 or varilek.kimberly@epa.gov.

We look forward to hearing from you as soon as possible and preferably by March 6, 2020.

Sincerely,

Douglas Minter, MPH
UIC Section Chief
1595 Wynkoop Street
USEPA Region 8

(303) 312 6079

"Practicing Public Servant Leadership"



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

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Ref: 8WD-SDU

FEB 21 2020

Honorable Robert Flying Hawk
Chairman
Yankton Sioux Tribe
P.O. Box 1153
Wagner, South Dakota 57380-1153

Re: U.S. Environmental Protection Agency Underground Injection Control Program
Timeframe for Tribal Consultation on the EPA's Proposed Actions for the Dewey-Burdock Uranium
Recovery Site near Edgemont, South Dakota

Dear Chairman Flying Hawk:

The EPA is approaching the end of the tribal consultation process on the EPA's proposed actions for the Dewey-Burdock Uranium Recovery Site near Edgemont, South Dakota. We are reaching out to remind you of EPA's July 8, 2019 letter requesting tribal consultation with Yankton Sioux Tribe regarding this matter.

The EPA is moving forward on final Underground Injection Control (UIC) permit decisions. Therefore, we are setting a deadline of March 6, 2020, for scheduling a tribal consultation meeting to be held by April 30, 2020. The EPA believes setting these deadlines is necessary to provide the EPA adequate time to give the Tribe's comments due consideration and develop a response to the Tribe on how the EPA has addressed the comments in the final UIC permit decisions.

In response to the EPA's July 8, 2019 letter, Yankton Sioux Tribal Historic Preservation Officer, Kip Spotted Eagle, sent an email to the EPA dated July 30, 2019 attaching a copy of "Protocols for Consultation with the Yankton Sioux Tribe." However, the EPA did not receive any other communication from your Tribe regarding EPA's July 8, 2019 letter. If you have interest in consulting in response to EPA's July 8, 2019 letter, please contact me by phone at 303-312-6392 or by email at oconnor.darcy@epa.gov or have one of your staff contact Omar Sierra-Lopez of my staff by March 6 and work with him to schedule a tribal consultation meeting before April 30, 2020. Mr. Sierra-Lopez can be reached at (800) 227-8917, extension 312-7045 or (303) 312-7045; or by email at sierra-lopez.omar@epa.gov. I have enclosed the July 8, 2019, letter we sent to you that lists the topics we would particularly like to discuss with you.

If we do not hear from the Tribe by March 6, we will interpret the lack of response to indicate that the Tribe does not wish to conduct tribal consultation on these proposed EPA actions at the Dewey-Burdock uranium in-situ recovery site.

The EPA will follow up with a phone call to confirm that you received this letter and are aware of the timeframes discussed above.

Sincerely,

A handwritten signature in black ink, appearing to read 'Darcy O'Connor', with a long horizontal flourish extending to the right.

Darcy O'Connor, Director
Water Division

Enclosure (1)

cc: Mr. Kip Spotted Eagle, Tribal Historic Preservation Officer
Mr. Richard Leasure, Environmental Manager



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Chairman
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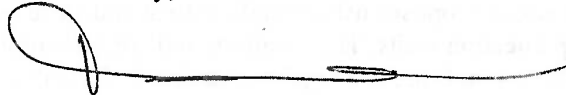
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We appreciate the The Yankton Sioux Tribe's prompt attention to this important matter.

Sincerely,



Darcy O'Connor, Director
Water Division

Enclosures (6)

cc: Richard Leasure, Environmental Director
Kip Spotted Eagle, Tribal Historic Preservation Officer



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The total proposed project area consists of approximately 10,580 acres (4,282 ha) east and west of the Dewey Road (County Road 6463), including portions of Sections 1-5, 10-12, 14 and 15 in Township 7 South, Range 1 East and Sections 20, 21, 27, 28, 29, and 30-35 in Township 6 South, Range 1 East, Black Hills Meridian. The surface area that will actually be impacted by the uranium ore processing plants, the 14 proposed uranium in-situ recovery well fields, the two proposed deep injection wells, treatment and storage ponds, roads and other surface-disturbing facilities is less than the 10,580-acre project area. The enclosed Figure 1 is a map showing the project site location. Figure 3 is a map showing the locations of the proposed wellfields containing Class III injection wells and the site project boundary. Figure 4 shows the locations for the two proposed deep Class V injection wells. Figure 5 shows a stratigraphic cross section of geologic formations at the Dewey Burdock site and the proposed injection zones for both the Class III and Class V injection wells. The Powertech Dewey-Burdock Project Class III and Class V area permit applications, and other documents that are part of the permit administrative record, are available for public review on the EPA Region 8 UIC Program website at <https://www.epa.gov/uic/epa-dewey-burdock-class-iii-and-class-v-injection-well-draft-area-permits>.

Dewey Burdock Location Map

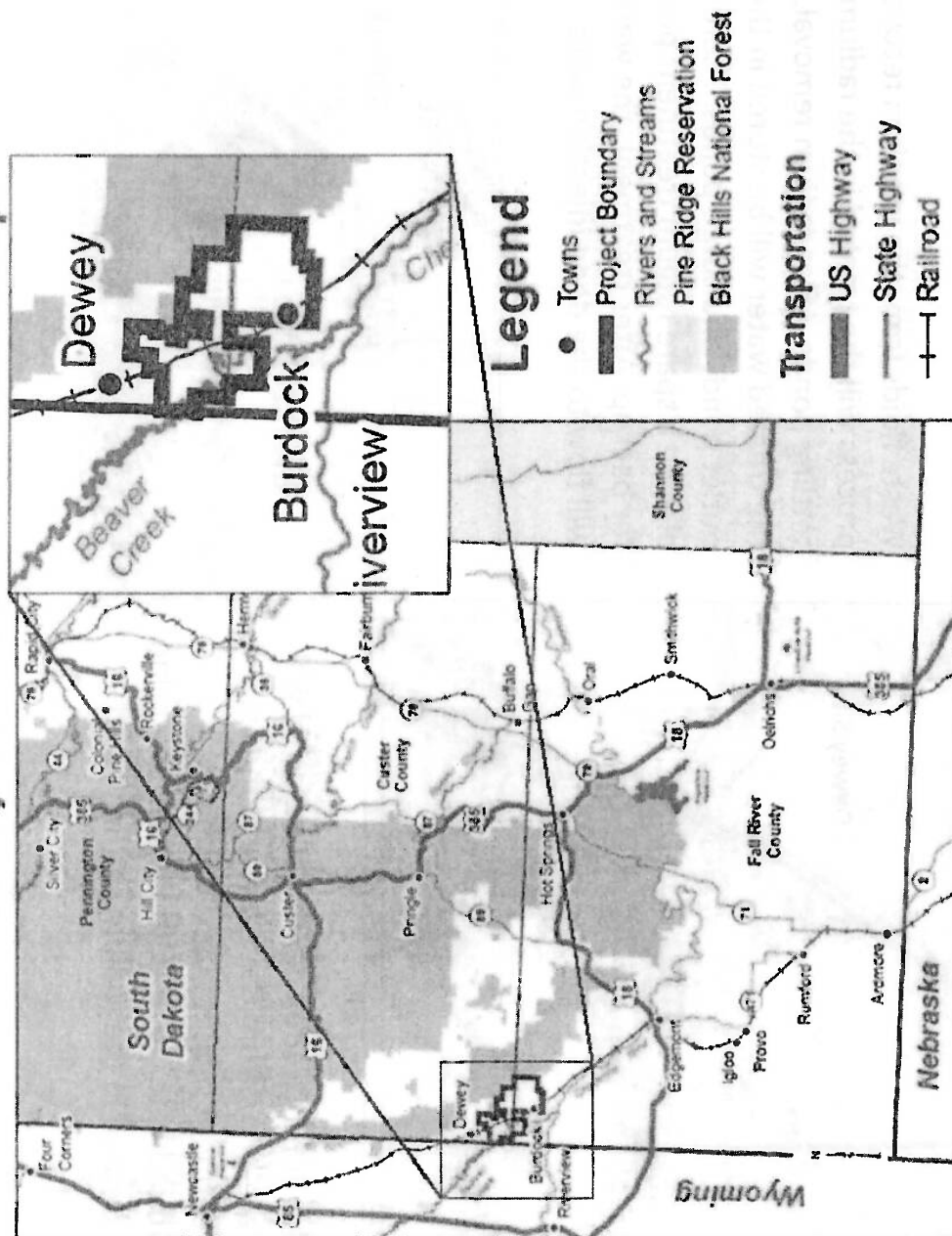
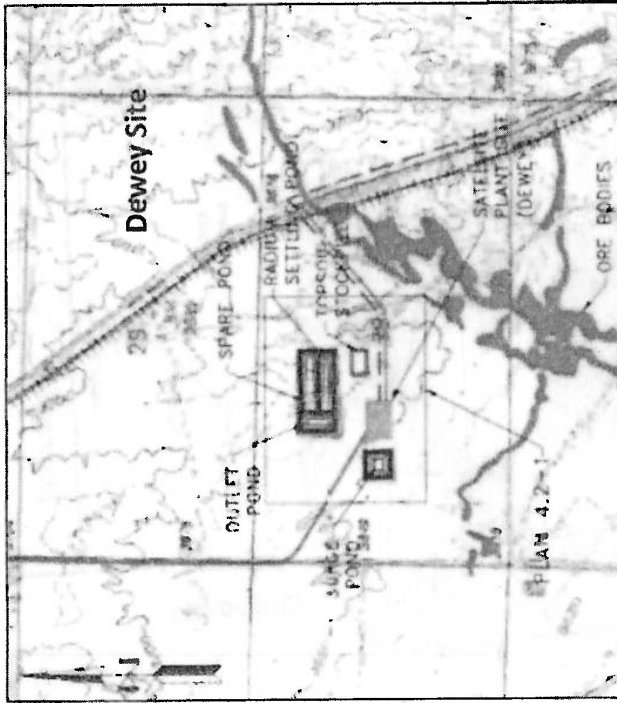


Figure 1. Map showing the location of the proposed Dewey-Burdock uranium recovery site.

Treatment and Storage Ponds for Deep Well Injectate

Waste fluids from the uranium recovery process will be treated in the radium settling ponds. After radium removal, the treated water will be stored in the outlet ponds and surge ponds. There will also be a spare radium treatment pond for backup. After treatment, the water will flow to the deep injection wells.



The Burdock Area central plant pond will store brine from the reverse osmosis treatment process used during groundwater restoration before the brine is treated in the radium settling ponds.

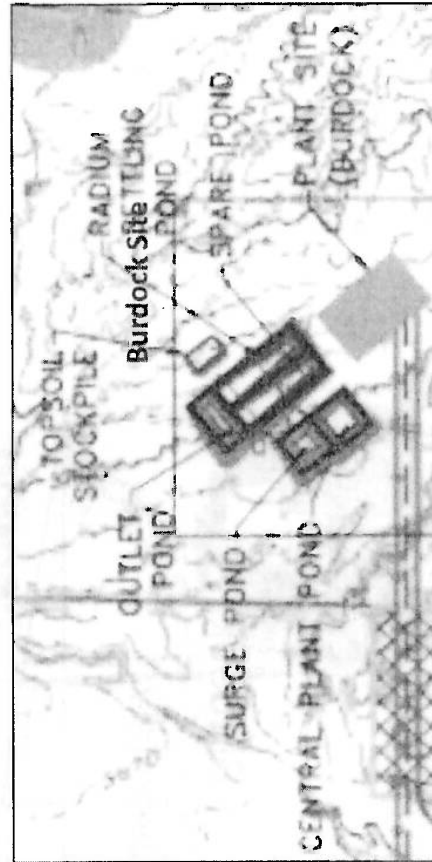


Figure 2. The Proposed Ponds for the Treatment and Storage of the Deep Injection Well Injectate.

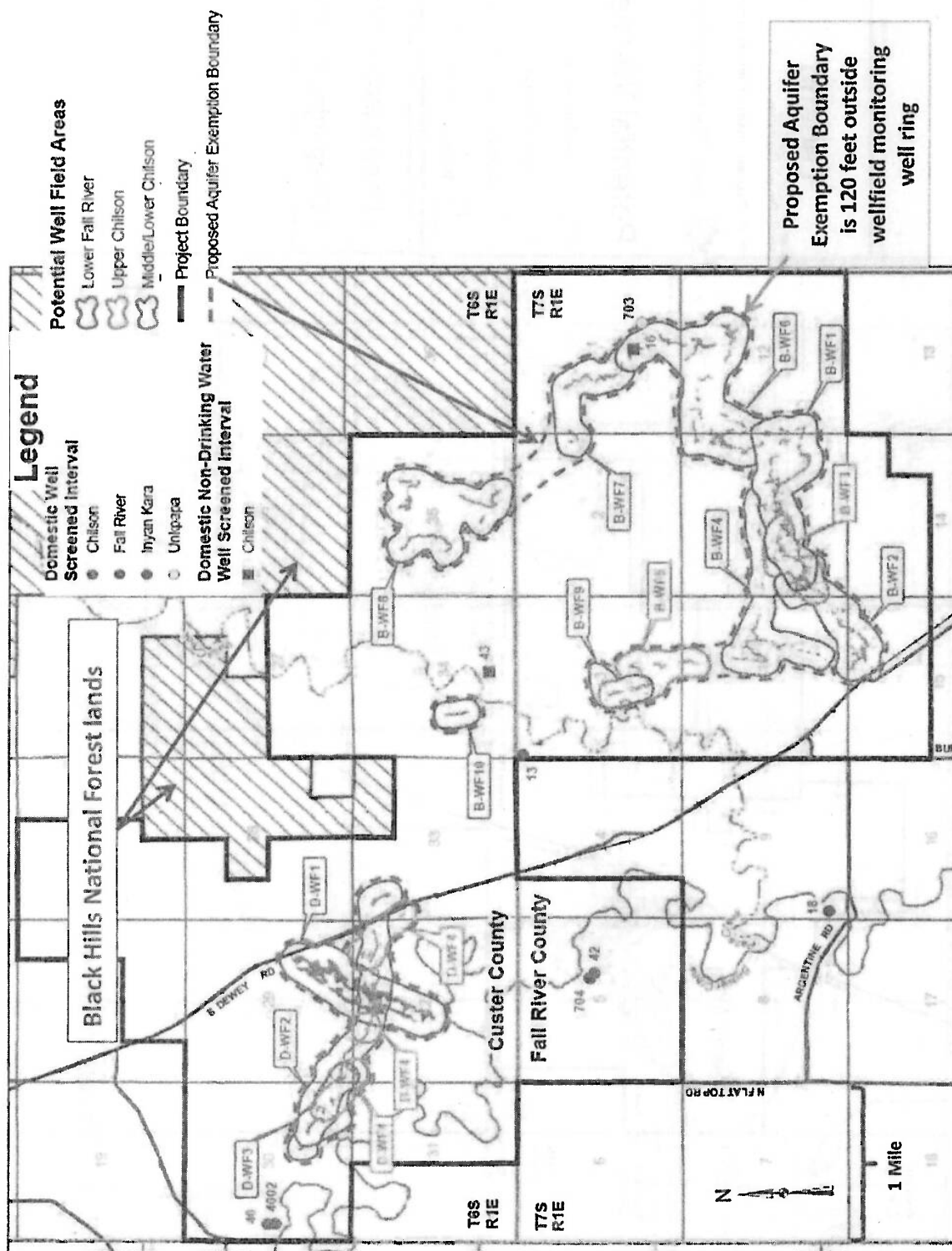
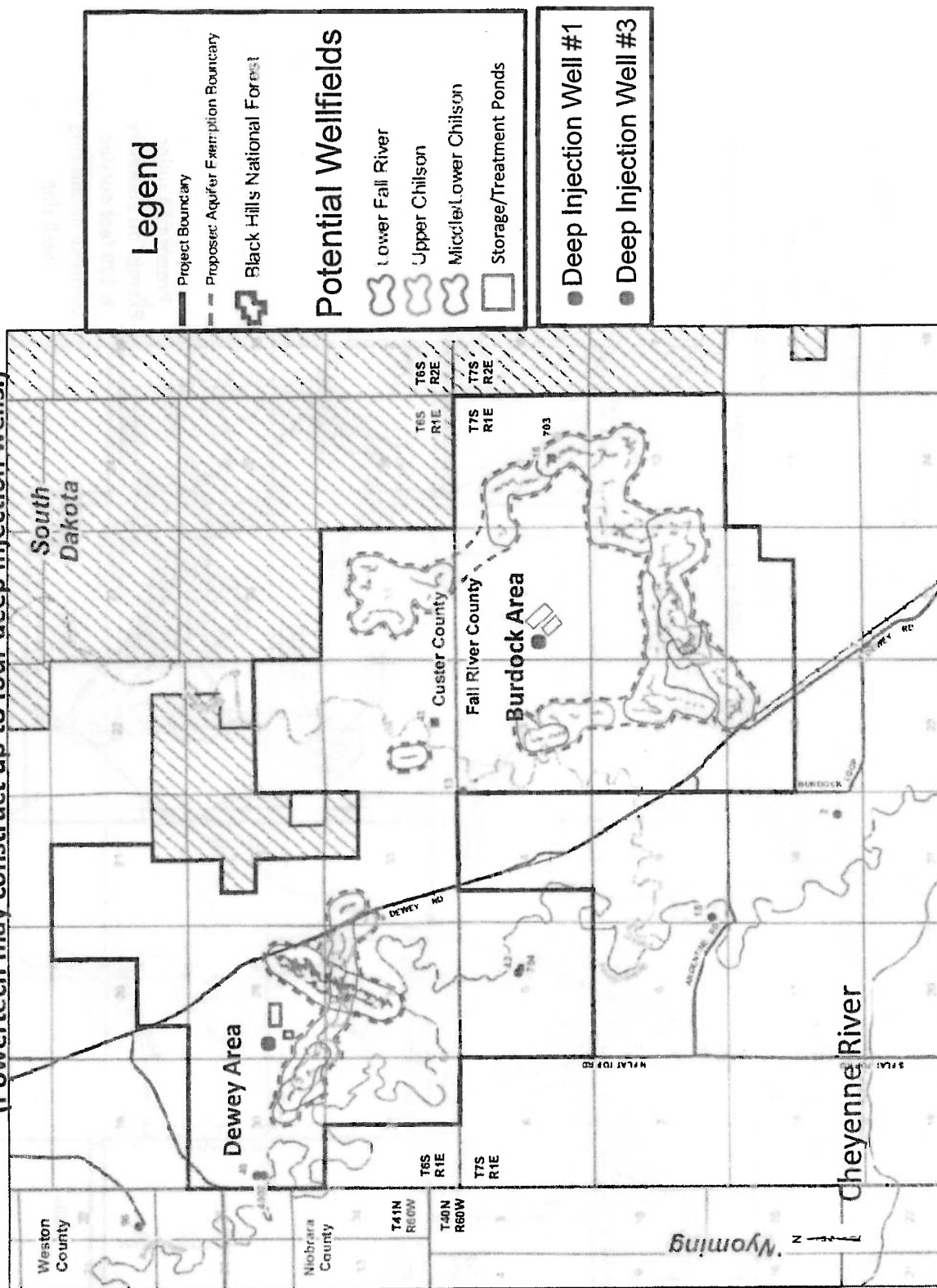


Figure 3. Map showing locations of the proposed wellfields containing Class III injection wells, the aquifer exemption boundary and the UIC permit boundary.

**Figure 4. Map showing locations for the two currently proposed deep injection wells.
(Powertech may construct up to four deep injection wells.)**



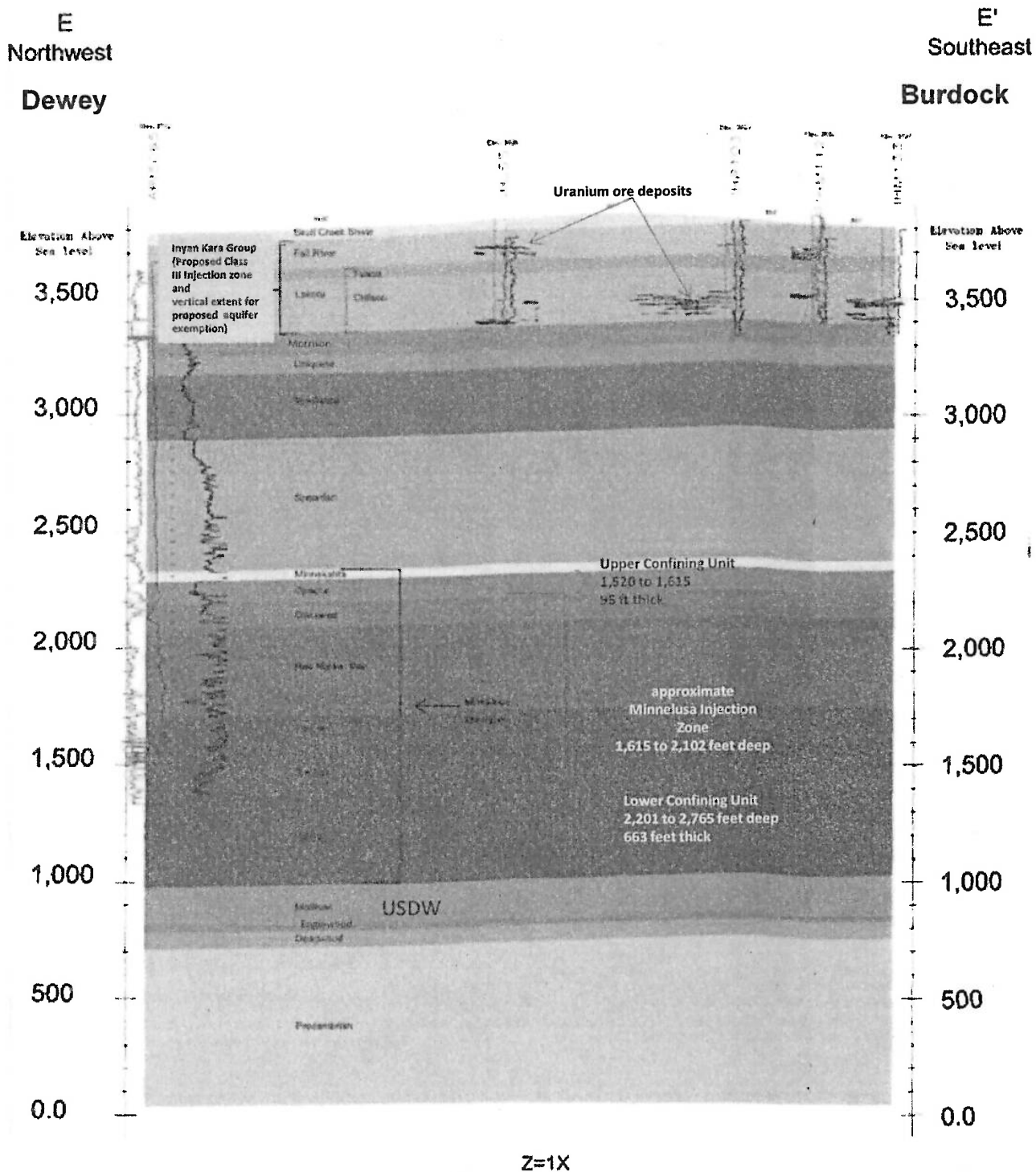


Figure 5. Stratigraphic cross-section of geologic formations present at the Dewey Burdock site and proposed injection zones for the Class III and deep Class V injections wells.

Oglala Sioux Tribe Communication Log

Date	Summary of communication
May 28, 2013	Mailed tribal consultation invitation letter to all tribes
November 25, 2015	Mailed tribal consultation invitation letter to all tribes
June 11, 2015	Meeting with Oglala Sioux Tribal representatives in Hot Springs, SD, at the request of the EPA Regional Administrator
April 28, 2016	Consultation meeting with the Oglala Sioux Tribe at the Justice Center in Pine Ridge, SD
June 17, 2016	Meeting with Oglala Sioux Tribal leaders in Denver, CO
June 30, 2016	Mailed letter to President Steele requesting consultation meeting
July 18, 2016	Presentation of the EPA community outreach plan to Land and Natural Resources Committee
June 9, 2017	Mailed letter to President Scott requesting consultation meeting
July 8, 2019	Mailed letter to all tribes with list of topics for consultation, including treaty rights and environmental justice.
August 5, 2019	Would President Bear Runner and Tribal Council be available to meet with EPA Wednesday afternoon as early as 1:30 pm, Thursday, September 12, or Friday morning, September 13?
August 22, 2019	How does the week of September 30 work for President Bear Runner and the Tribal Council to meet with EPA?
September 3, 2019	Email requesting meeting the week of Sept 30
September 16, 2019	Follow-up email requesting meeting the week of Sept 30.
September 17, 2019	Email requesting meeting October 1
October 21, 2019	Email requesting meeting with President Bear Runner and Tribal Council Wednesday or Thursday, December 4th or 5 th
October 28, 2019	Follow-up email requesting meeting with President Bear Runner and Tribal Council Wednesday or Thursday, December 4th or 5 th
January 13, 2020	Left voicemail message with Tribal Secretary that I would like to talk about scheduling a consultation meeting with Tribal Council
January 16, 2020	Follow-up voicemail message with Tribal Secretary that I would like to talk about scheduling a consultation meeting with Tribal Council
January 16, 2020	Follow-up email requesting meeting with Tribal Council February 25 or March 30.