

EPA REGION 8'S RESPONSE TO PETITION FOR REVIEW

**ATTACHMENT II**

July 8, 2019 letters from EPA inviting consultation  
with Tribes

Administrative Record Document Nos. 739-776

**From:** [Galen Laurence](#)  
**To:** [ostwpdls@gwtc.net](mailto:ostwpdls@gwtc.net); [t.brings@oglala.org](mailto:t.brings@oglala.org)  
**Subject:** EPA Invitation for Consultation – The Oglala Sioux Tribe  
**Date:** Thursday, July 25, 2019 3:37:00 PM  
**Attachments:** [EPA ConsultationLetter\\_OglalaSiouxTribe.pdf](#)

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Greetings Dalinda and Thomas,

The attached letter and enclosures are being sent to you on behalf of EPA Region 8. The EPA R8 Underground Injection Control (UIC) Program would like to invite you to consult on revised draft permits for injection wells and associated draft documents related to the proposed Dewey-Burdock uranium in-situ recovery site in the southern Black Hills region near Edgemont, South Dakota.

If you are interested in meeting with the EPA, please reply to Valois Robinson of the EPA R8 UIC program. Ms. Robinson can be reached at 800-227-8917 (extension 312-6276) or 303-312-6276. She may also be reached by email at [robinson.valois@epa.gov](mailto:robinson.valois@epa.gov).

If you have any questions, you may also respond to this email directly; we will be happy to convey questions or comments to EPA.

Thank you,

Galen Laurence

**Galen Laurence | Analyst**

Cadmus | 100 5th Avenue, Suite 100 | Waltham, MA, 02451-8727  
Tel: (617) 673-7016



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 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](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](mailto: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 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

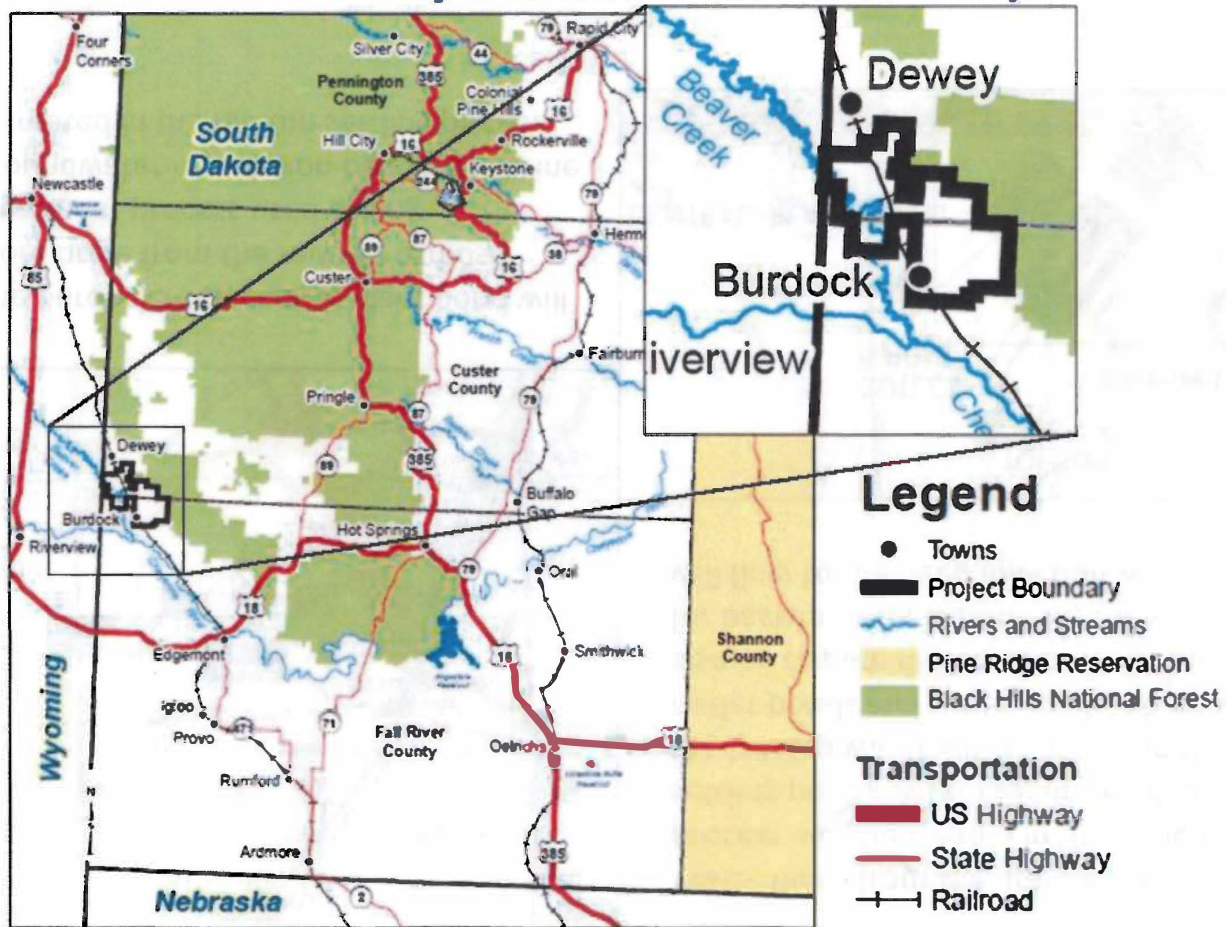
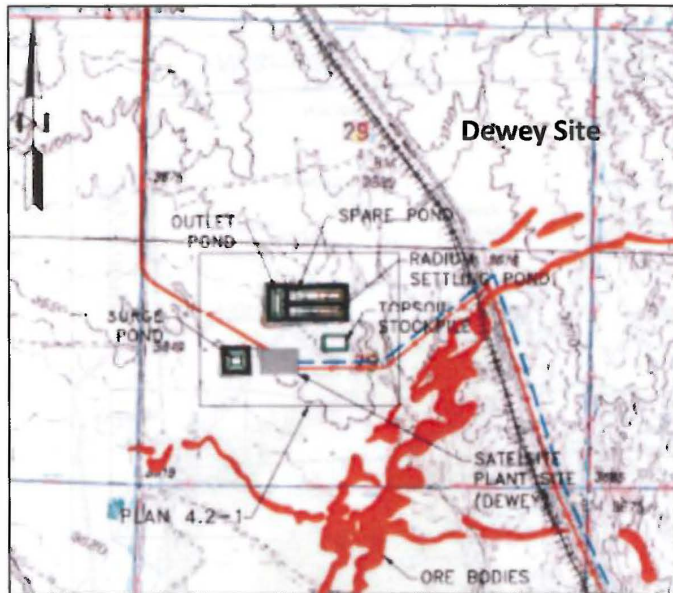


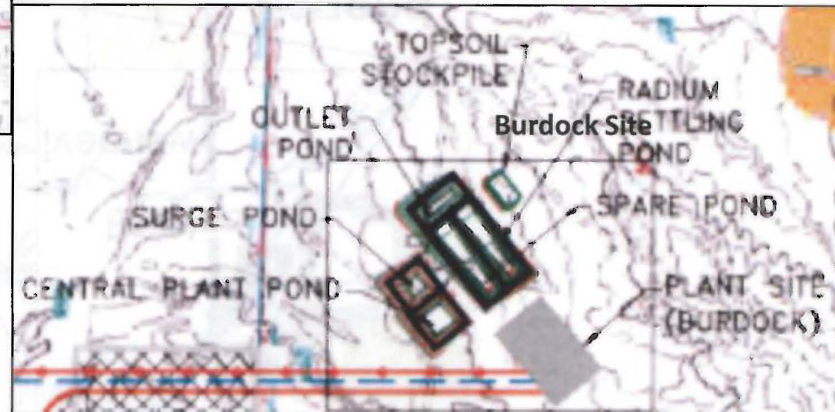
Figure 1. Map showing the location of the proposed Dewey-Burdock uranium recovery site.

## 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.

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.**

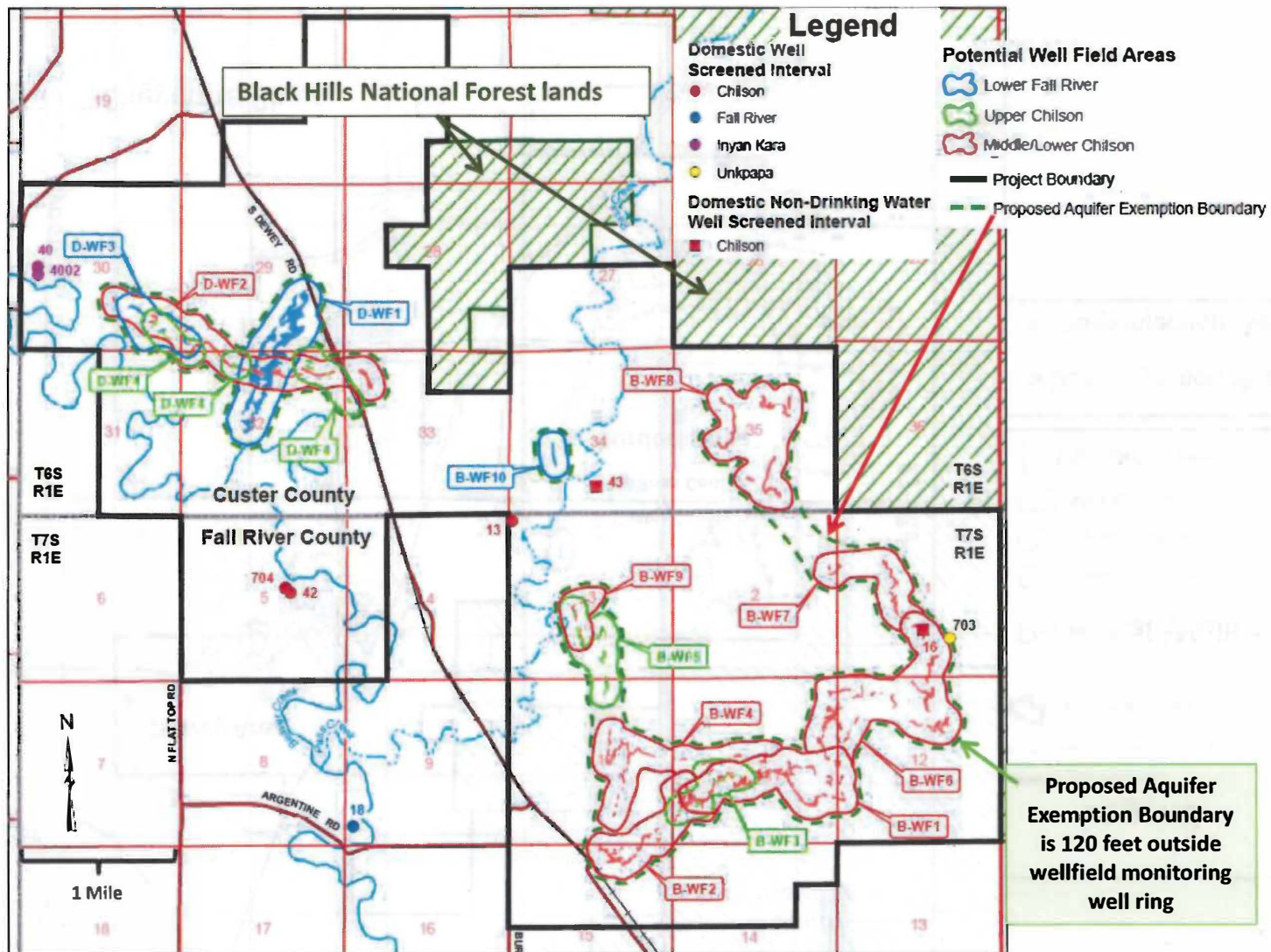
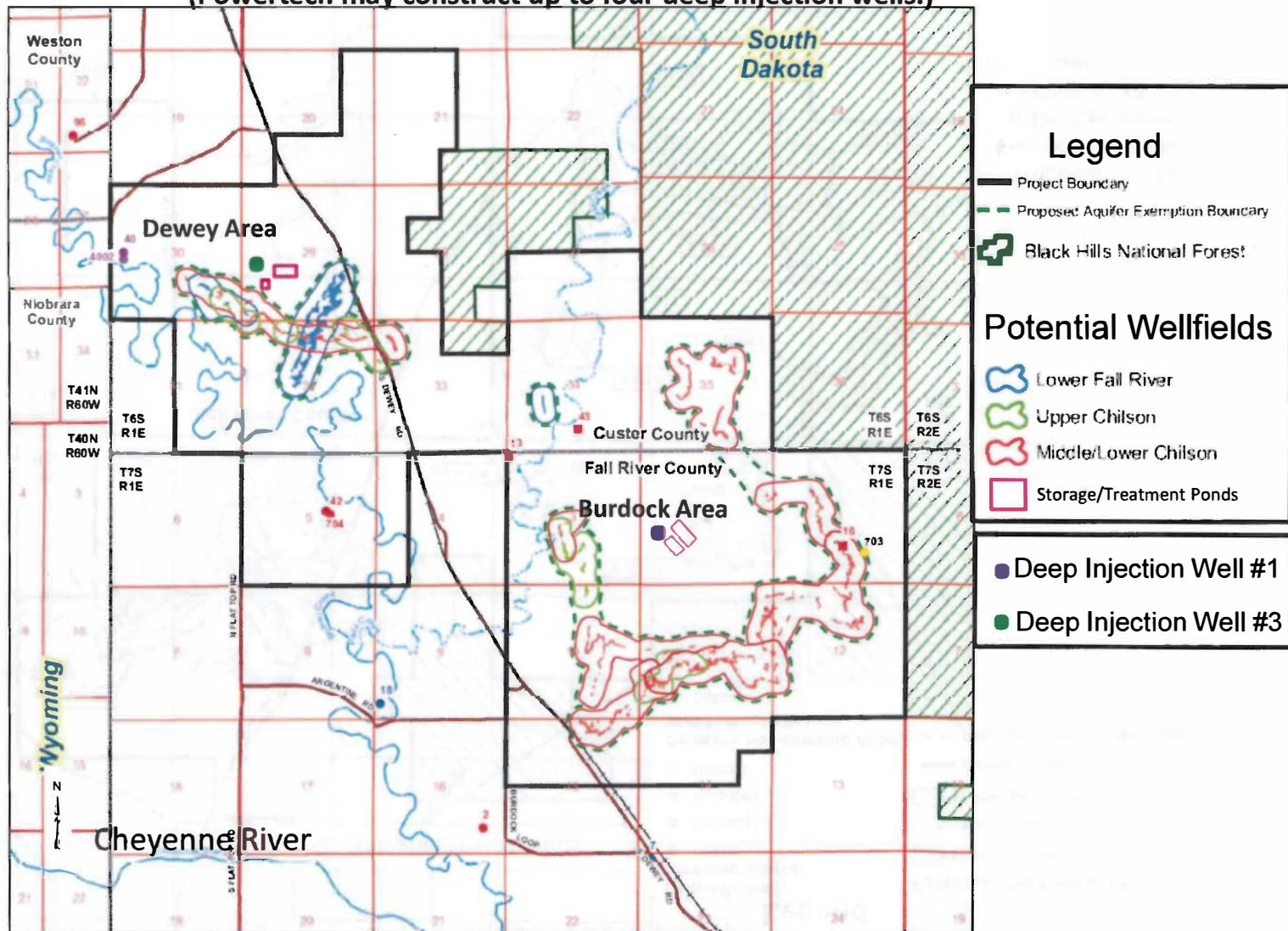
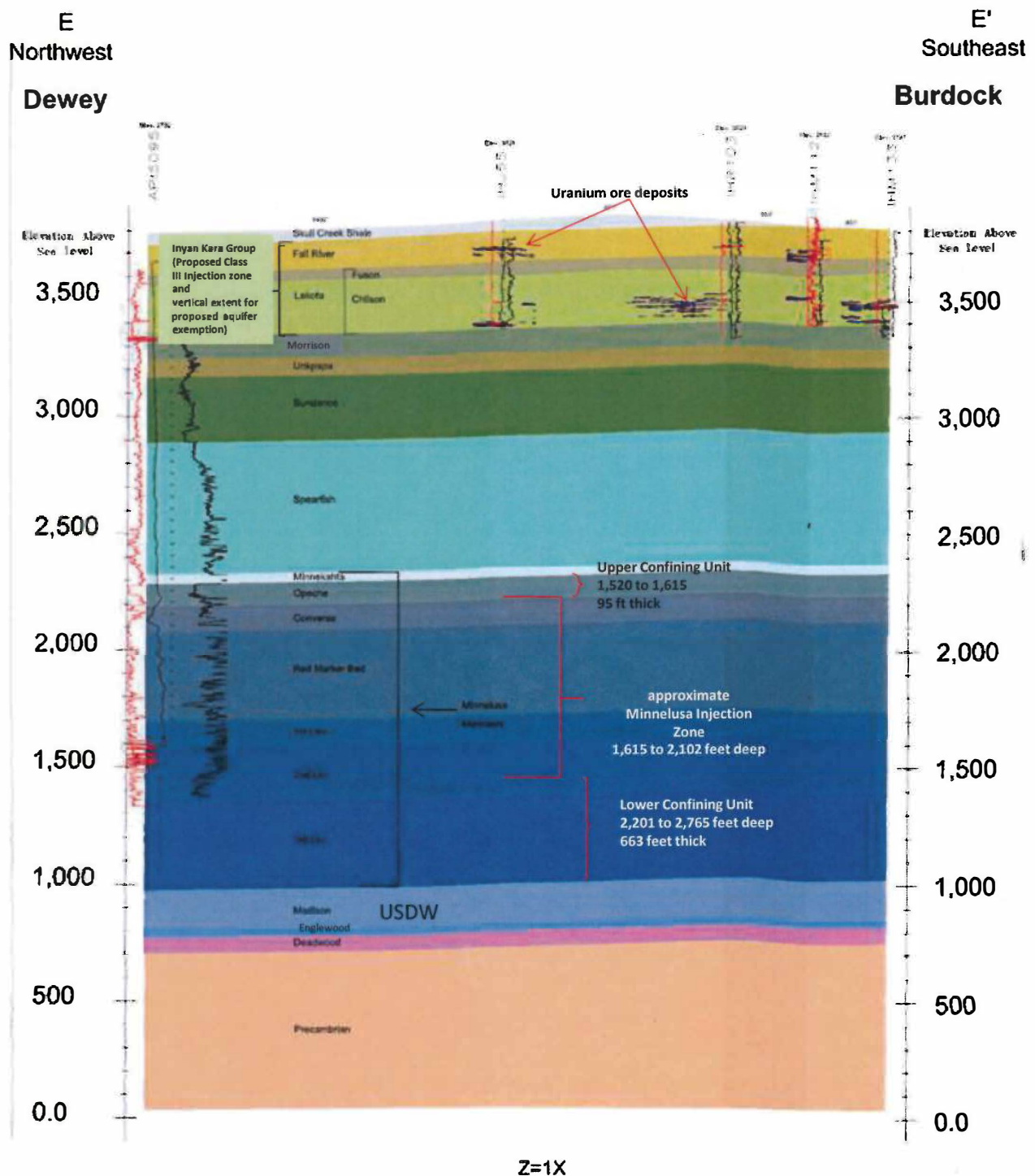


Figure 3. Map showing locations of the proposed wellfields containing Class III injection wells, the aquifer exemption boundary and the UIC permit boundary.

**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:** [Galen Laurence](#)  
**To:** [mjplume1@yahoo.com](mailto:mjplume1@yahoo.com)  
**Subject:** EPA Invitation for Consultation – The Northern Arapaho Tribe  
**Date:** Thursday, July 25, 2019 3:37:00 PM  
**Attachments:** [EPA ConsultationLetter NorthernArapahoTribe.pdf](#)

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Greetings Michael,

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If you are interested in meeting with the EPA, please reply to Valois Robinson of the EPA R8 UIC program. Ms. Robinson can be reached at 800-227-8917 (extension 312-6276) or 303-312-6276. She may also be reached by email at [robinson.valois@epa.gov](mailto:robinson.valois@epa.gov).

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**Galen Laurence | Analyst**

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REGION 8

1595 Wynkoop Street  
Denver, CO 80202-1129  
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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.

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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.

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We appreciate the The Northern Arapaho 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: Michael Yellowplume, Environmental Director  
Devon Oldman, Tribal Historic Preservation Officer

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# Dewey Burdock Location Map

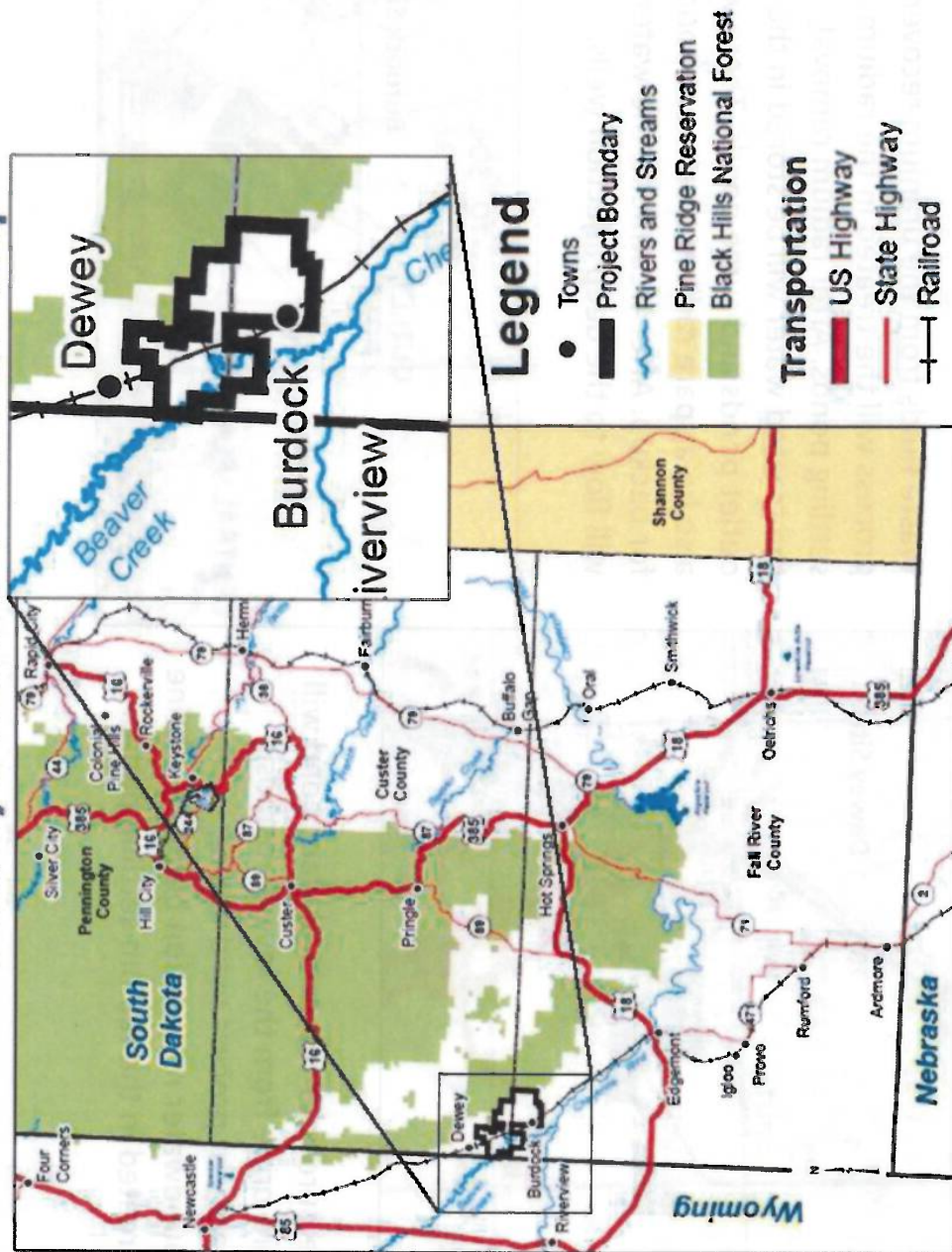
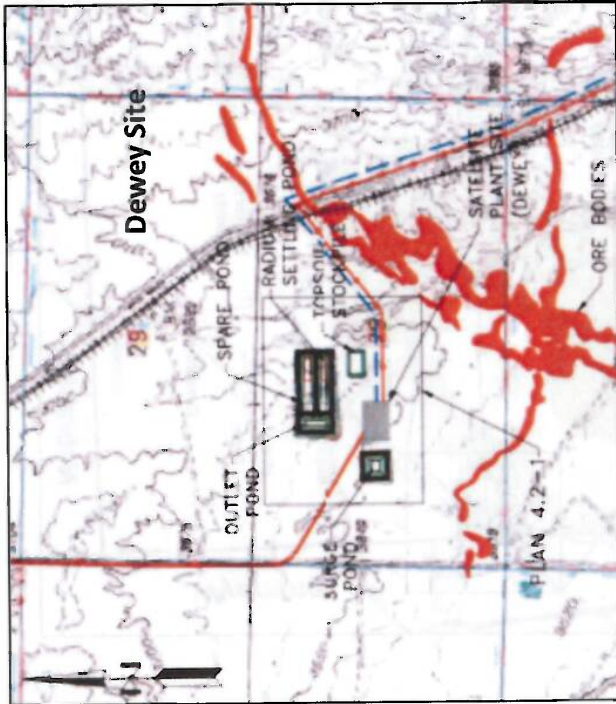


Figure 1. Map showing the location of the proposed Dewey-Burdock uranium recovery site.

## Treatment and Storage Ponds for Deep Well Injectate



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

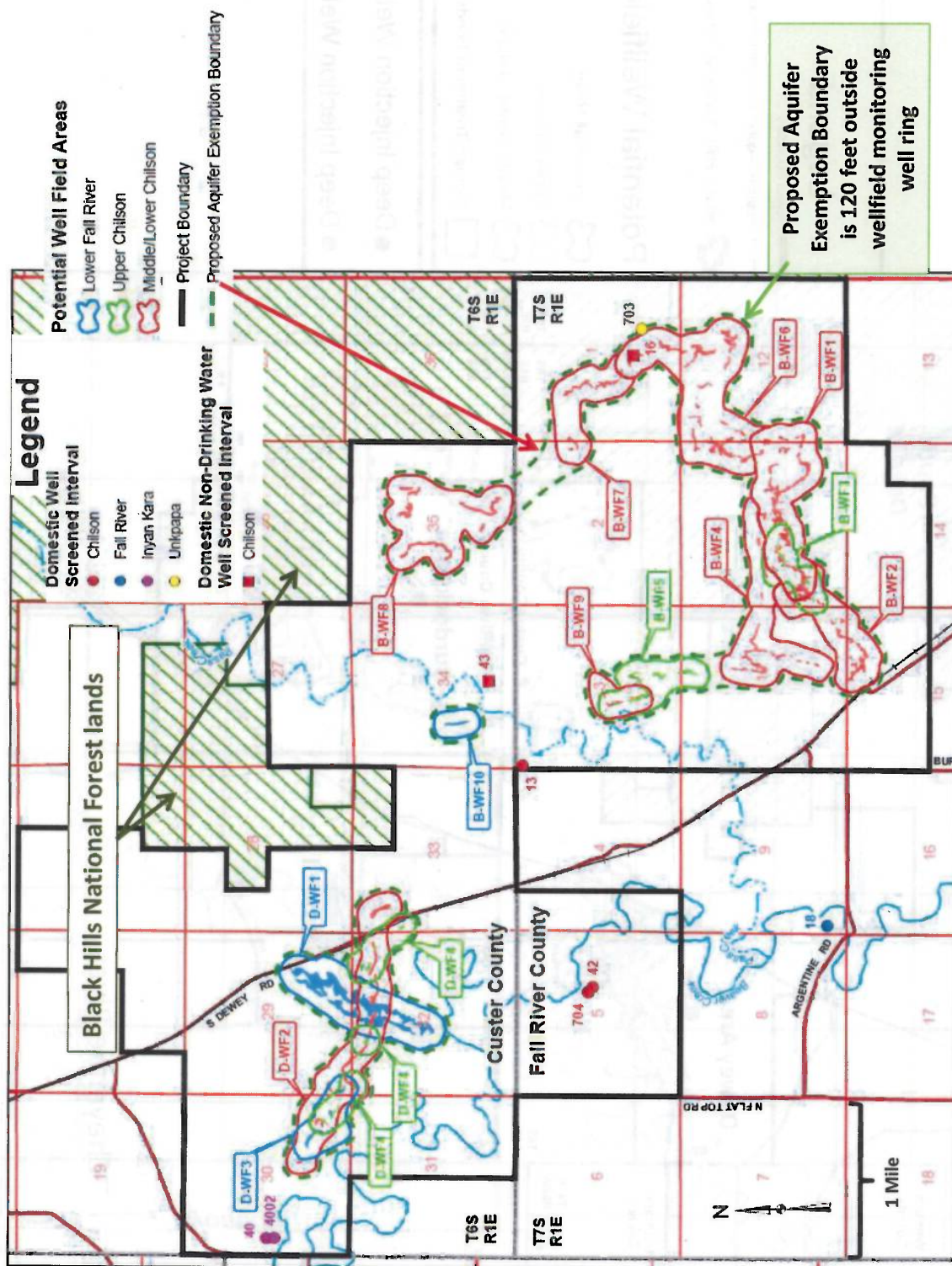
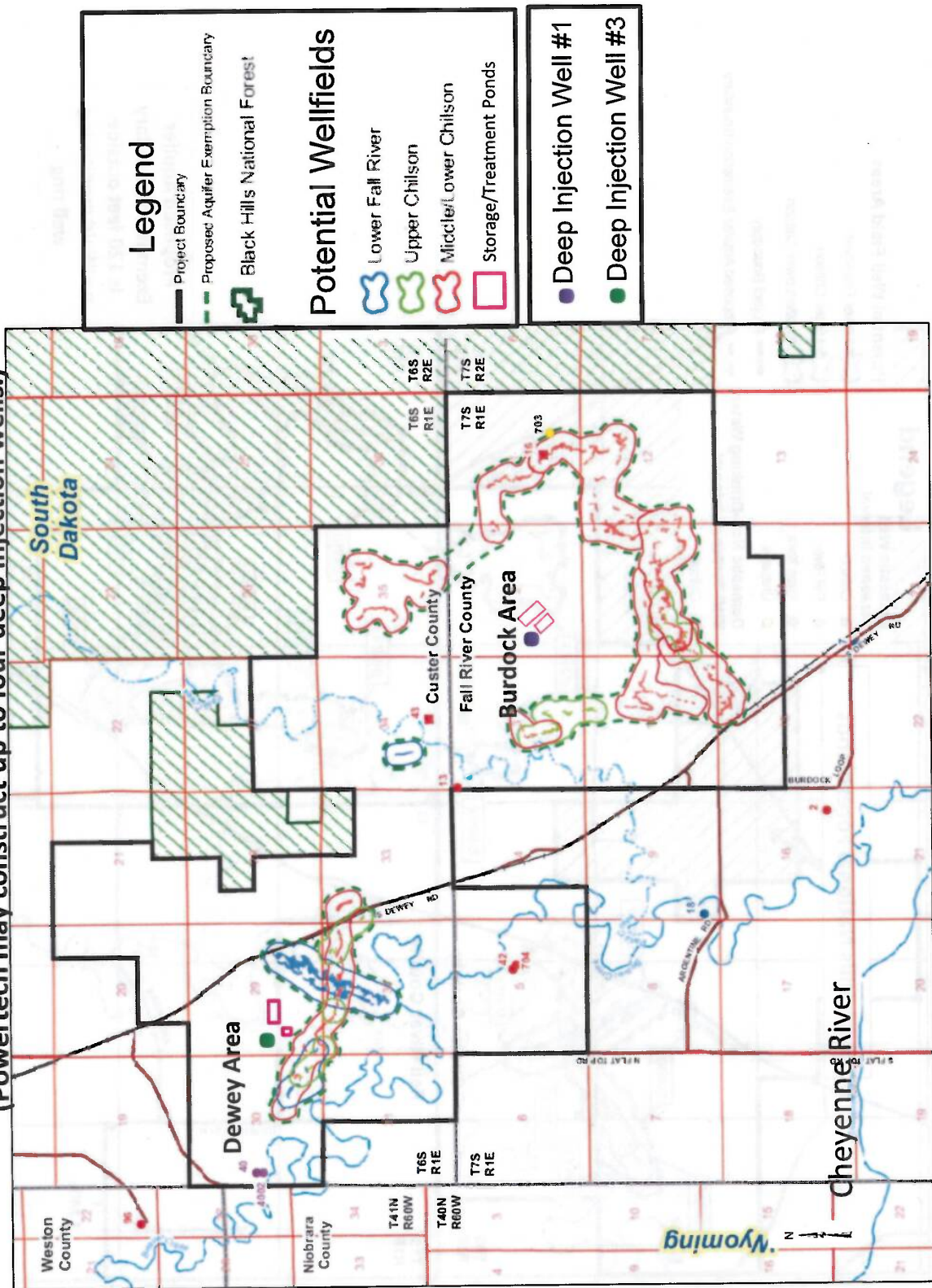
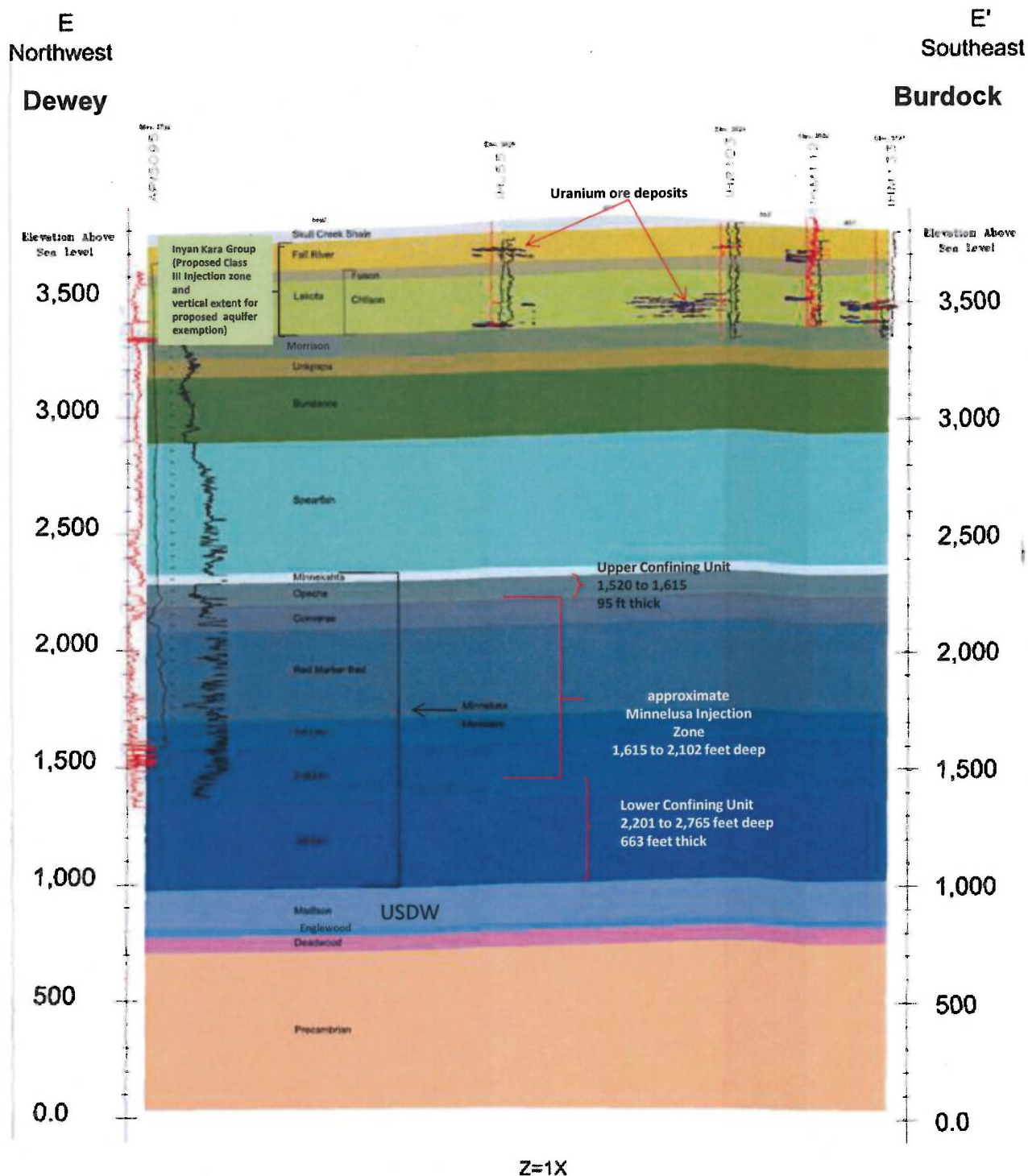


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**Figure 5. Stratigraphic cross-section of geologic formations present at the Dewey Burdock site and proposed injection zones for the Class III and deep Class V injections wells.**

**From:** [Galen Laurence](#)  
**To:** ["gwagner@3rivers.net"](#); ["jmflysdwn@gmail.com"](#)  
**Subject:** EPA Invitation for Consultation – The Blackfeet Tribe  
**Date:** Thursday, July 25, 2019 3:38:00 PM  
**Attachments:** [EPA ConsultationLetter BlackfeetTribe.pdf](#)

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**Galen Laurence | Analyst**

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

1595 Wynkoop Street  
Denver, CO 80202-1129  
Phone 800-227-8917  
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JUL 08 2019

Ref: 8WD-SDU

Honorable Timothy Davis  
Chairman  
The Blackfeet Tribe  
P.O. Box 850  
Browning, Montana 59417-0850

Re: U.S. Environmental Protection Agency Underground Injection Control Program  
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Uranium Recovery Site near Edgemont, South Dakota

Dear Chairman Davis:

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Consistent with the Treaty Rights guidance, the EPA would also like input from the The Blackfeet 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?
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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 Blackfeet 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;
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We understand that the The Blackfeet 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 Blackfeet 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](mailto: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 Blackfeet 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: Gerald Wagner, Environmental Director  
John Murray, 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

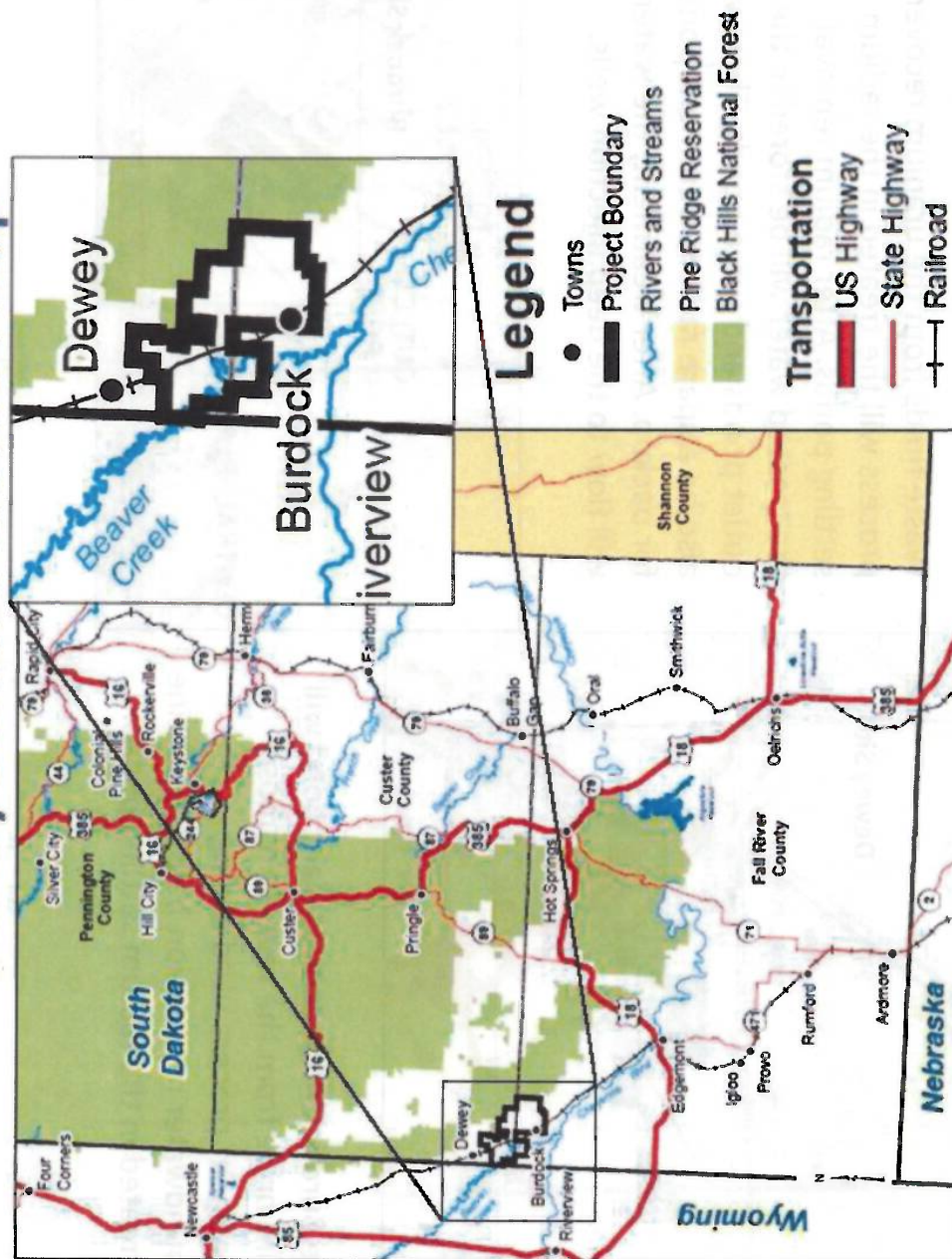
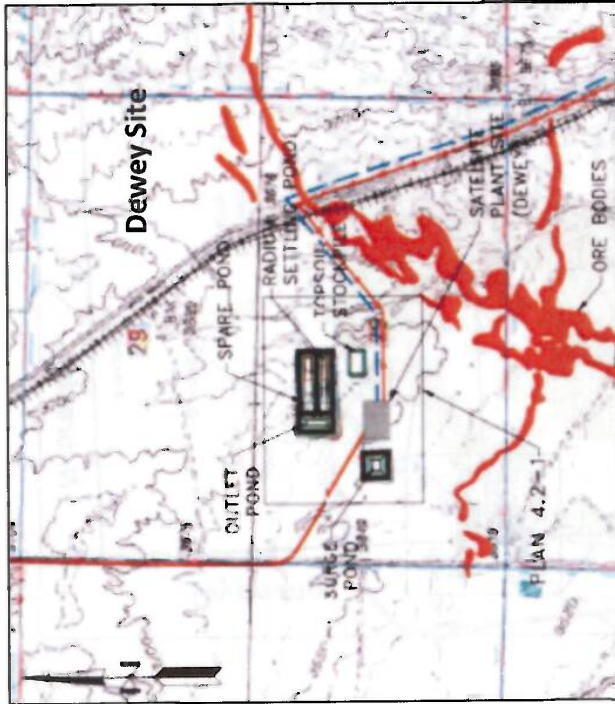


Figure 1. Map showing the location of the proposed Dewey-Burdock uranium recovery site.

## 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.

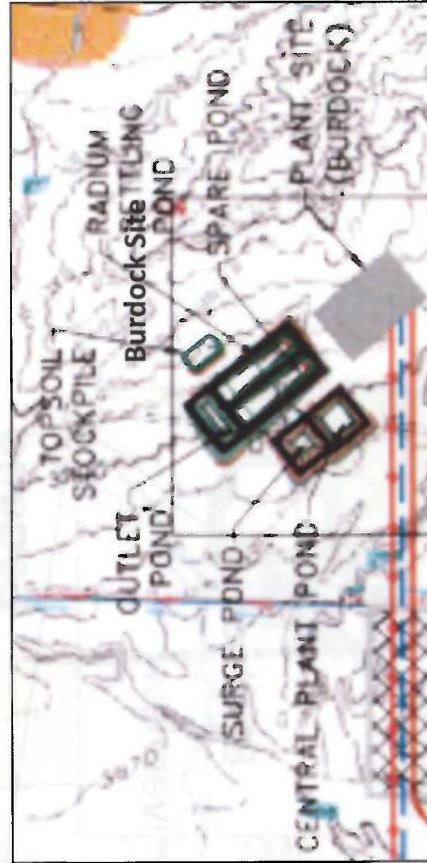


Figure 2. The Proposed Ponds for the Treatment and Storage of the Deep Injection Well Injectate.

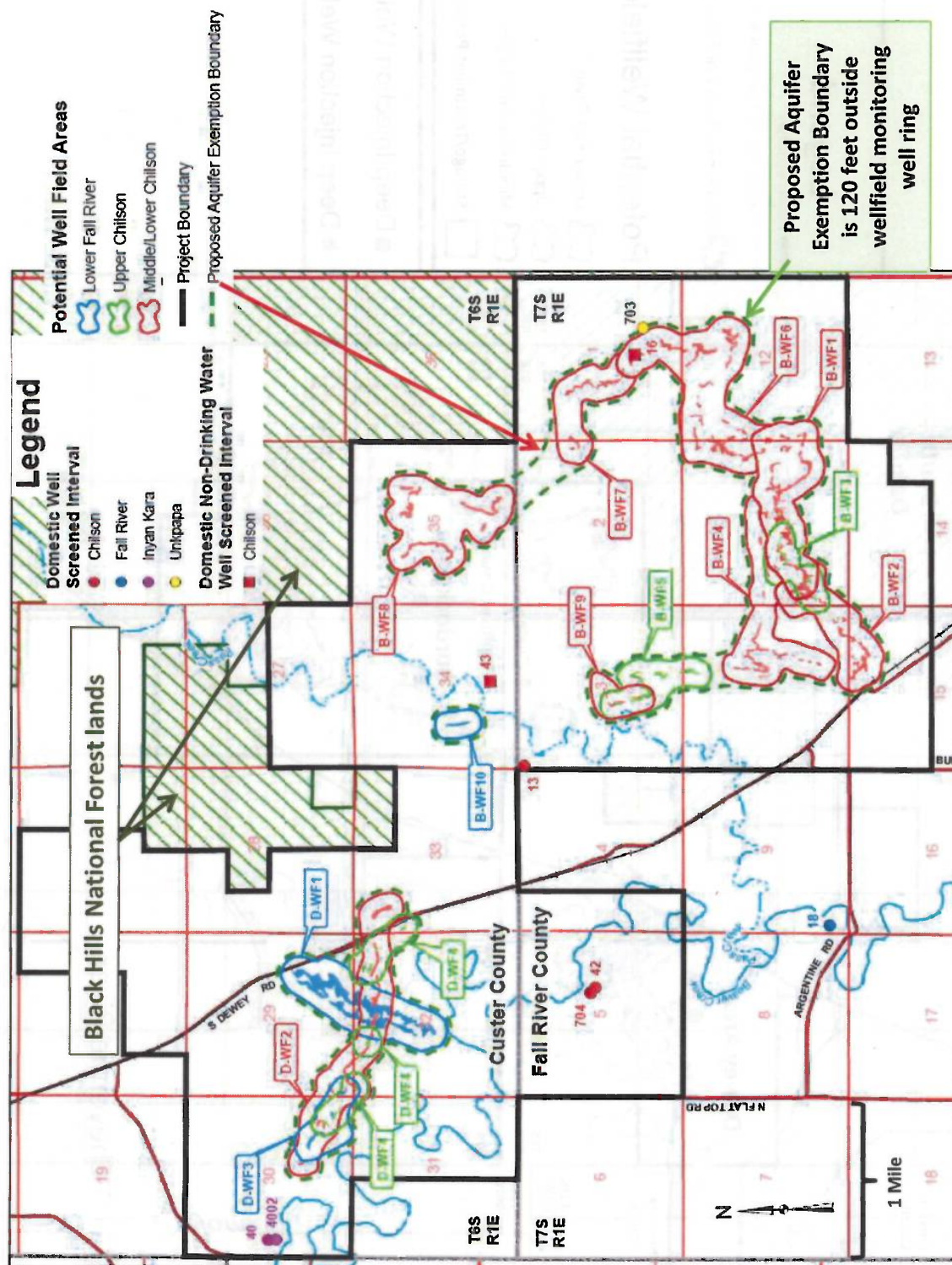
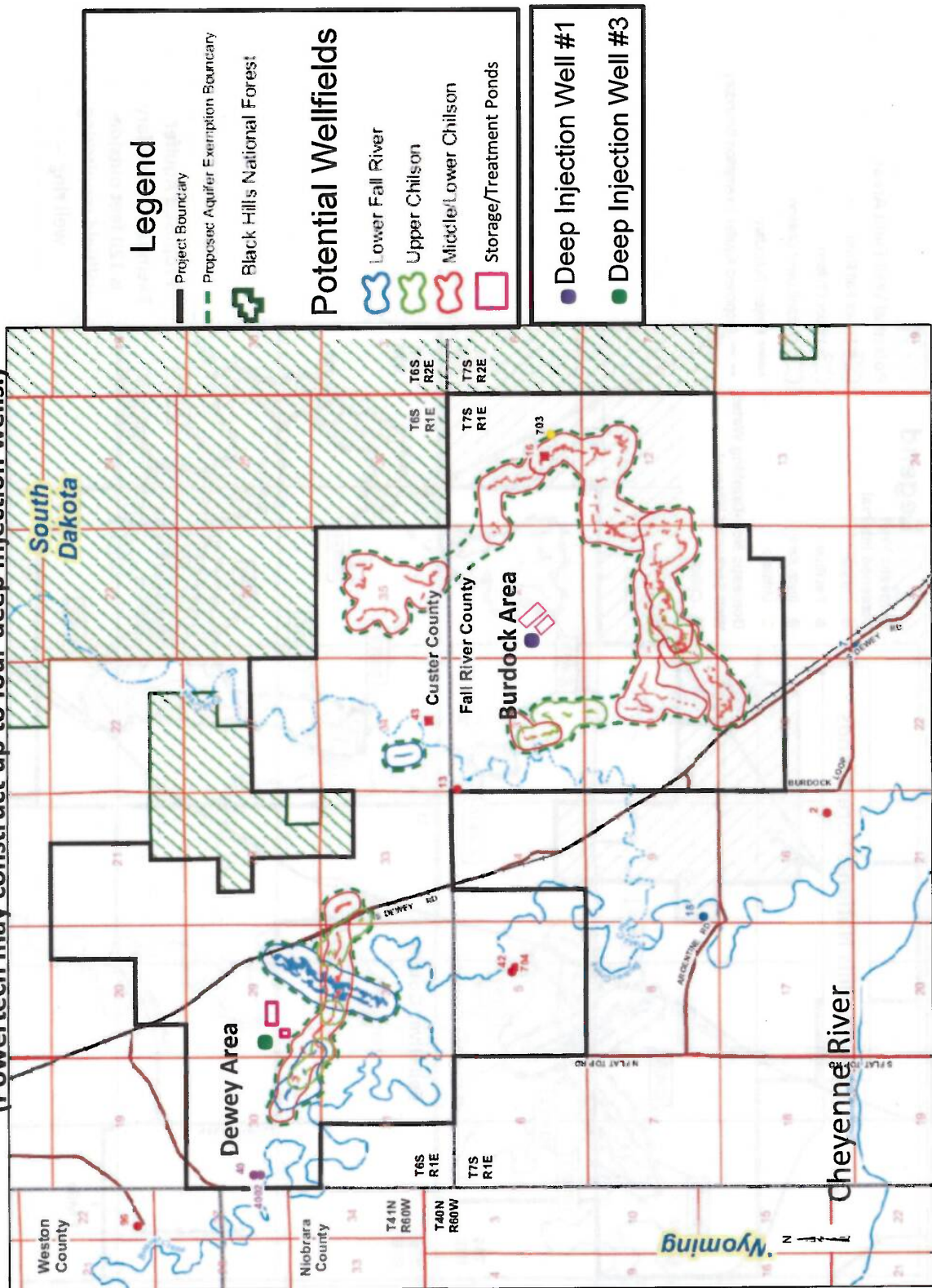
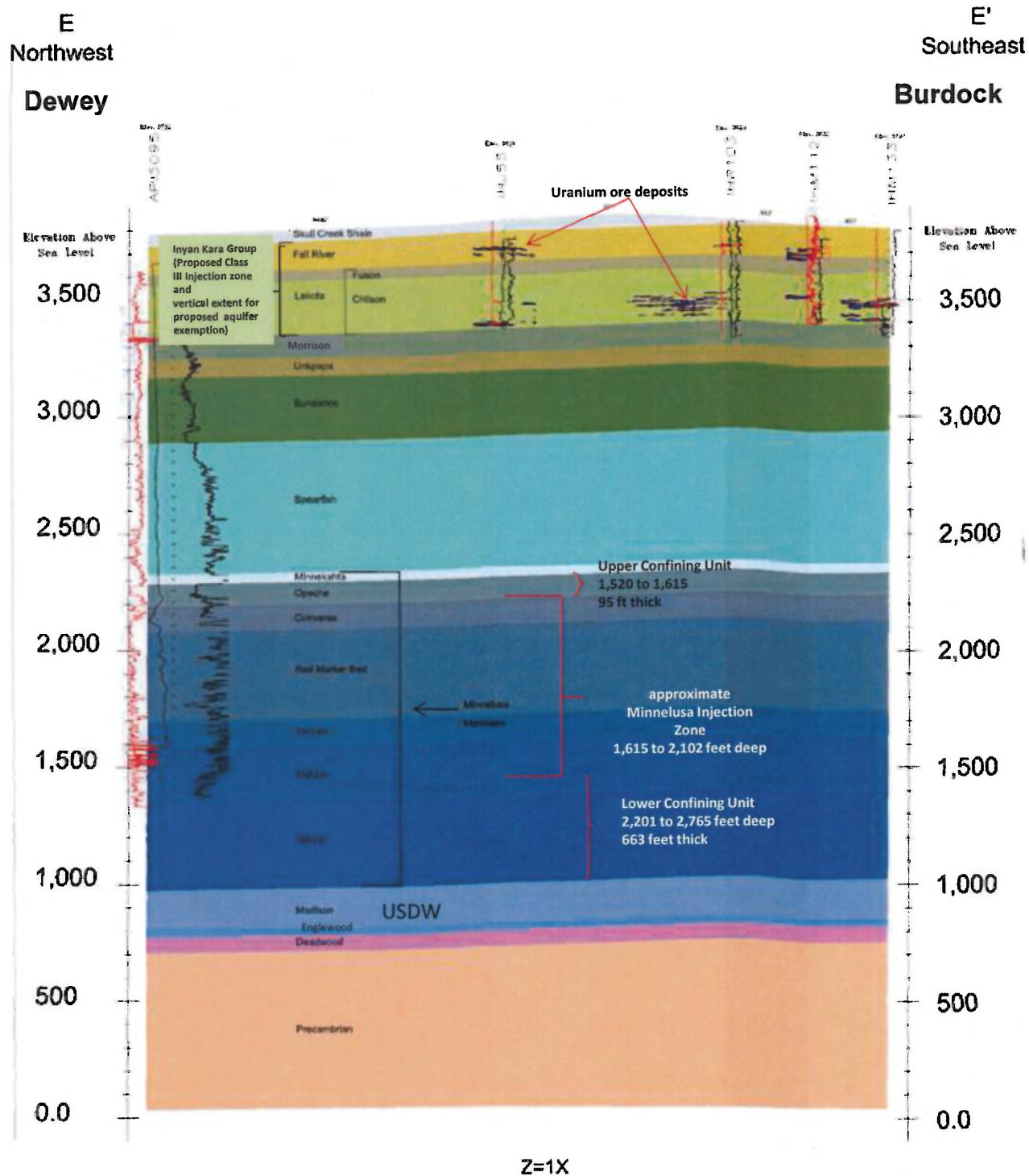


Figure 3. Map showing locations of the proposed wellfields containing Class III injection wells, the aquifer exemption boundary and the UIC permit boundary.

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:** [Galen Laurence](#)  
**To:** [mbear@c-a-tribes.org](mailto:mbear@c-a-tribes.org); [damon.dunbar@c-a-tribes.org](mailto:damon.dunbar@c-a-tribes.org)  
**Subject:** EPA Invitation for Consultation – The Cheyenne and Arapaho Tribes of Oklahoma  
**Date:** Thursday, July 25, 2019 3:38:00 PM  
**Attachments:** [EPA\\_ConsultationLetter\\_Cheyenne&ArapahoTribesOK.pdf](#)

---

Greetings Max and Damon,

The attached letter and enclosures are being sent to you on behalf of EPA Region 8. The EPA R8 Underground Injection Control (UIC) Program would like to invite you to consult on revised draft permits for injection wells and associated draft documents related to the proposed Dewey-Burdock uranium in-situ recovery site in the southern Black Hills region near Edgemont, South Dakota.

If you are interested in meeting with the EPA, please reply to Valois Robinson of the EPA R8 UIC program. Ms. Robinson can be reached at 800-227-8917 (extension 312-6276) or 303-312-6276. She may also be reached by email at [robinson.valois@epa.gov](mailto:robinson.valois@epa.gov).

If you have any questions, you may also respond to this email directly; we will be happy to convey questions or comments to EPA.

Thank you,

Galen Laurence

**Galen Laurence | Analyst**

Cadmus | 100 5th Avenue, Suite 100 | Waltham, MA, 02451-8727

Tel: (617) 673-7016



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 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  
Uranium Recovery Site near Edgemont, South Dakota

Dear Governor Wassana:

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 and Arapaho Tribes of Oklahoma'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**

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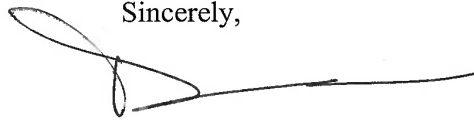
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We appreciate the The Cheyenne and Arapaho Tribes of Oklahoma's prompt attention to this important matter.

Sincerely,

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Darcy O'Connor, Director  
Water Division

Enclosures (6)

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

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# Dewey Burdock Location Map

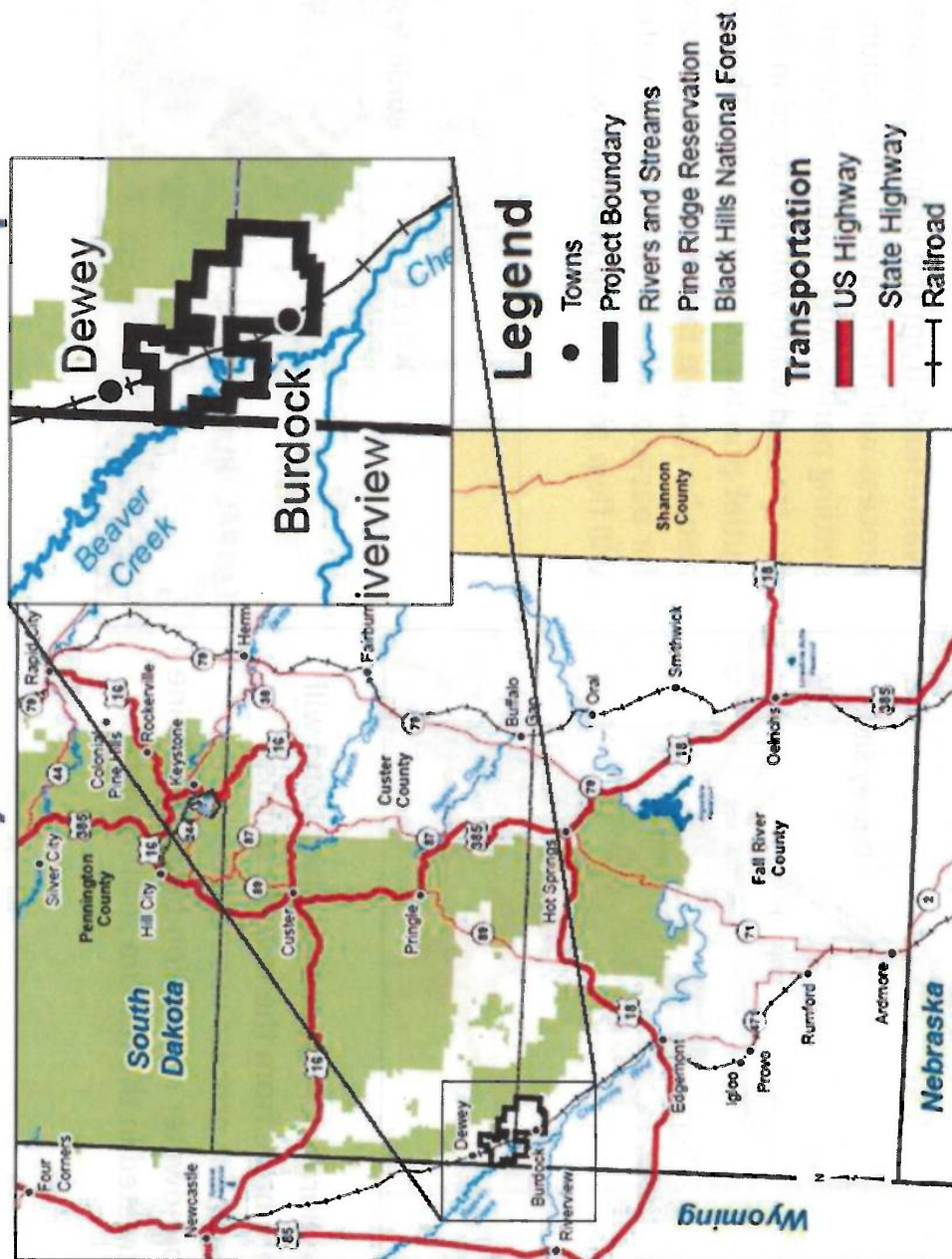
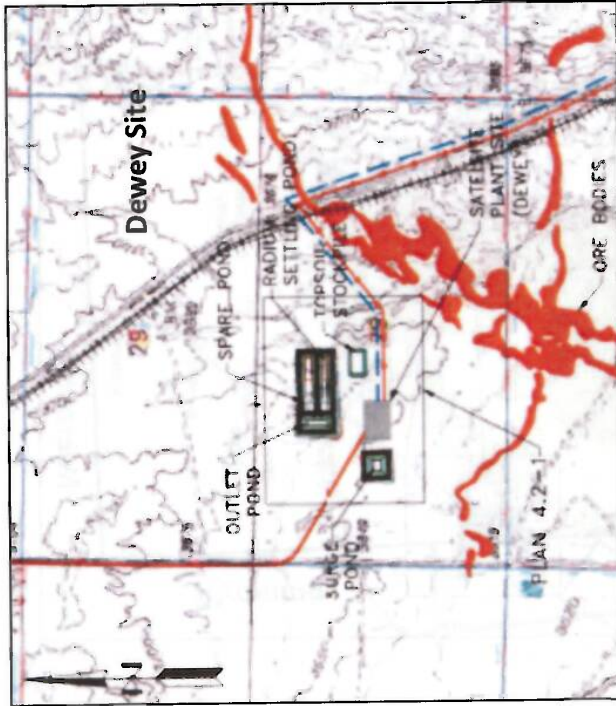


Figure 1. Map showing the location of the proposed Dewey-Burdock uranium recovery site.

## Treatment and Storage Ponds for Deep Well Injectate

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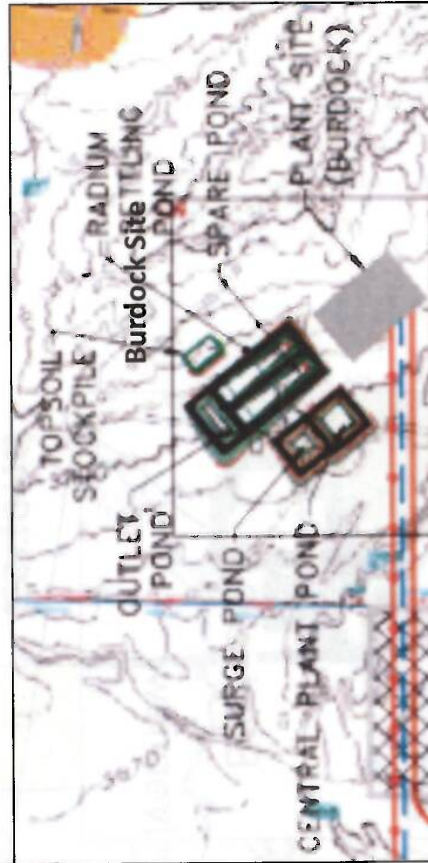


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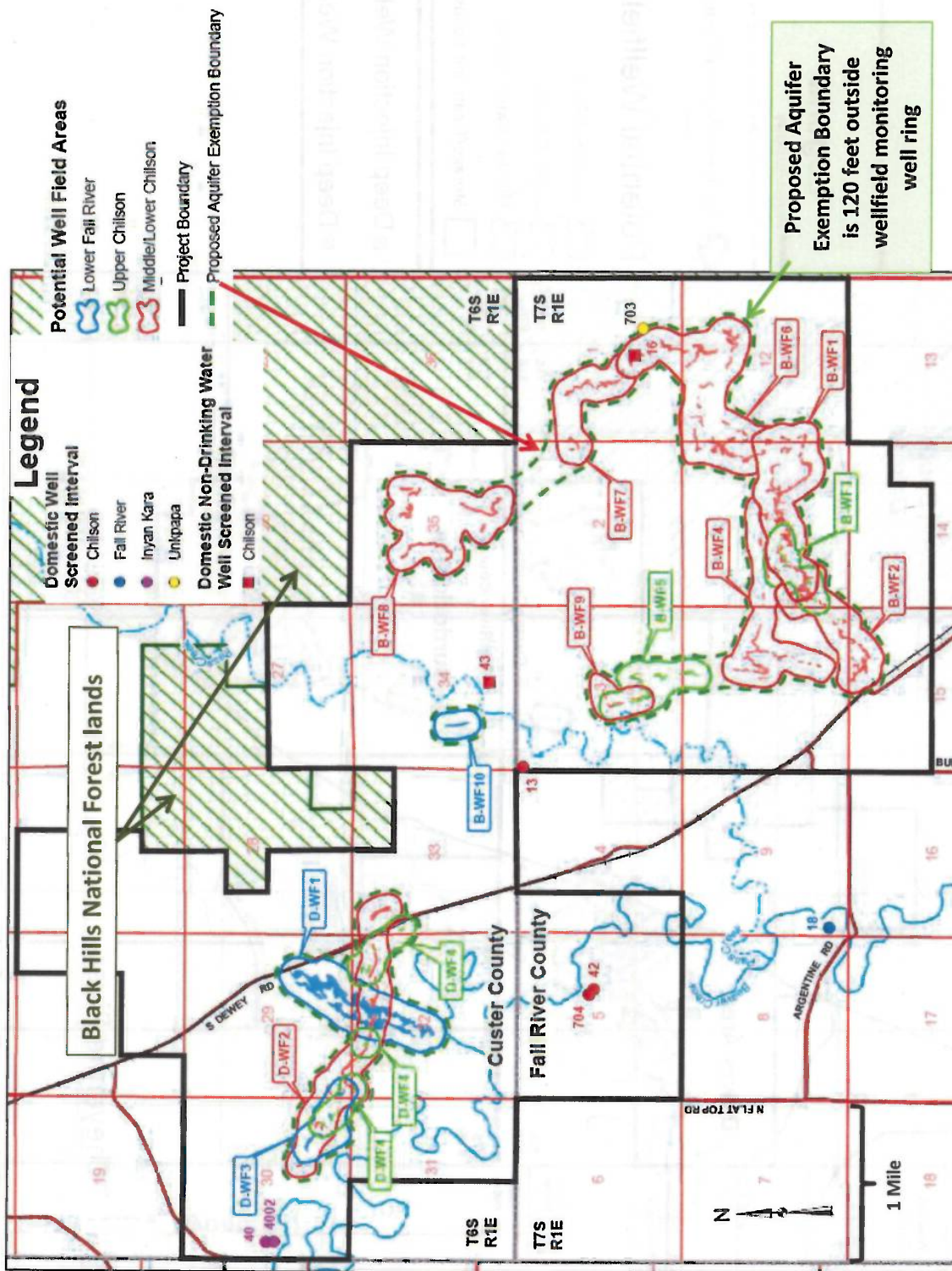
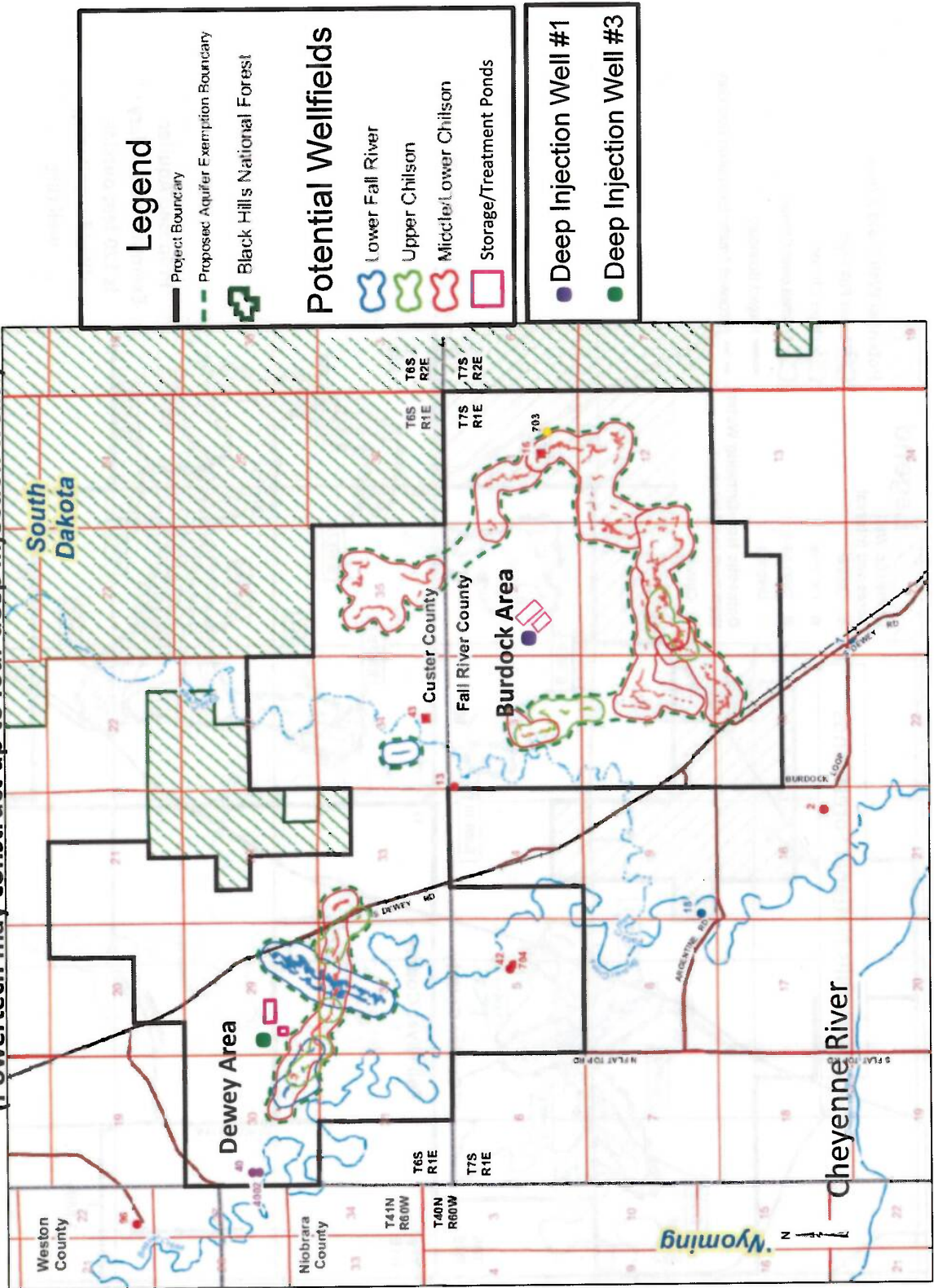
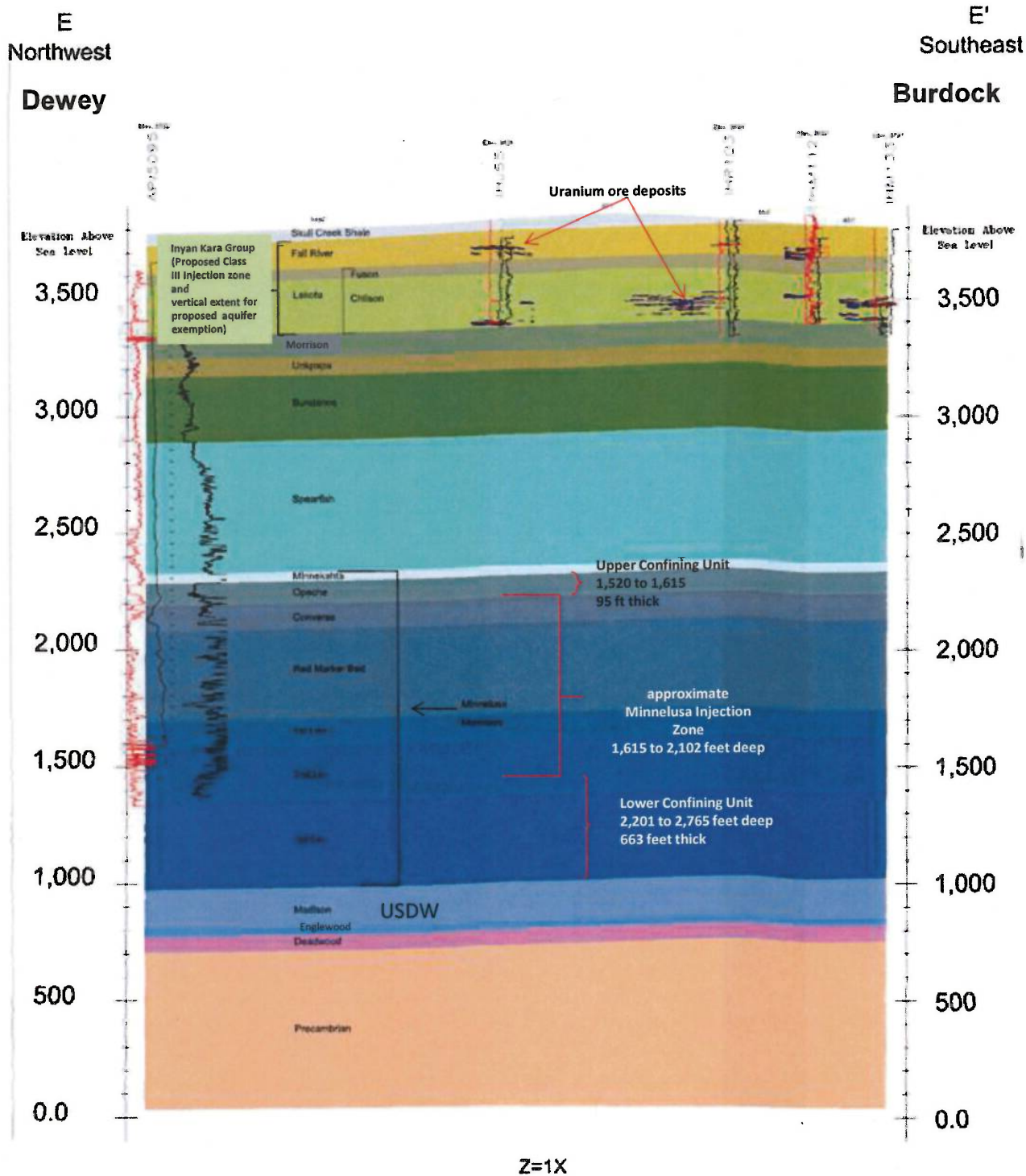


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(Powertech may construct up to four deep injection wells.)





**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:** [Galen Laurence](#)  
**To:** [dnelson@crstepd.org](mailto:dnelson@crstepd.org); [stevev.crstepres@outlook.com](mailto:stevev.crstepres@outlook.com)  
**Subject:** EPA Invitation for Consultation – Cheyenne River Sioux Tribe  
**Date:** Thursday, July 25, 2019 3:37:00 PM  
**Attachments:** [EPA ConsultationLetter\\_CheyenneRiverSiouxTribe.pdf](#)

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Greetings David and Steven,

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If you are interested in meeting with the EPA, please reply to Valois Robinson of the EPA R8 UIC program. Ms. Robinson can be reached at 800-227-8917 (extension 312-6276) or 303-312-6276. She may also be reached by email at [robinson.valois@epa.gov](mailto:robinson.valois@epa.gov).

If you have any questions, you may also respond to this email directly; we will be happy to convey questions or comments to EPA.

Thank you,

Galen Laurence

**Galen Laurence | Analyst**

Cadmus | 100 5th Avenue, Suite 100 | Waltham, MA, 02451-8727

Tel: (617) 673-7016



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
**REGION 8**

1595 Wynkoop Street  
Denver, CO 80202-1129  
Phone 800-227-8917  
[www.epa.gov/region8](http://www.epa.gov/region8)

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.

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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](mailto: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,

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

## **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

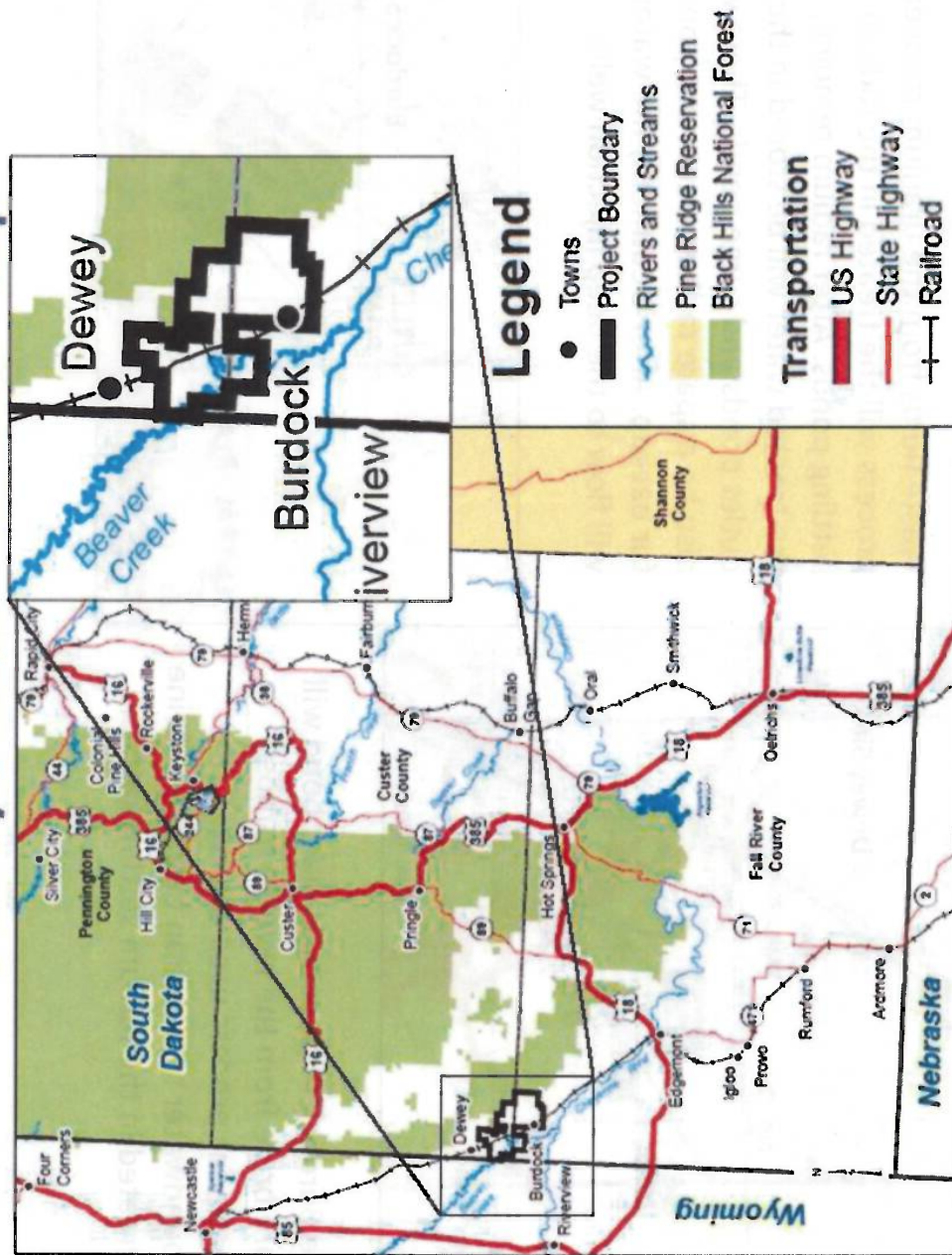
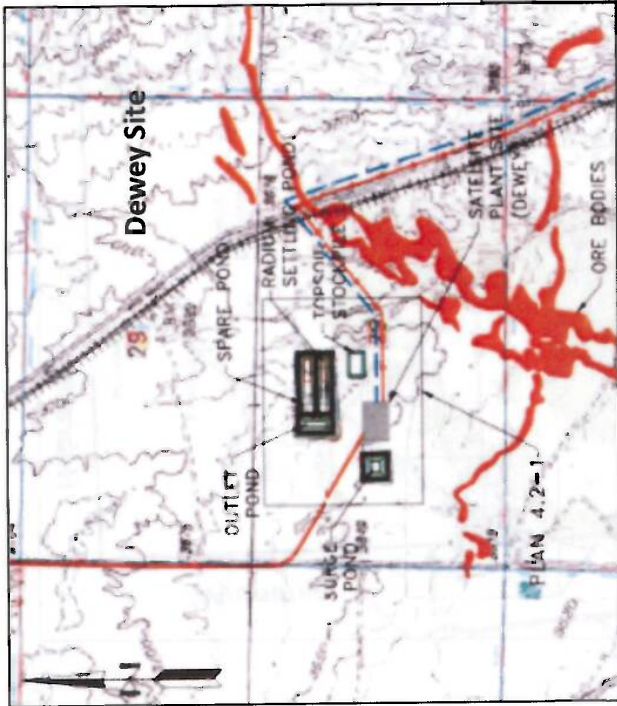


Figure 1. Map showing the location of the proposed Dewey-Burdock uranium recovery site.

## 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.

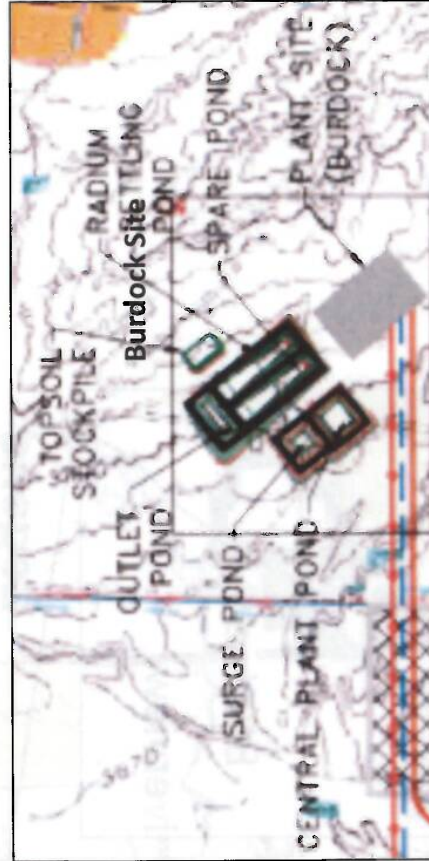


Figure 2. The Proposed Ponds for the Treatment and Storage of the Deep Injection Well Injectate.

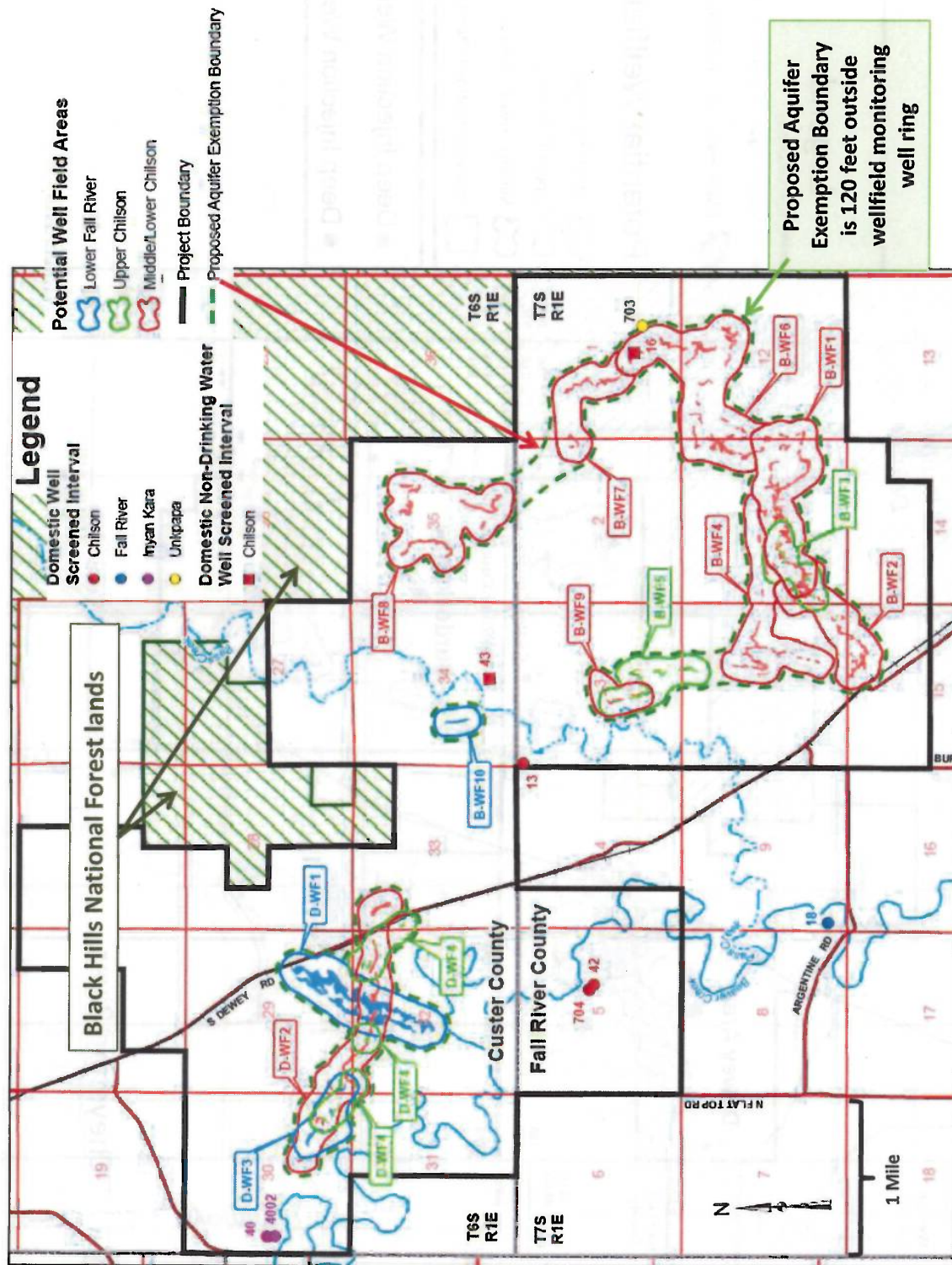
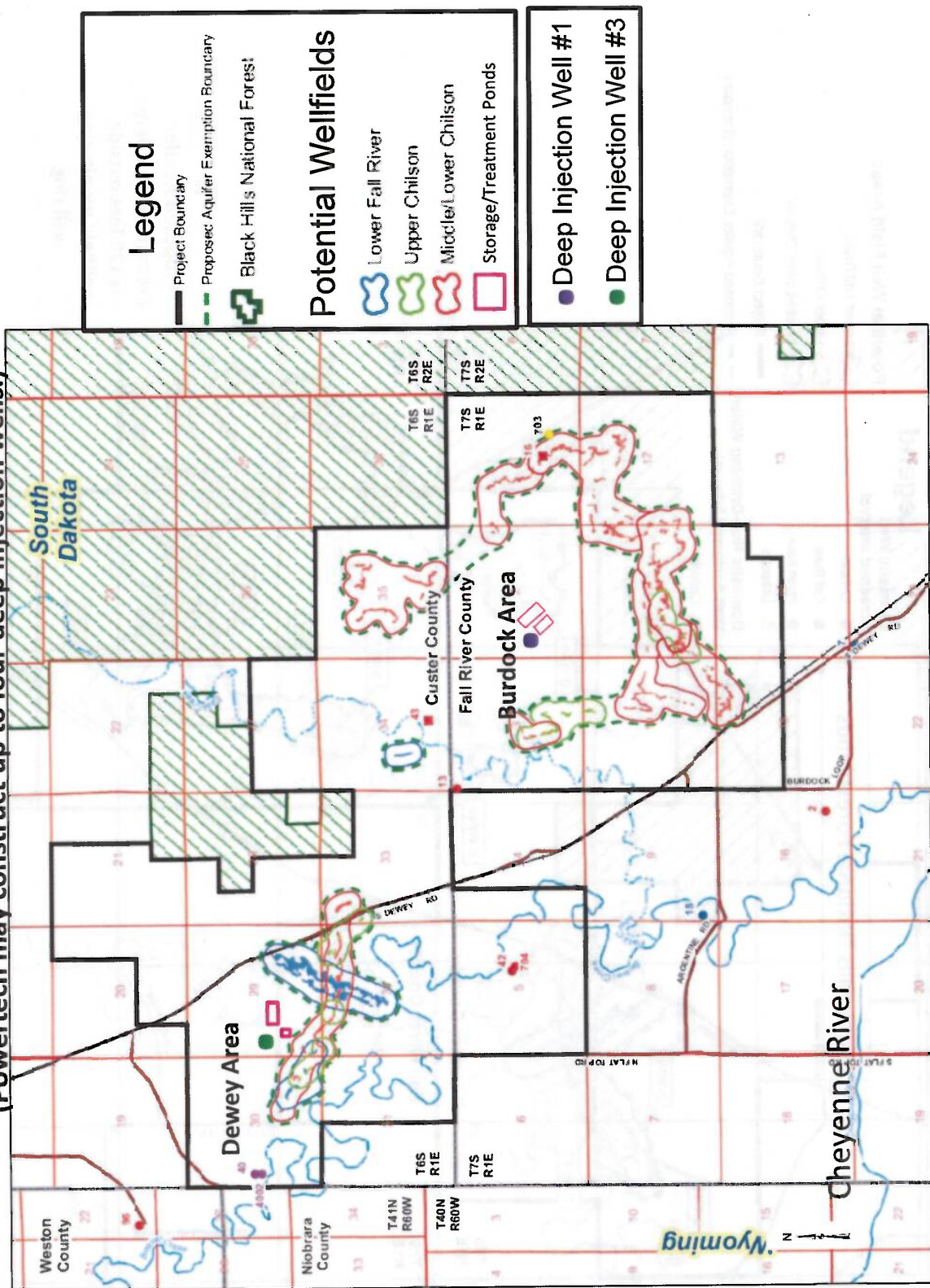
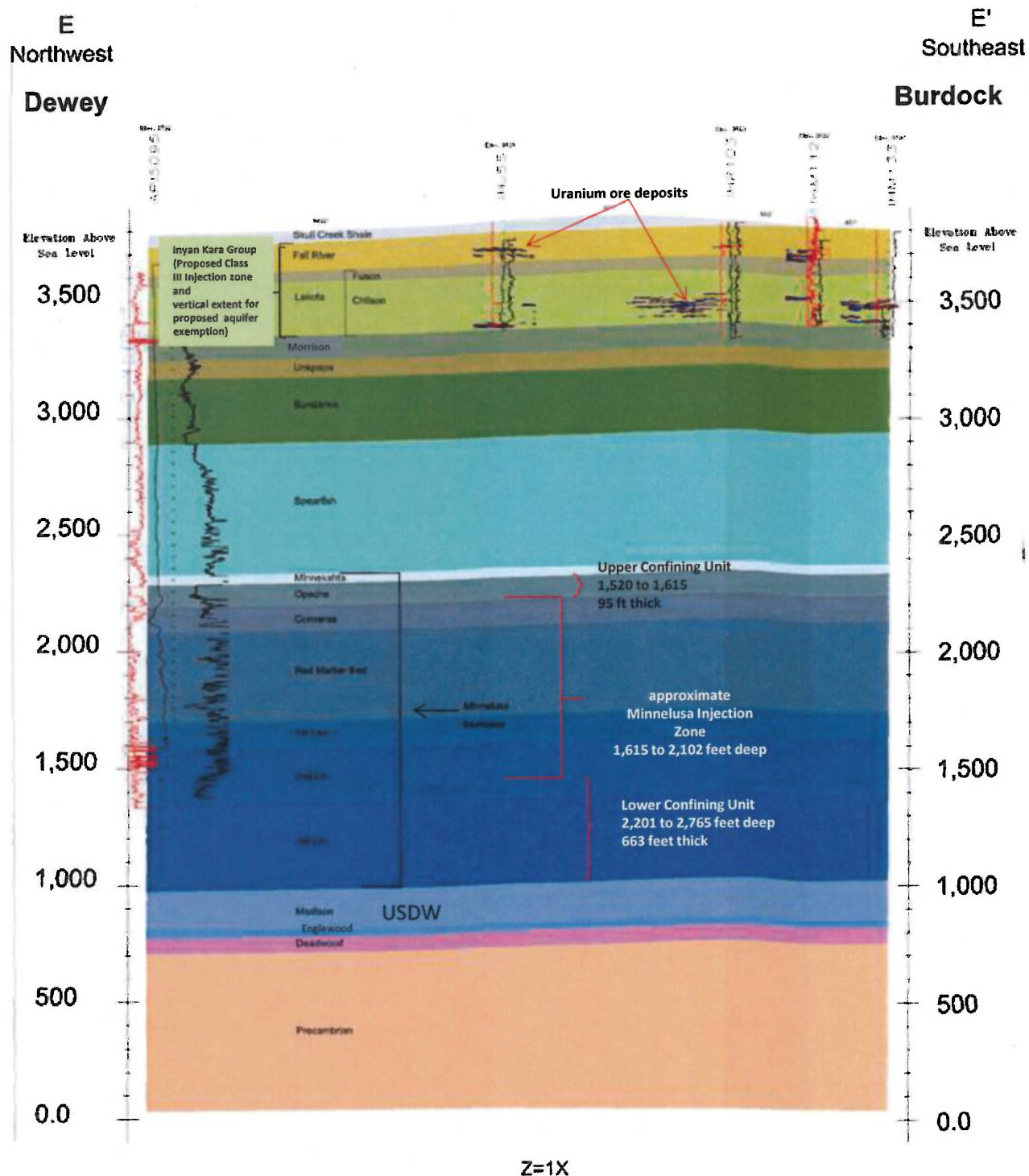


Figure 3. Map showing locations of the proposed wellfields containing Class III injection wells, the aquifer exemption boundary and the UIC permit boundary.

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:** [Galen Laurence](#)  
**To:** [daryl@cct.rockyboy.org](mailto:daryl@cct.rockyboy.org); [jonathan.windyboy@nei-yahw.com](mailto:jonathan.windyboy@nei-yahw.com)  
**Subject:** EPA Invitation for Consultation – The Chippewa-Cree Tribe  
**Date:** Thursday, July 25, 2019 3:39:00 PM  
**Attachments:** [EPA ConsultationLetter\\_ChippewaCreeTribe.pdf](#)

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Greetings Daryl and Jonathan,

The attached letter and enclosures are being sent to you on behalf of EPA Region 8. The EPA R8 Underground Injection Control (UIC) Program would like to invite you to consult on revised draft permits for injection wells and associated draft documents related to the proposed Dewey-Burdock uranium in-situ recovery site in the southern Black Hills region near Edgemont, South Dakota.

If you are interested in meeting with the EPA, please reply to Valois Robinson of the EPA R8 UIC program. Ms. Robinson can be reached at 800-227-8917 (extension 312-6276) or 303-312-6276. She may also be reached by email at [robinson.valois@epa.gov](mailto:robinson.valois@epa.gov).

If you have any questions, you may also respond to this email directly; we will be happy to convey questions or comments to EPA.

Thank you,

Galen Laurence

**Galen Laurence | Analyst**

Cadmus | 100 5th Avenue, Suite 100 | Waltham, MA, 02451-8727  
Tel: (617) 673-7016



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 Harlan Baker  
Chairman  
The Chippewa-Cree Tribe of Rocky Boy's Reservation  
96 Clinic Road North  
Box Elder, Montana 59521

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 Baker:

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 Chippewa-Cree 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:  
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Consistent with the Treaty Rights guidance, the EPA would also like input from the The Chippewa-Cree 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 Chippewa-Cree 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 Chippewa-Cree 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

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We appreciate the The Chippewa-Cree Tribe's prompt attention to this important matter.

Sincerely,

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Darcy O'Connor, Director  
Water Division

Enclosures (6)

cc: Daryl Wright, Environmental Director  
Jonathan Windy Boy, Tribal Historic Preservation Officer

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# Dewey Burdock Location Map

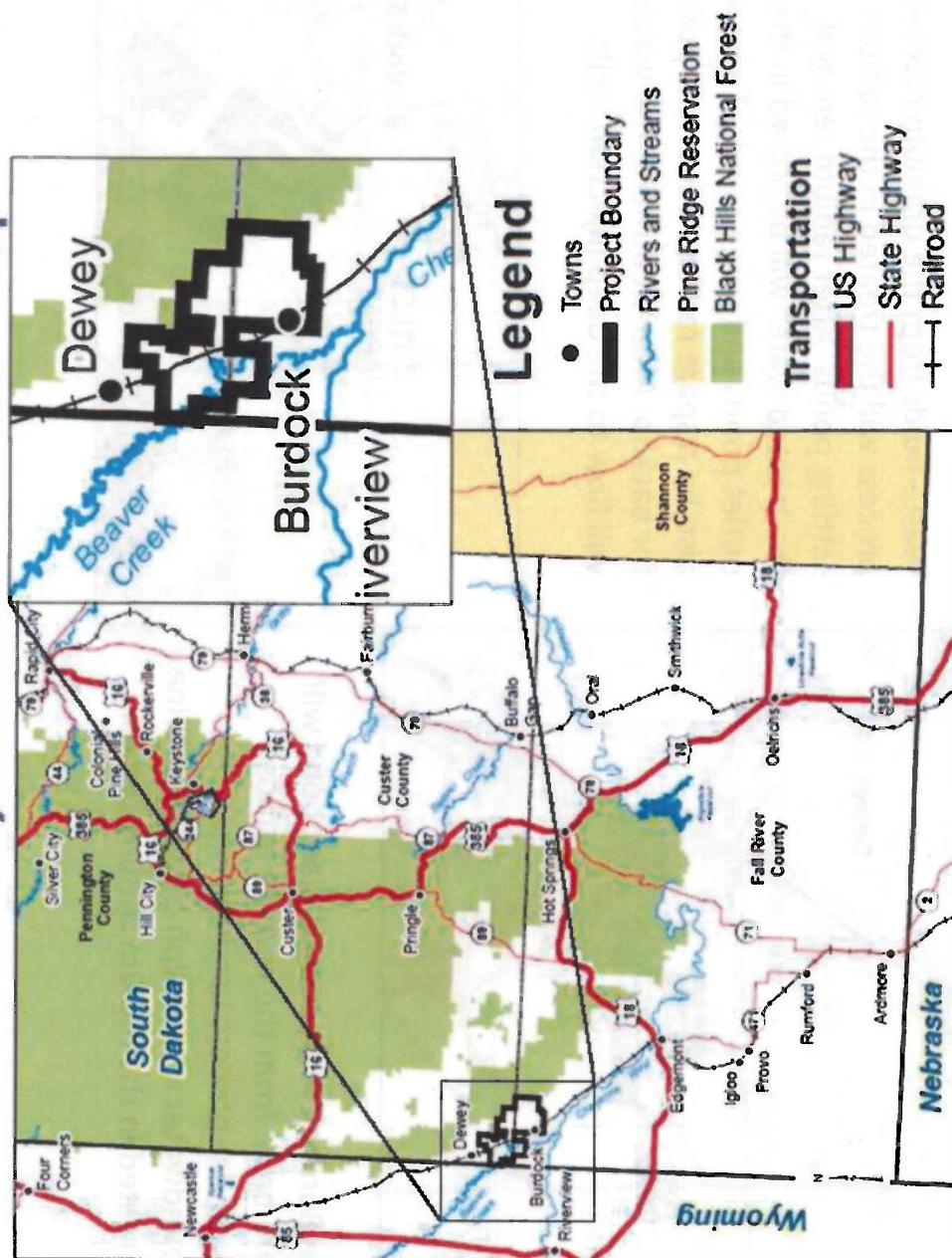
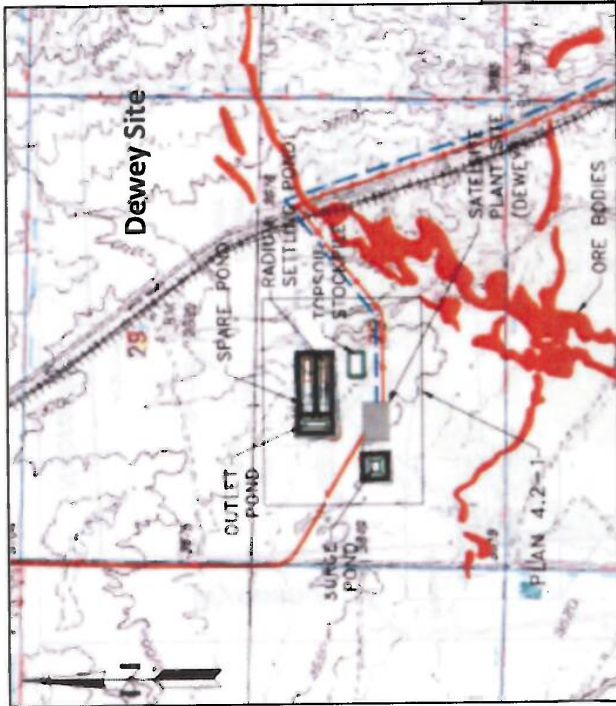


Figure 1. Map showing the location of the proposed Dewey-Burdock uranium recovery site.

## Treatment and Storage Ponds for Deep Well Injectate

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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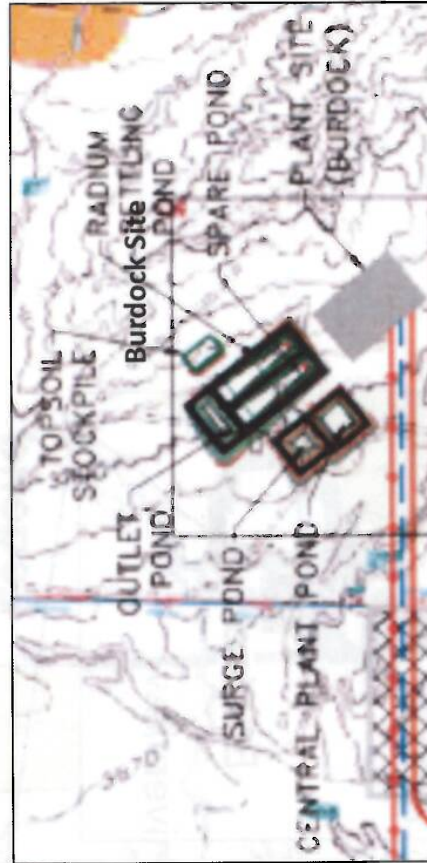


Figure 2. The Proposed Ponds for the Treatment and Storage of the Deep Injection Well Injectate.

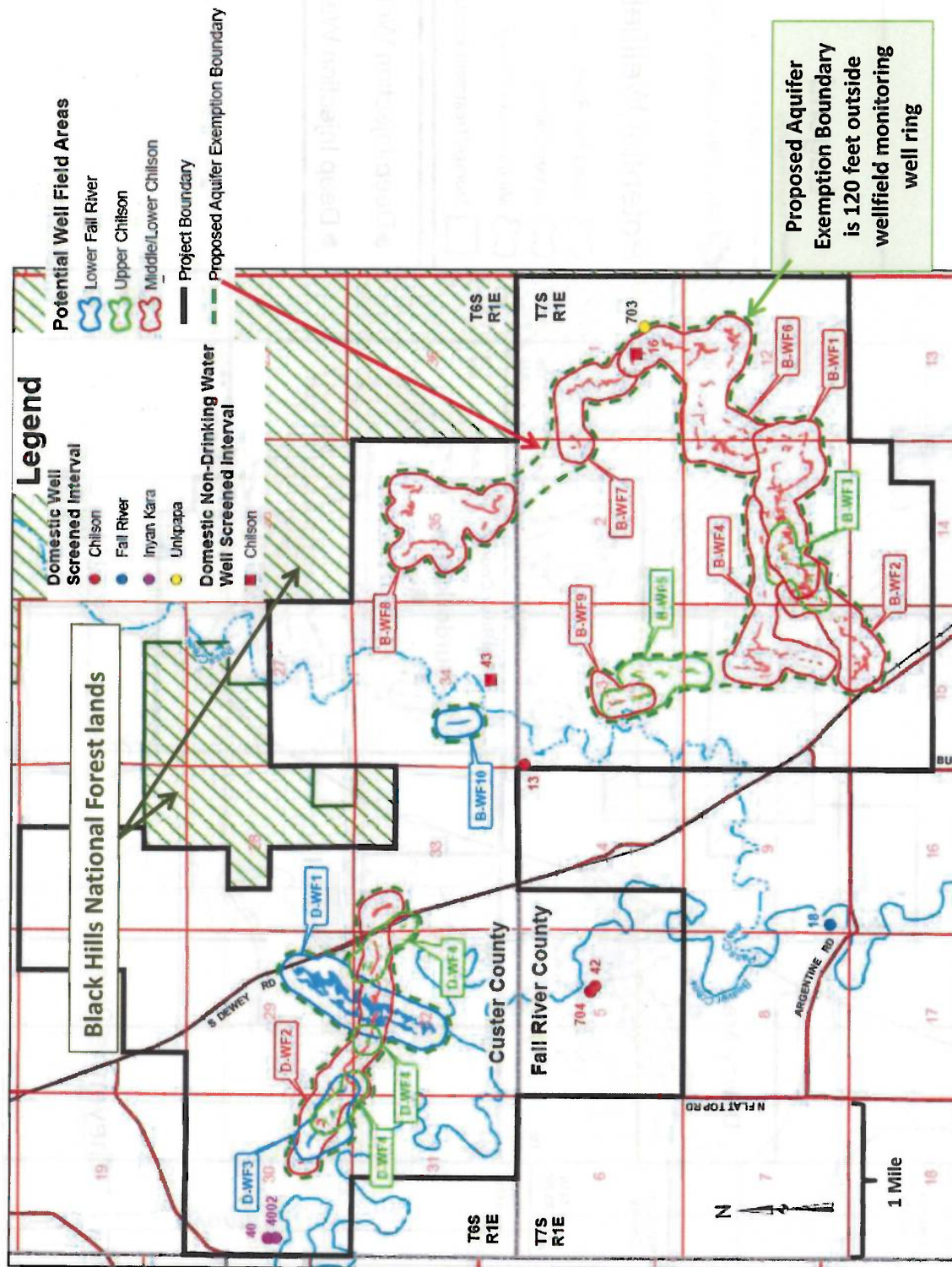
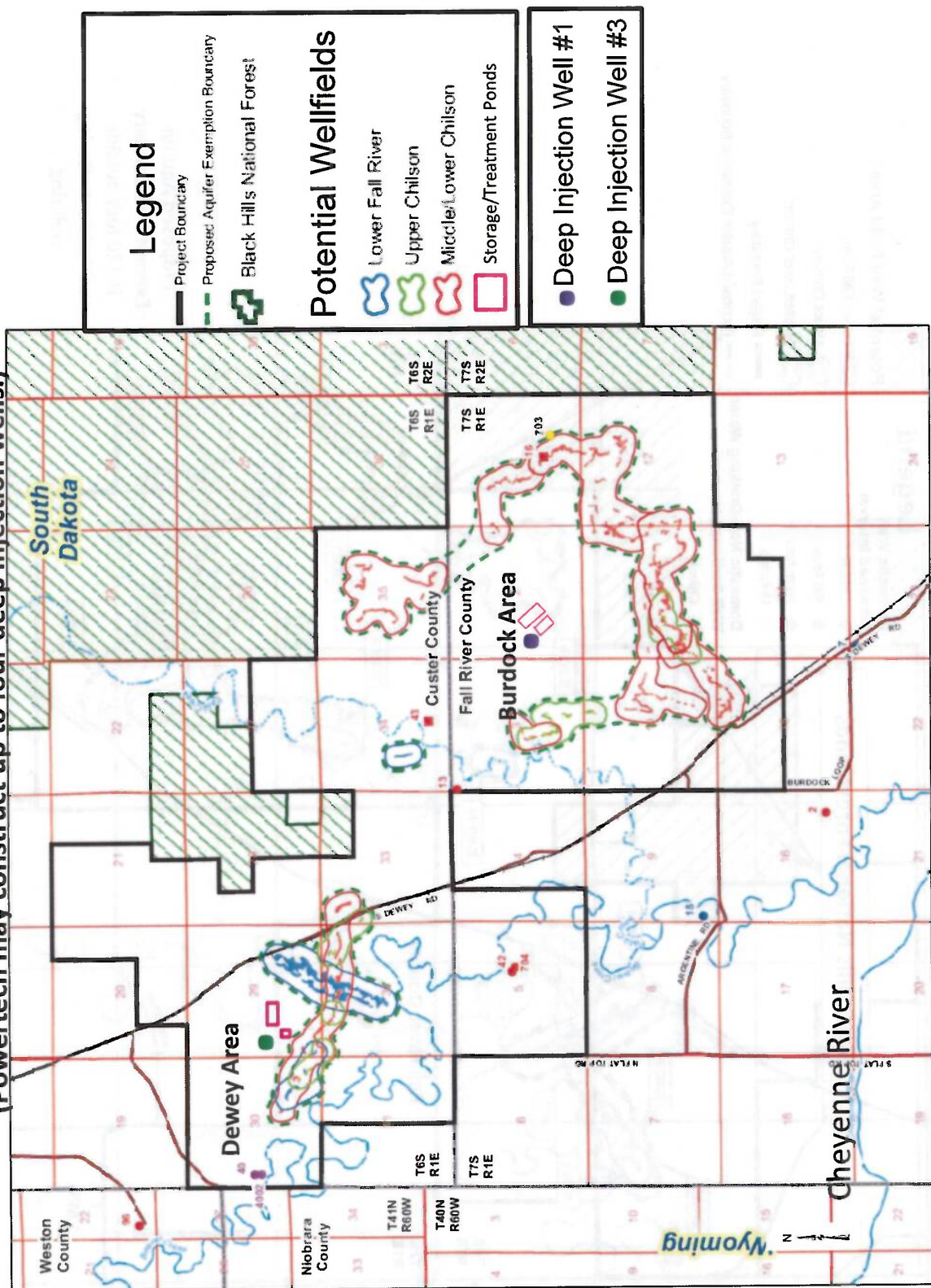
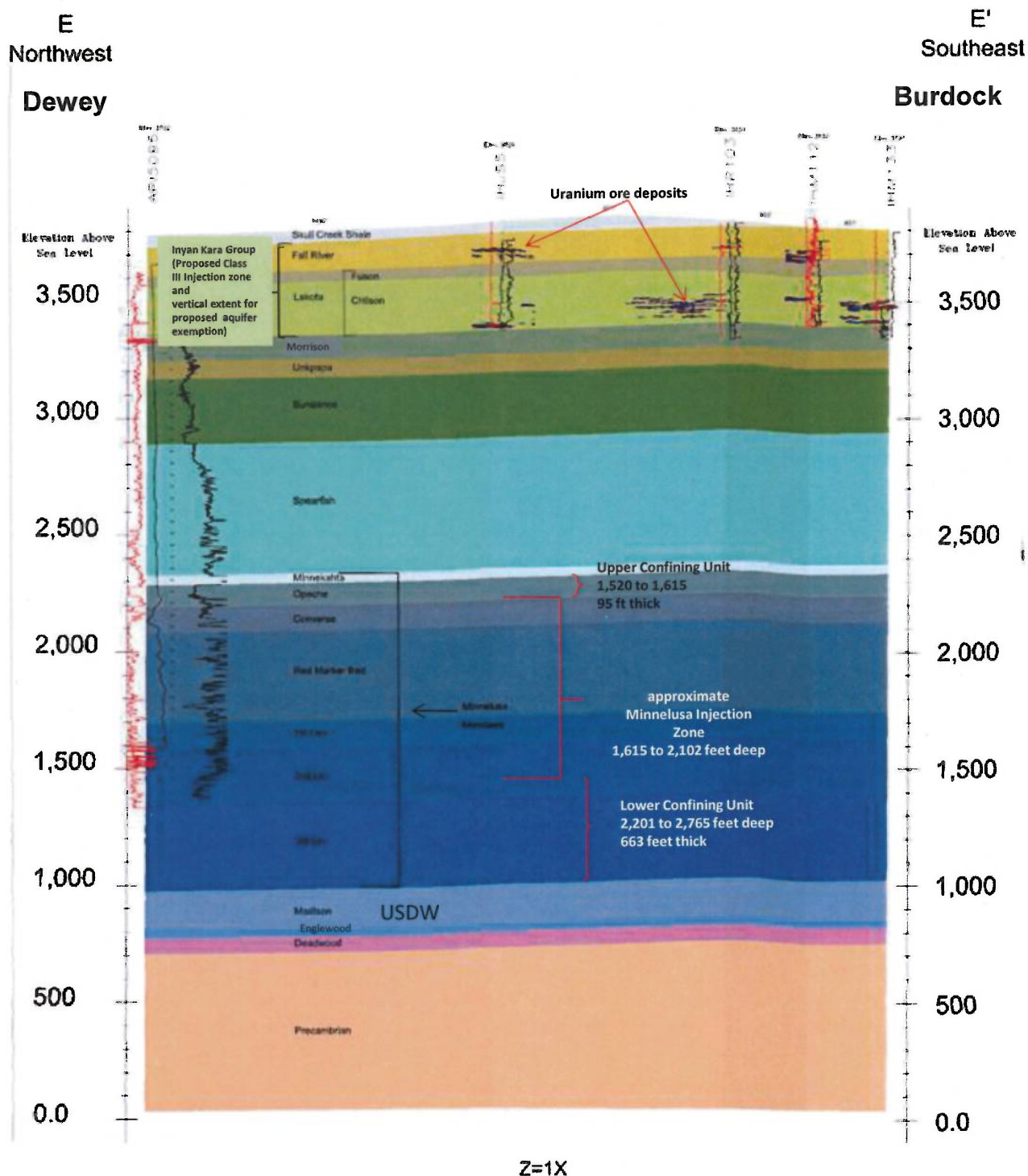


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**Figure 5. Stratigraphic cross-section of geologic formations present at the Dewey Burdock site and proposed injection zones for the Class III and deep Class V injections wells.**

**From:** [Galen Laurence](#)  
**To:** [willie.keenan@cskt.org](mailto:willie.keenan@cskt.org); [michael.durglo@cskt.org](mailto:michael.durglo@cskt.org)  
**Subject:** FW: EPA Invitation for Consultation – The Confederated Salish and Kootenai Tribes  
**Date:** Thursday, July 25, 2019 3:38:00 PM  
**Attachments:** [EPA\\_ConsultationLetter\\_ConfederatedSalishKootenaiTribes.pdf](#)

---

Greetings Wilhelmina and Michael,

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If you are interested in meeting with the EPA, please reply to Valois Robinson of the EPA R8 UIC program. Ms. Robinson can be reached at 800-227-8917 (extension 312-6276) or 303-312-6276. She may also be reached by email at [robinson.valois@epa.gov](mailto:robinson.valois@epa.gov).

If you have any questions, you may also respond to this email directly; we will be happy to convey questions or comments to EPA.

Thank you,

Galen Laurence

**Galen Laurence | Analyst**

Cadmus | 100 5th Avenue, Suite 100 | Waltham, MA, 02451-8727  
Tel: (617) 673-7016



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 Ronald Trahan  
Chairman  
The Confederated Salish and Kootenai Tribes  
P.O. Box 278  
Pablo, Montana 59855

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 Trahan:

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.

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Consistent with the Treaty Rights guidance, the EPA would also like input from the The Confederated Salish and Kootenai 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:

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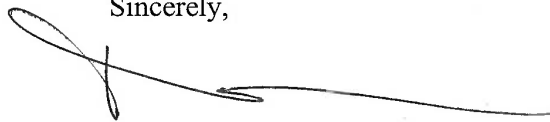
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Sincerely,

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Darcy O'Connor, Director  
Water Division

Enclosures (6)

cc: Wilhelmina Keenan, Environmental Director  
Michael Durglo, 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

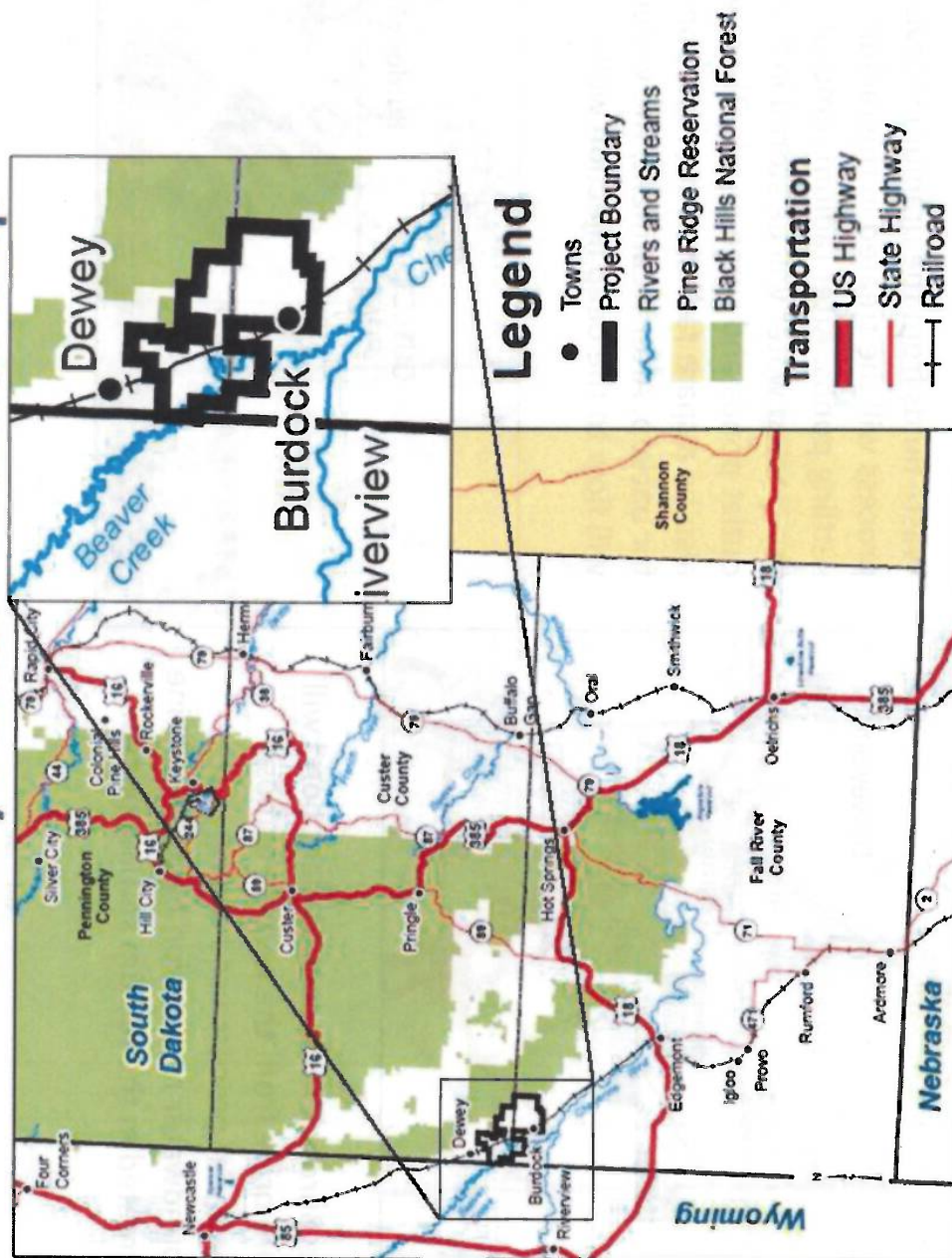
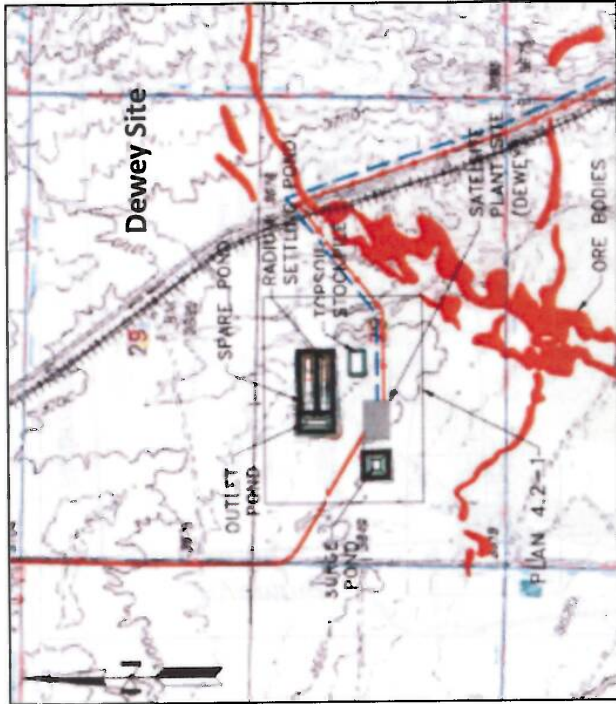
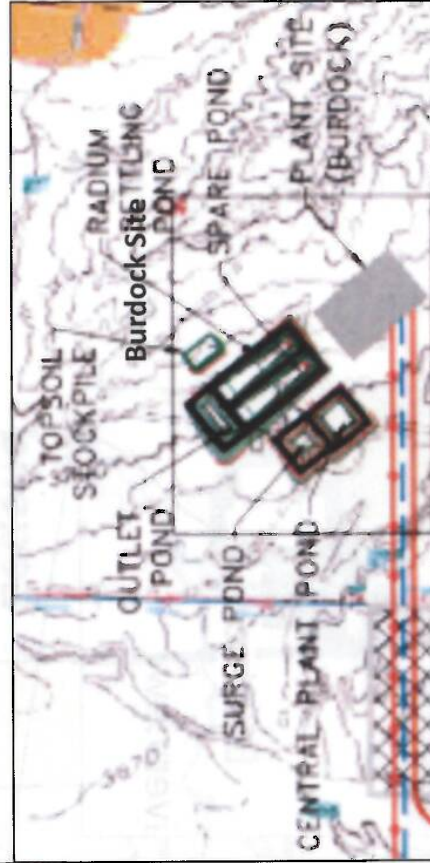


Figure 1. Map showing the location of the proposed Dewey-Burdock uranium recovery site.

## 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.

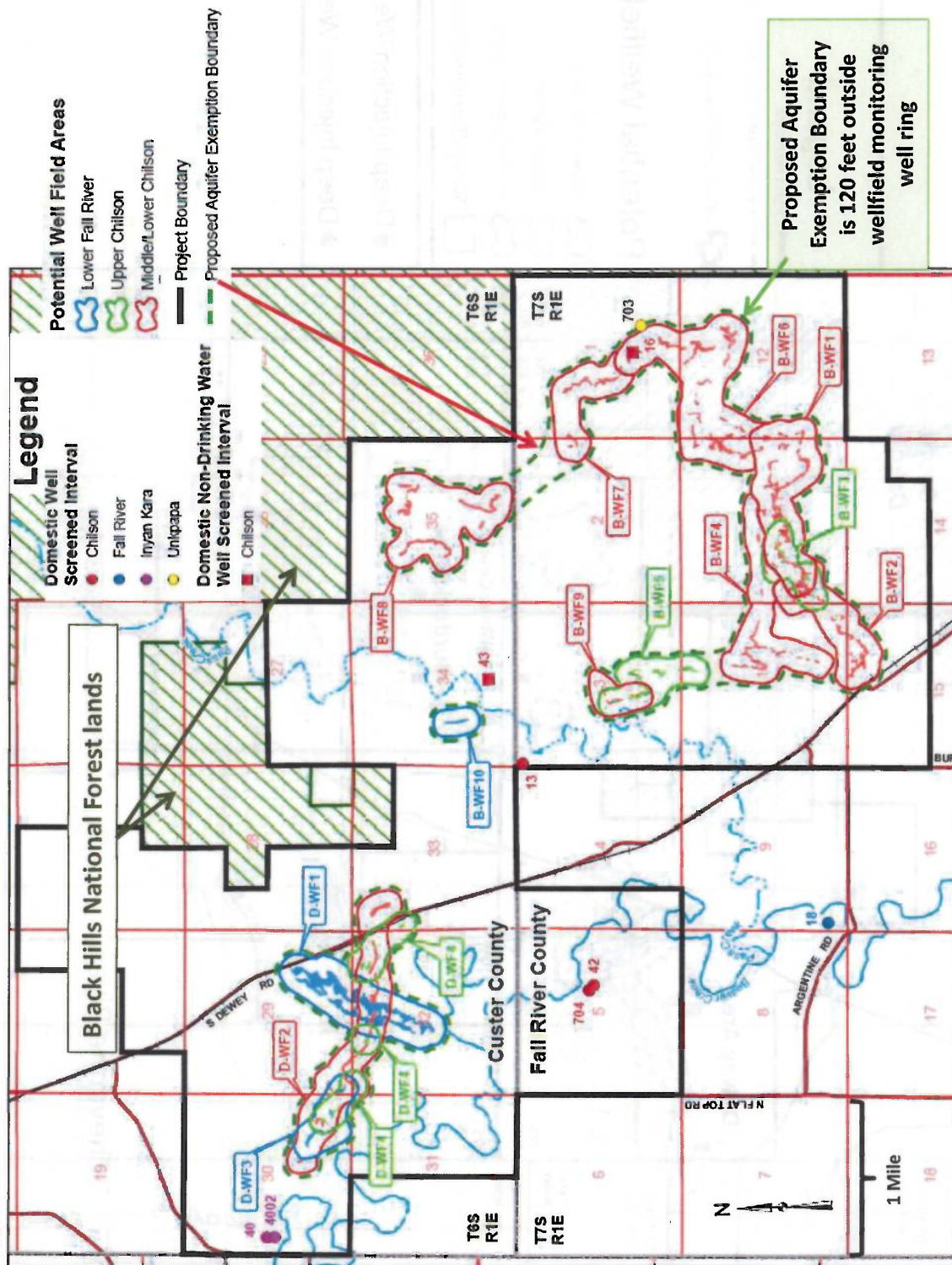
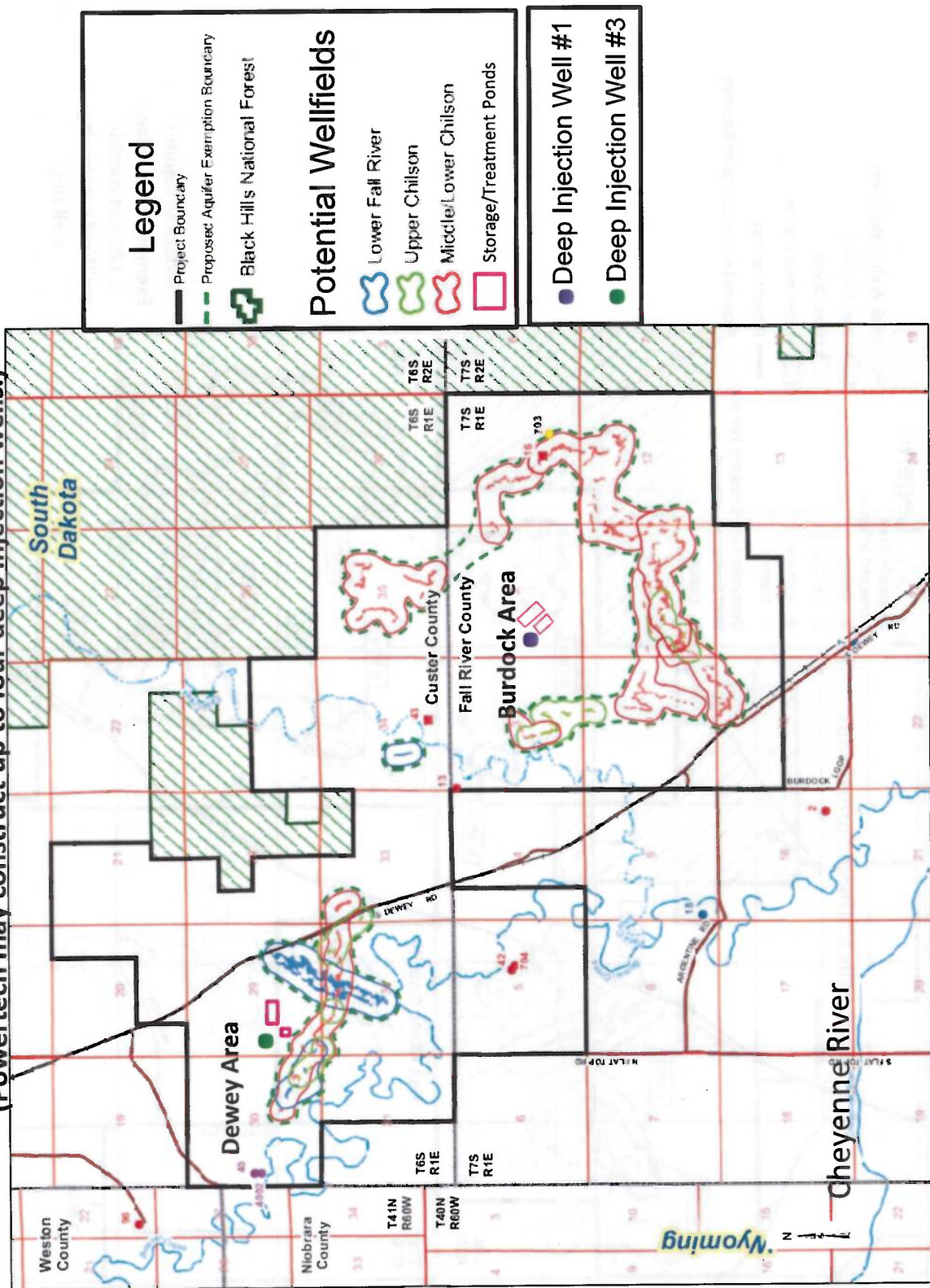
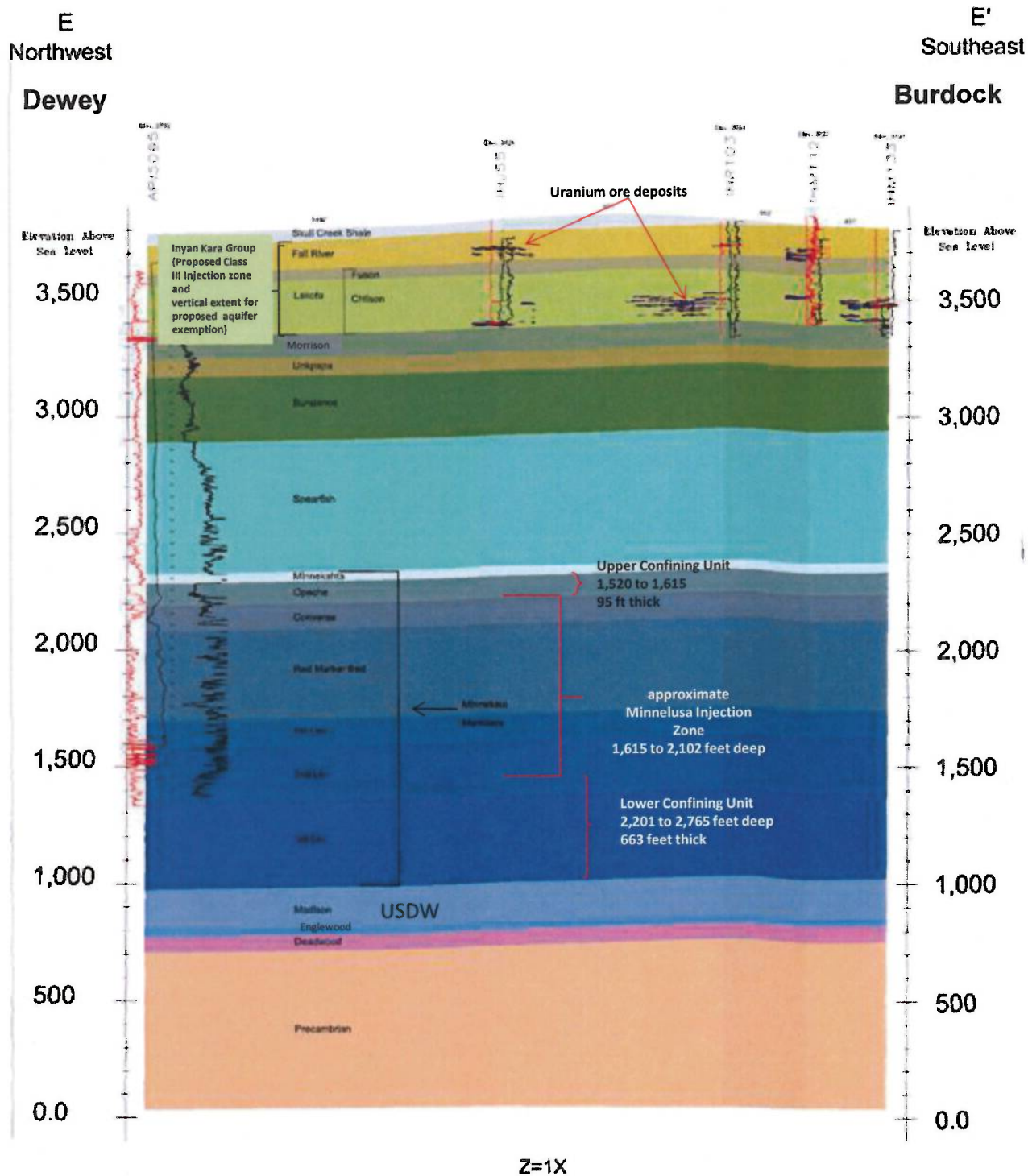


Figure 3. Map showing locations of the proposed wellfields containing Class III injection wells, the aquifer exemption boundary and the UIC permit boundary.

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.**

**From:** [Galen Laurence](#)  
**To:** ["swan57339@yahoo.com"](#); ["cchistory@midstatesd.net"](#)  
**Subject:** EPA Invitation for Consultation – The Crow Creek Sioux Tribe  
**Date:** Thursday, July 25, 2019 3:37:00 PM  
**Attachments:** [EPA ConsultationLetter\\_CrowCreekSiouxTribe.pdf](#)

---

Greetings Wanda and Merle,

The attached letter and enclosures are being sent to you on behalf of EPA Region 8. The EPA R8 Underground Injection Control (UIC) Program would like to invite you to consult on revised draft permits for injection wells and associated draft documents related to the proposed Dewey-Burdock uranium in-situ recovery site in the southern Black Hills region near Edgemont, South Dakota.

If you are interested in meeting with the EPA, please reply to Valois Robinson of the EPA R8 UIC program. Ms. Robinson can be reached at 800-227-8917 (extension 312-6276) or 303-312-6276. She may also be reached by email at [robinson.valois@epa.gov](mailto:robinson.valois@epa.gov).

If you have any questions, you may also respond to this email directly; we will be happy to convey questions or comments to EPA.

Thank you,

Galen Laurence

**Galen Laurence | Analyst**

Cadmus | 100 5th Avenue, Suite 100 | Waltham, MA, 02451-8727  
Tel: (617) 673-7016



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 Lester Thompson Jr.  
Chairman  
The Crow Creek Sioux Tribe  
P.O. Box 50  
Fort Thompson, South Dakota 57339-0050

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 Thompson 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 Creek 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](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 Creek 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 Crow Creek 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 Crow Creek 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 Crow Creek 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](mailto: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 Creek Sioux Tribe's prompt attention to this important matter.

Sincerely,

A handwritten signature in dark 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

Enclosures (6)

cc: Wanda Gourneau, Environmental Director  
Merle Marks, 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

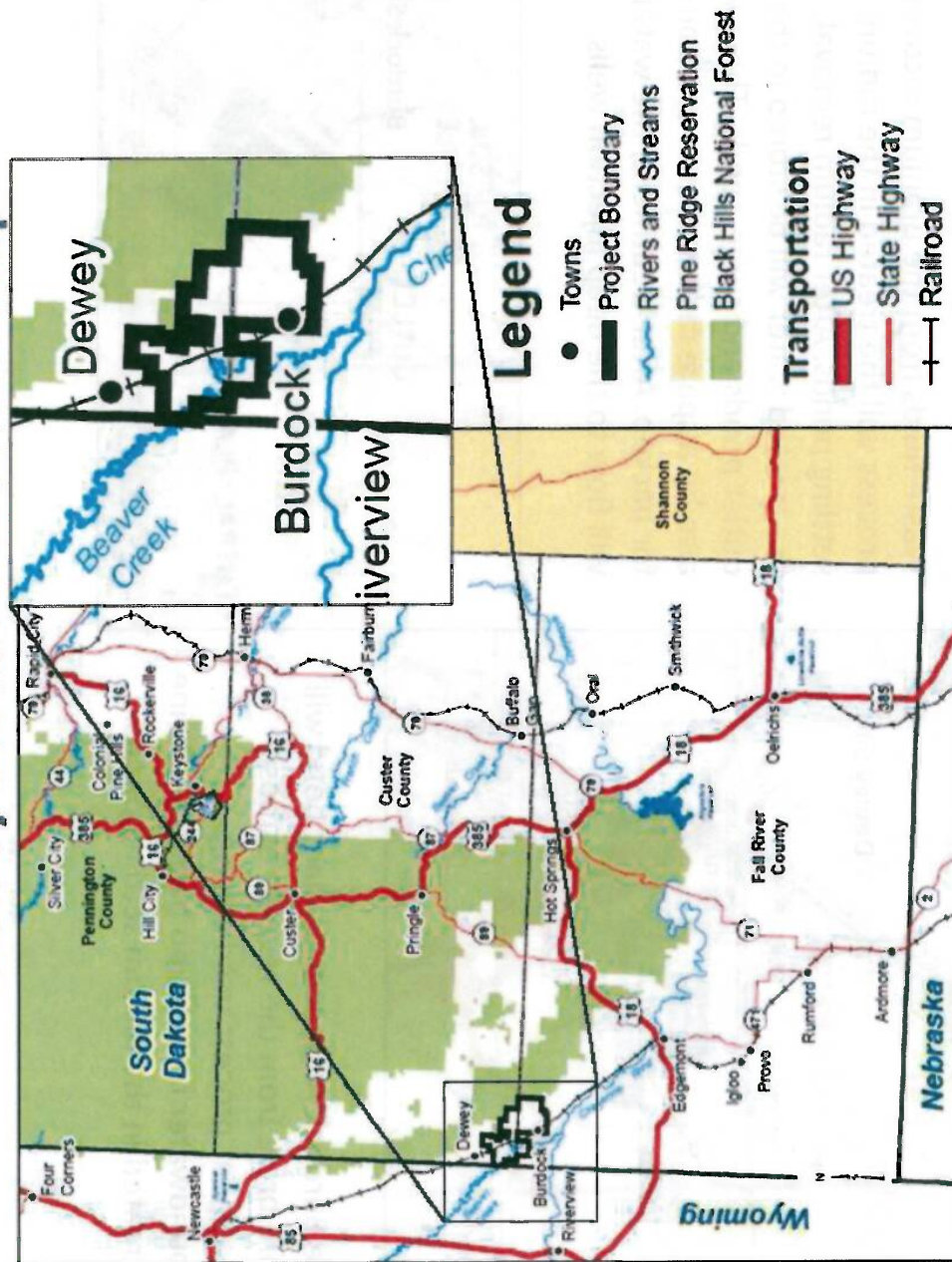
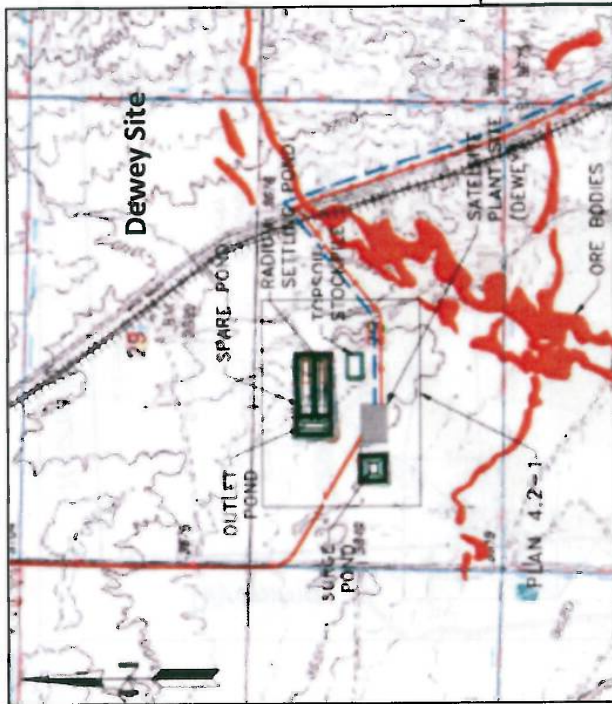


Figure 1. Map showing the location of the proposed Dewey-Burdock uranium recovery site.

## 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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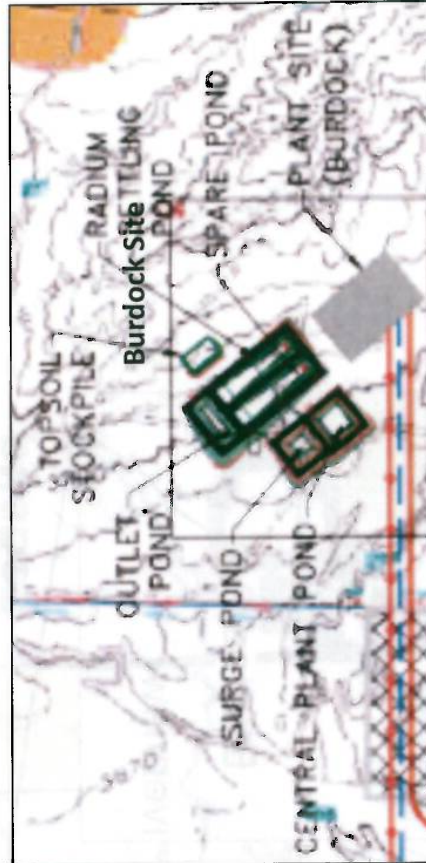


Figure 2. The Proposed Ponds for the Treatment and Storage of the Deep Injection Well Injectate.

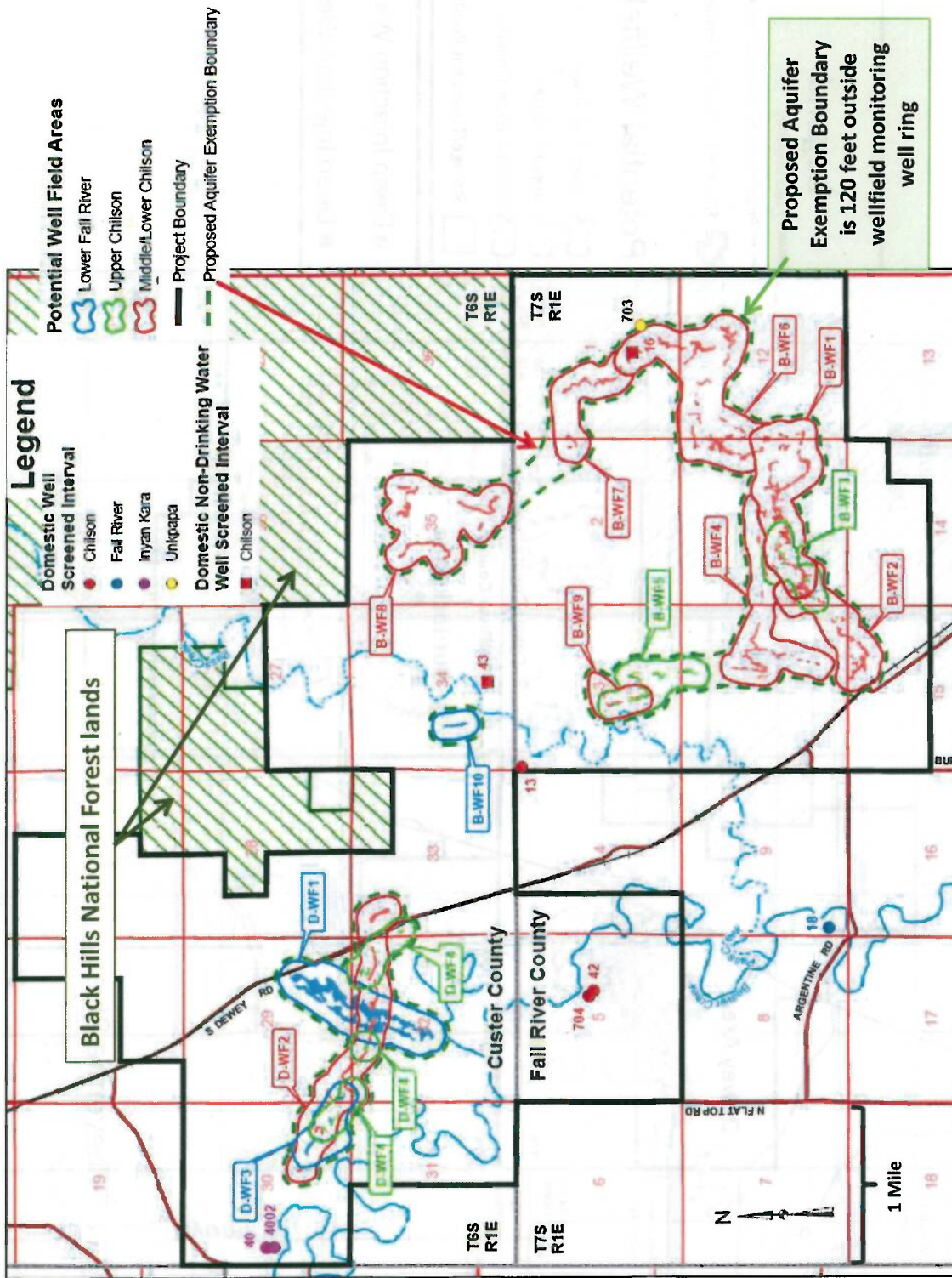
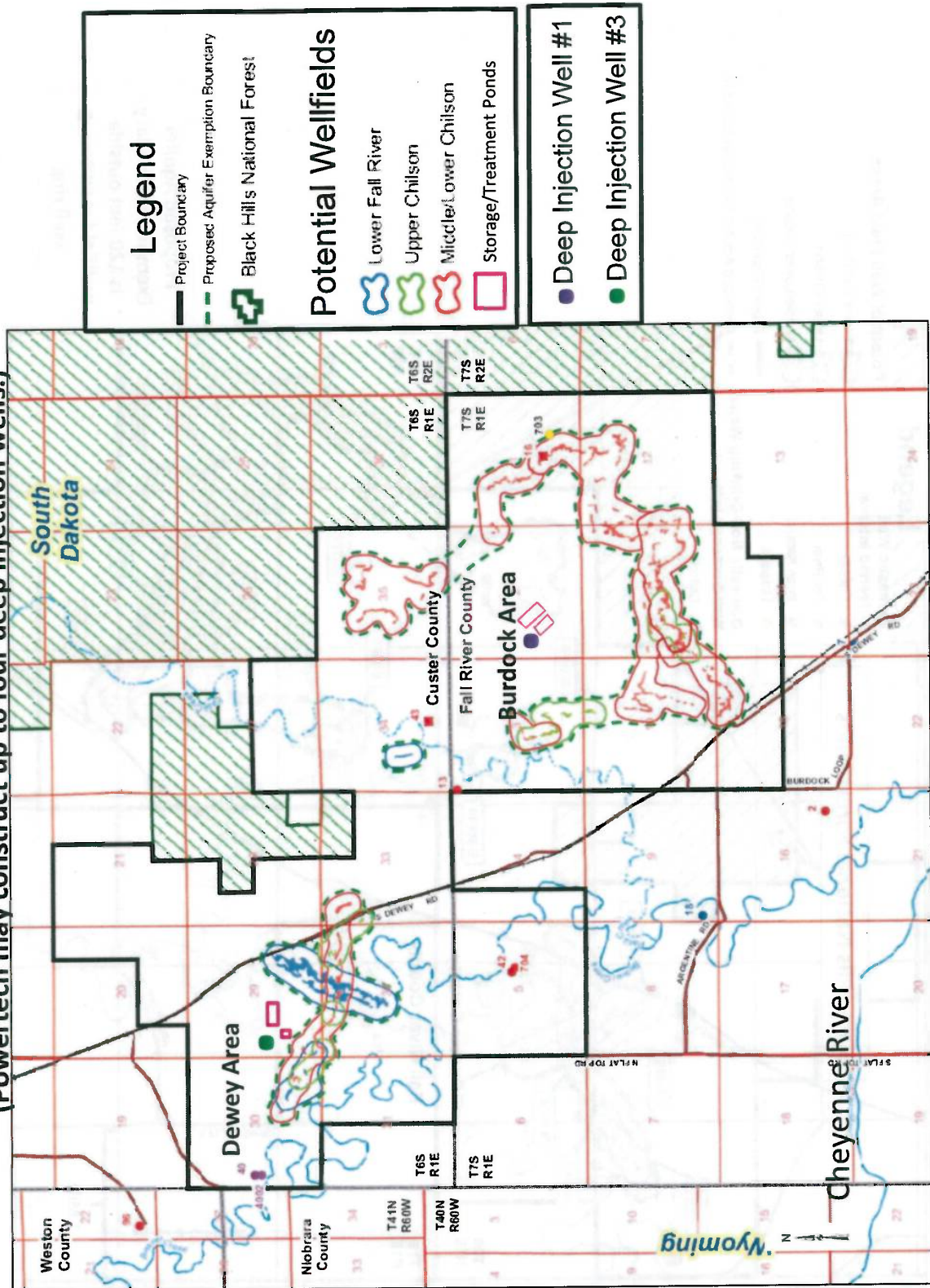
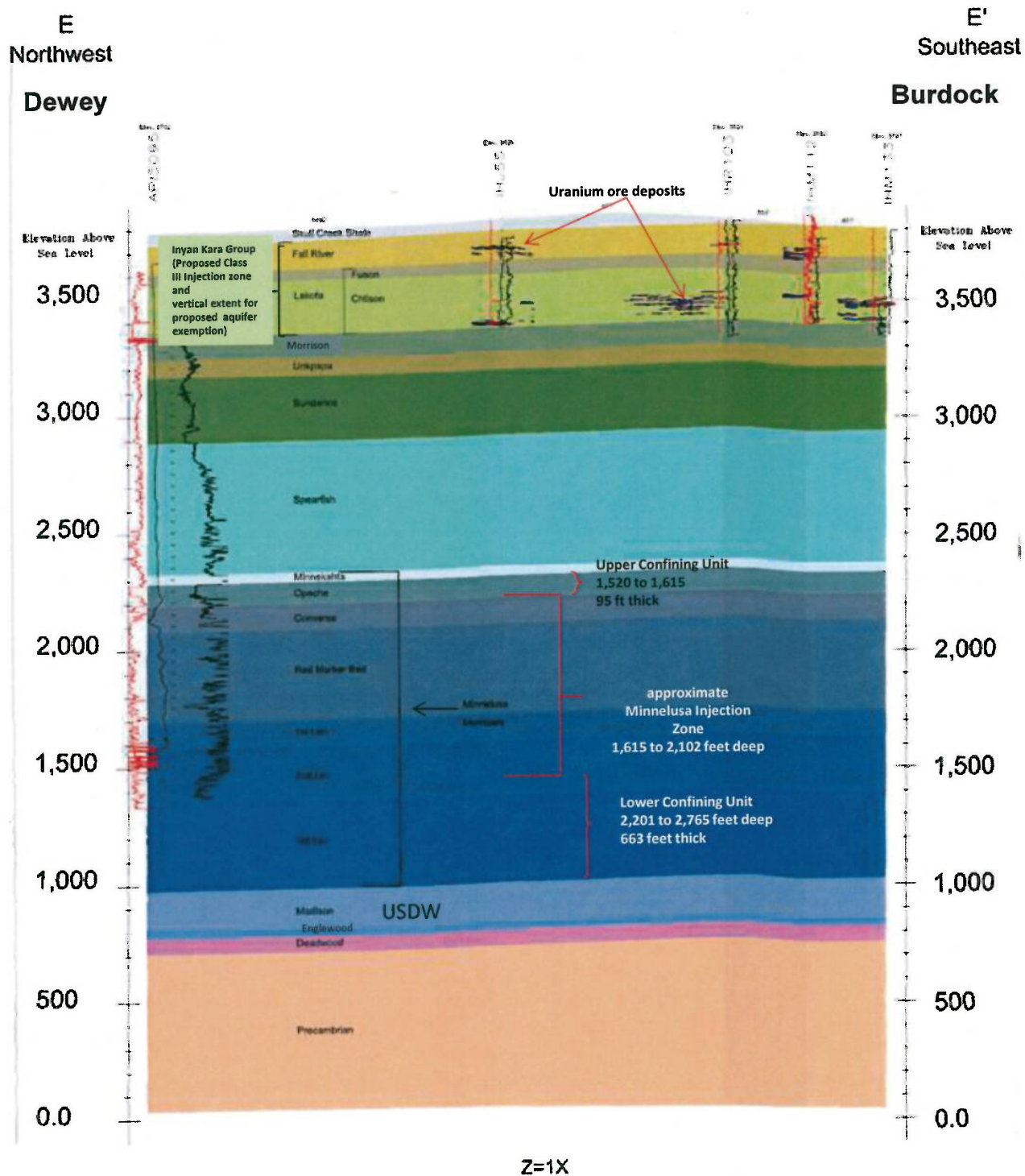


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(Powertech may construct up to four deep injection wells.)





**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:** [Galen Laurence](#)  
**To:** [connie.howe@crow-nsn.gov](mailto:connie.howe@crow-nsn.gov); [william.bigday@crow-nsn.gov](mailto:william.bigday@crow-nsn.gov)  
**Subject:** EPA Invitation for Consultation – The Crow Nation  
**Date:** Thursday, July 25, 2019 3:39:00 PM  
**Attachments:** [EPA ConsultationLetter CrowNation.pdf](#)

---

Greetings Connie and William,

The attached letter and enclosures are being sent to you on behalf of EPA Region 8. The EPA R8 Underground Injection Control (UIC) Program would like to invite you to consult on revised draft permits for injection wells and associated draft documents related to the proposed Dewey-Burdock uranium in-situ recovery site in the southern Black Hills region near Edgemont, South Dakota.

If you are interested in meeting with the EPA, please reply to Valois Robinson of the EPA R8 UIC program. Ms. Robinson can be reached at 800-227-8917 (extension 312-6276) or 303-312-6276. She may also be reached by email at [robinson.valois@epa.gov](mailto:robinson.valois@epa.gov).

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Thank you,

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**Galen Laurence | Analyst**

Cadmus | 100 5th Avenue, Suite 100 | Waltham, MA, 02451-8727

Tel: (617) 673-7016



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 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.

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

Sincerely,

A handwritten signature in black ink, appearing to be '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**

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# Dewey Burdock Location Map

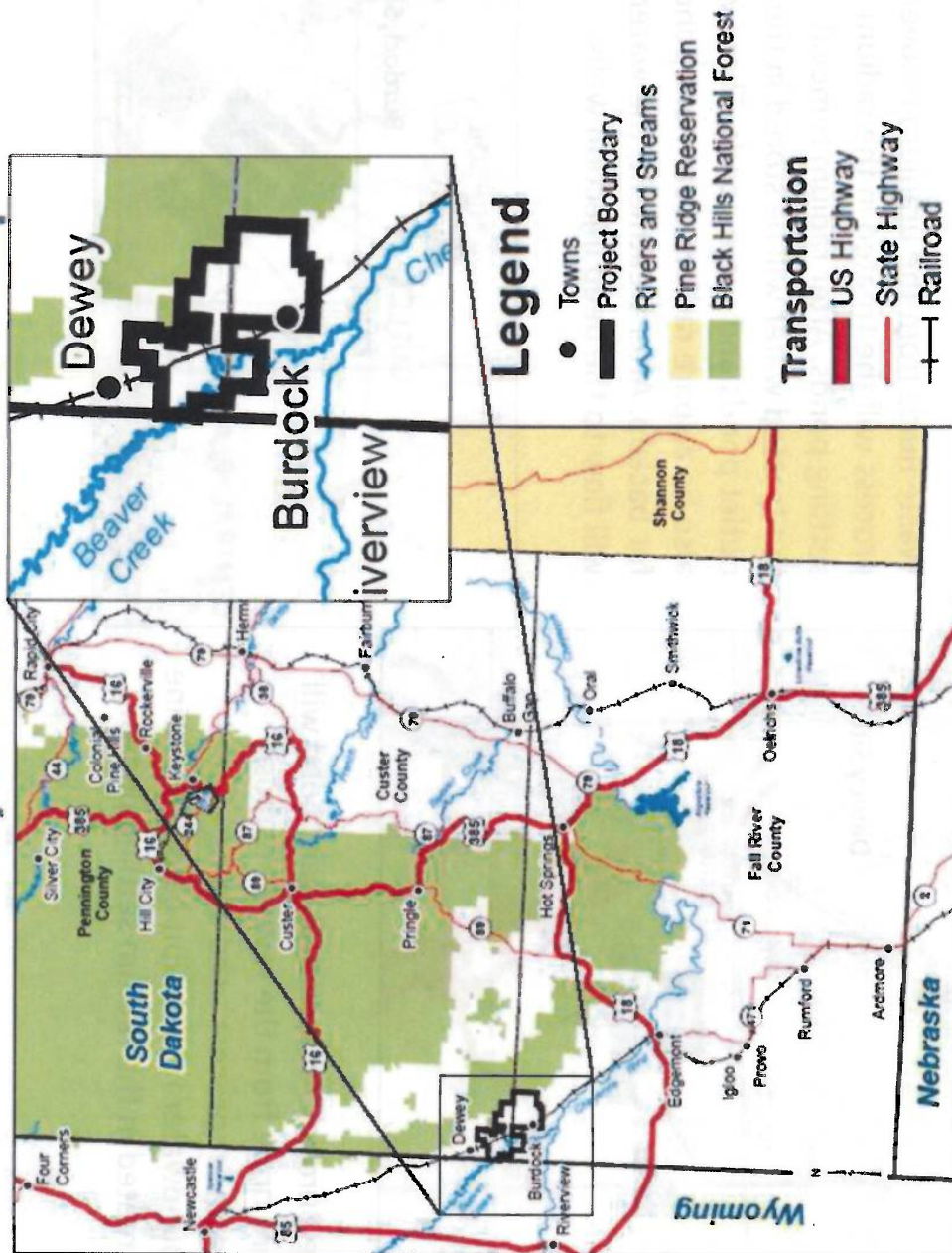
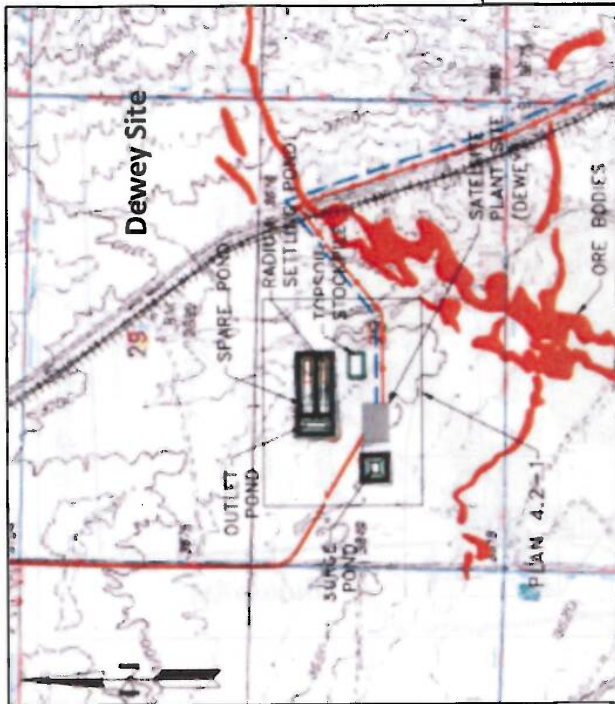


Figure 1. Map showing the location of the proposed Dewey-Burdock uranium recovery site.

## Treatment and Storage Ponds for Deep Well Injectate

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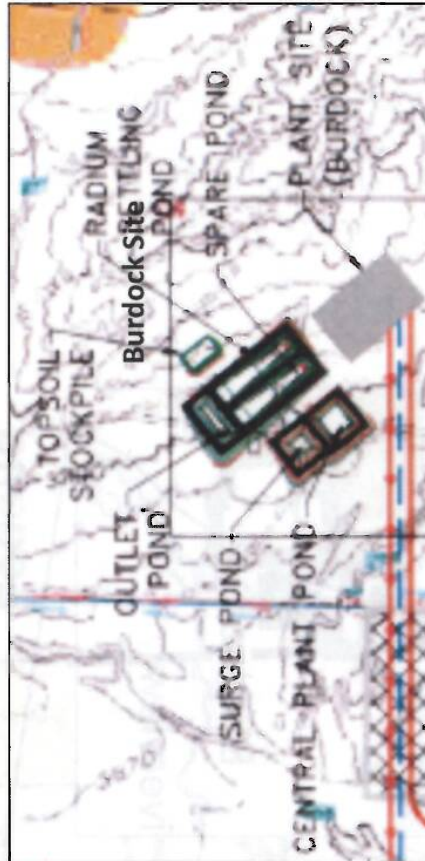


Figure 2. The Proposed Ponds for the Treatment and Storage of the Deep Injection Well Injectate.

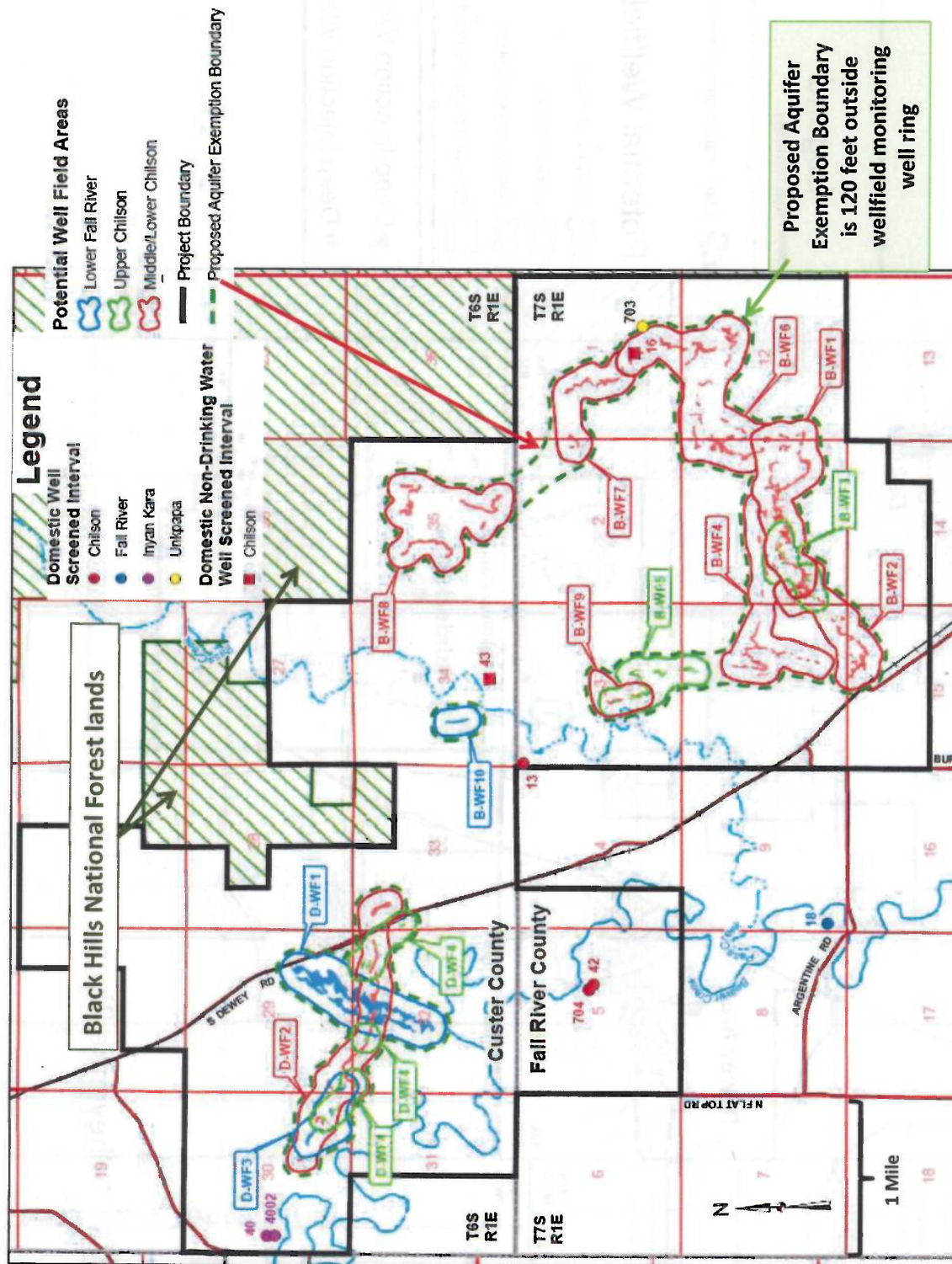
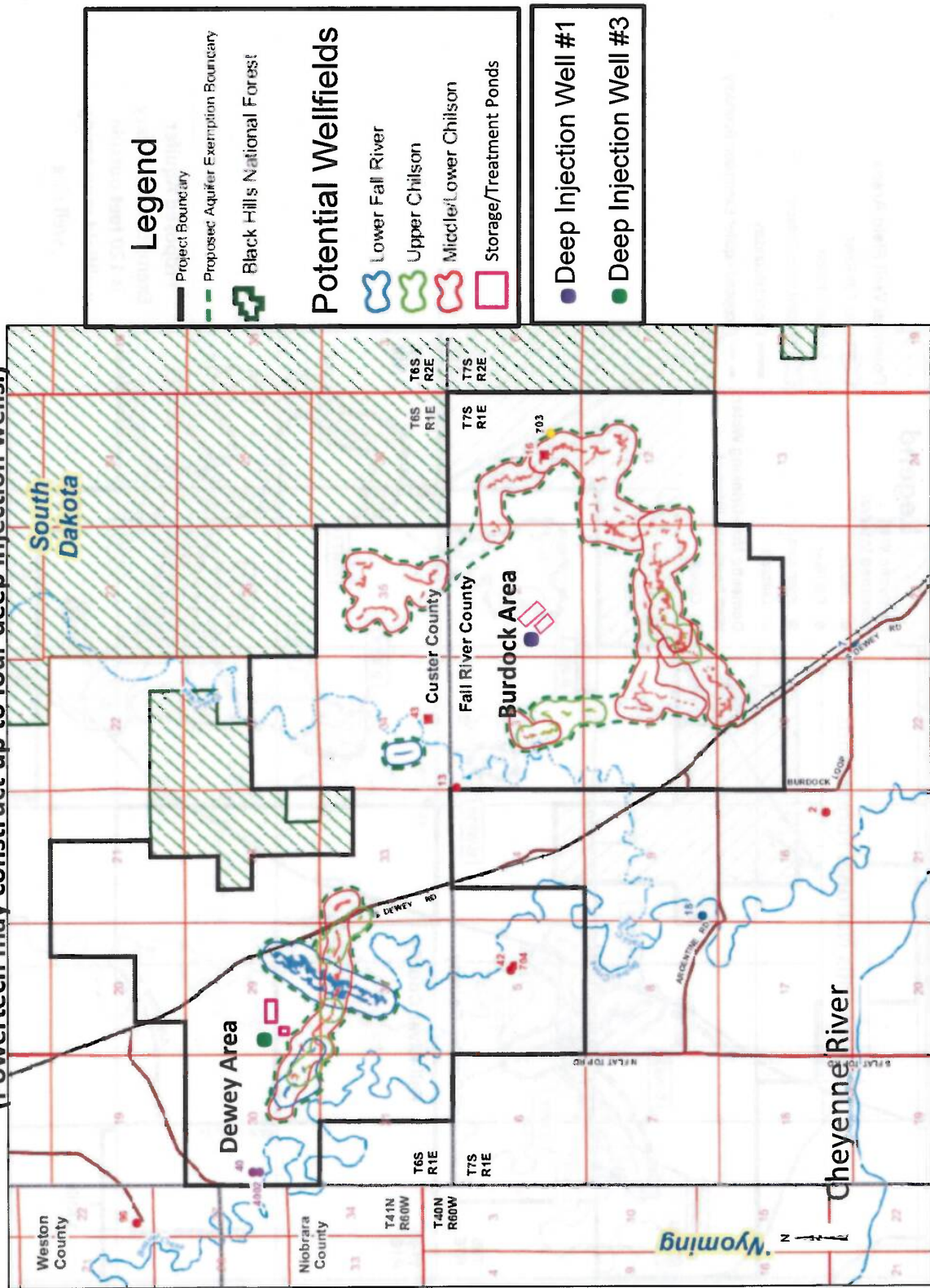
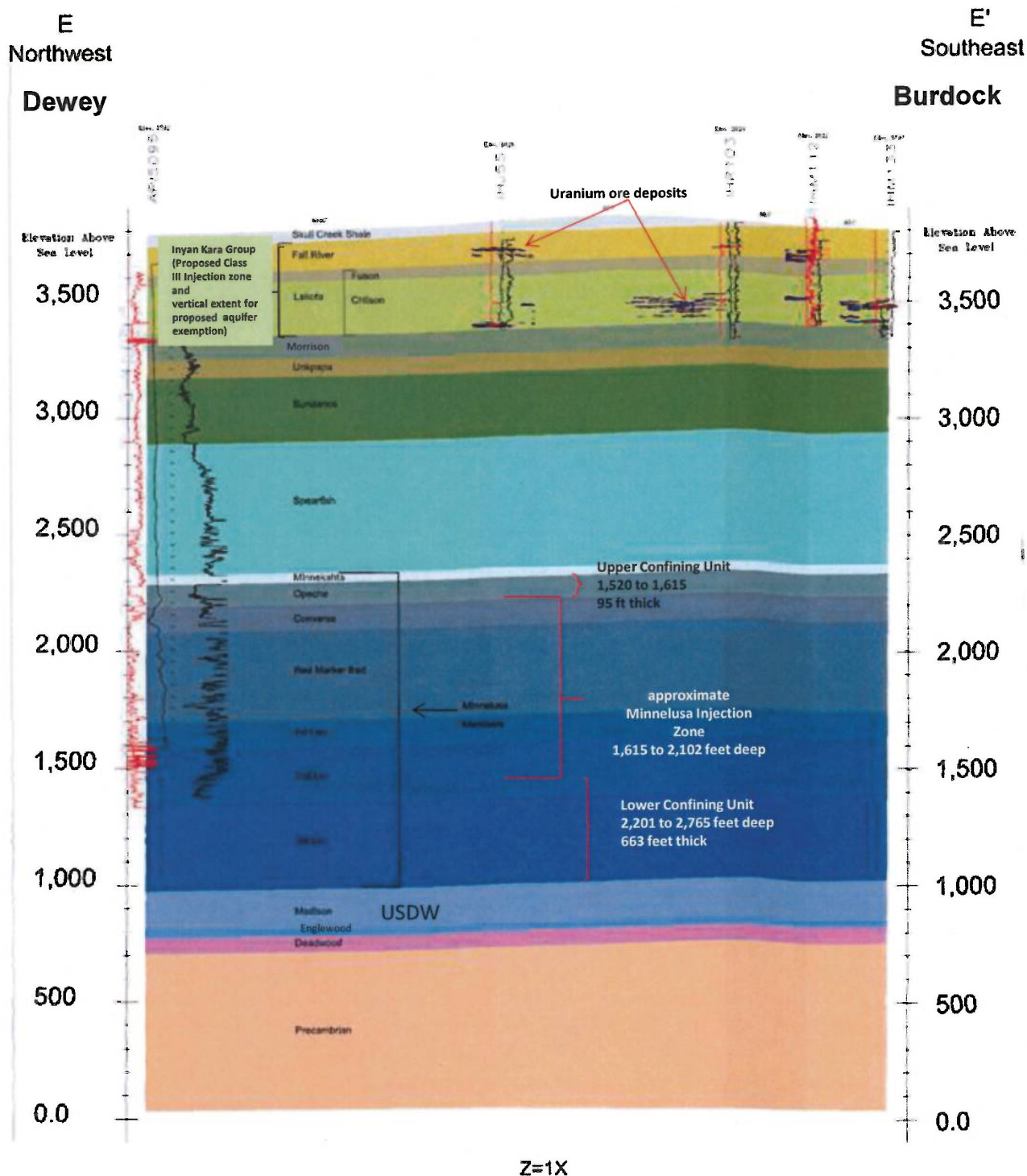


Figure 3. Map showing locations of the proposed wellfields containing Class III injection wells, the aquifer exemption boundary and the UIC permit boundary.

**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:** [Galen Laurence](#)  
**To:** [jmann@easternshoshone.org](mailto:jmann@easternshoshone.org); [receptionist@easternshoshone.org](mailto:receptionist@easternshoshone.org); [pawilson@easternshoshone.org](mailto:pawilson@easternshoshone.org)  
**Subject:** EPA Invitation for Consultation – The Eastern Shoshone Tribe  
**Date:** Thursday, July 25, 2019 3:38:00 PM  
**Attachments:** [EPA\\_ConsultationLetter\\_EasternShoshoneTribe.pdf](#)

---

Greetings Joshua and Phoebe,

The attached letter and enclosures are being sent to you on behalf of EPA Region 8. The EPA R8 Underground Injection Control (UIC) Program would like to invite you to consult on revised draft permits for injection wells and associated draft documents related to the proposed Dewey-Burdock uranium in-situ recovery site in the southern Black Hills region near Edgemont, South Dakota.

If you are interested in meeting with the EPA, please reply to Valois Robinson of the EPA R8 UIC program. Ms. Robinson can be reached at 800-227-8917 (extension 312-6276) or 303-312-6276. She may also be reached by email at [robinson.valois@epa.gov](mailto:robinson.valois@epa.gov).

If you have any questions, you may also respond to this email directly; we will be happy to convey questions or comments to EPA.

Thank you,

Galen Laurence

**Galen Laurence | Analyst**

Cadmus | 100 5th Avenue, Suite 100 | Waltham, MA, 02451-8727

Tel: (617) 673-7016



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 Vernon Hill  
Chairman  
The Eastern Shoshone Tribe  
P.O. Box 538  
Ft. Washakie, Wyoming 82514-0538

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 Hill:

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 Eastern Shoshone 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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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](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 Eastern Shoshone 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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- (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 Eastern Shoshone 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 Eastern Shoshone 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 Eastern Shoshone 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](mailto: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 Eastern Shoshone Tribe's prompt attention to this important matter.

Sincerely,

A handwritten signature in dark 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

Enclosures (6)

cc: Phoebe Wilson, Environmental Director  
Joshua Mann, 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

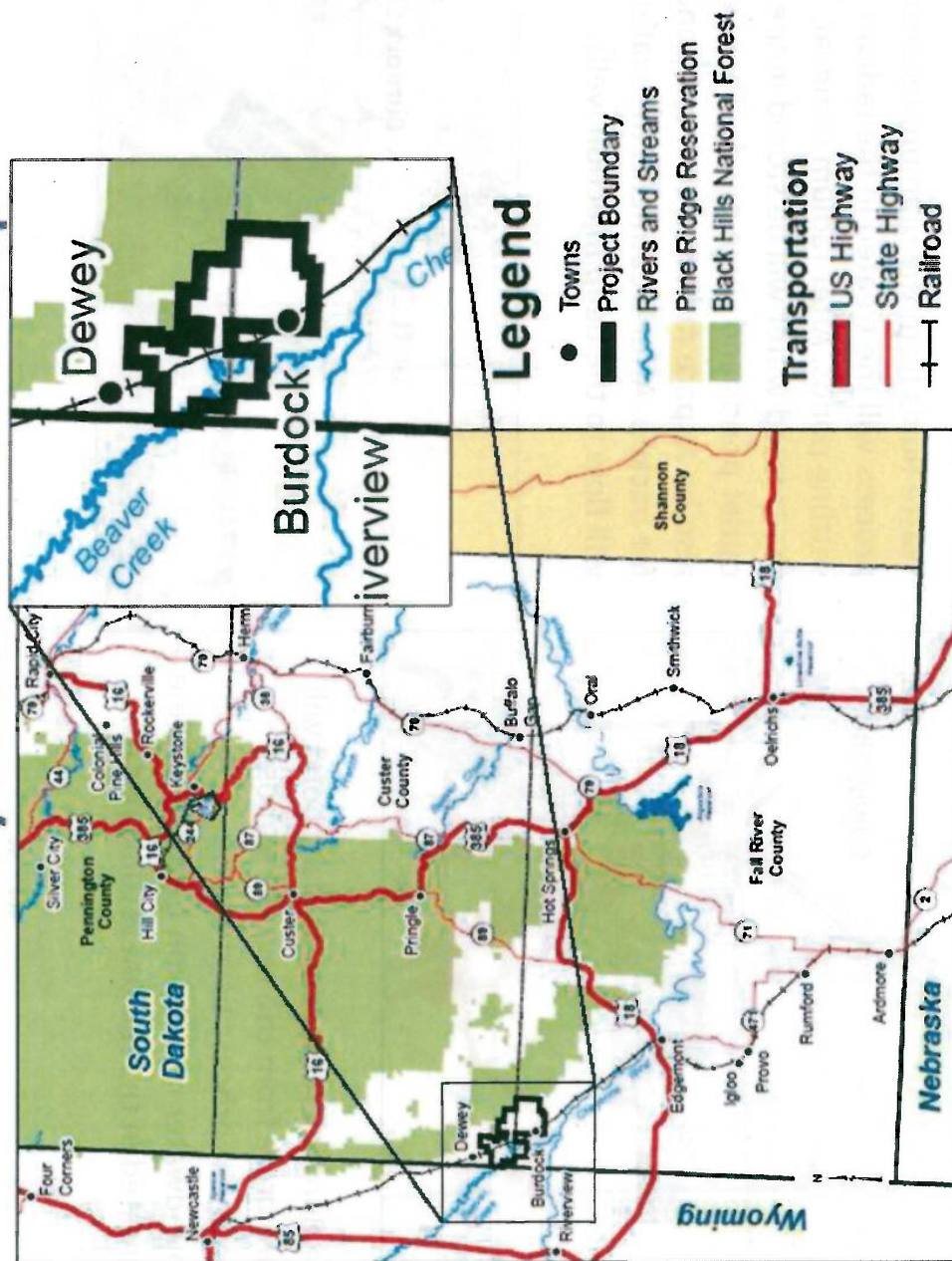
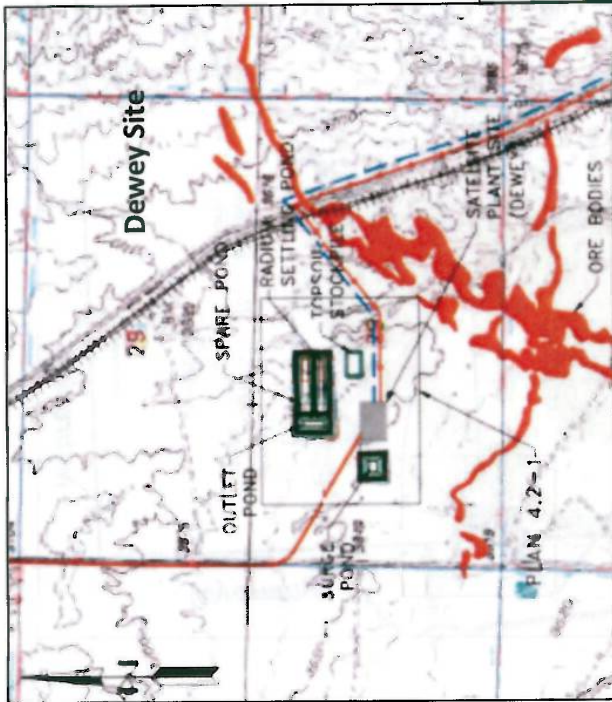


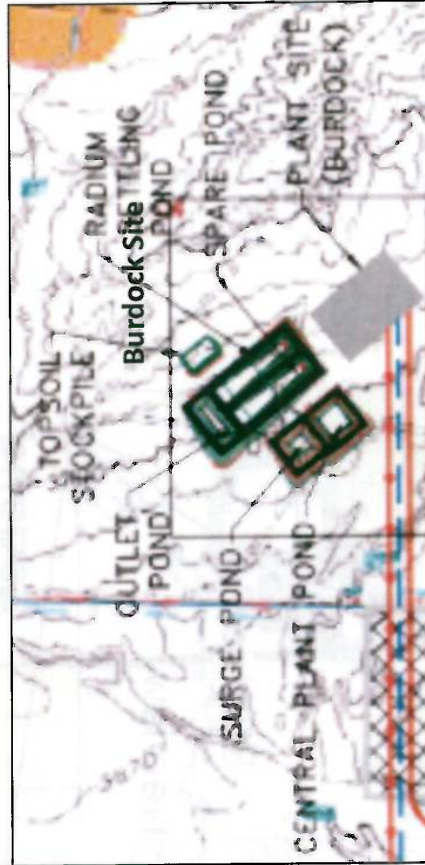
Figure 1. Map showing the location of the proposed Dewey-Burdock uranium recovery site.

## 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.**

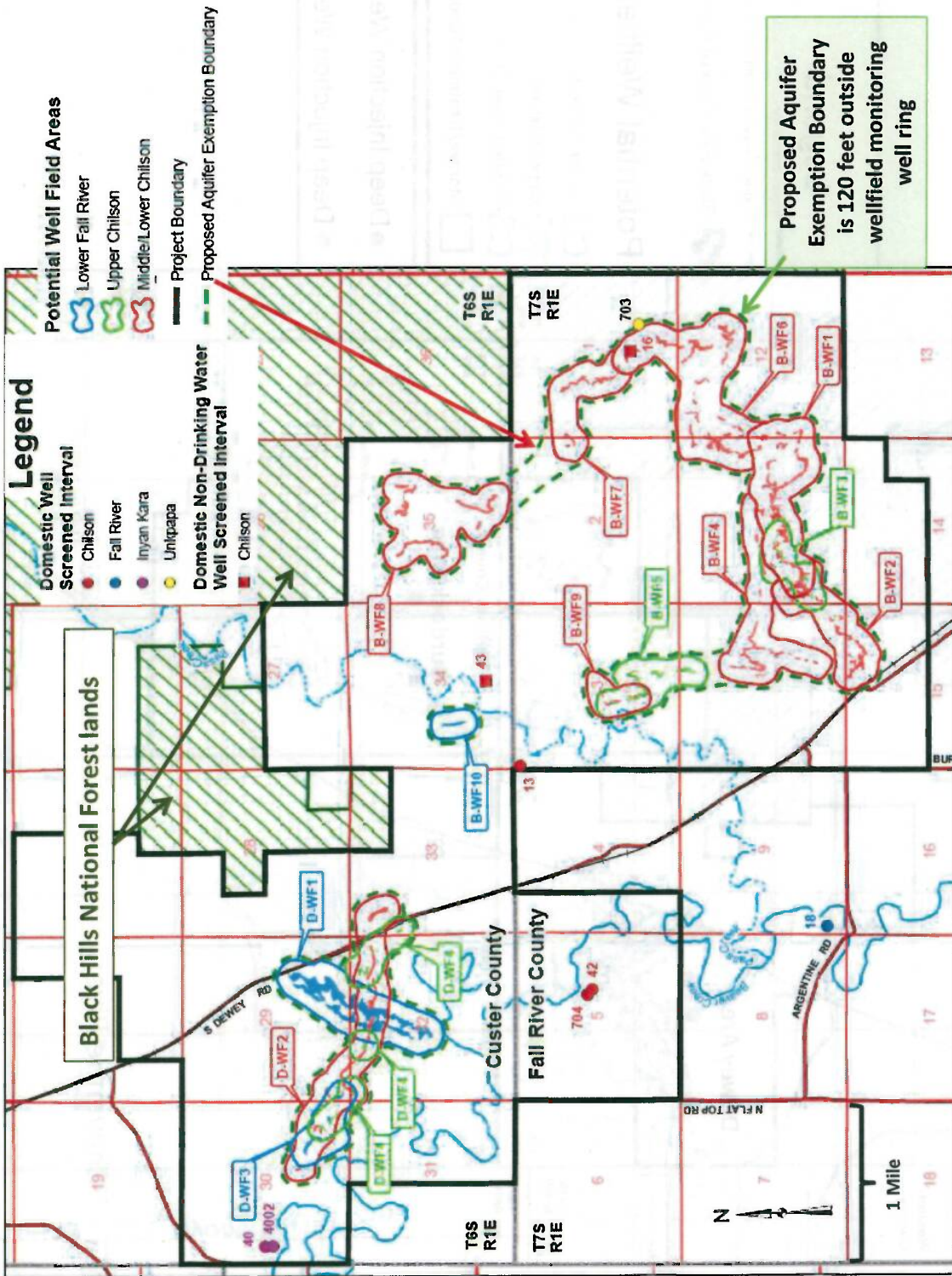
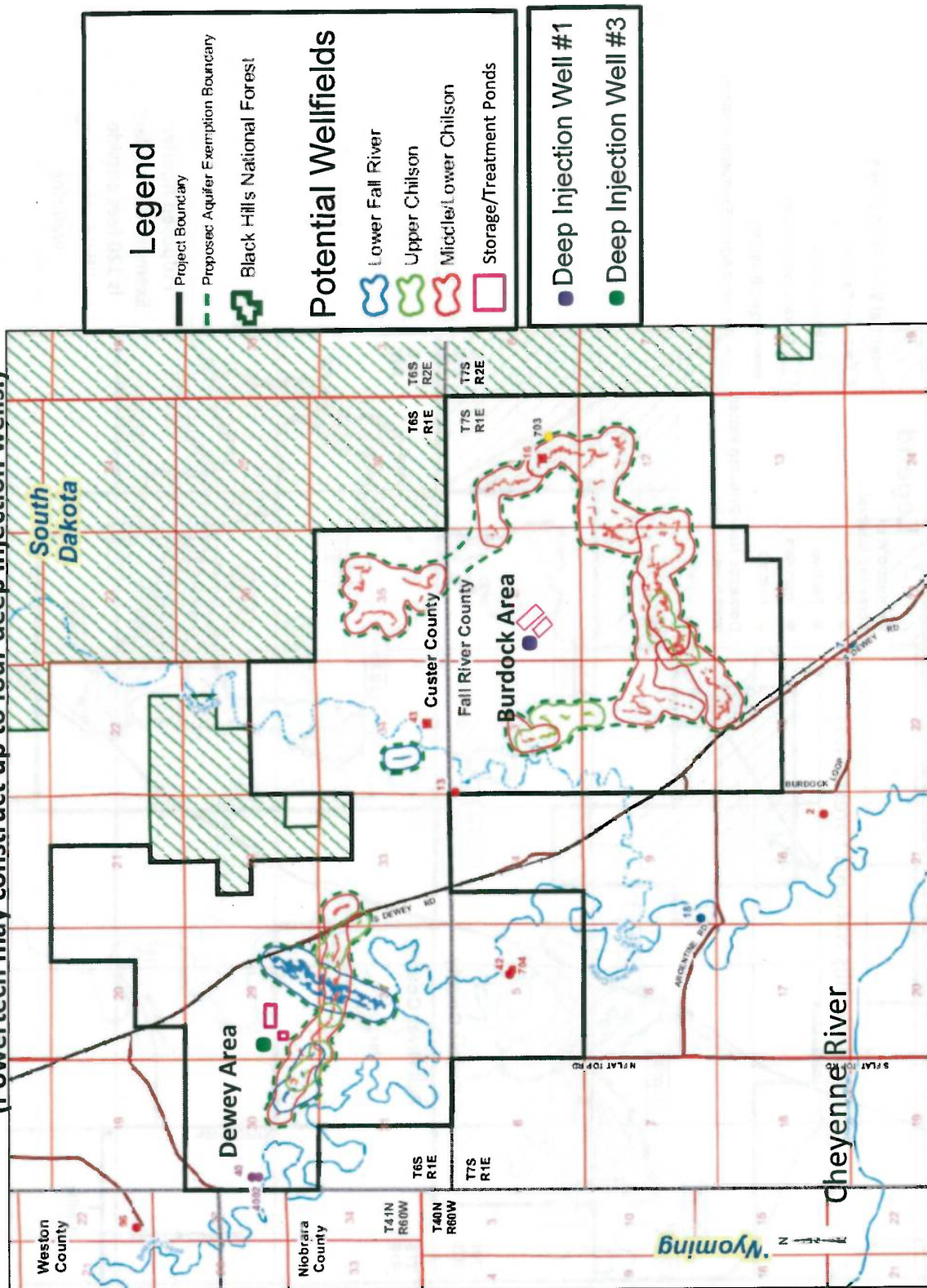
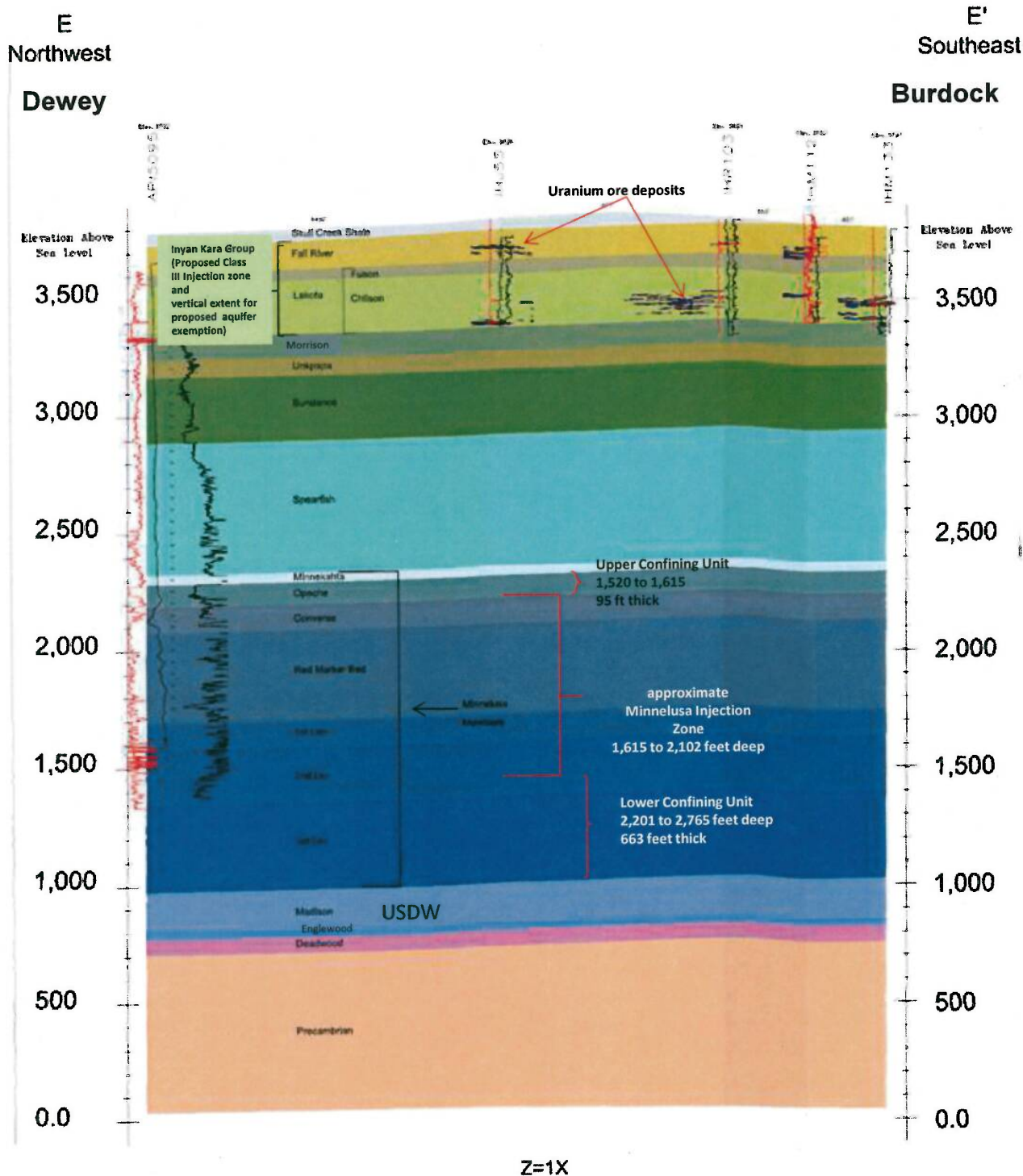


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**From:** [Galen Laurence](#)  
**To:** [mallen@fsst.org](mailto:mallen@fsst.org); [Garrie.Killsahundred@fsst.org](mailto:Garrie.Killsahundred@fsst.org)  
**Subject:** EPA Invitation for Consultation – The Flandreau Santee Sioux Tribe  
**Date:** Thursday, July 25, 2019 3:37:00 PM  
**Attachments:** [EPA\\_ConsultationLetter\\_FlandreauSanteeSiouxTribe.pdf](#)

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Thank you,

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**Galen Laurence | Analyst**

Cadmus | 100 5th Avenue, Suite 100 | Waltham, MA, 02451-8727  
Tel: (617) 673-7016



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 Anthony Reider  
President  
The Flandreau Santee Sioux Tribe  
P.O. Box 283  
Flandreau, South Dakota 57028-0283

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 Reider:

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

Sincerely,

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Darcy O'Connor, Director  
Water Division

Enclosures (6)

cc: Mark Allen, Environmental Director  
Garrie KILLSAHUNDRED, Tribal Historic Preservation Officer

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# Dewey Burdock Location Map

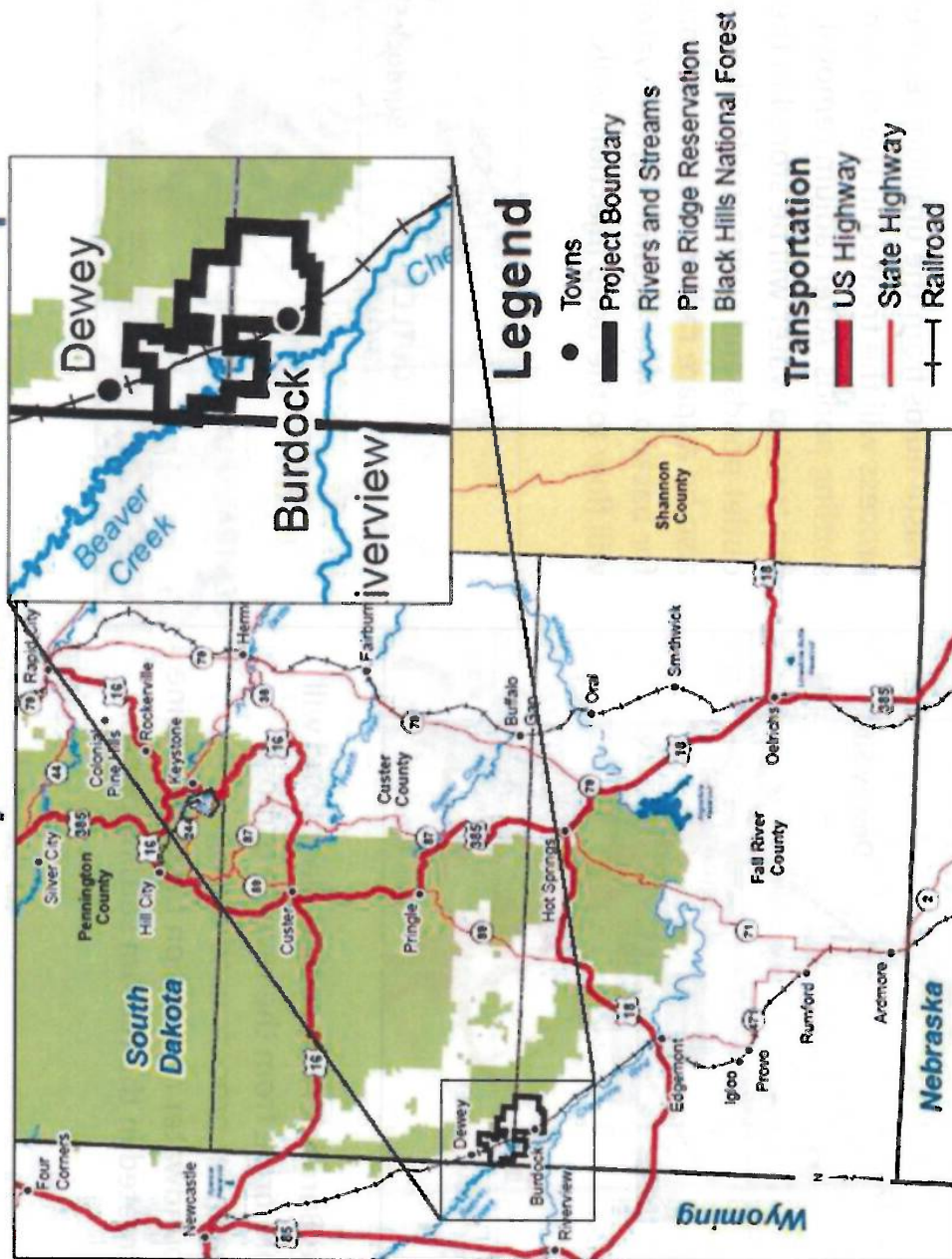
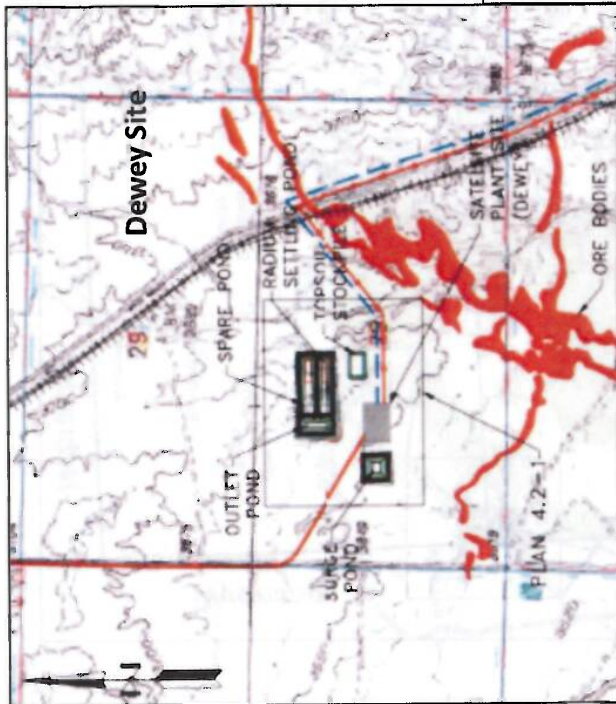
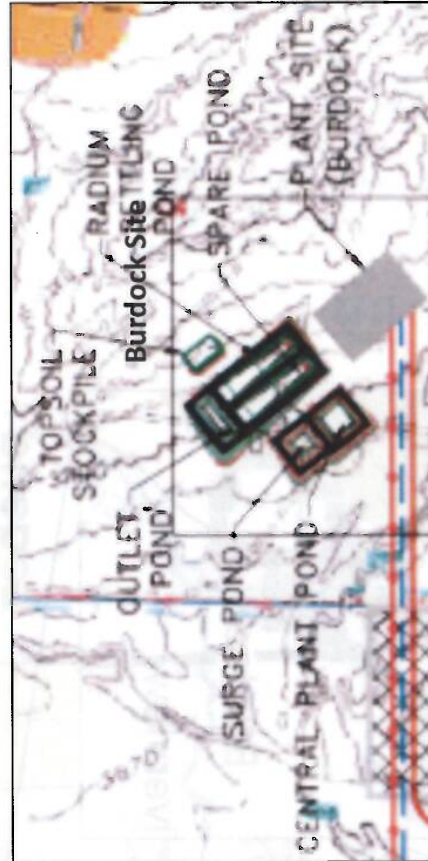


Figure 1. Map showing the location of the proposed Dewey-Burdock uranium recovery site.

## Treatment and Storage Ponds for Deep Well Injectate



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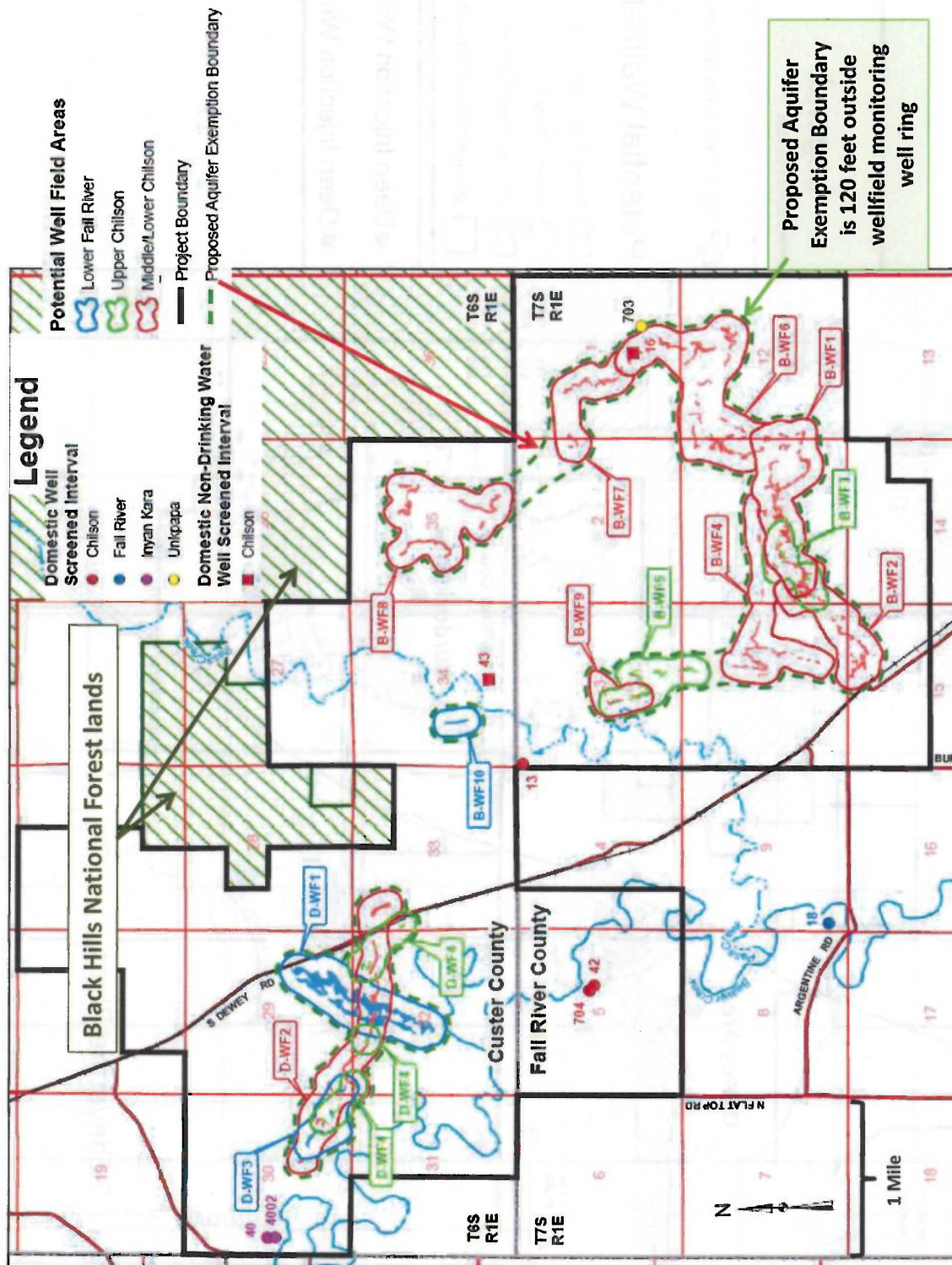
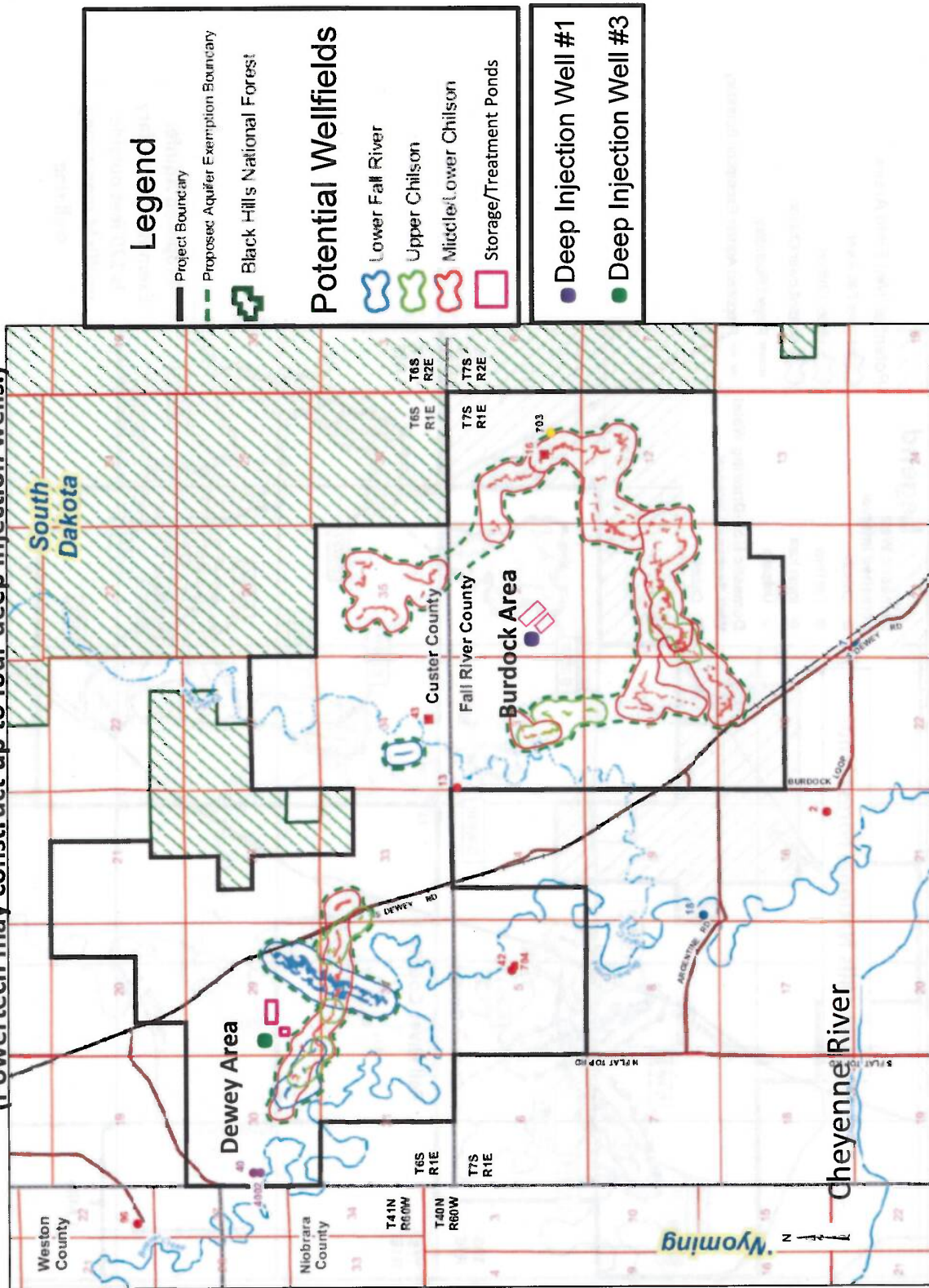
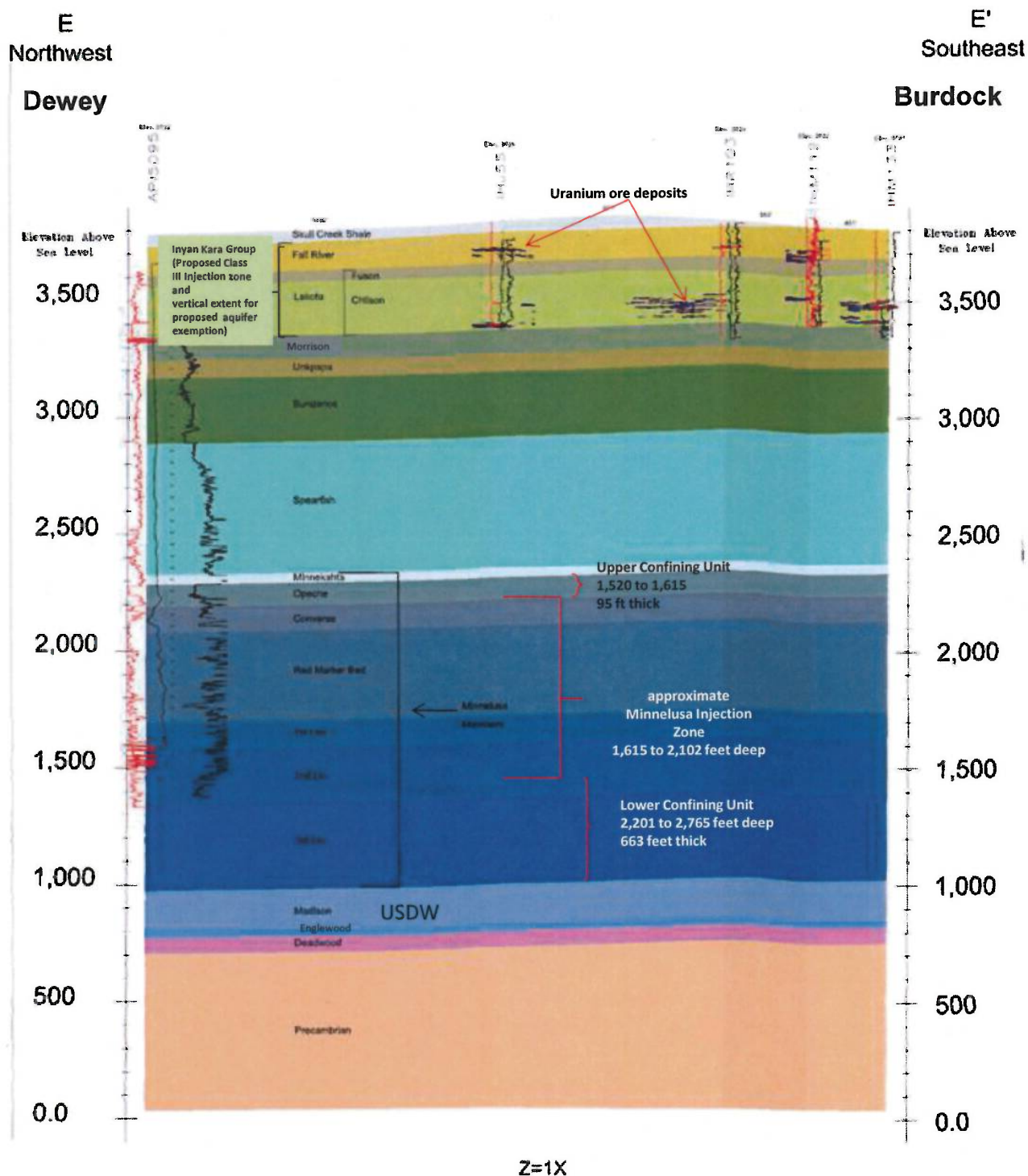


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**Figure 5. Stratigraphic cross-section of geologic formations present at the Dewey Burdock site and proposed injection zones for the Class III and deep Class V injections wells.**

**From:** [Galen Laurence](#)  
**To:** [martinawilson@fortpecktribes.net](mailto:martinawilson@fortpecktribes.net); [dyoupee@fortpecktribes.net](mailto:dyoupee@fortpecktribes.net)  
**Subject:** EPA Invitation for Consultation – The Fort Peck Assiniboine and Sioux Tribes  
**Date:** Thursday, July 25, 2019 3:39:00 PM  
**Attachments:** [EPA\\_ConsultationLetter\\_FortPeckAssiniboine&SiouxTribes.pdf](#)

---

Greetings Martina and Diane,

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If you have any questions, you may also respond to this email directly; we will be happy to convey questions or comments to EPA.

Thank you,

Galen Laurence

**Galen Laurence | Analyst**

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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

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](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 Assiniboine 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](mailto: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 Assiniboine and Sioux Tribes' prompt attention to this important matter.

Sincerely,

A handwritten signature in dark 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

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

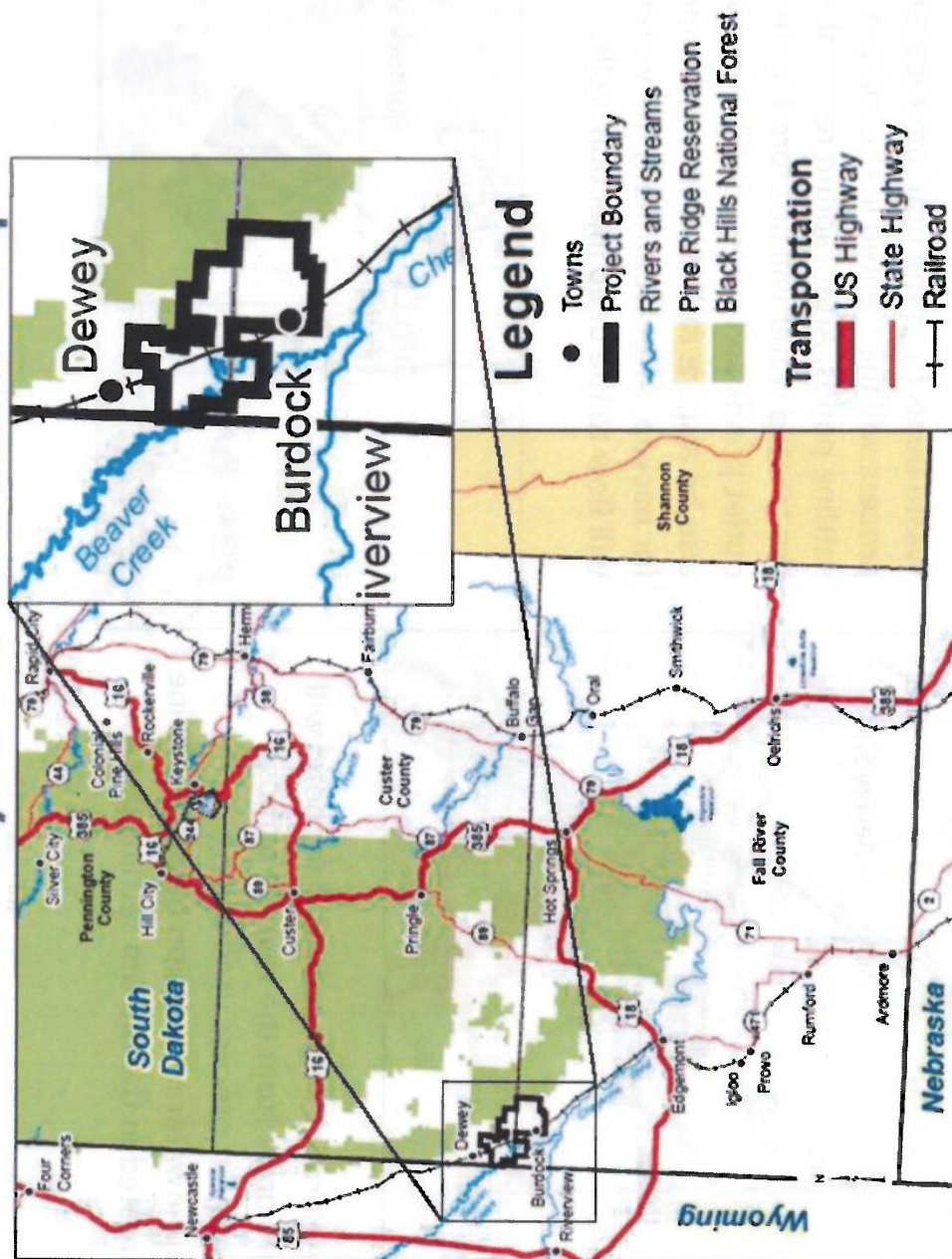
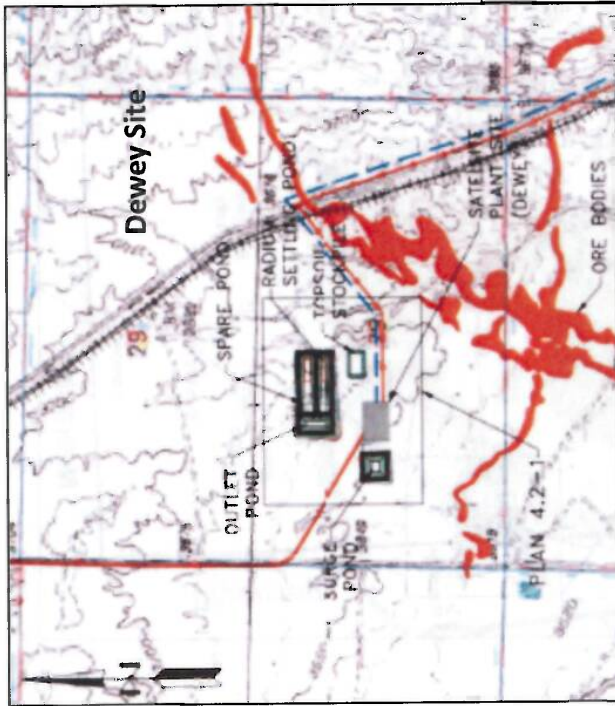


Figure 1. Map showing the location of the proposed Dewey-Burdock uranium recovery site.

## Treatment and Storage Ponds for Deep Well Injectate

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.**

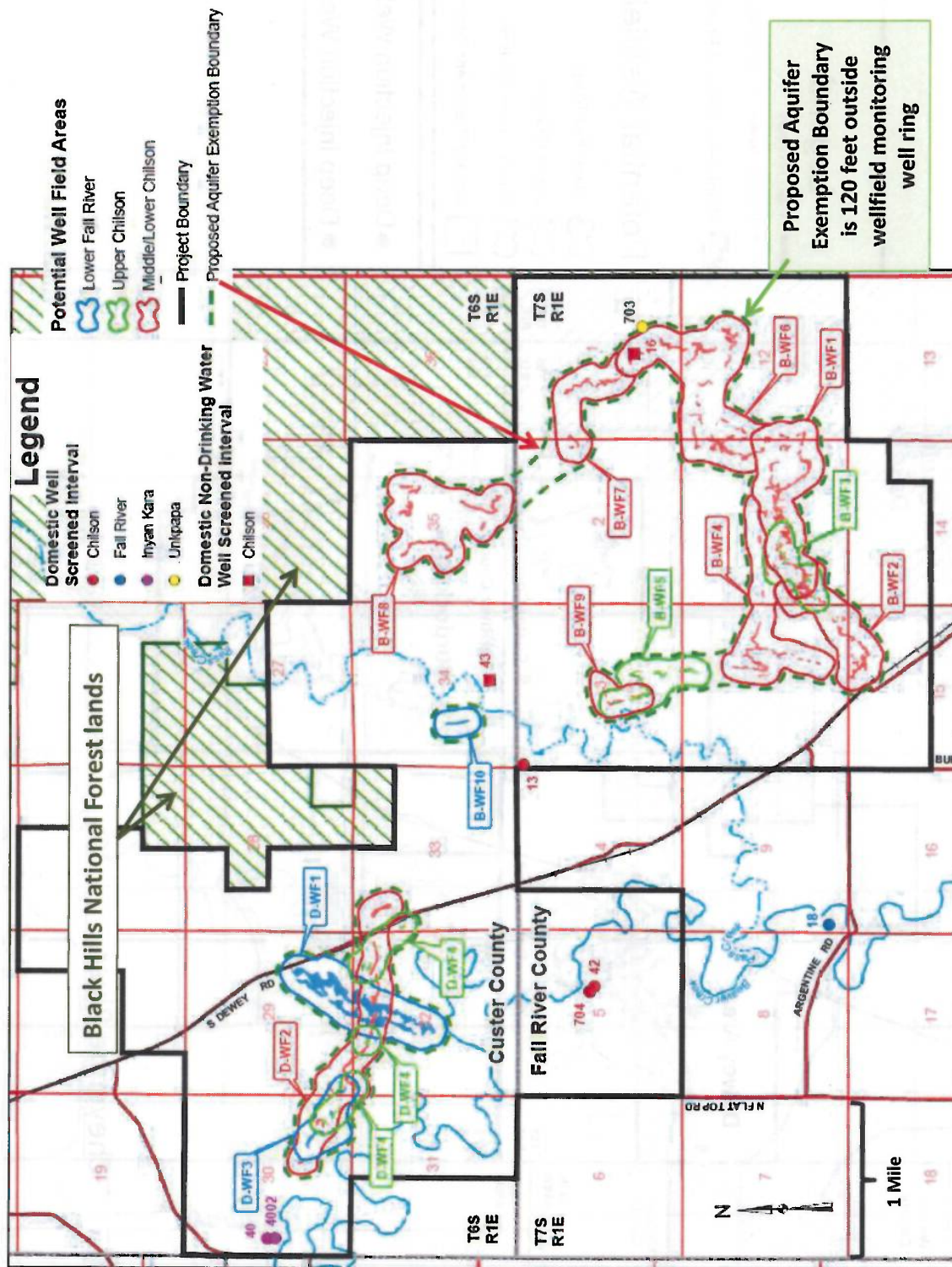
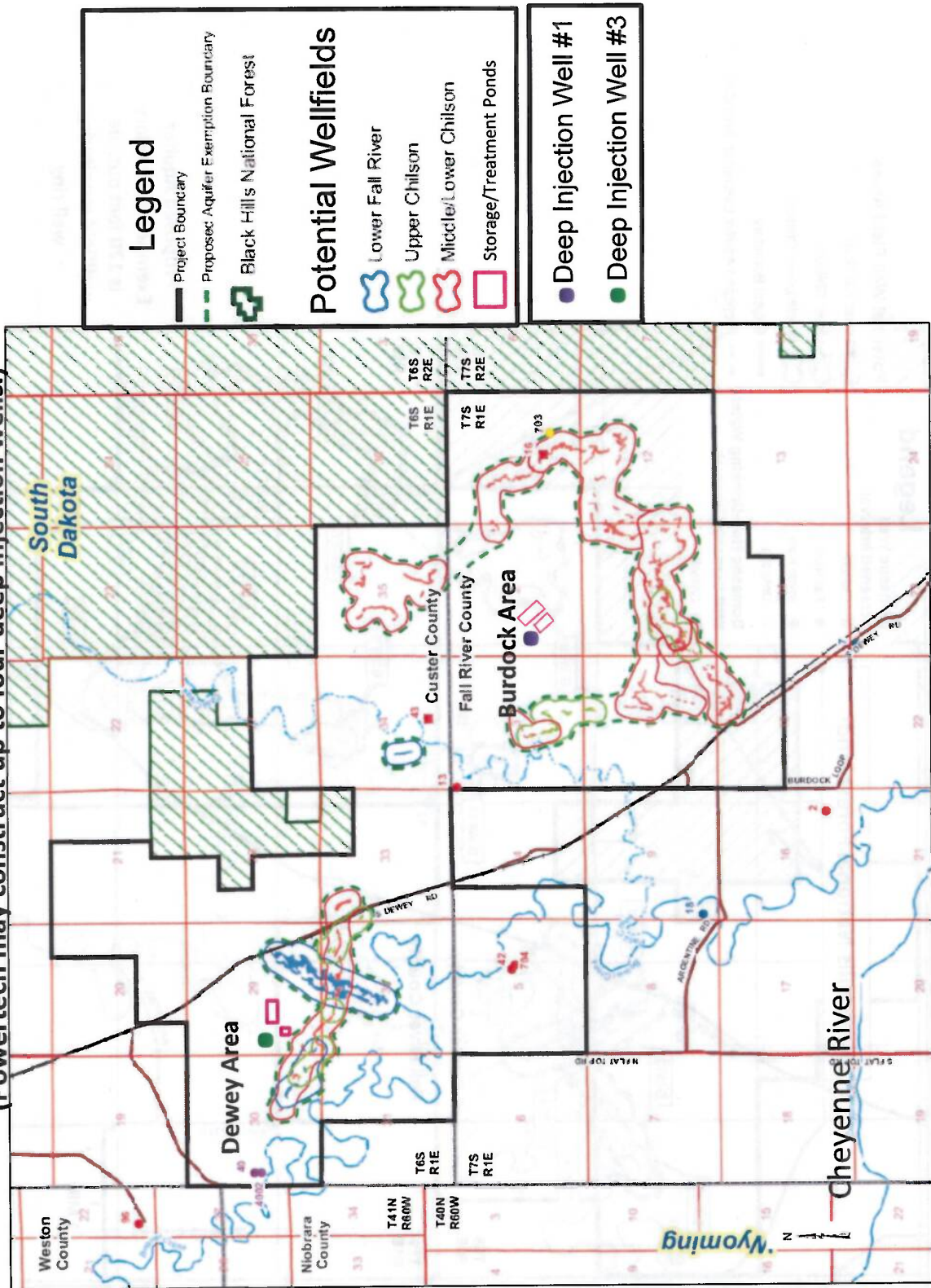
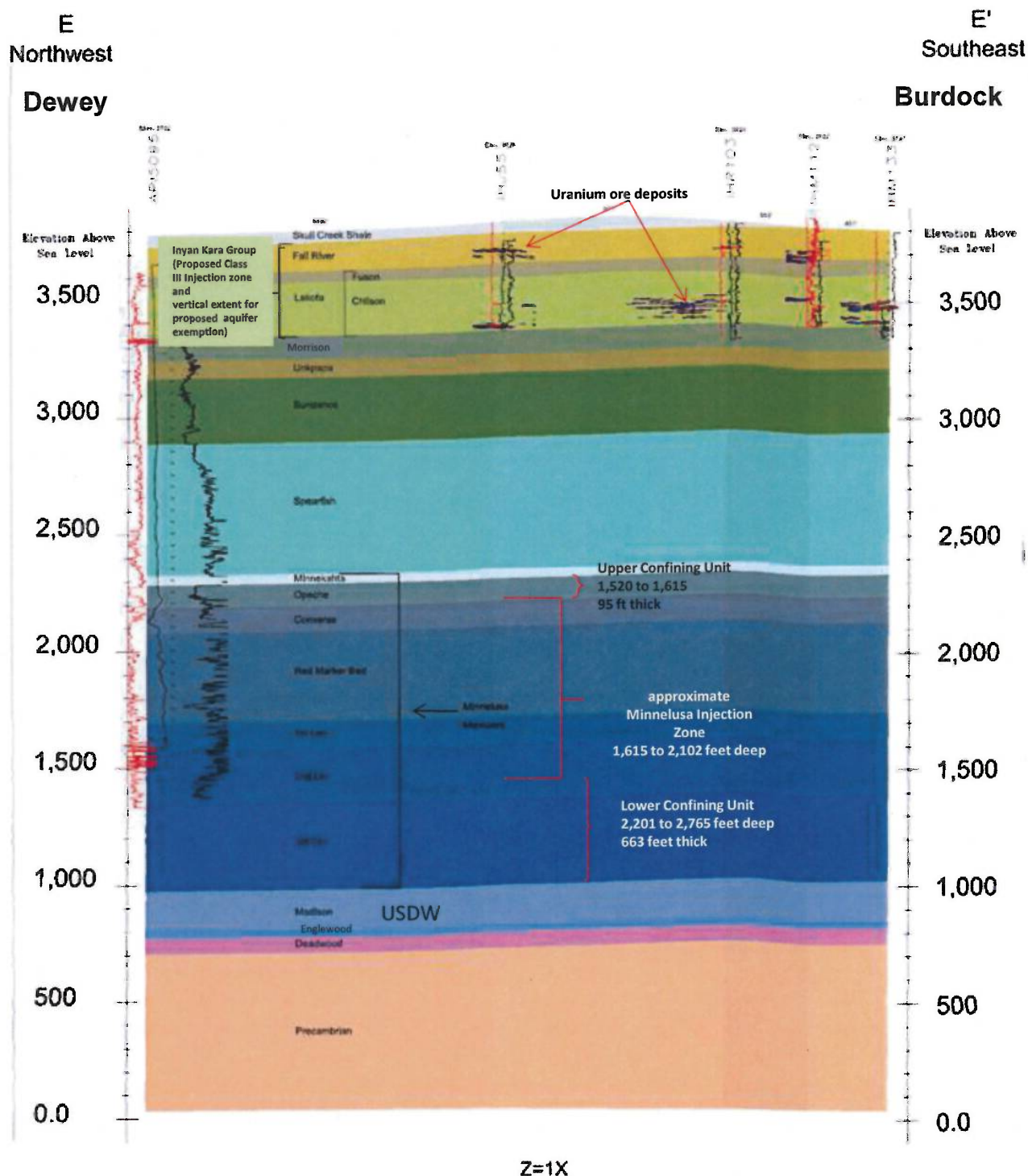


Figure 3. Map showing locations of the proposed wellfields containing Class III injection wells, the aquifer exemption boundary and the UIC permit boundary.

**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.**

**From:** [Galen Laurence](#)  
**To:** ["inperce@ftbelknap.org"](mailto:inperce@ftbelknap.org); ["mblackwolf@ftbelknap.org"](mailto:mblackwolf@ftbelknap.org)  
**Subject:** EPA Invitation for Consultation – The Gros Ventre and Assiniboine Tribes  
**Date:** Thursday, July 25, 2019 3:37:00 PM  
**Attachments:** [EPA ConsultationLetter\\_GrosVentre&AssiniboineTribes.pdf](#)

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Greetings Ina and Michael,

The attached letter and enclosures are being sent to you on behalf of EPA Region 8. The EPA R8 Underground Injection Control (UIC) Program would like to invite you to consult on revised draft permits for injection wells and associated draft documents related to the proposed Dewey-Burdock uranium in-situ recovery site in the southern Black Hills region near Edgemont, South Dakota.

If you are interested in meeting with the EPA, please reply to Valois Robinson of the EPA R8 UIC program. Ms. Robinson can be reached at 800-227-8917 (extension 312-6276) or 303-312-6276. She may also be reached by email at [robinson.valois@epa.gov](mailto:robinson.valois@epa.gov).

If you have any questions, you may also respond to this email directly; we will be happy to convey questions or comments to EPA.

Thank you,

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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.:

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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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## Dewey Burdock Location Map

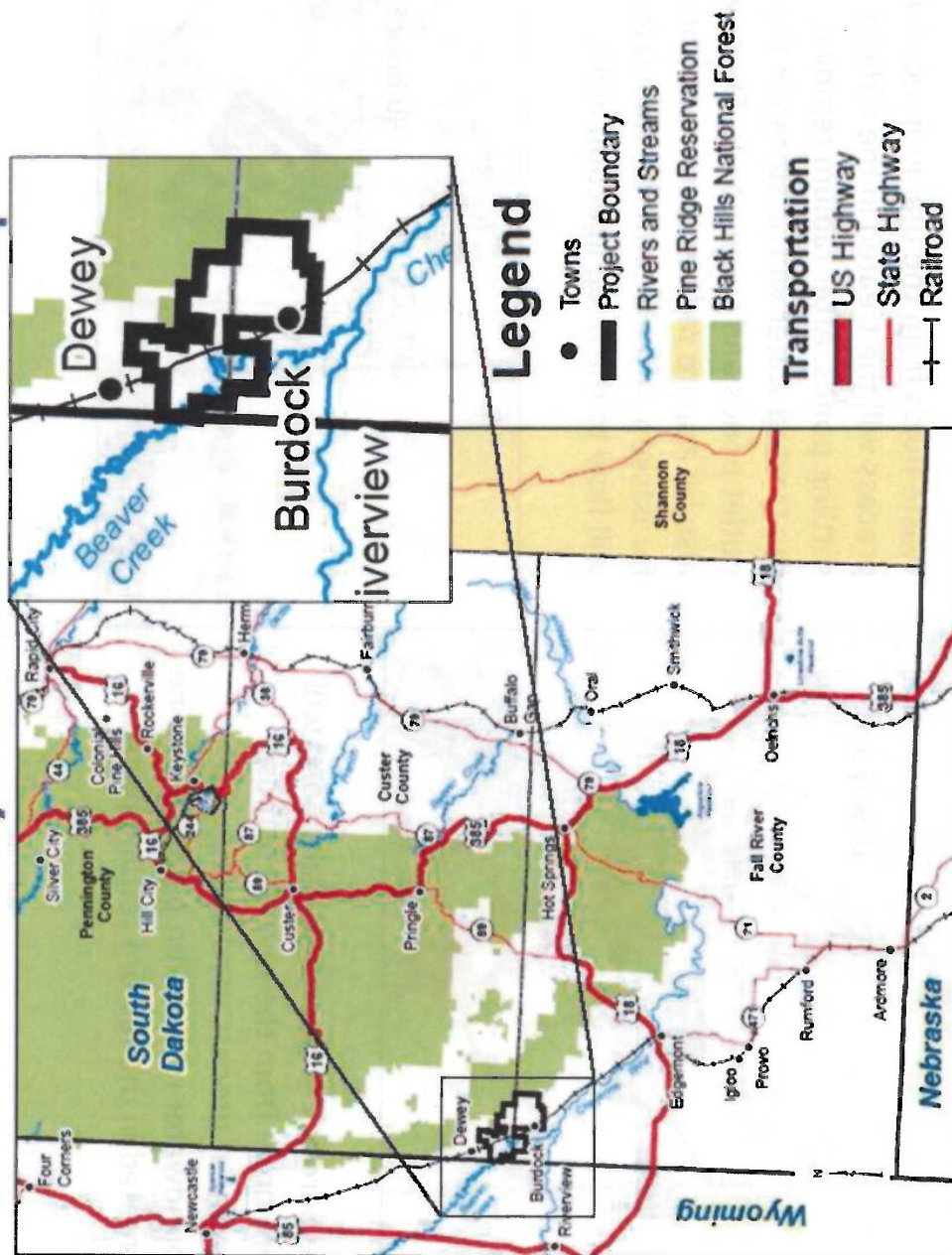
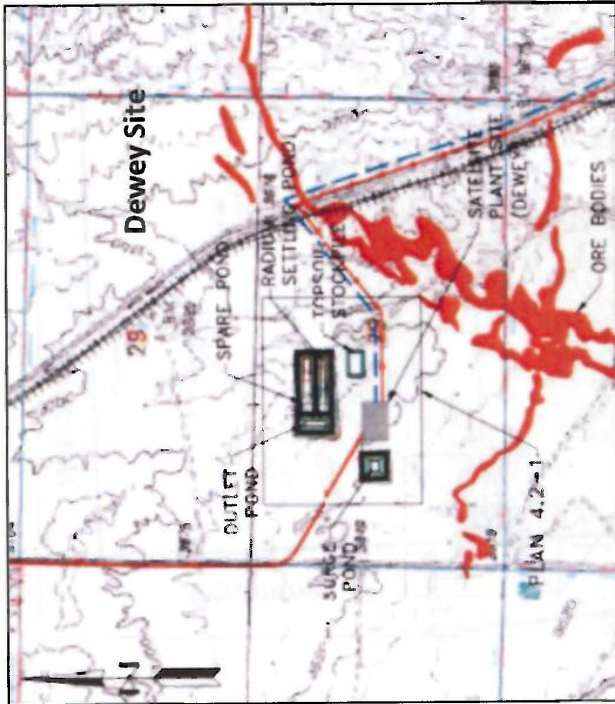


Figure 1. Map showing the location of the proposed Dewey-Burdock uranium recovery site.

## Treatment and Storage Ponds for Deep Well Injectate



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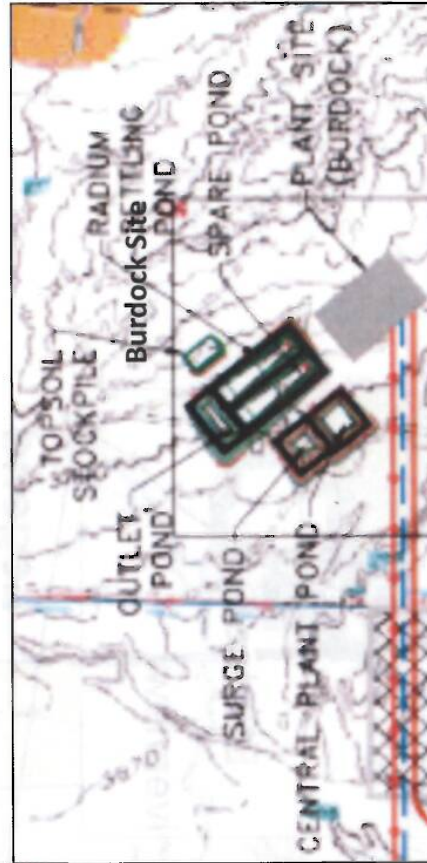


Figure 2. The Proposed Ponds for the Treatment and Storage of the Deep Injection Well Injectate.

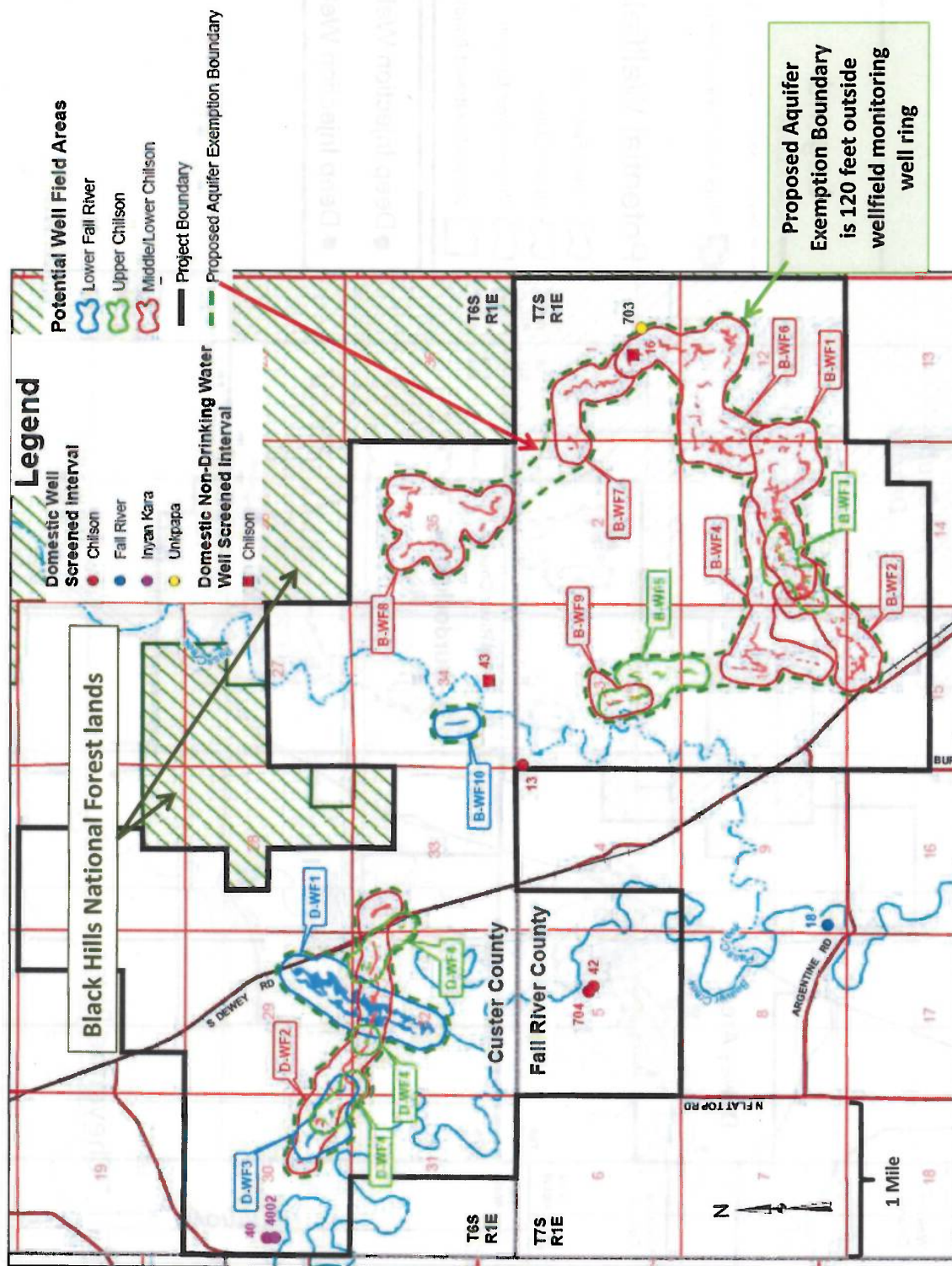
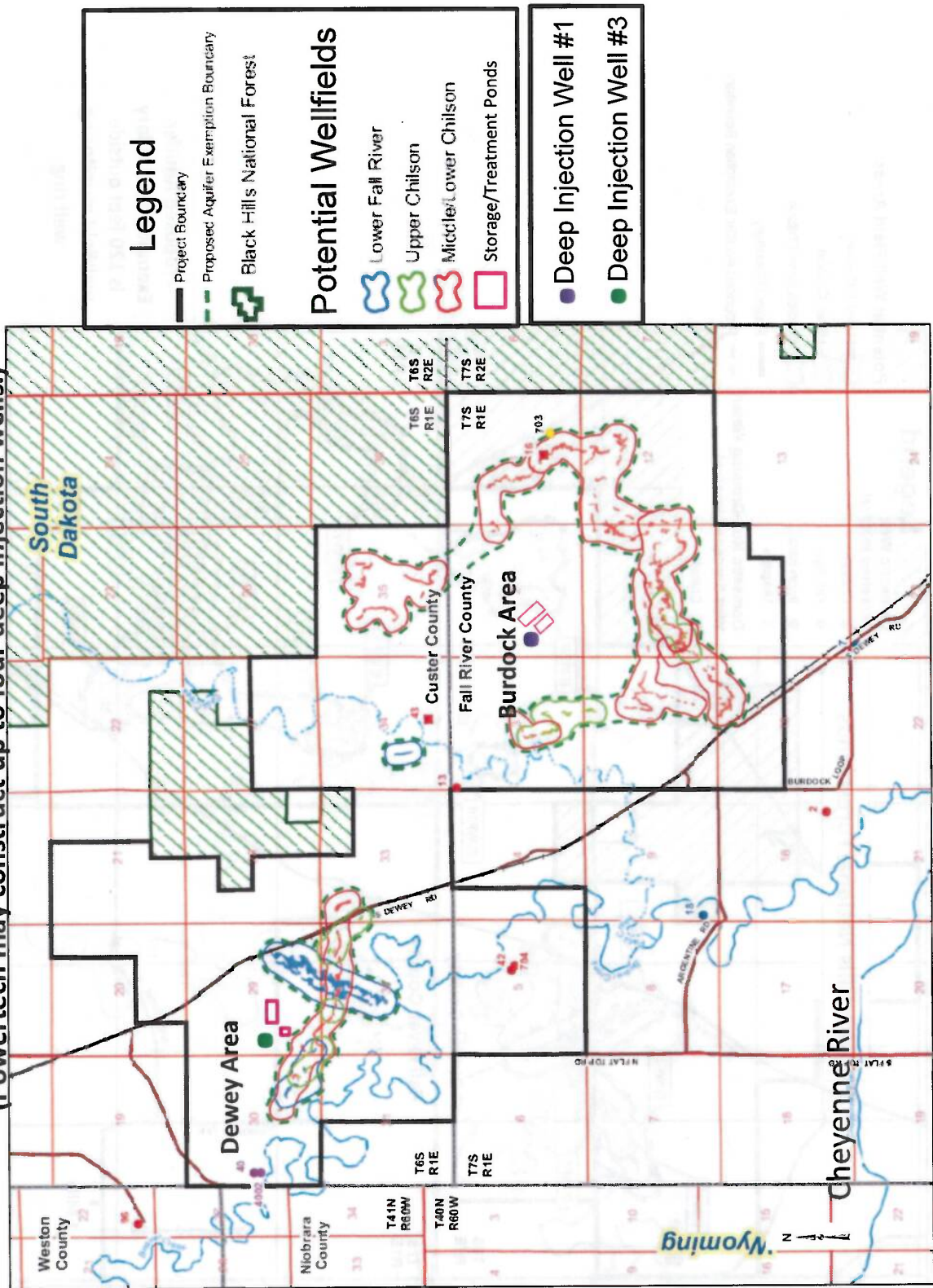
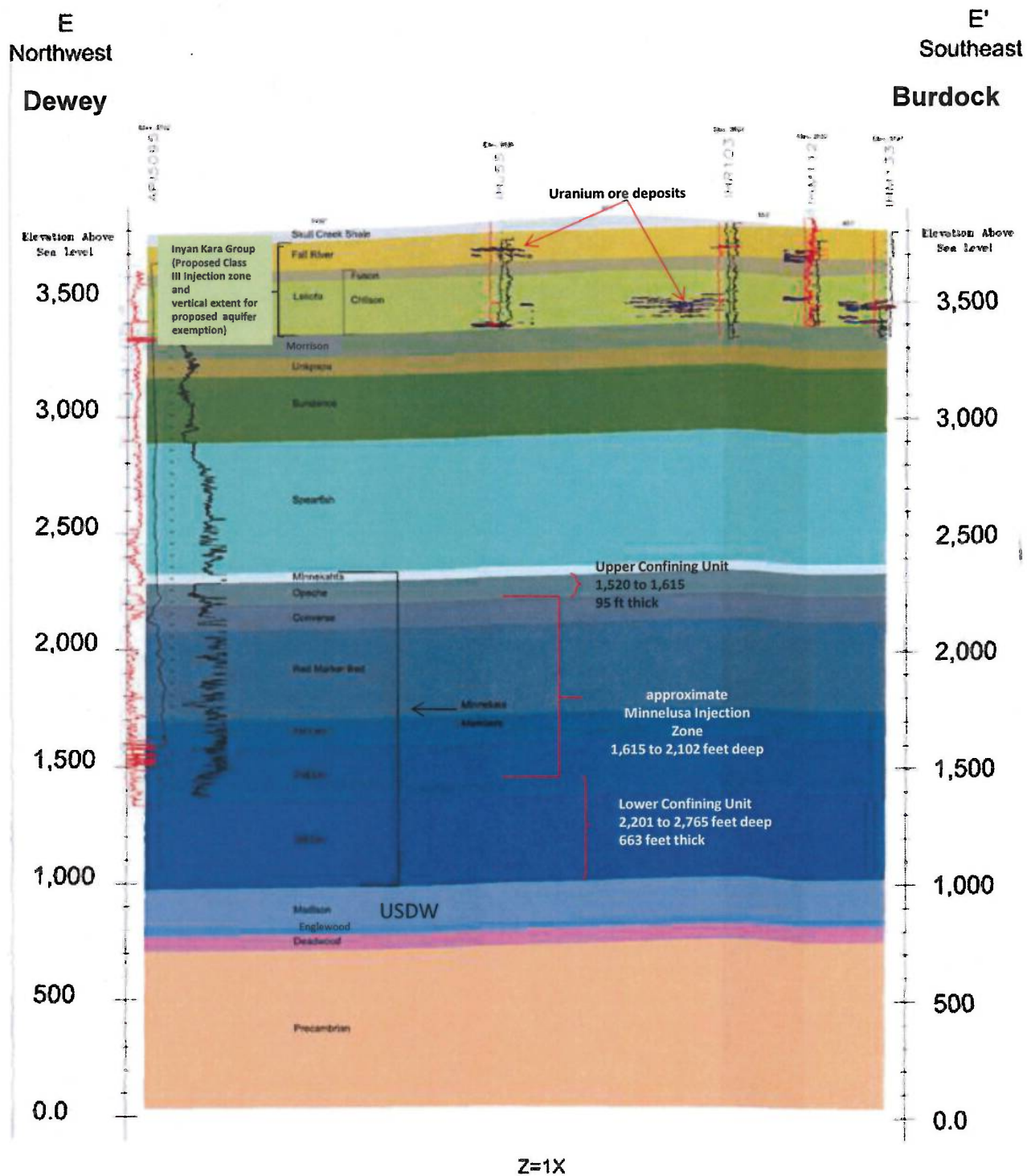


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**Figure 5. Stratigraphic cross-section of geologic formations present at the Dewey Burdock site and proposed injection zones for the Class III and deep Class V injections wells.**

**From:** [Galen Laurence](#)  
**To:** [dtartsah@kiowatribe.org](mailto:dtartsah@kiowatribe.org); [admin@kiowatribe.org](mailto:admin@kiowatribe.org)  
**Subject:** EPA Invitation for Consultation – The Kiowa Indian Tribe of Oklahoma  
**Date:** Thursday, July 25, 2019 3:38:00 PM  
**Attachments:** [EPA ConsultationLetter\\_KiowaTribeOK.pdf](#)

---

Greetings Dorla and Kelly,

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JUL 08 2019

Ref: 8WD-SDU

Honorable Matthew Komalty  
Chairman  
The Kiowa Indian Tribe of Oklahoma  
P.O. Box 369  
Carnegie, Oklahoma 73015

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 Komalty:

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- (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 Kiowa Indian Tribe 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 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 Kiowa Indian Tribe of Oklahoma 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](mailto: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 Kiowa Indian Tribe of Oklahoma's prompt attention to this important matter.

Sincerely,

A handwritten signature in dark 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: Dorla Tartsah, Environmental Director  
Kelly Poolaw, 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

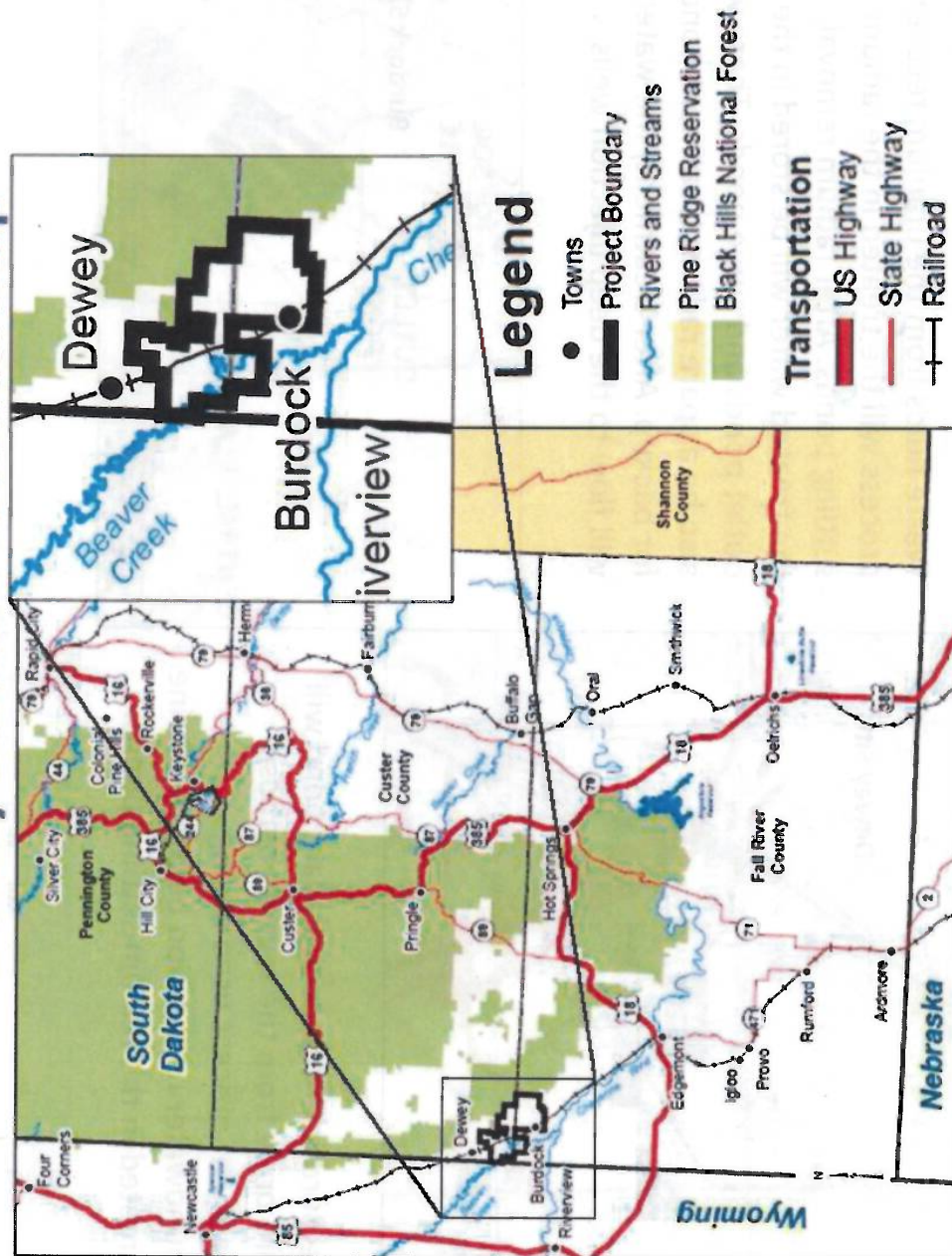
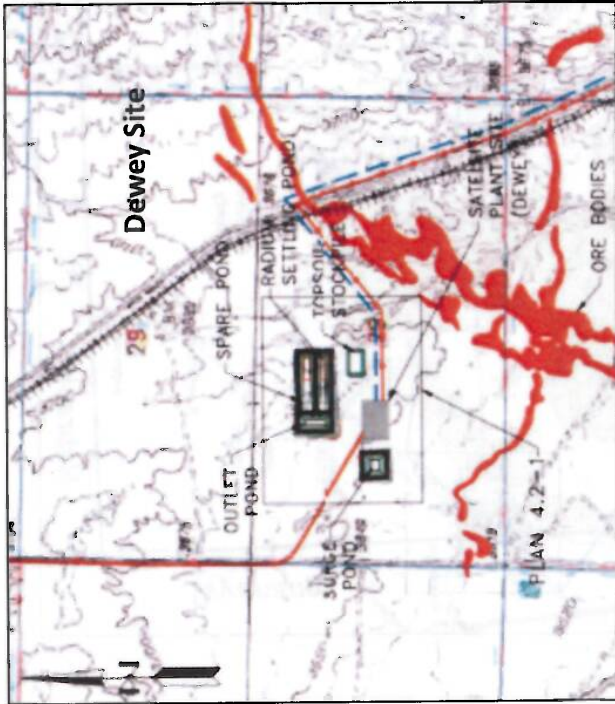
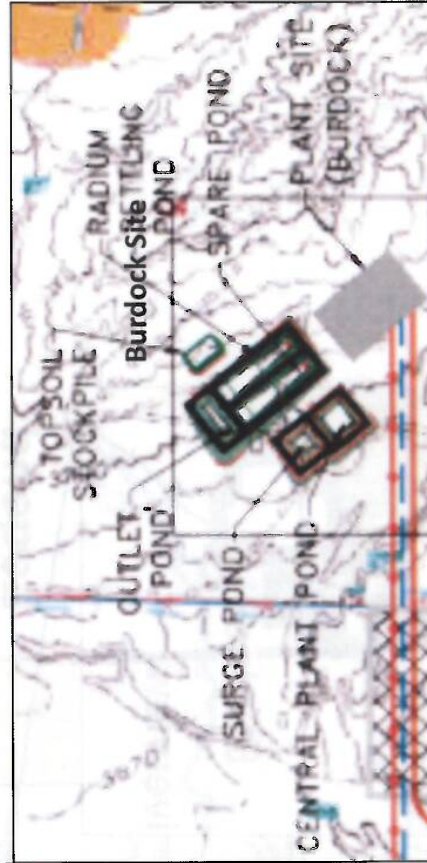


Figure 1. Map showing the location of the proposed Dewey-Burdock uranium recovery site.

## 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.

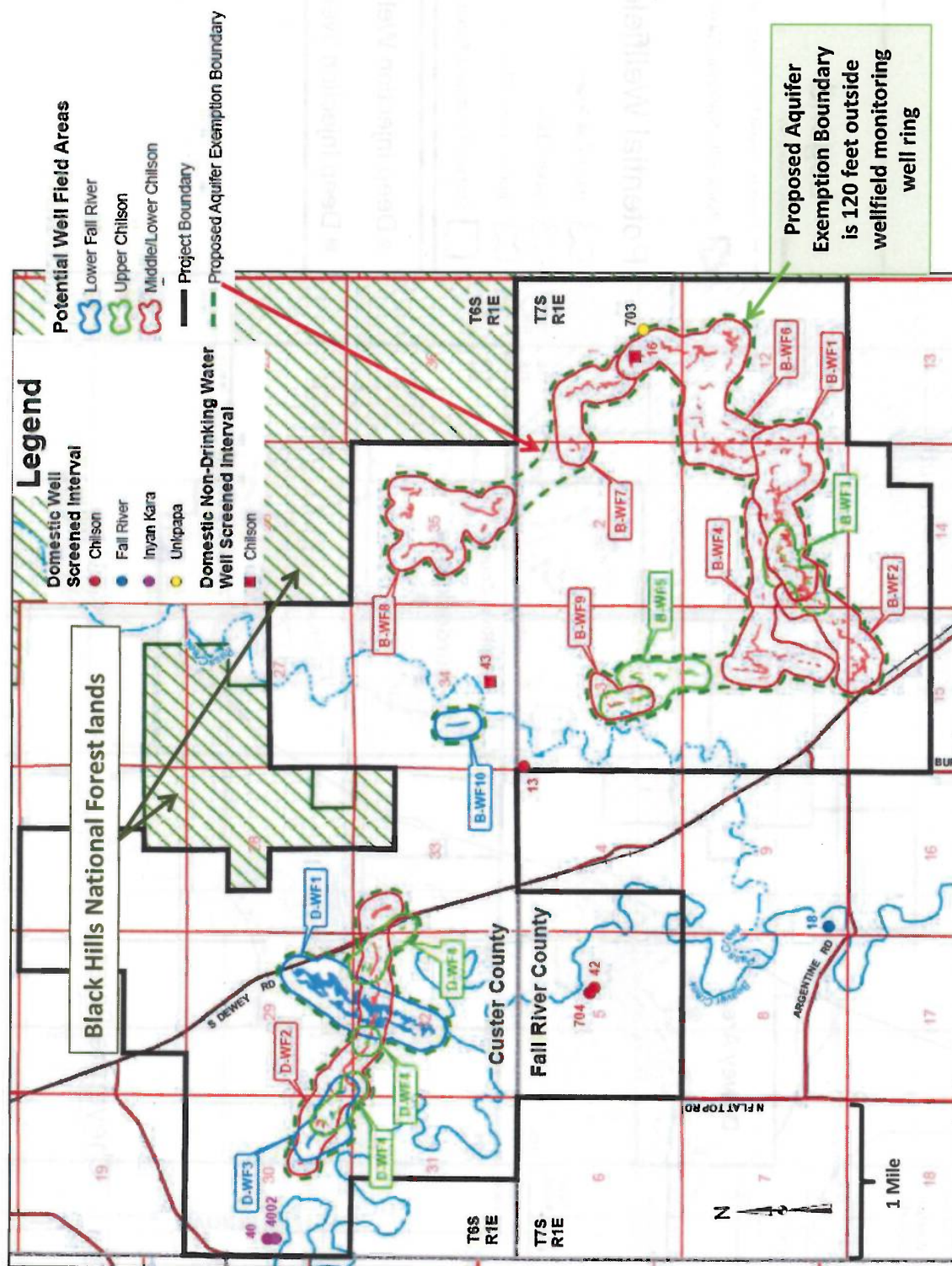
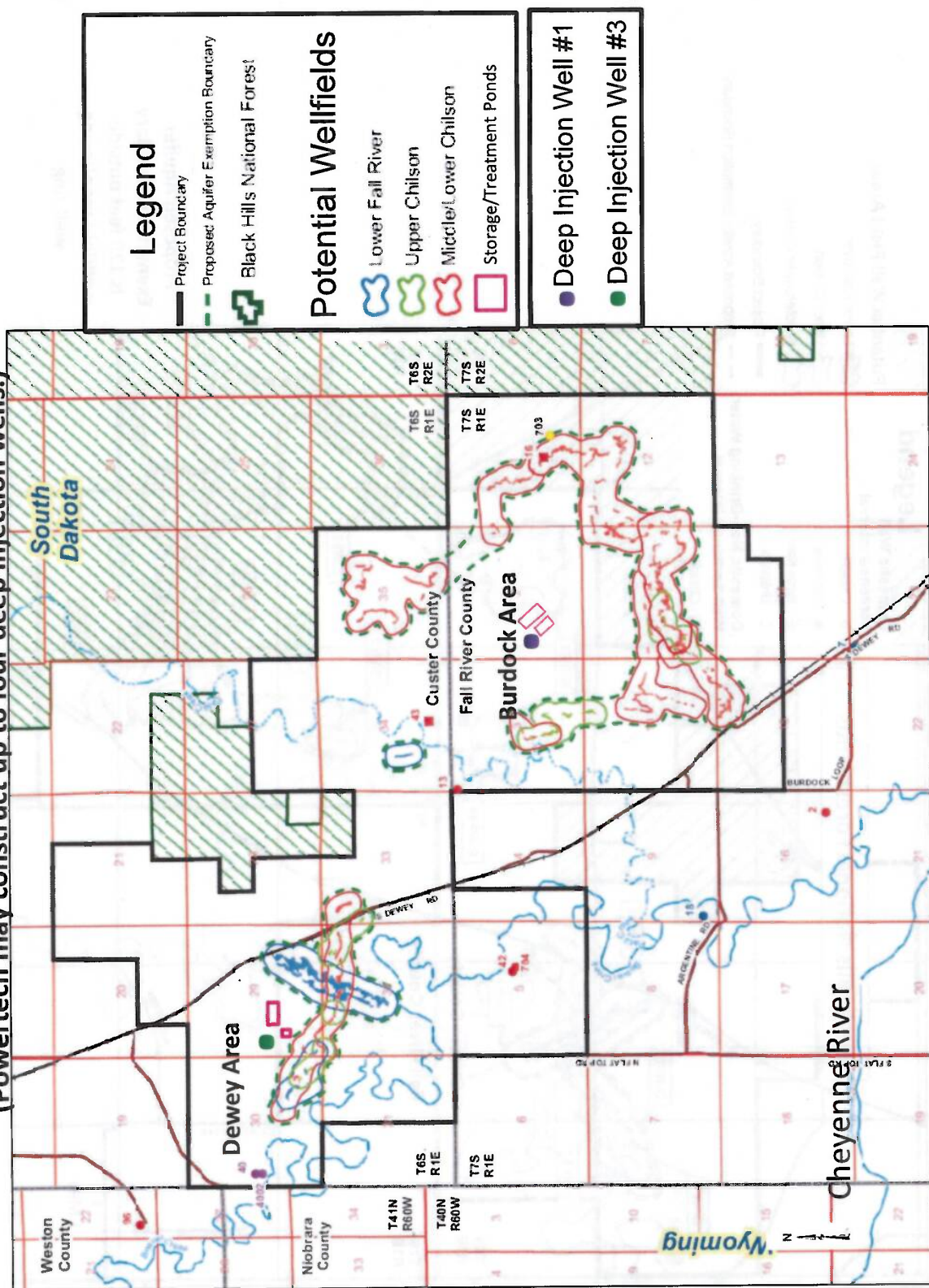
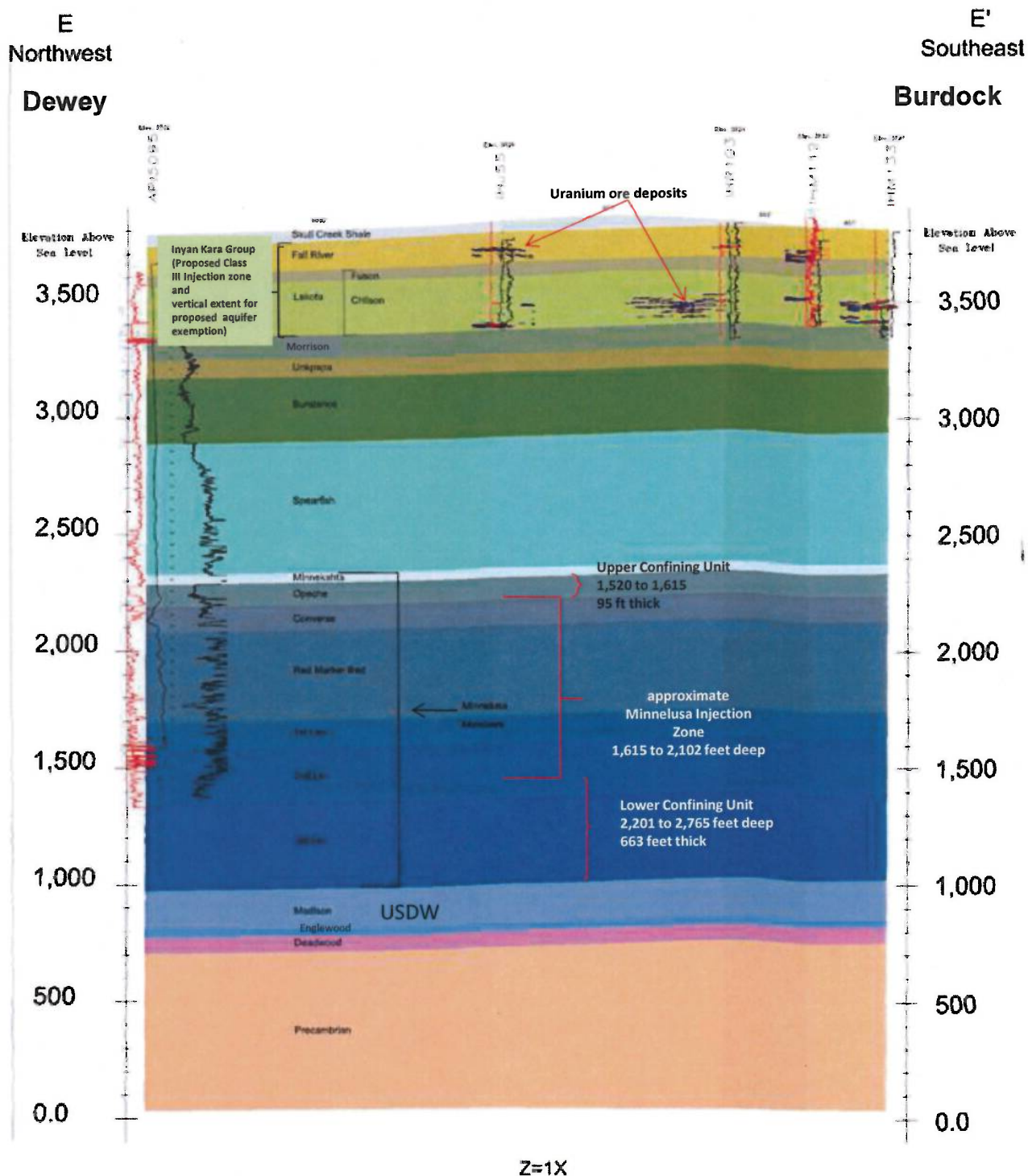


Figure 3. Map showing locations of the proposed wellfields containing Class III injection wells, the aquifer exemption boundary and the UIC permit boundary.

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:** [Galen Laurence](#)  
**To:** [ghoneywell@LBST-EPO.org](mailto:ghoneywell@LBST-EPO.org); [clairsgreen@yahoo.com](mailto:clairsgreen@yahoo.com)  
**Subject:** EPA Invitation for Consultation – The Lower Brule Sioux Tribe  
**Date:** Thursday, July 25, 2019 3:37:00 PM  
**Attachments:** [EPA\\_ConsultationLetter\\_LowerBruleSiouxTribe.pdf](#)

---

Greetings George and Clair,

The attached letter and enclosures are being sent to you on behalf of EPA Region 8. The EPA R8 Underground Injection Control (UIC) Program would like to invite you to consult on revised draft permits for injection wells and associated draft documents related to the proposed Dewey-Burdock uranium in-situ recovery site in the southern Black Hills region near Edgemont, South Dakota.

If you are interested in meeting with the EPA, please reply to Valois Robinson of the EPA R8 UIC program. Ms. Robinson can be reached at 800-227-8917 (extension 312-6276) or 303-312-6276. She may also be reached by email at [robinson.valois@epa.gov](mailto:robinson.valois@epa.gov).

If you have any questions, you may also respond to this email directly; we will be happy to convey questions or comments to EPA.

Thank you,

Galen Laurence

**Galen Laurence | Analyst**

Cadmus | 100 5th Avenue, Suite 100 | Waltham, MA, 02451-8727  
Tel: (617) 673-7016



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 Boyd Gourneau  
Chairman  
The Lower Brule Sioux Tribe  
187 Oyate Circle  
Lower Brule, South Dakota 57548-8500

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 Gourneau:

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 Lower Brule 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>.

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

Sincerely,

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Darcy O'Connor, Director  
Water Division

Enclosures (6)

cc: George Honeywell, Environmental Director  
Clair Green, Cultural Resource Director

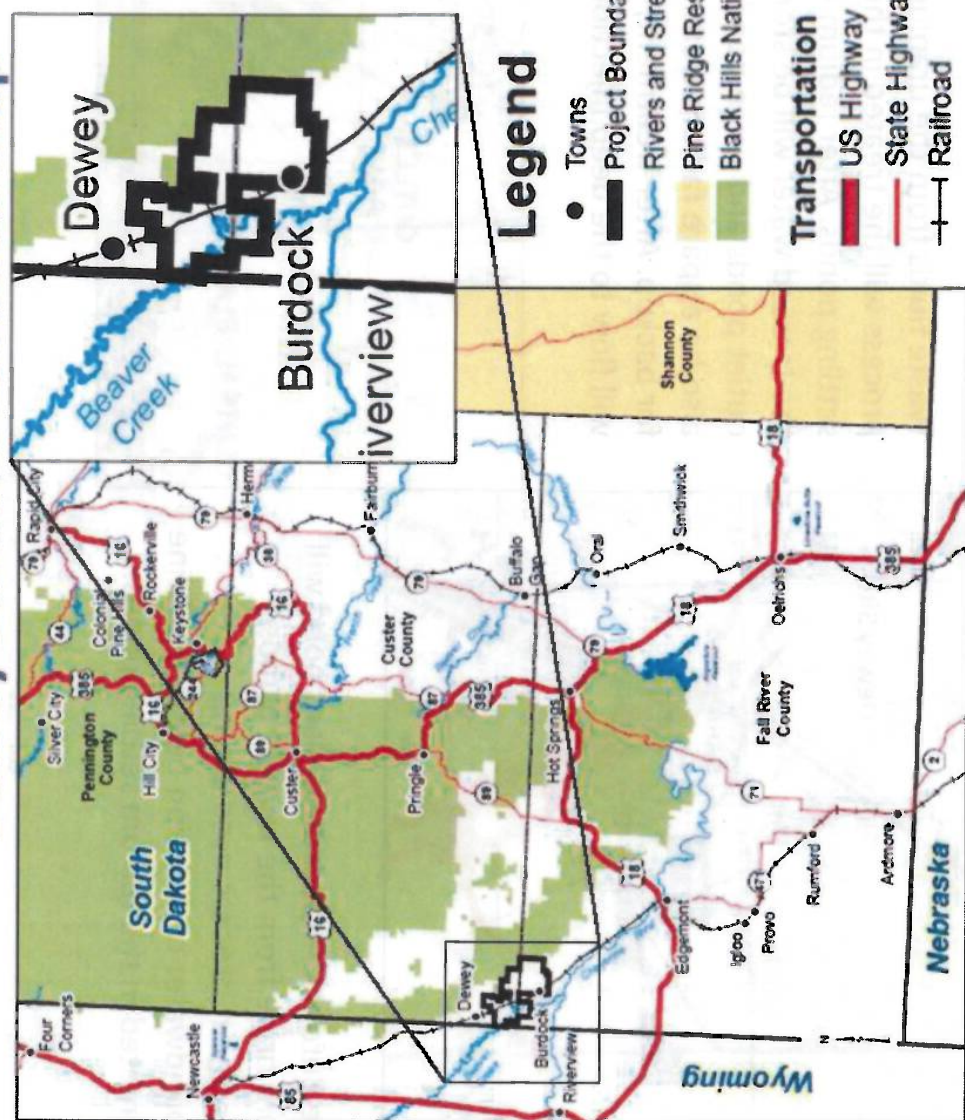
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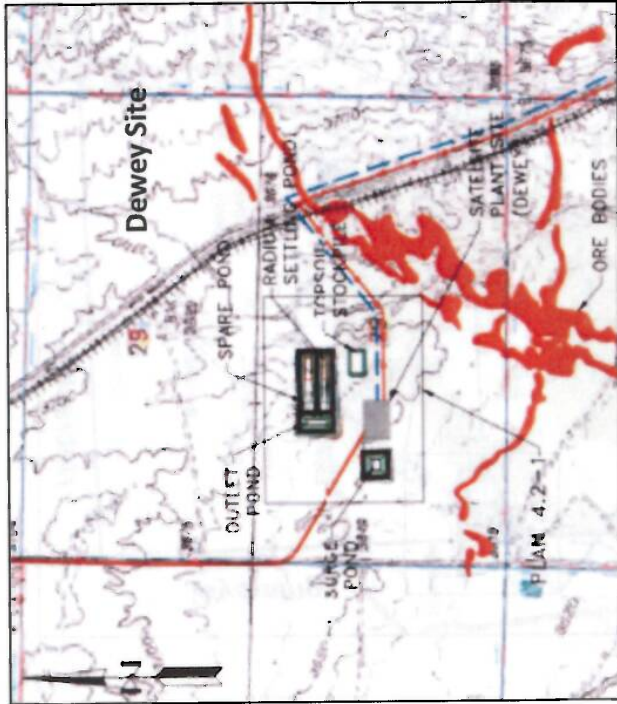
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**Figure 1. Map showing the location of the proposed Dewey-Burdock uranium recovery site.**

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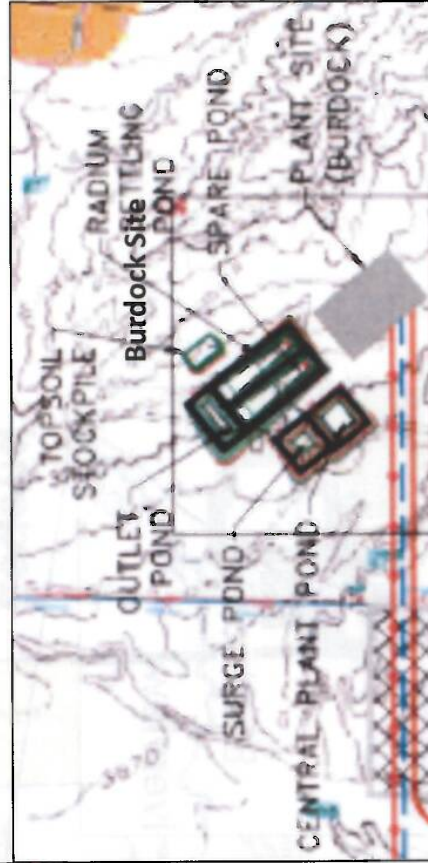


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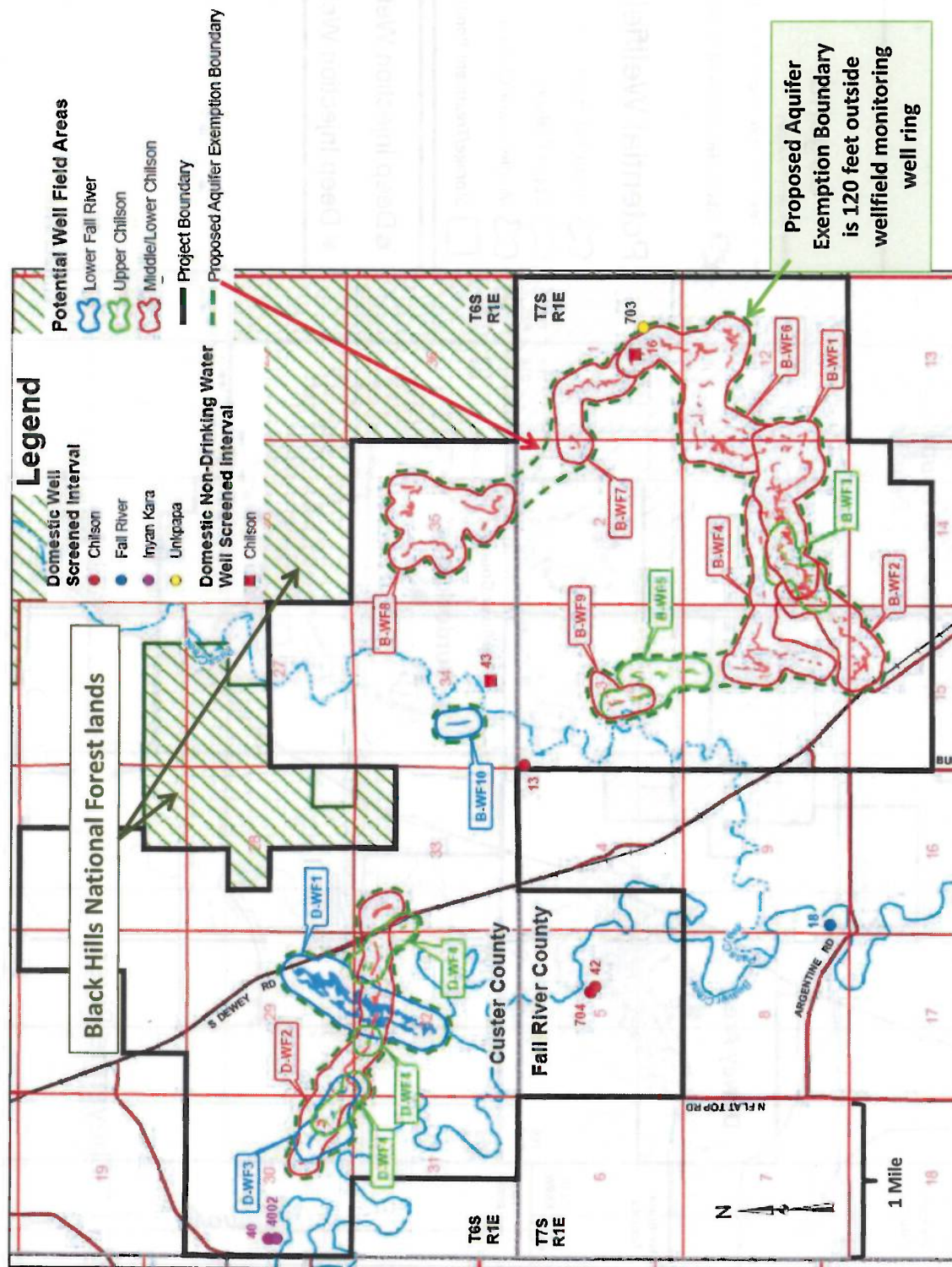
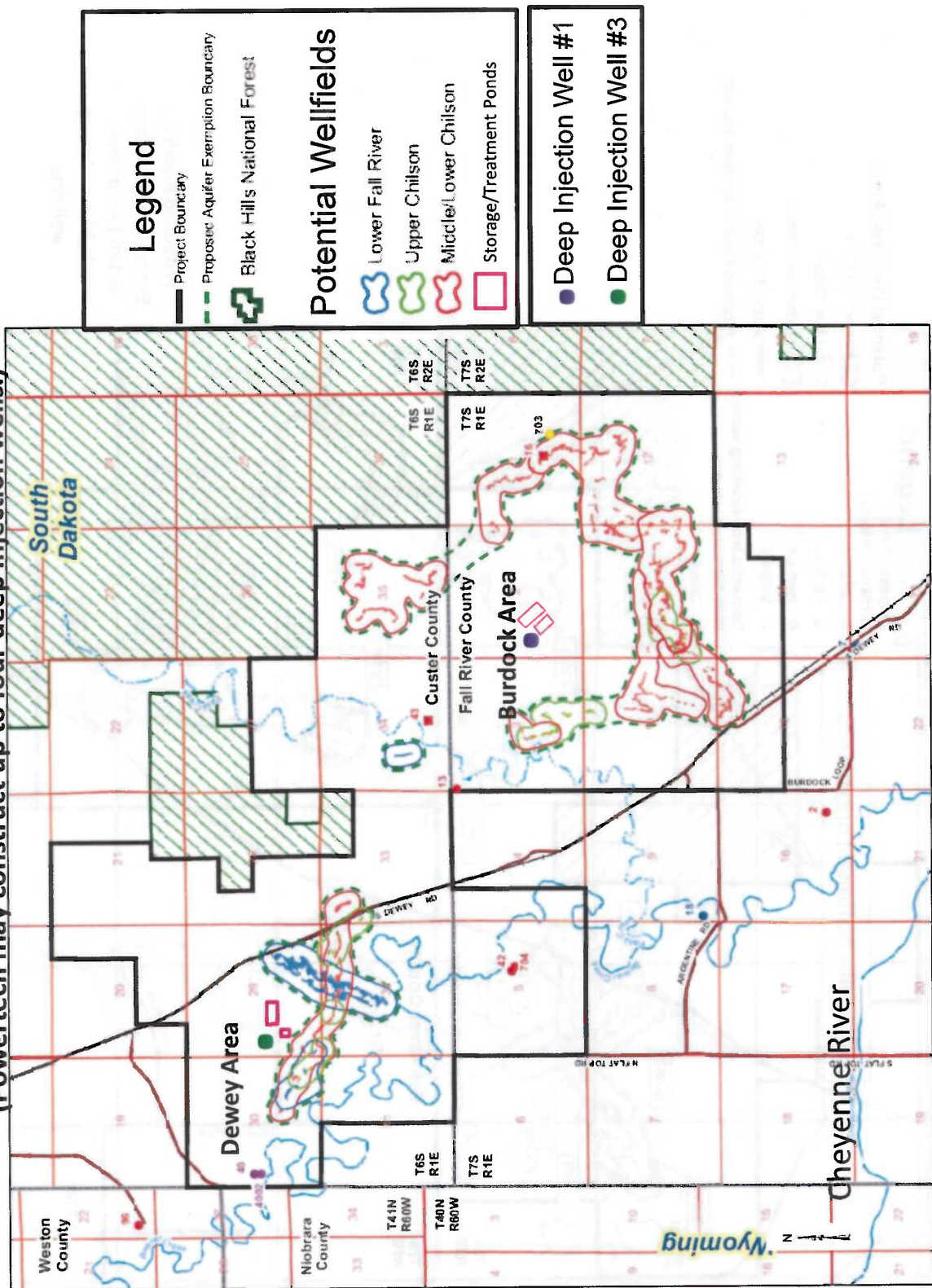
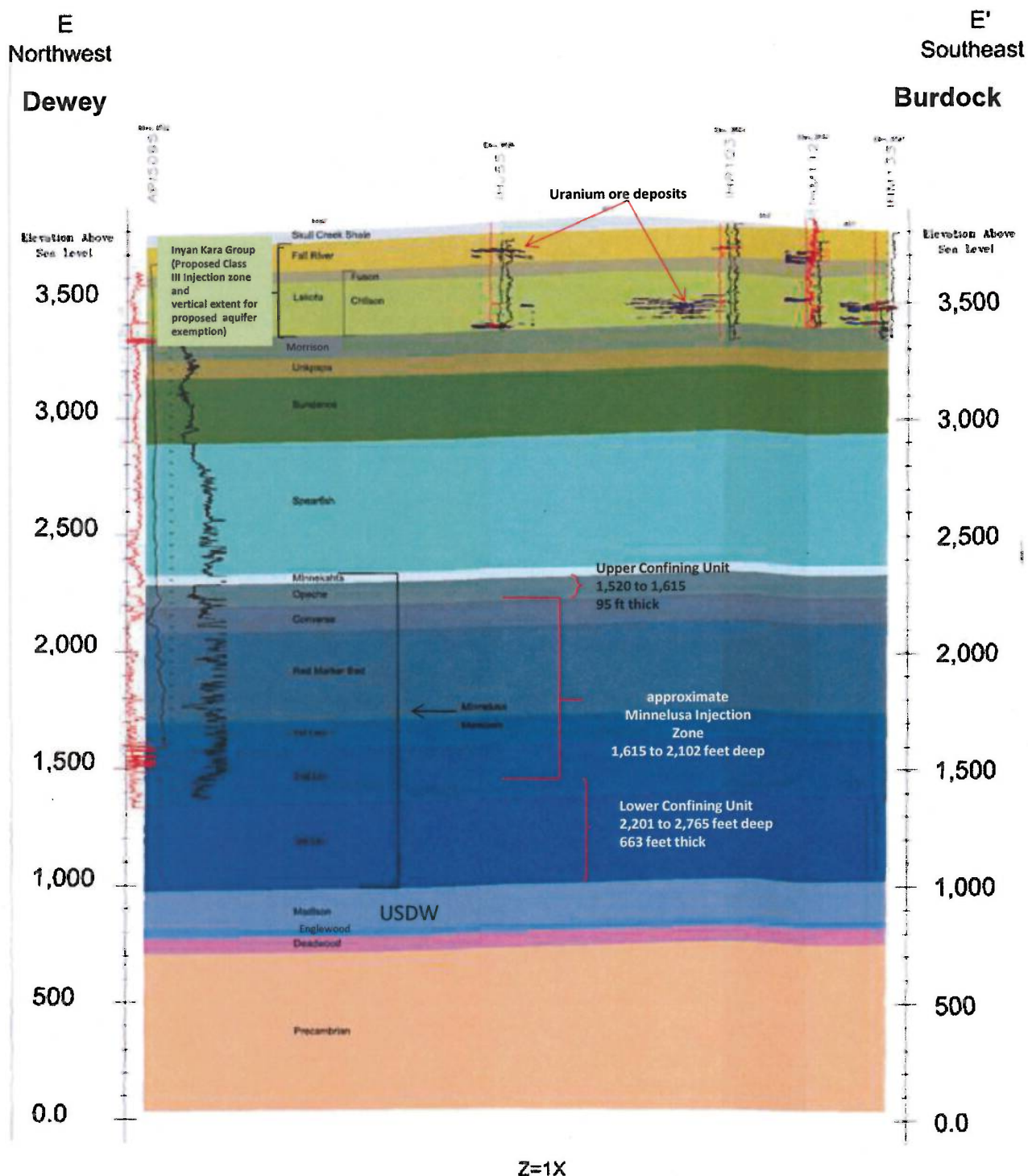


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(Powertech may construct up to four deep injection wells.)**





**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:** [Galen Laurence](#)  
**To:** [deb.dirlam@lowersioux.com](mailto:deb.dirlam@lowersioux.com); [cheyanne.stjohn@lowersioux.com](mailto:cheyanne.stjohn@lowersioux.com)  
**Subject:** EPA Invitation for Consultation – The Lower Sioux Indian Community  
**Date:** Thursday, July 25, 2019 3:37:00 PM  
**Attachments:** [EPA\\_ConsultationLetter\\_LowerSiouxIndianCommunity.pdf](#)

---

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**Galen Laurence | Analyst**

Cadmus | 100 5th Avenue, Suite 100 | Waltham, MA, 02451-8727

Tel: (617) 673-7016



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 Robert Larsen  
President  
The Lower Sioux Indian Community  
P.O. Box 308, 39527 Reservation Highway 1  
Morton, Minnesota 56270

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 Larsen:

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Darcy O'Connor, Director  
Water Division

Enclosures (6)

cc: Deb Dirlam, Office of the Environmental Director  
Cheyanne St. John, 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

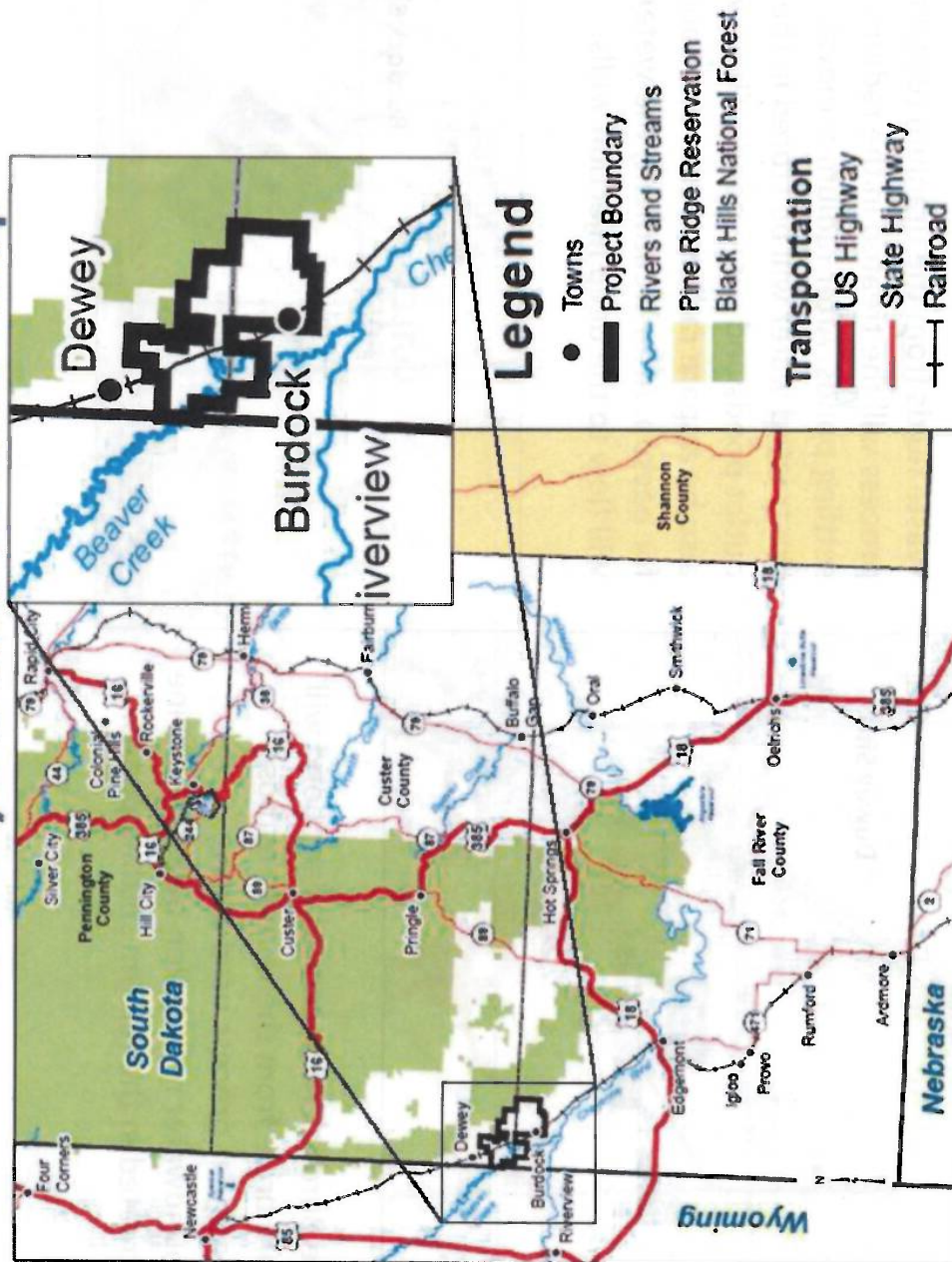
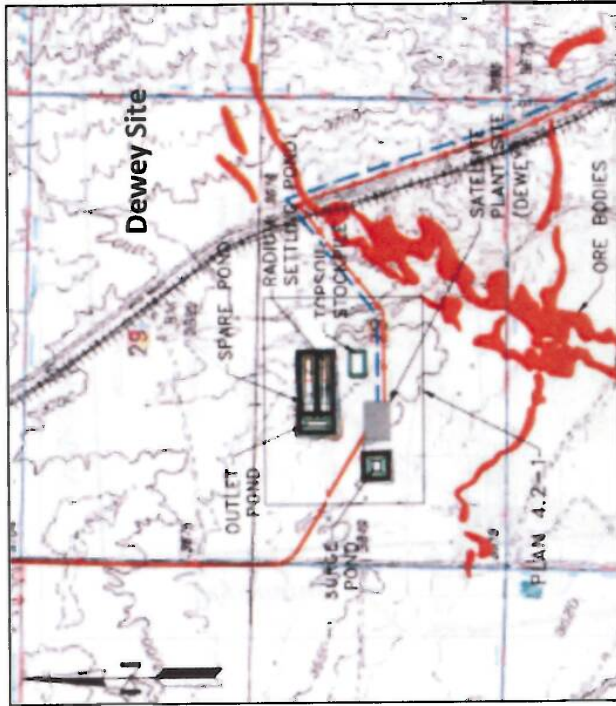
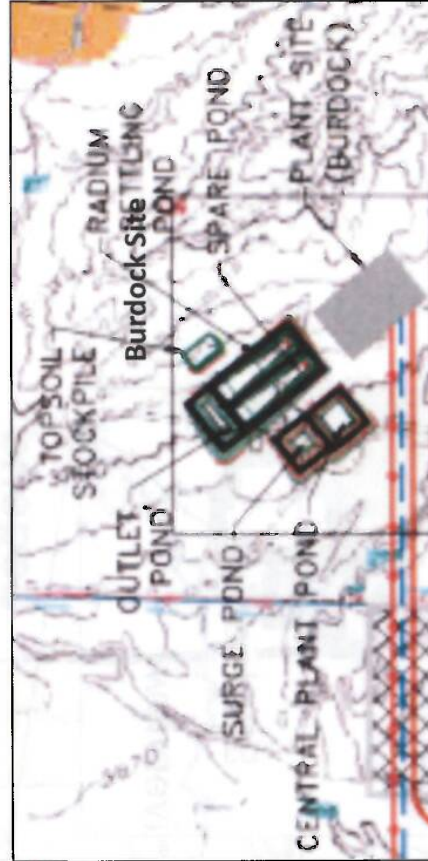


Figure 1. Map showing the location of the proposed Dewey-Burdock uranium recovery site.

## 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.

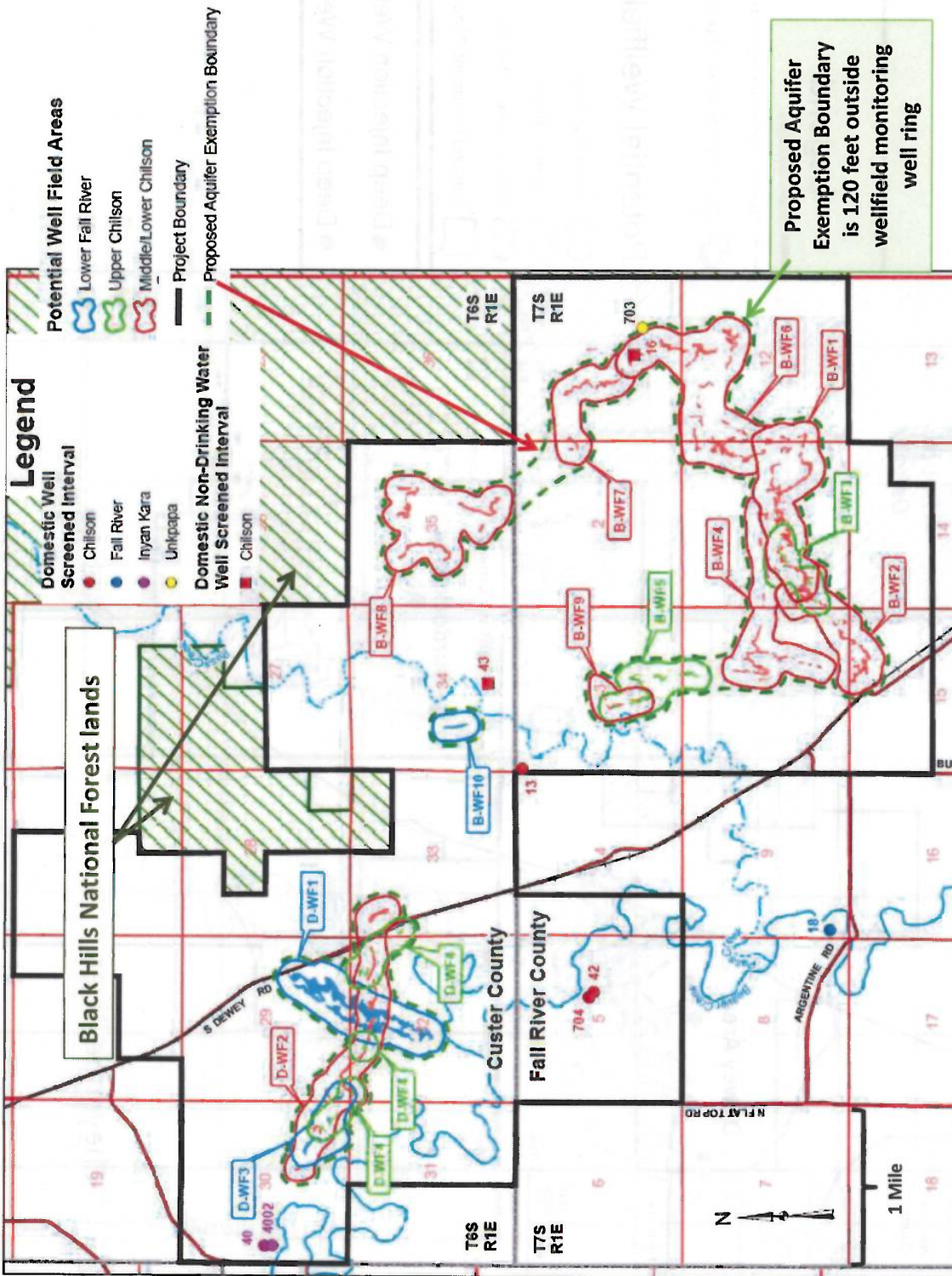
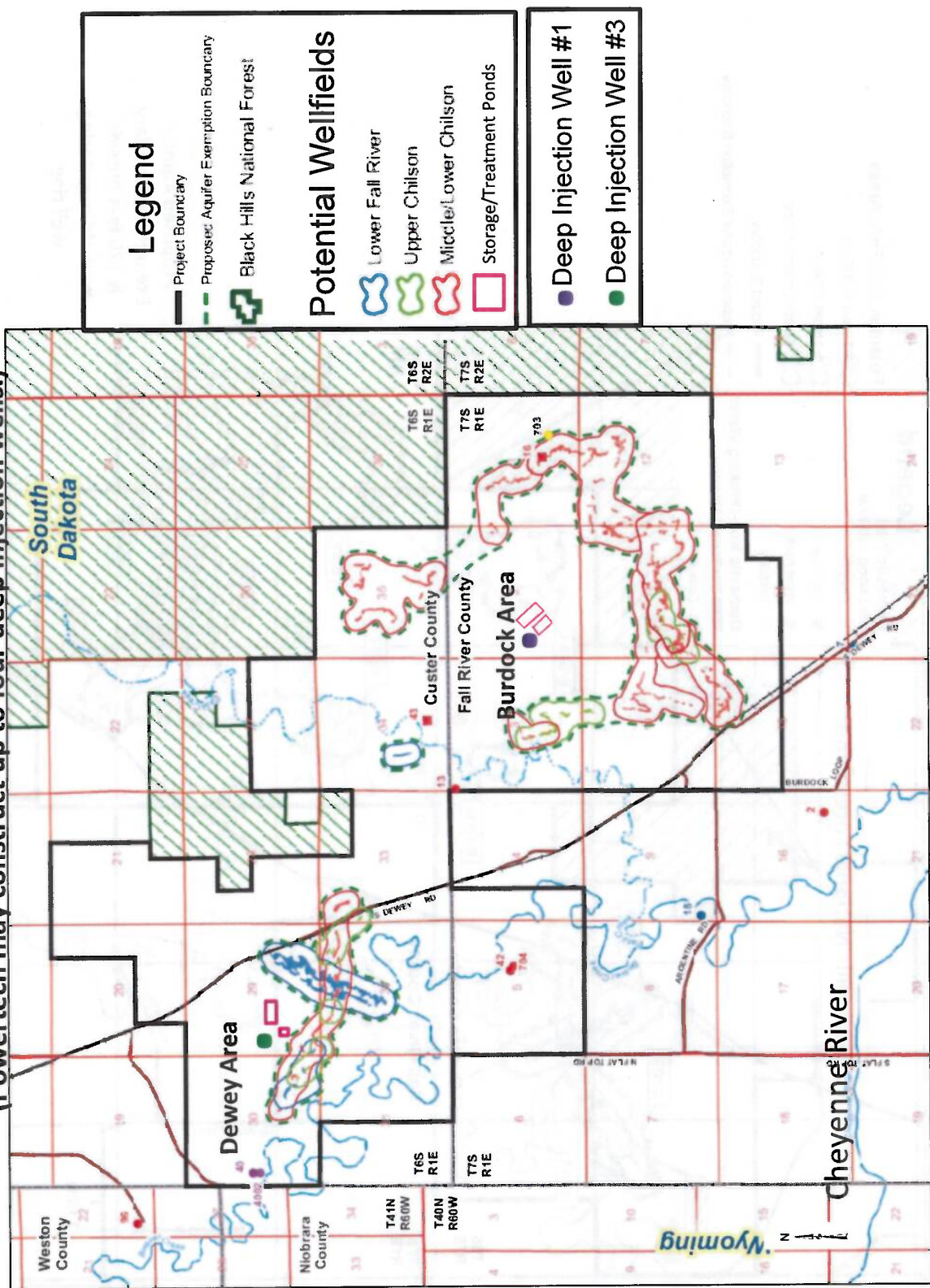
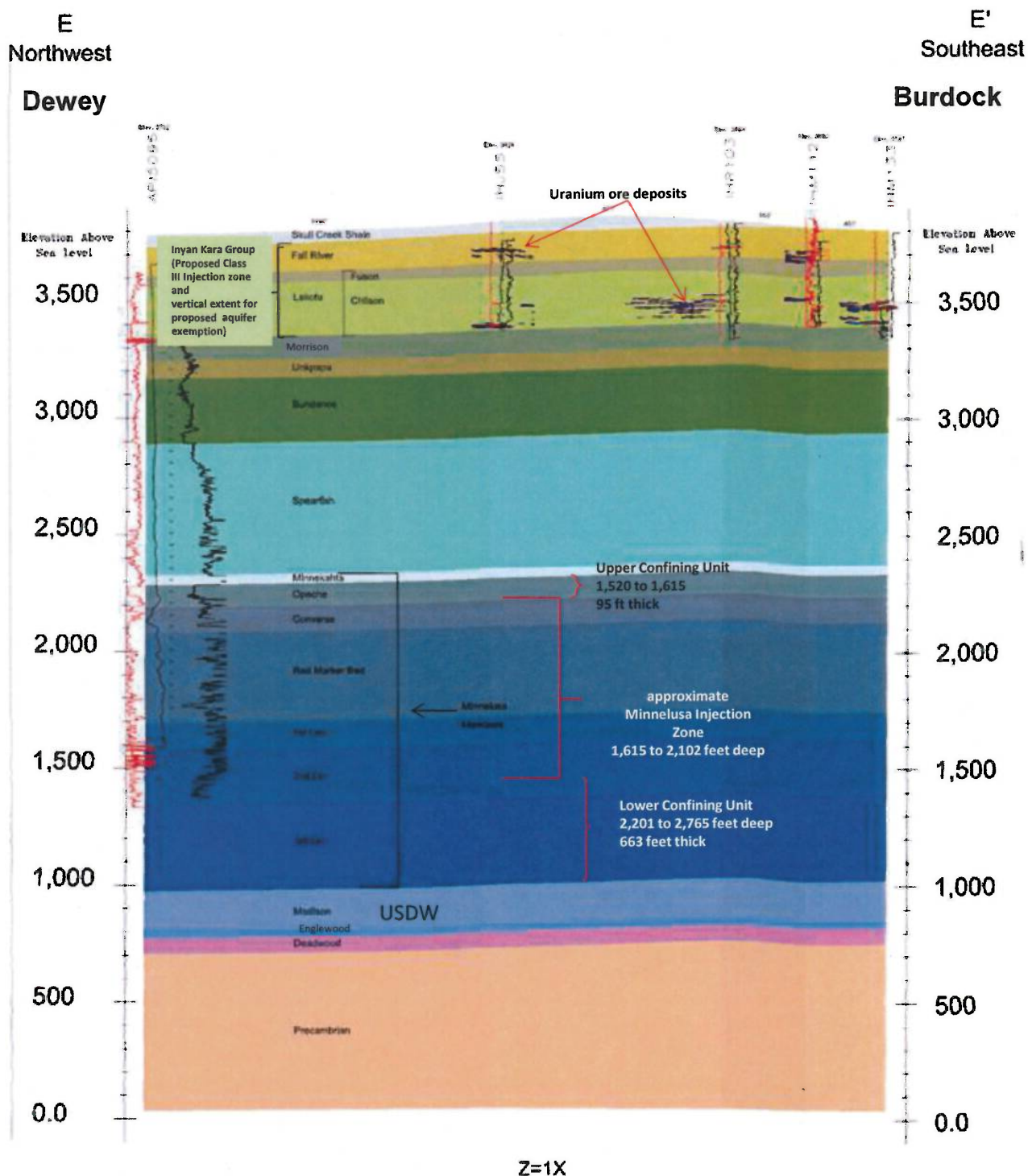


Figure 3. Map showing locations of the proposed wellfields containing Class III injection wells, the aquifer exemption boundary and the UIC permit boundary.

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:** [Galen Laurence](#)  
**To:** ["ato.epa@gmail.com"](mailto:ato.epa@gmail.com)  
**Subject:** FW: EPA Invitation for Consultation – The Apache Tribe of Oklahoma  
**Date:** Thursday, July 25, 2019 3:37:00 PM  
**Attachments:** [EPA ConsultationLetter ApacheTribeOK.pdf](#)

---

Greetings Jordan,

The attached letter and enclosures are being sent to you on behalf of EPA Region 8. The EPA R8 Underground Injection Control (UIC) Program would like to invite you to consult on revised draft permits for injection wells and associated draft documents related to the proposed Dewey-Burdock uranium in-situ recovery site in the southern Black Hills region near Edgemont, South Dakota.

If you are interested in meeting with the EPA, please reply to Valois Robinson of the EPA R8 UIC program. Ms. Robinson can be reached at 800-227-8917 (extension 312-6276) or 303-312-6276. She may also be reached by email at [robinson.valois@epa.gov](mailto:robinson.valois@epa.gov).

If you have any questions, you may also respond to this email directly; we will be happy to convey questions or comments to EPA.

Thank you,

Galen Laurence

**Galen Laurence | Analyst**

Cadmus | 100 5th Avenue, Suite 100 | Waltham, MA, 02451-8727

Tel: (617) 673-7016



**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 Bobby Komardley  
Chairman  
The Apache Tribe of Oklahoma  
P.O. Box 1330  
Anadarko, Oklahoma 73005

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 Komardley:

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 Apache Tribe of Oklahoma'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](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 Apache Tribe 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:

- (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 Apache Tribe of Oklahoma 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 Apache Tribe 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 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 Apache Tribe of Oklahoma 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](mailto: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 Apache Tribe of Oklahoma's prompt attention to this important matter.

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

Enclosures (6)

cc: Jordan Lonewolf, Environmental Director

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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

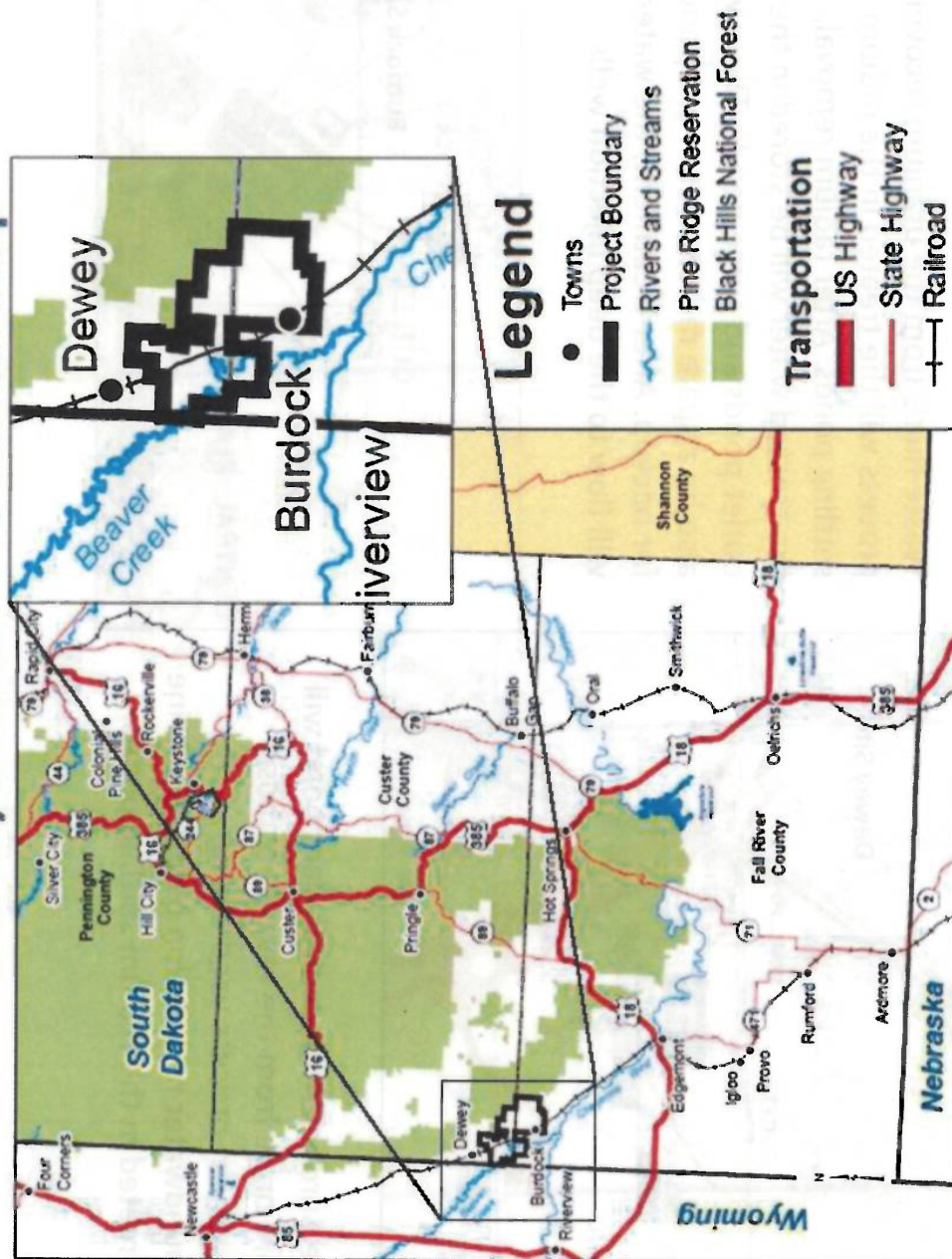
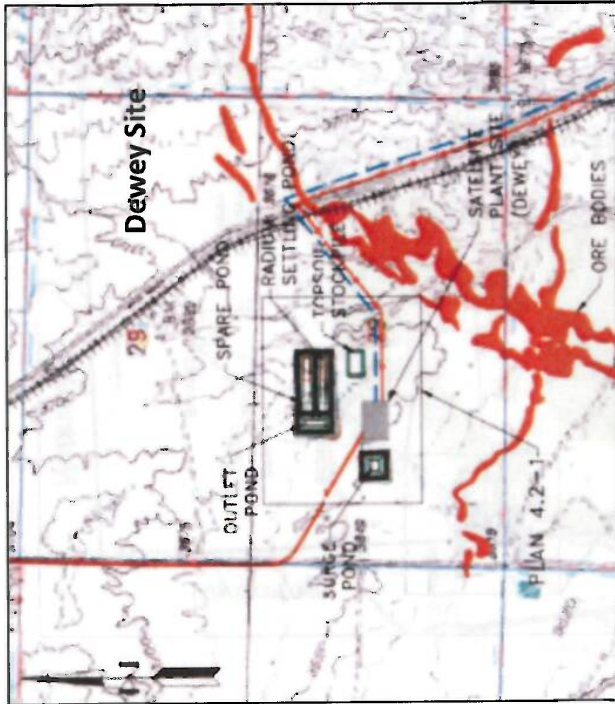
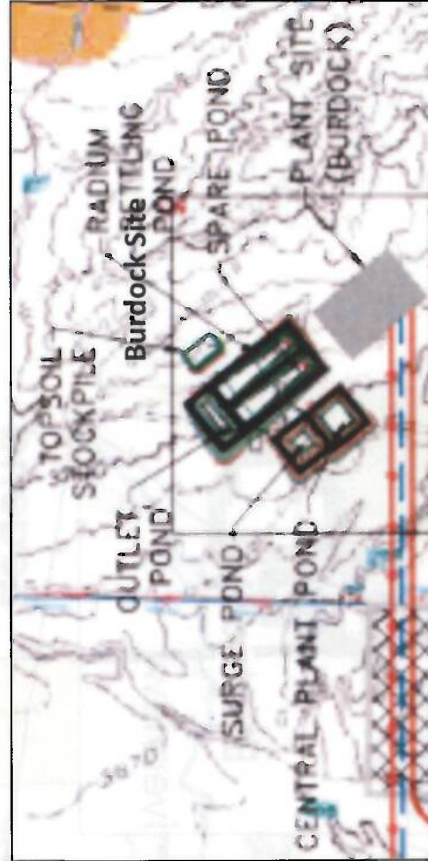


Figure 1. Map showing the location of the proposed Dewey-Burdock uranium recovery site.

## Treatment and Storage Ponds for Deep Well Injectate



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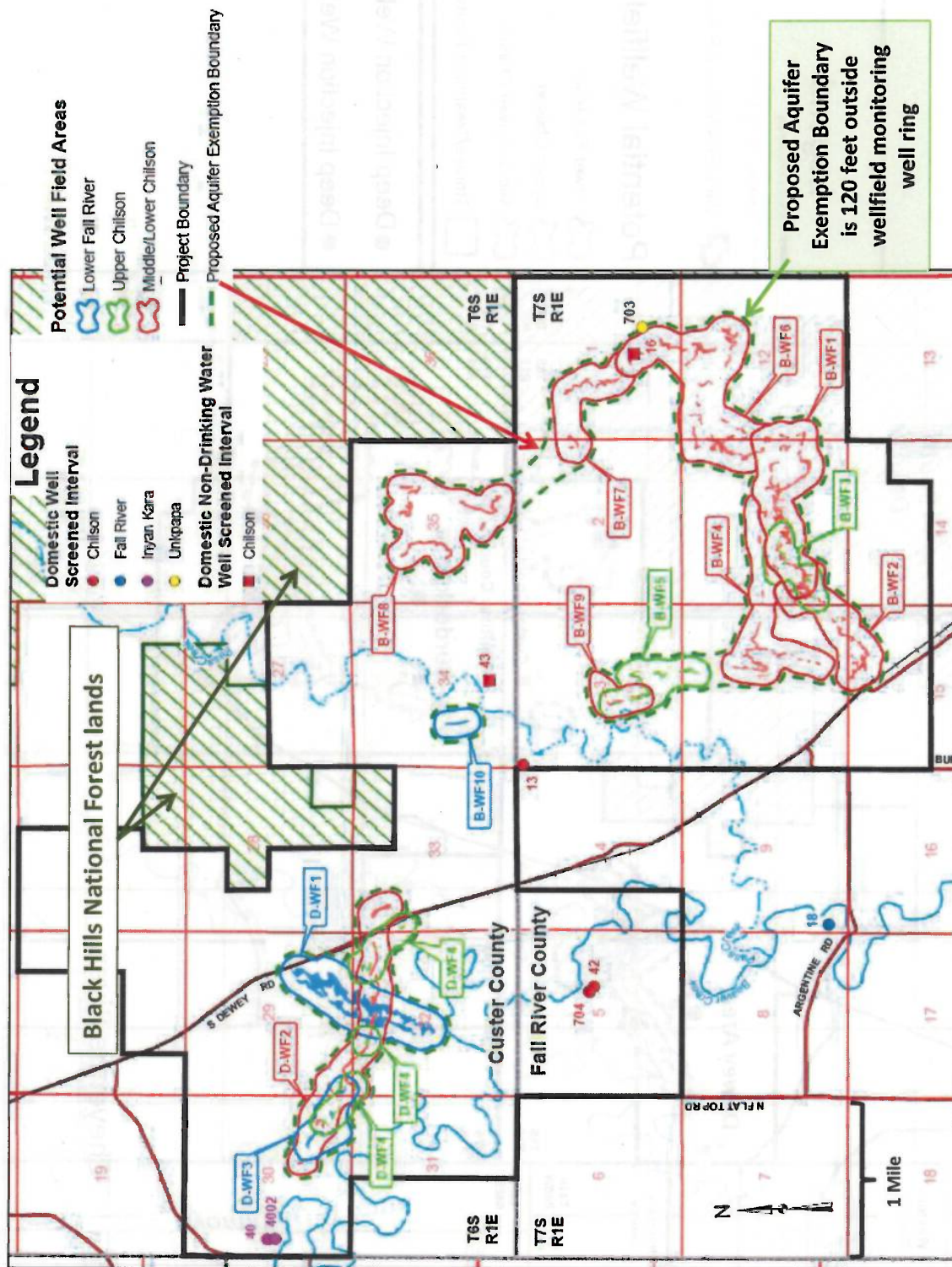
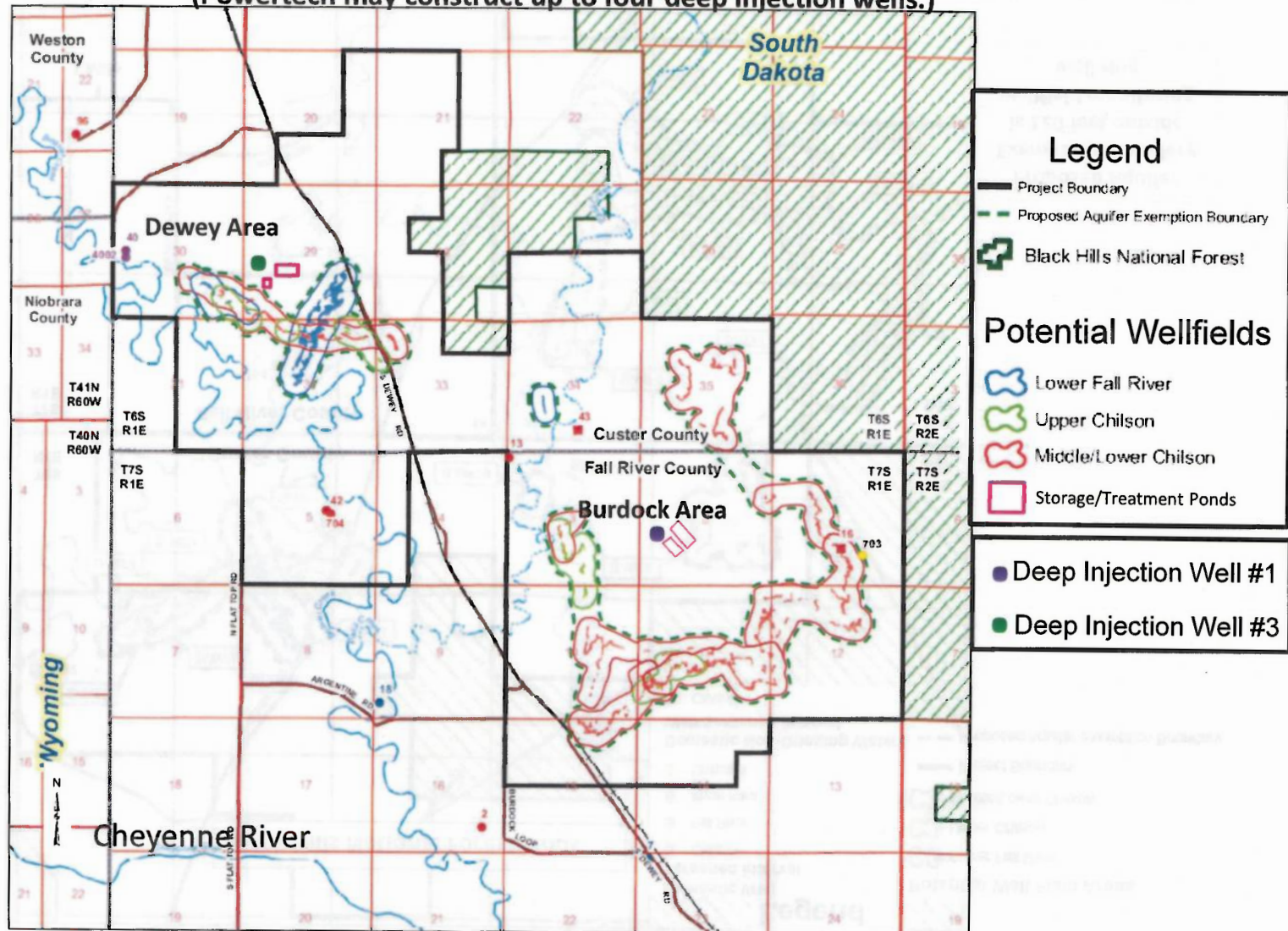


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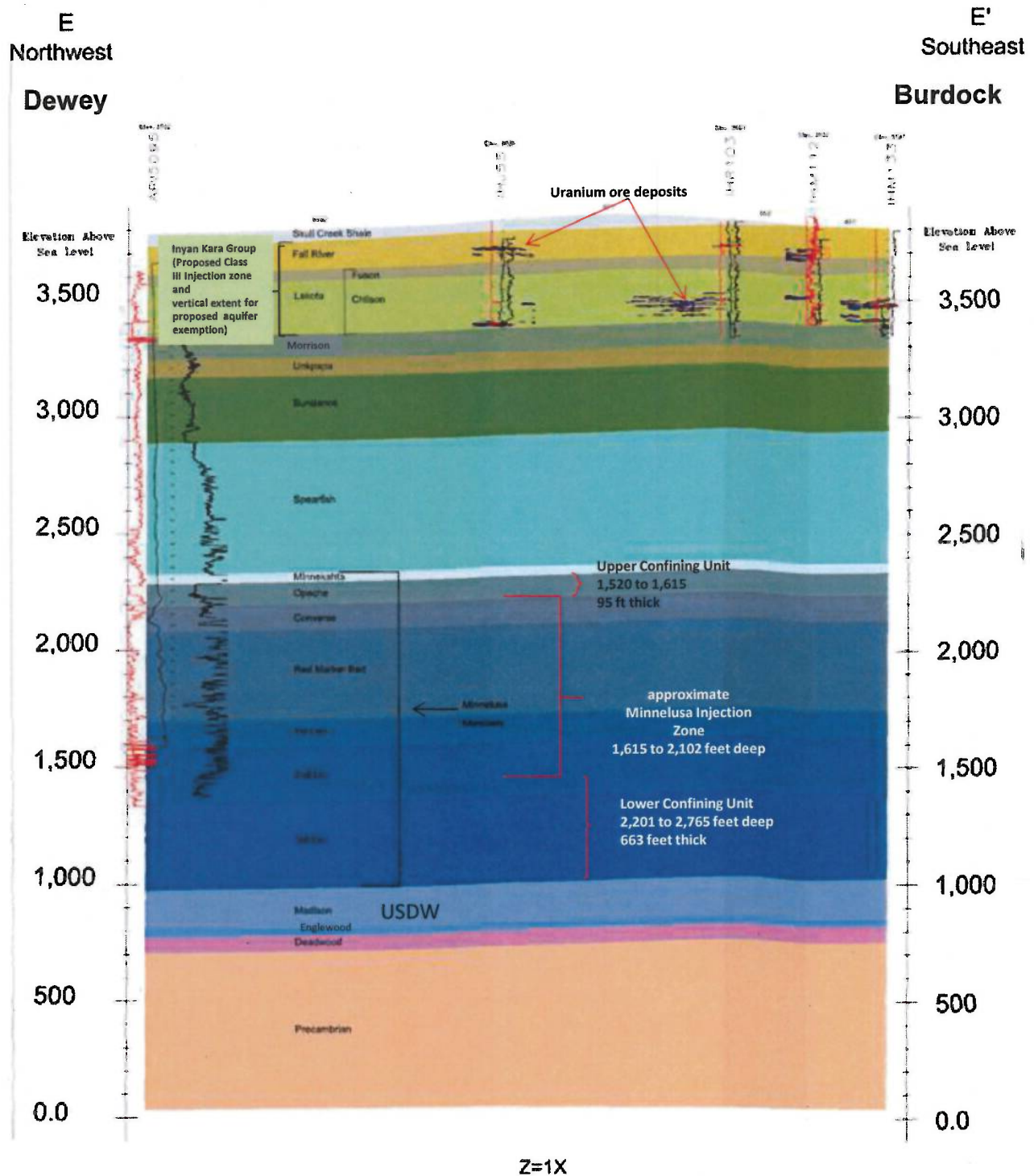


Figure 5. Stratigraphic cross-section of geologic formations present at the Dewey Burdock site and proposed injection zones for the Class III and deep Class V injections wells.

**From:** [Galen Laurence](#)  
**To:** ["charlene.alden@cheyennenation.com"](mailto:charlene.alden@cheyennenation.com); ["teanna.limpy@cheyennenation.com"](mailto:teanna.limpy@cheyennenation.com)  
**Subject:** EPA Invitation for Consultation – The Northern Cheyenne Tribe  
**Date:** Thursday, July 25, 2019 3:37:00 PM  
**Attachments:** [EPA\\_ConsultationLetter\\_NorthernCheyenneTribe.pdf](#)

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Greetings Charlene and Teanna,

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**Galen Laurence | Analyst**

Cadmus | 100 5th Avenue, Suite 100 | Waltham, MA, 02451-8727

Tel: (617) 673-7016



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

1595 Wynkoop Street  
Denver, CO 80202-1129  
Phone 800-227-8917  
[www.epa.gov/region8](http://www.epa.gov/region8)

JUL 08 2019

Ref: 8WD-SDU

Honorable Rynalea Whiteman Pena  
President  
The Northern Cheyenne Tribe  
P.O. Box 128  
Lame Deer, Montana 59043-0128

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 Whiteman Pena:

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Darcy O'Connor, Director  
Water Division

Enclosures (6)

cc: Charlene Alden, Environmental Director  
Teanna Limpy, Tribal Historic Preservation Officer

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# Dewey Burdock Location Map

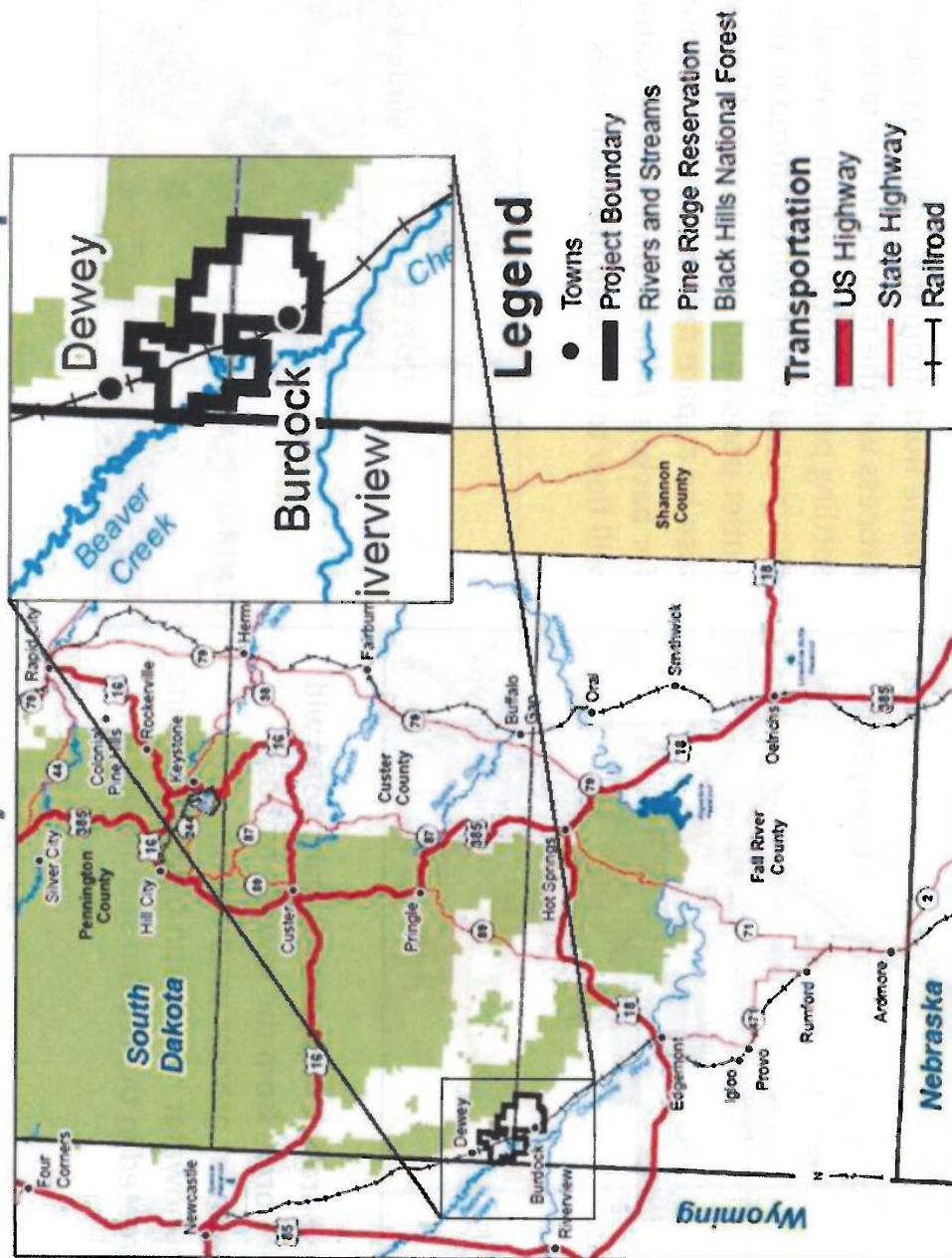
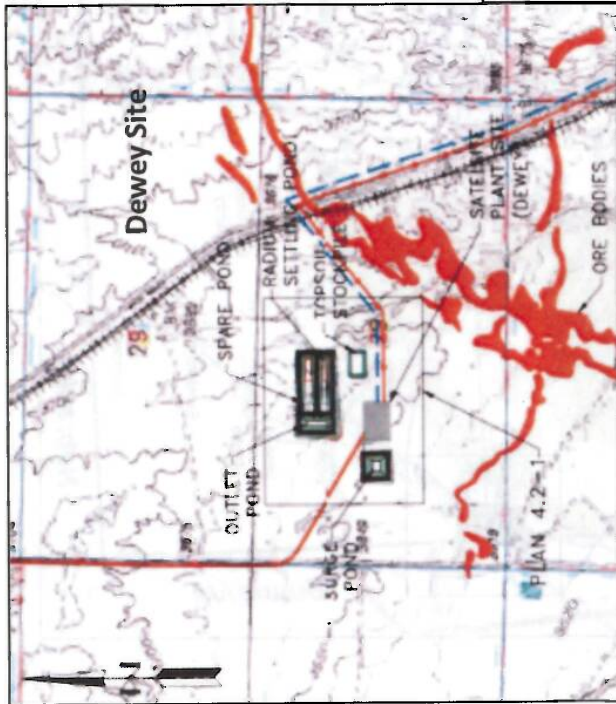


Figure 1. Map showing the location of the proposed Dewey-Burdock uranium recovery site.

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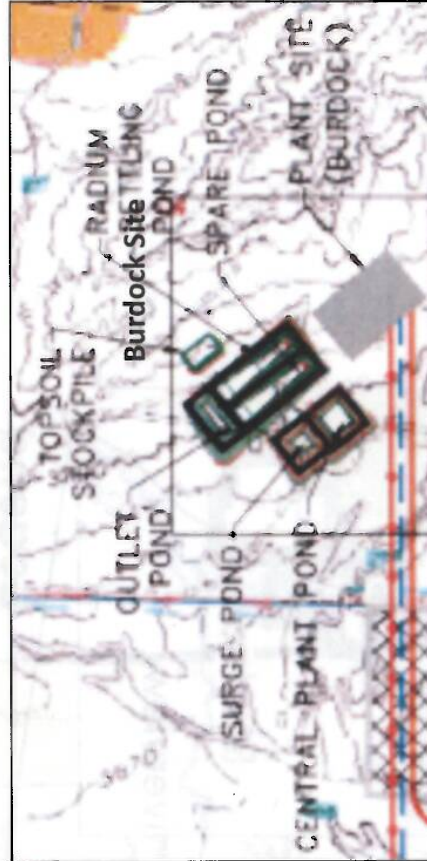


Figure 2. The Proposed Ponds for the Treatment and Storage of the Deep Injection Well Injectate.

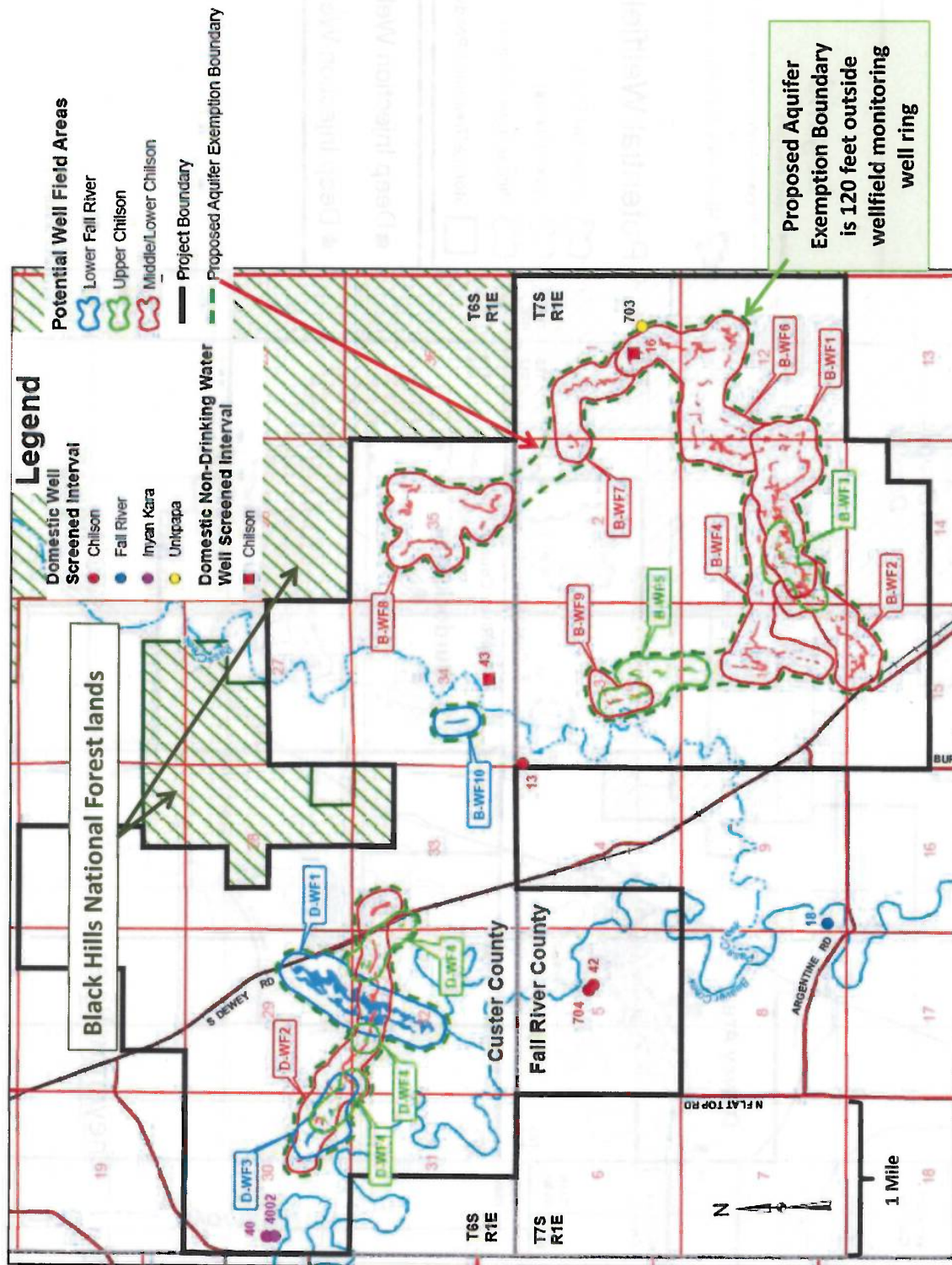
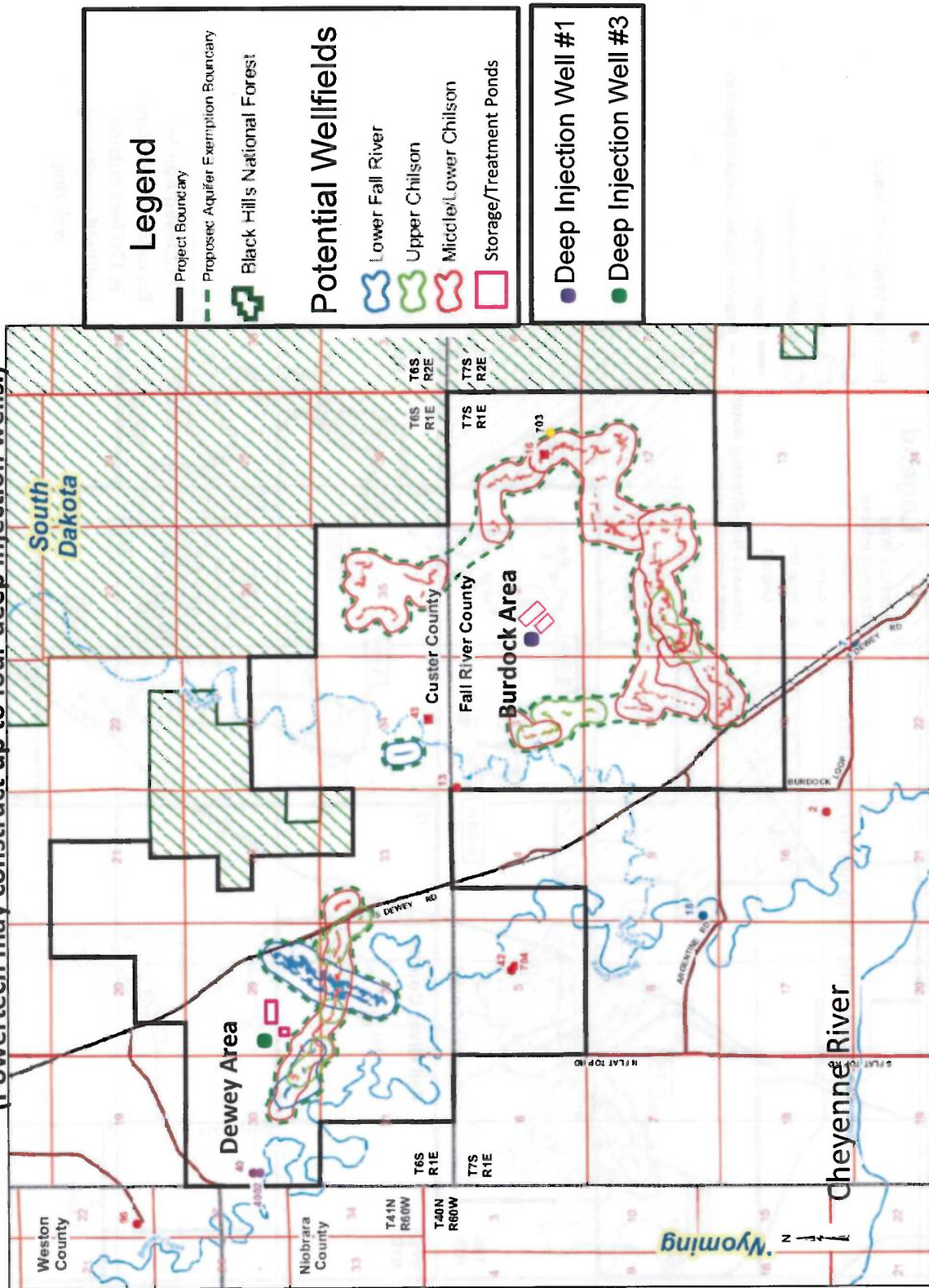
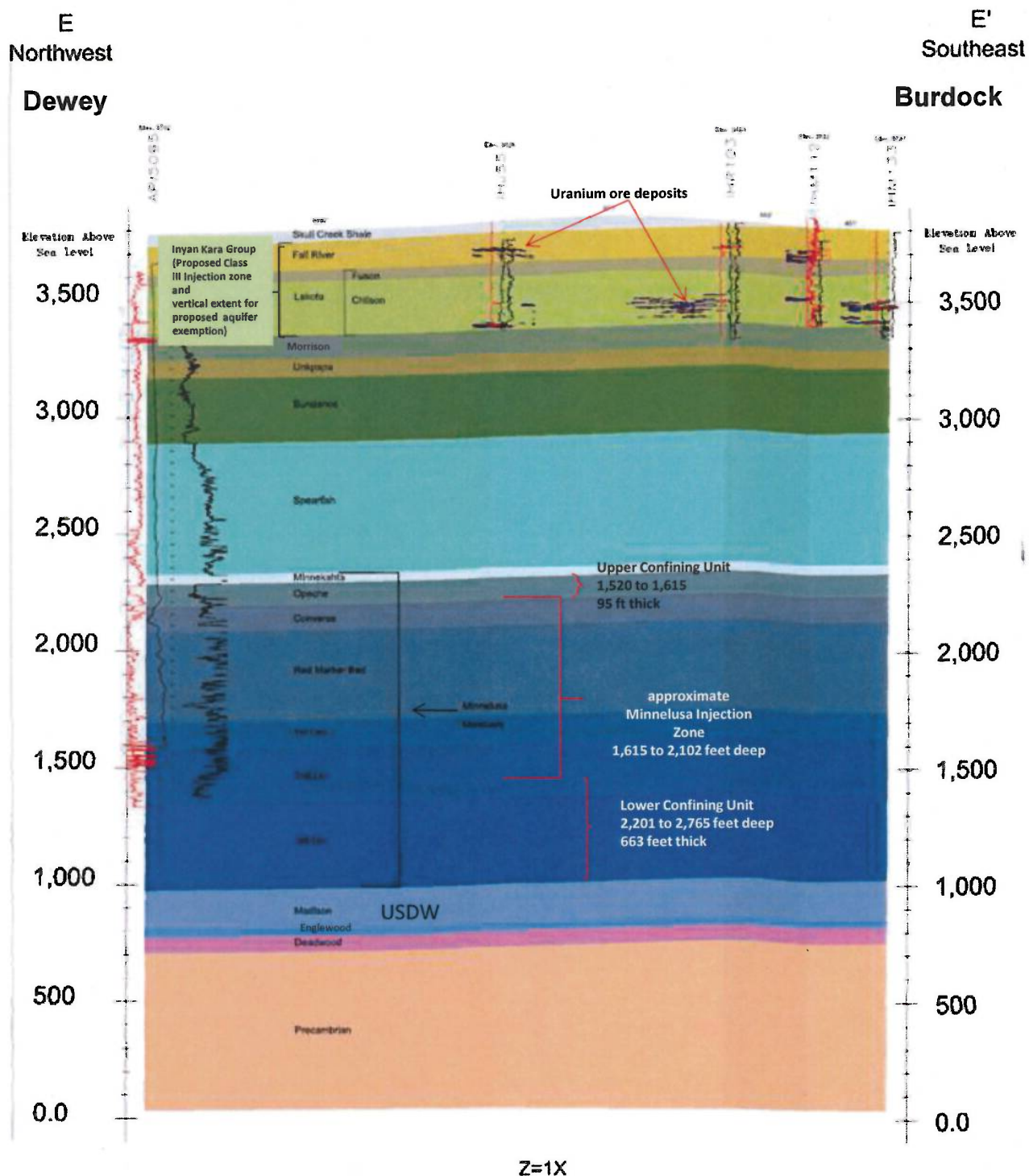


Figure 3. Map showing locations of the proposed wellfields containing Class III injection wells, the aquifer exemption boundary and the UIC permit boundary.

**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:** [Galen Laurence](#)  
**To:** [ptimimboo@nwbshoshone.com](mailto:ptimimboo@nwbshoshone.com); [jwalker@nwbshoshone.com](mailto:jwalker@nwbshoshone.com)  
**Subject:** EPA Invitation for Consultation – The Northwestern Band of Shoshone Nation  
**Date:** Thursday, July 25, 2019 3:38:00 PM  
**Attachments:** [EPA ConsultationLetter NorthwestBandShoshoneNation.pdf](#)

---

Greetings Patty and Jason,

The attached letter and enclosures are being sent to you on behalf of EPA Region 8. The EPA R8 Underground Injection Control (UIC) Program would like to invite you to consult on revised draft permits for injection wells and associated draft documents related to the proposed Dewey-Burdock uranium in-situ recovery site in the southern Black Hills region near Edgemont, South Dakota.

If you are interested in meeting with the EPA, please reply to Valois Robinson of the EPA R8 UIC program. Ms. Robinson can be reached at 800-227-8917 (extension 312-6276) or 303-312-6276. She may also be reached by email at [robinson.valois@epa.gov](mailto:robinson.valois@epa.gov).

If you have any questions, you may also respond to this email directly; we will be happy to convey questions or comments to EPA.

Thank you,

Galen Laurence

**Galen Laurence | Analyst**

Cadmus | 100 5th Avenue, Suite 100 | Waltham, MA, 02451-8727  
Tel: (617) 673-7016



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

1595 Wynkoop Street  
Denver, CO 80202-1129  
Phone 800-227-8917  
[www.epa.gov/region8](http://www.epa.gov/region8)

JUL 08 2019

Ref: 8WD-SDU

Honorable Darren Parry  
Chairman  
The Northwestern Band of Shoshone Nation  
707 North Main Street  
Brigham City, Utah 84302

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 Parry:

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 Northwestern Band of Shoshone 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](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 Northwestern Band of Shoshone 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 Northwestern Band of Shoshone 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 Northwestern Band of Shoshone 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 Northwestern Band of Shoshone 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](mailto: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 Northwestern Band of Shoshone Nation's prompt attention to this important matter.

Sincerely,

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

Darcy O'Connor, Director  
Water Division

Enclosures (6)

cc: Jason Walker, Environmental Director  
Patty Timbimboo, Cultural Resource Specialist

## **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

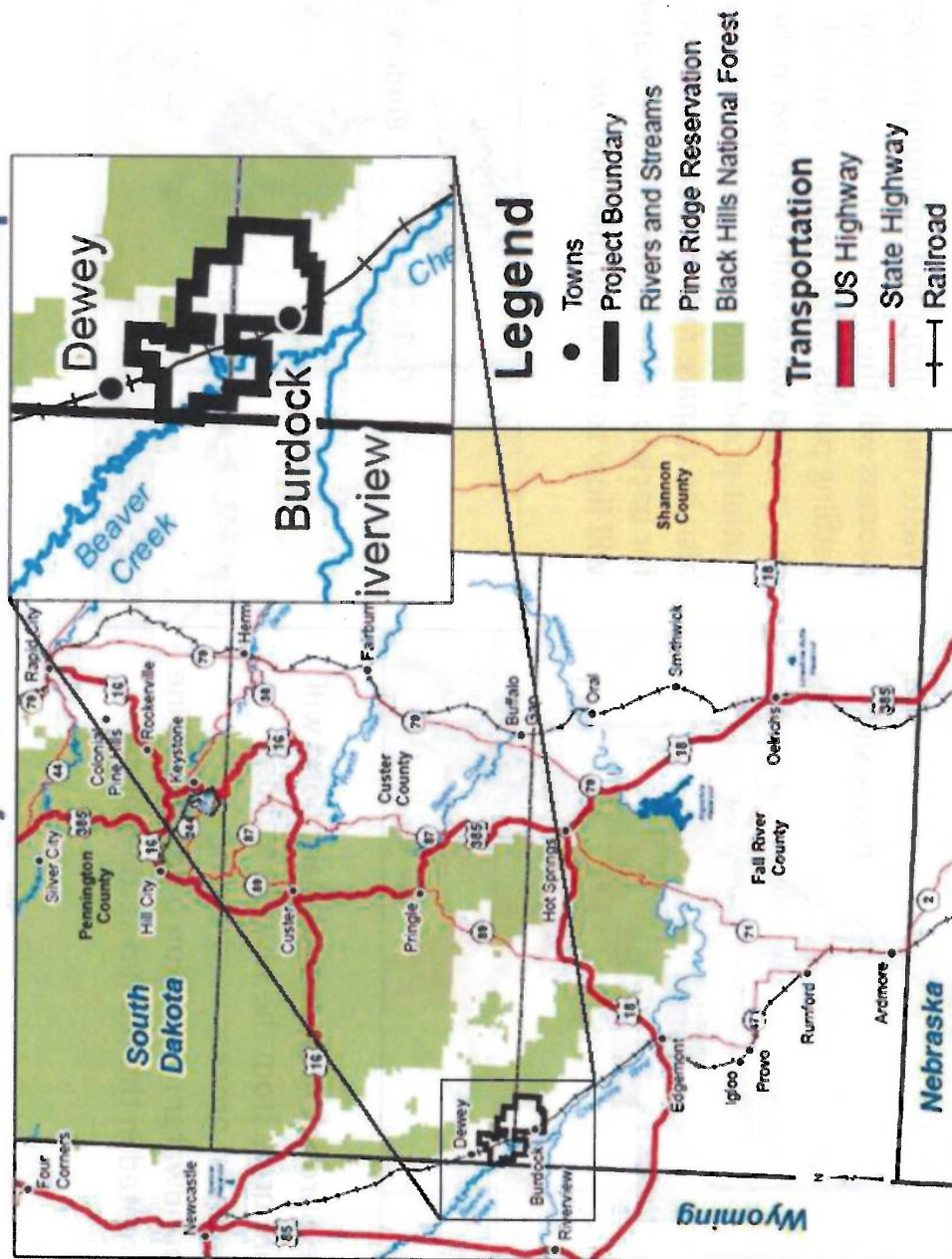
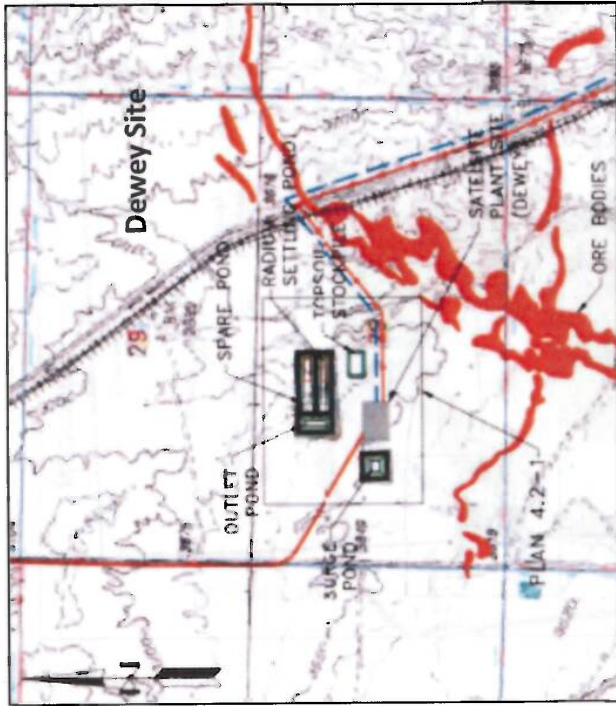
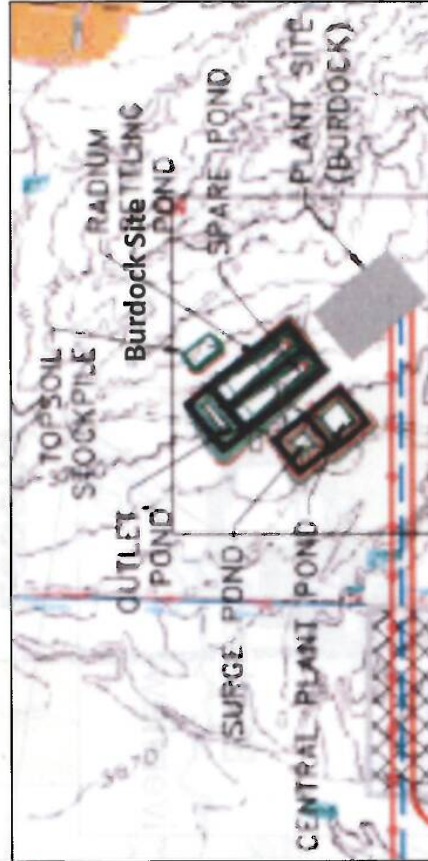


Figure 1. Map showing the location of the proposed Dewey-Burdock uranium recovery site.

## 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.**

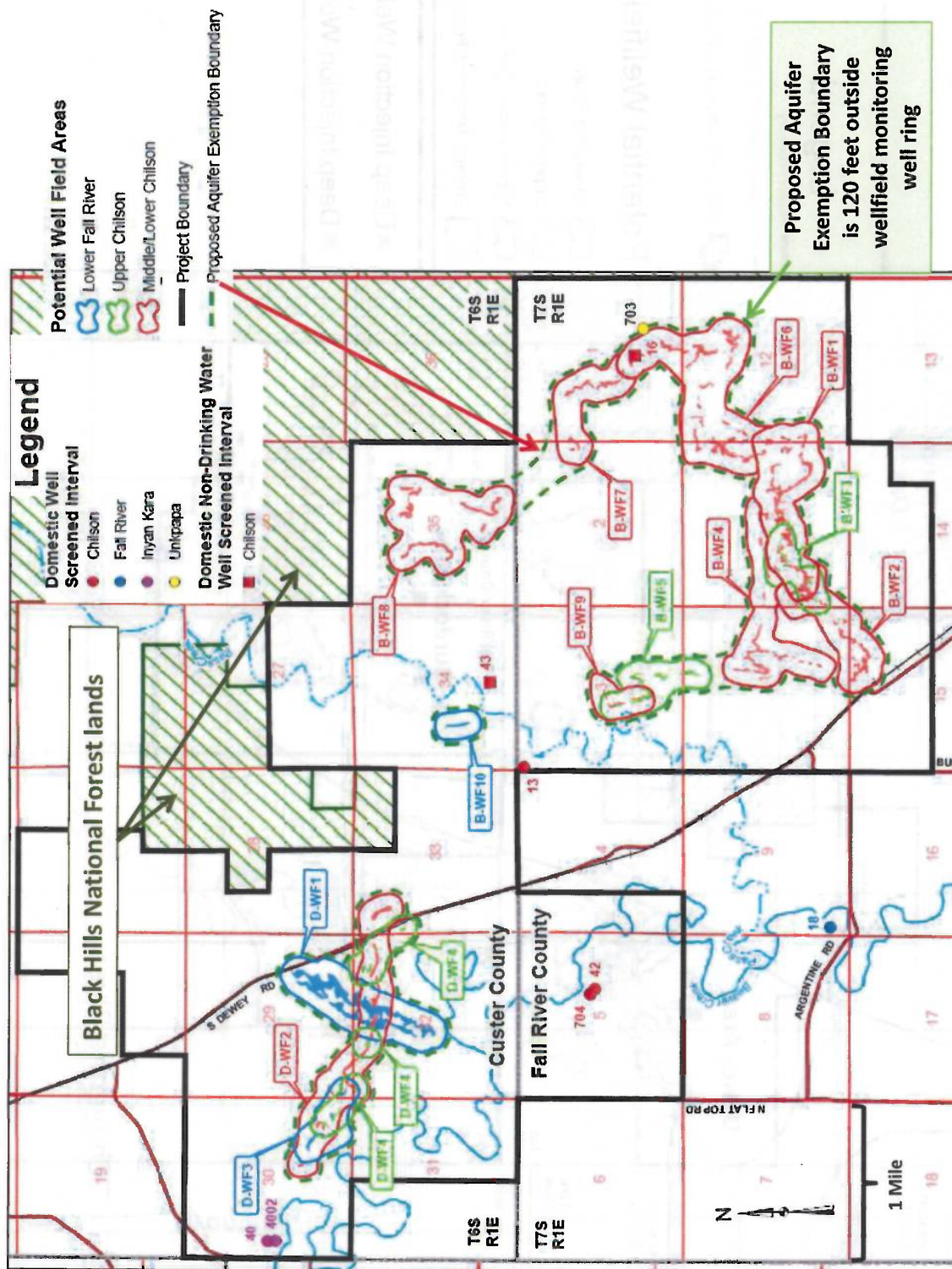
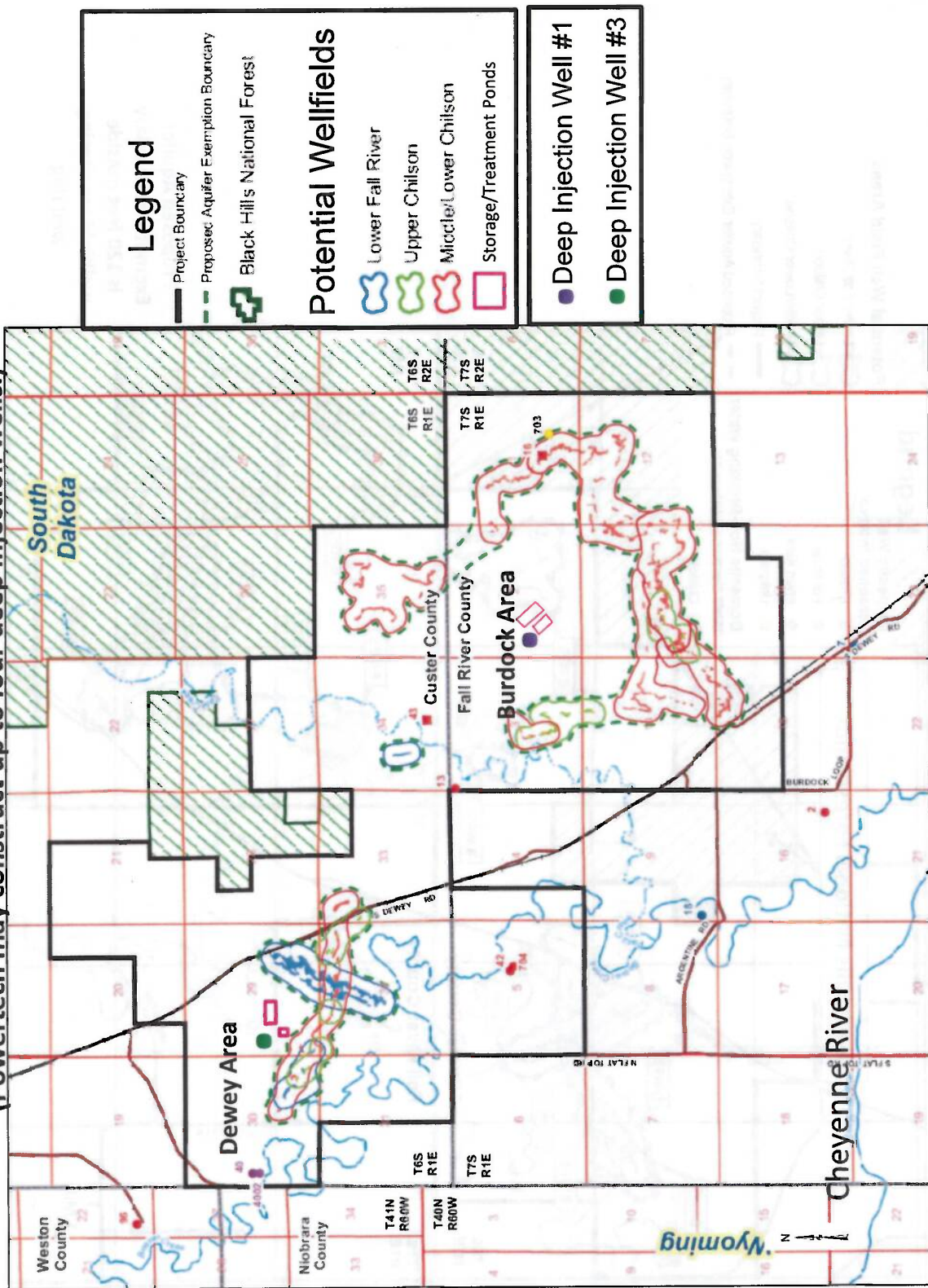
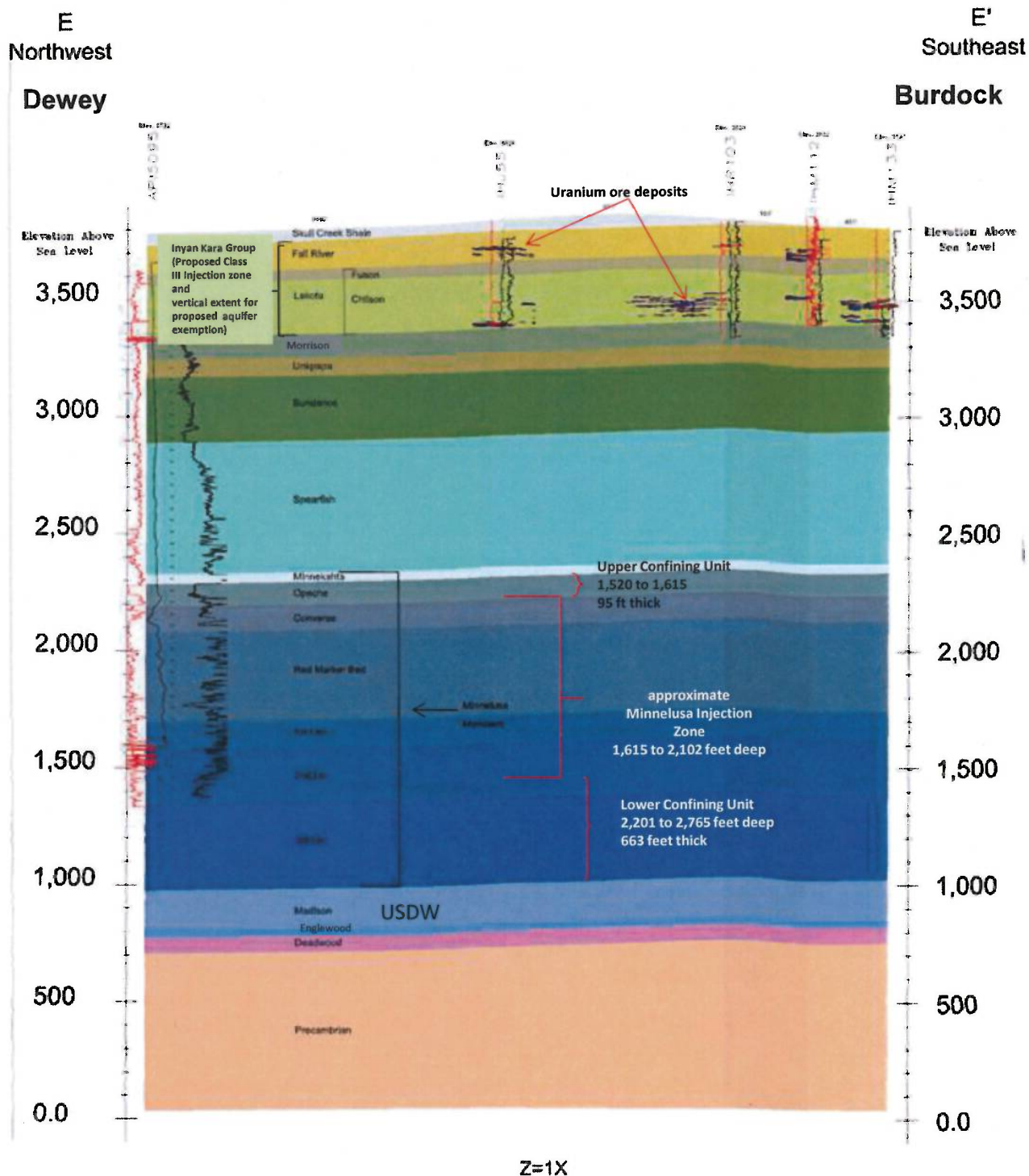


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**From:** [Galen Laurence](#)  
**To:** ["tparker@omahatribe.com"](mailto:tparker@omahatribe.com); ["tim.grant2@omahatribe.com"](mailto:tim.grant2@omahatribe.com)  
**Subject:** EPA Invitation for Consultation – The Omaha Tribe of Nebraska  
**Date:** Thursday, July 25, 2019 3:38:00 PM  
**Attachments:** [EPA ConsultationLetter\\_OmahaTribeNE.pdf](#)

---

Greetings Thomas and Tim,

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If you are interested in meeting with the EPA, please reply to Valois Robinson of the EPA R8 UIC program. Ms. Robinson can be reached at 800-227-8917 (extension 312-6276) or 303-312-6276. She may also be reached by email at [robinson.valois@epa.gov](mailto:robinson.valois@epa.gov).

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Thank you,

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REGION 8

1595 Wynkoop Street  
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Phone 800-227-8917  
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JUL 08 2019

Ref: 8WD-SDU

Honorable Isaac Sherman Jr.  
Chairman  
The Omaha Tribe of Nebraska  
P.O. Box 368  
Macy, Nebraska 68039

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 Sherman Jr.:

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During consultation, we plan to present information about the revised draft Environmental Justice Analysis, specifically related to the The Omaha 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.

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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 Omaha 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 long horizontal stroke.

Darcy O'Connor, Director  
Water Division

Enclosures (6)

cc: Tim Grant, Environmental Director  
Thomas Parker, Tribal Historic Preservation Officer

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

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## Dewey Burdock Location Map

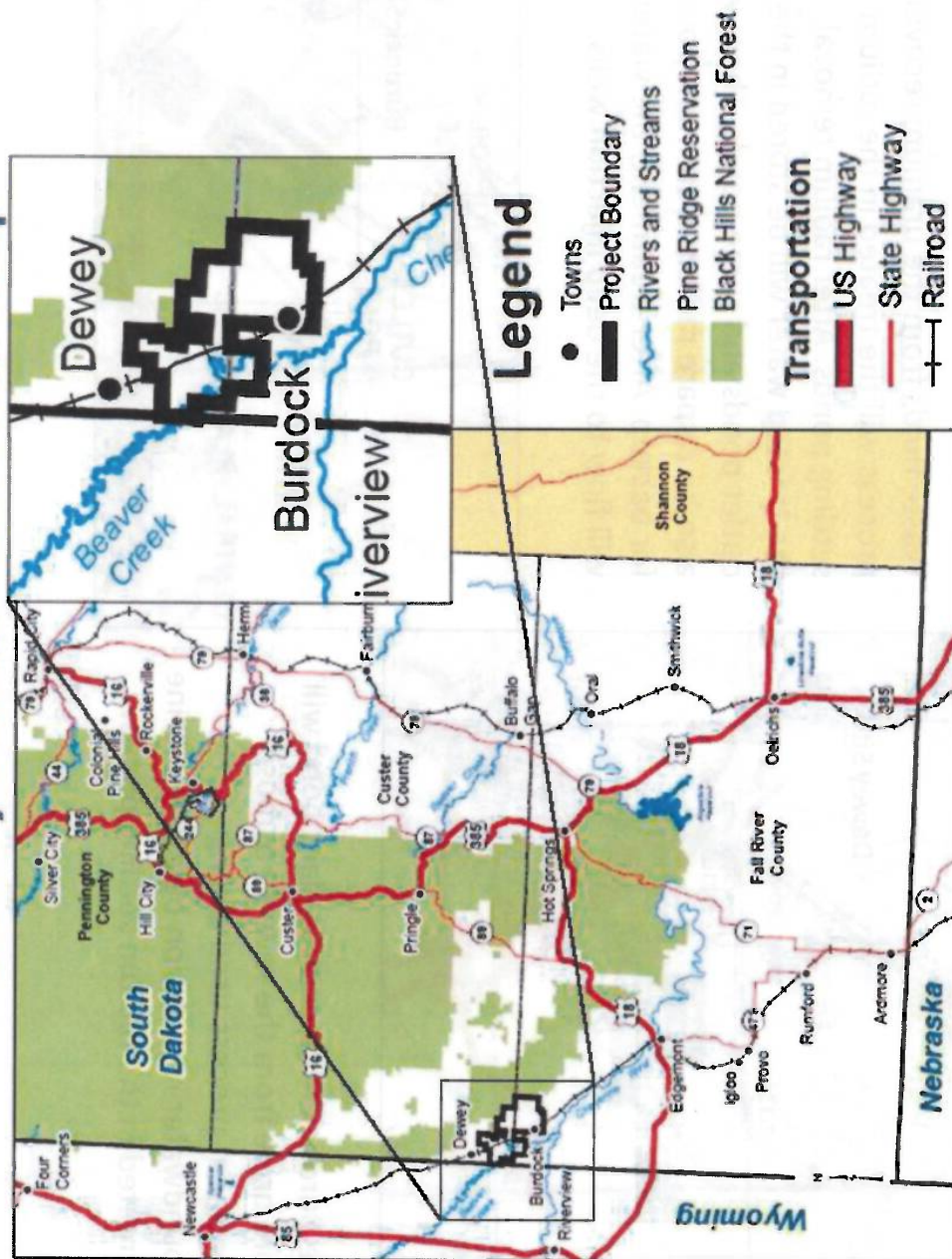
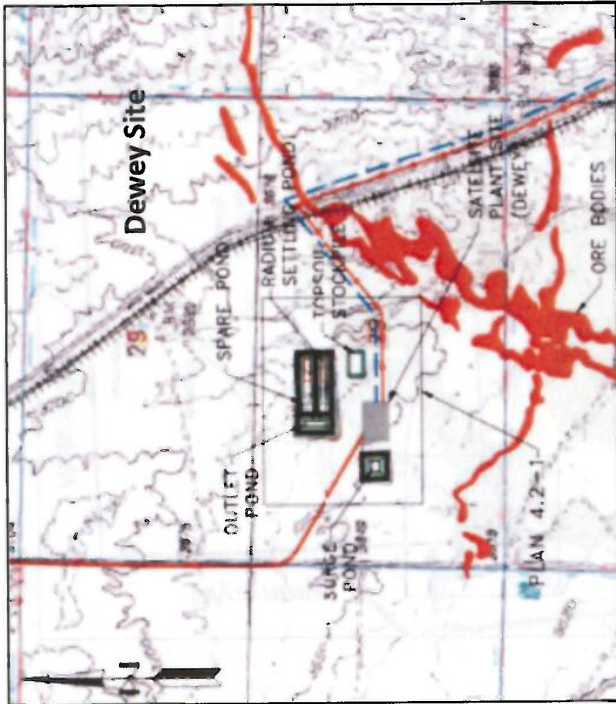
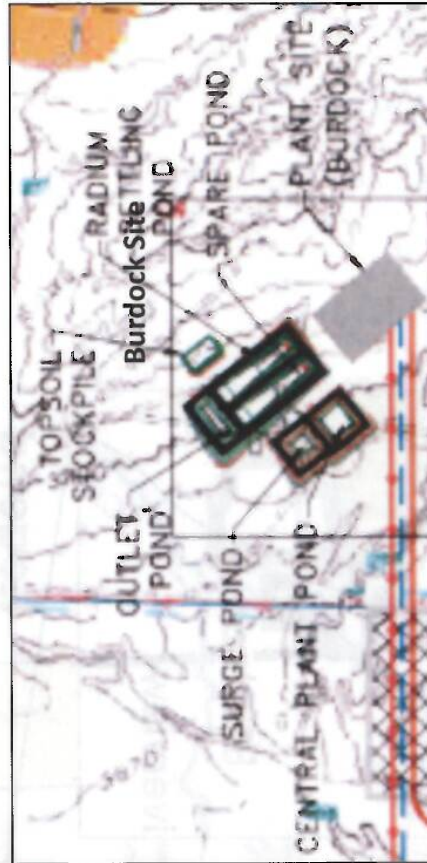


Figure 1. Map showing the location of the proposed Dewey-Burdock uranium recovery site.

## Treatment and Storage Ponds for Deep Well Injectate



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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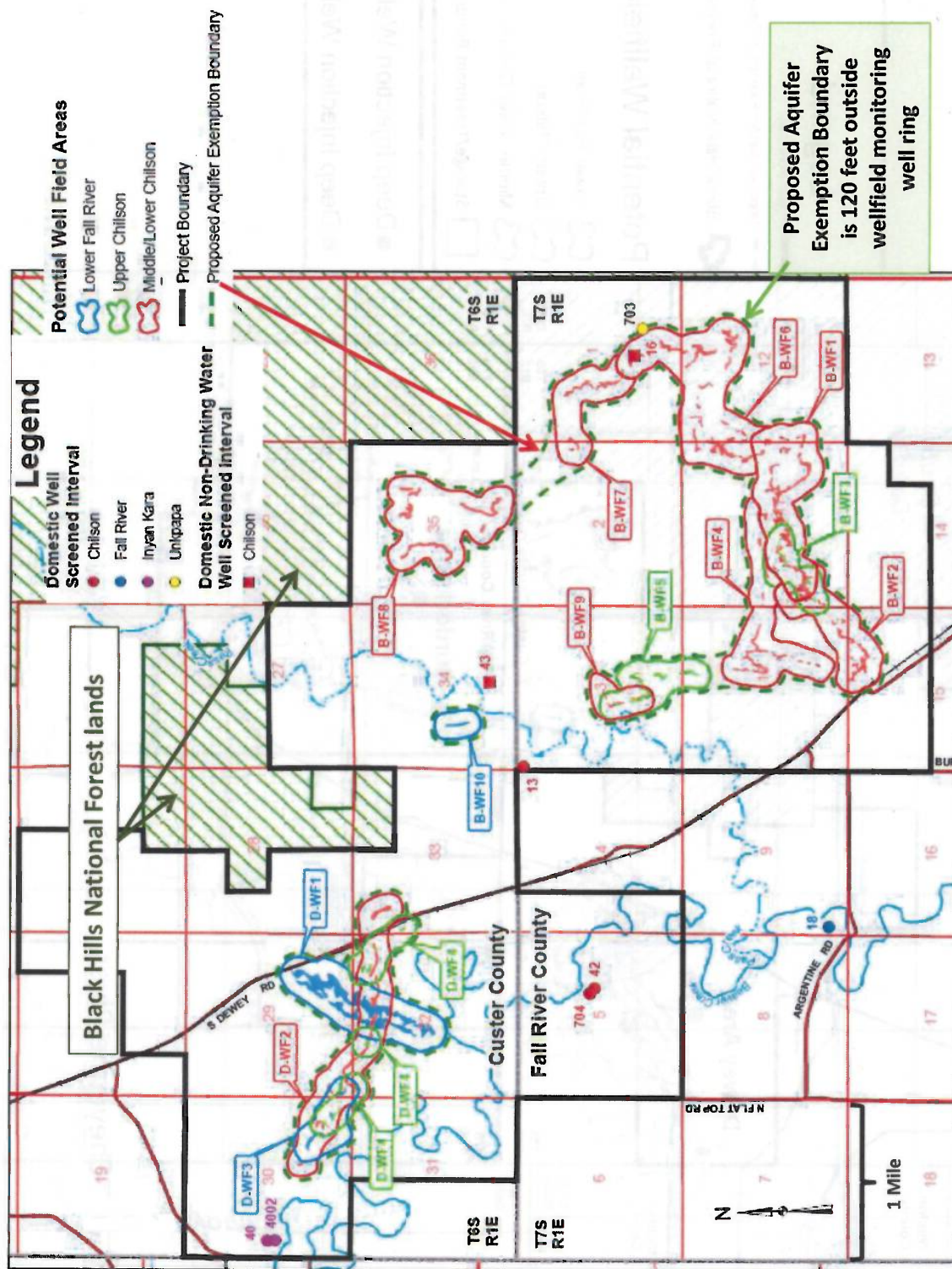
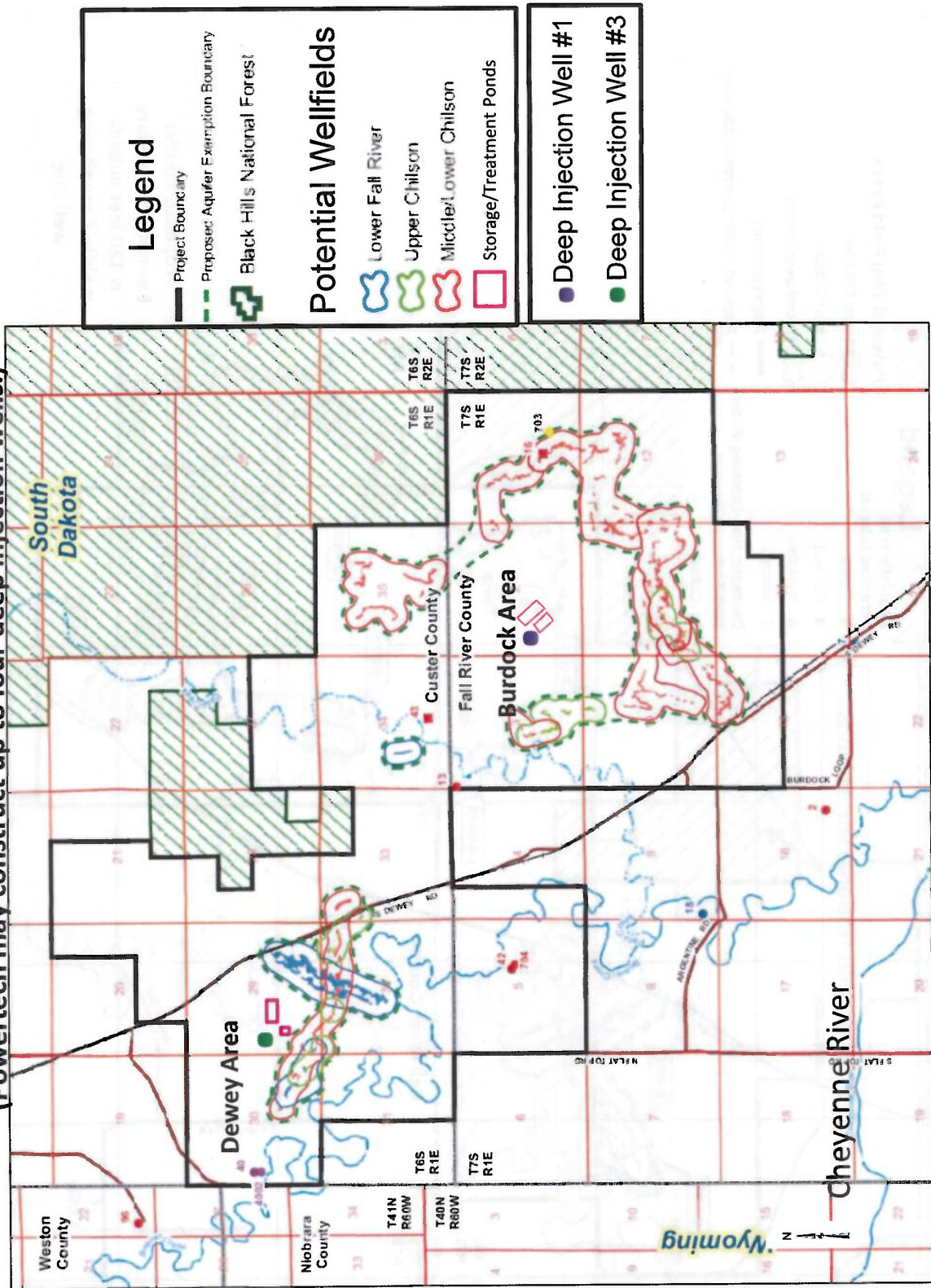
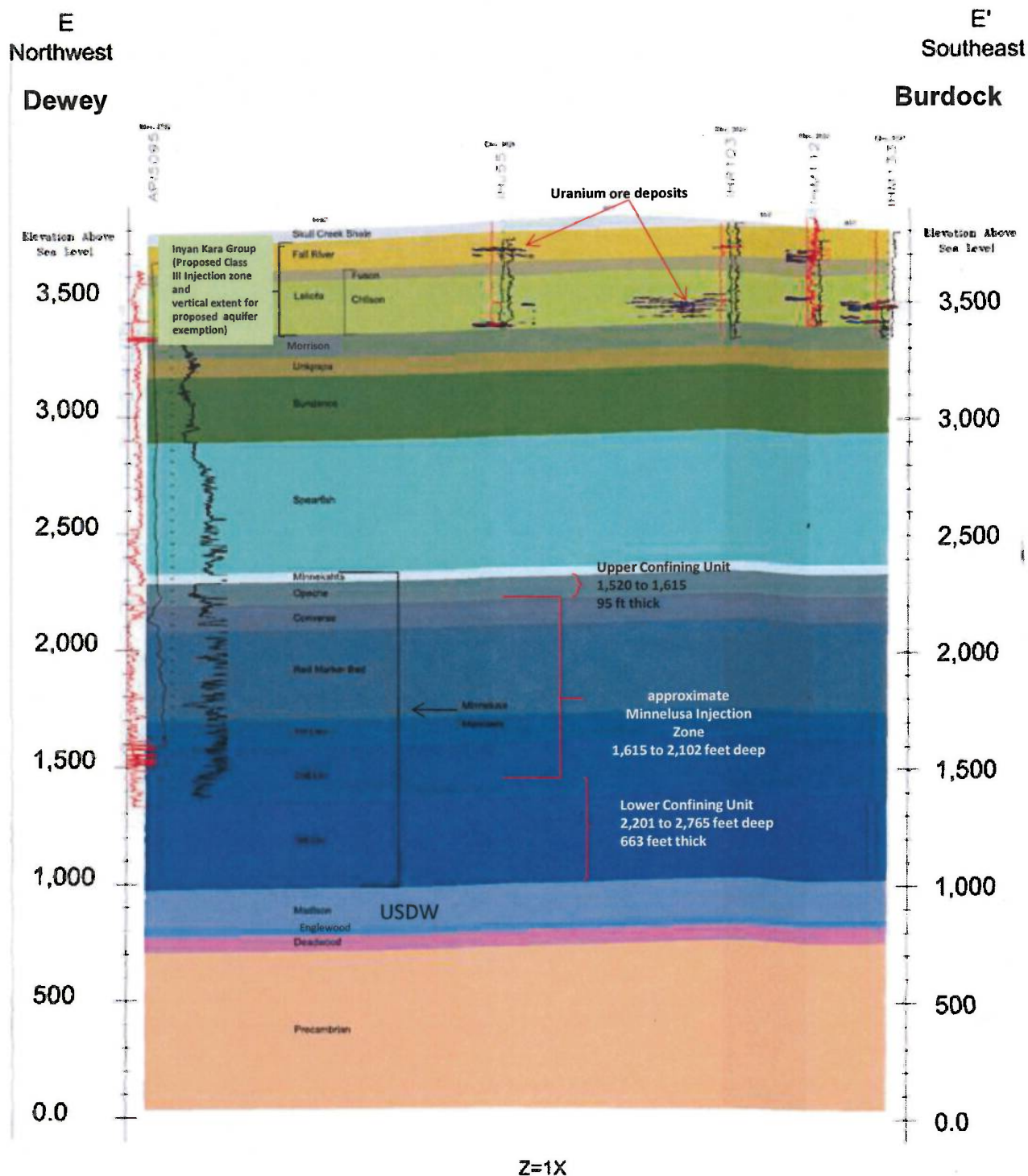


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**Figure 4. Map showing locations for the two currently proposed deep injection wells.  
(Powertech may construct up to four deep injection wells.)**





**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:** [Galen Laurence](#)  
**To:** ["dmartineau@utahpaiutes.org"](#); ["cdomingo@utahpaiutes.org"](#)  
**Subject:** EPA Invitation for Consultation – The Paiute Tribe of Utah  
**Date:** Thursday, July 25, 2019 3:38:00 PM  
**Attachments:** [EPA ConsultationLetter\\_PaiuteTribe.pdf](#)

---

Greetings Dorena and Charlotte,

The attached letter and enclosures are being sent to you on behalf of EPA Region 8. The EPA R8 Underground Injection Control (UIC) Program would like to invite you to consult on revised draft permits for injection wells and associated draft documents related to the proposed Dewey-Burdock uranium in-situ recovery site in the southern Black Hills region near Edgemont, South Dakota.

If you are interested in meeting with the EPA, please reply to Valois Robinson of the EPA R8 UIC program. Ms. Robinson can be reached at 800-227-8917 (extension 312-6276) or 303-312-6276. She may also be reached by email at [robinson.valois@epa.gov](mailto:robinson.valois@epa.gov).

If you have any questions, you may also respond to this email directly; we will be happy to convey questions or comments to EPA.

Thank you,

Galen Laurence

**Galen Laurence | Analyst**

Cadmus | 100 5th Avenue, Suite 100 | Waltham, MA, 02451-8727

Tel: (617) 673-7016



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

1595 Wynkoop Street  
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JUL 08 2019

Ref: 8WD-SDU

Honorable Tamra Borchardt-Slayton  
Chairperson  
The Paiute Tribe of Utah  
440 North Paiute Drive  
Cedar City, Utah 84721

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 Chairperson Borchardt-Slayton:

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 Paiute Tribe of Utah'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](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 Paiute Tribe of Utah 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 Paiute Tribe of Utah 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 Paiute Tribe of Utah 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 Paiute Tribe of Utah 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](mailto: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 Paiute Tribe of Utah's prompt attention to this important matter.

Sincerely,

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

Darcy O'Connor, Director  
Water Division

Enclosures (6)

cc: Charlotte Domingo, Environmental Director  
Dorena Martineau, Cultural Resource Director

## **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

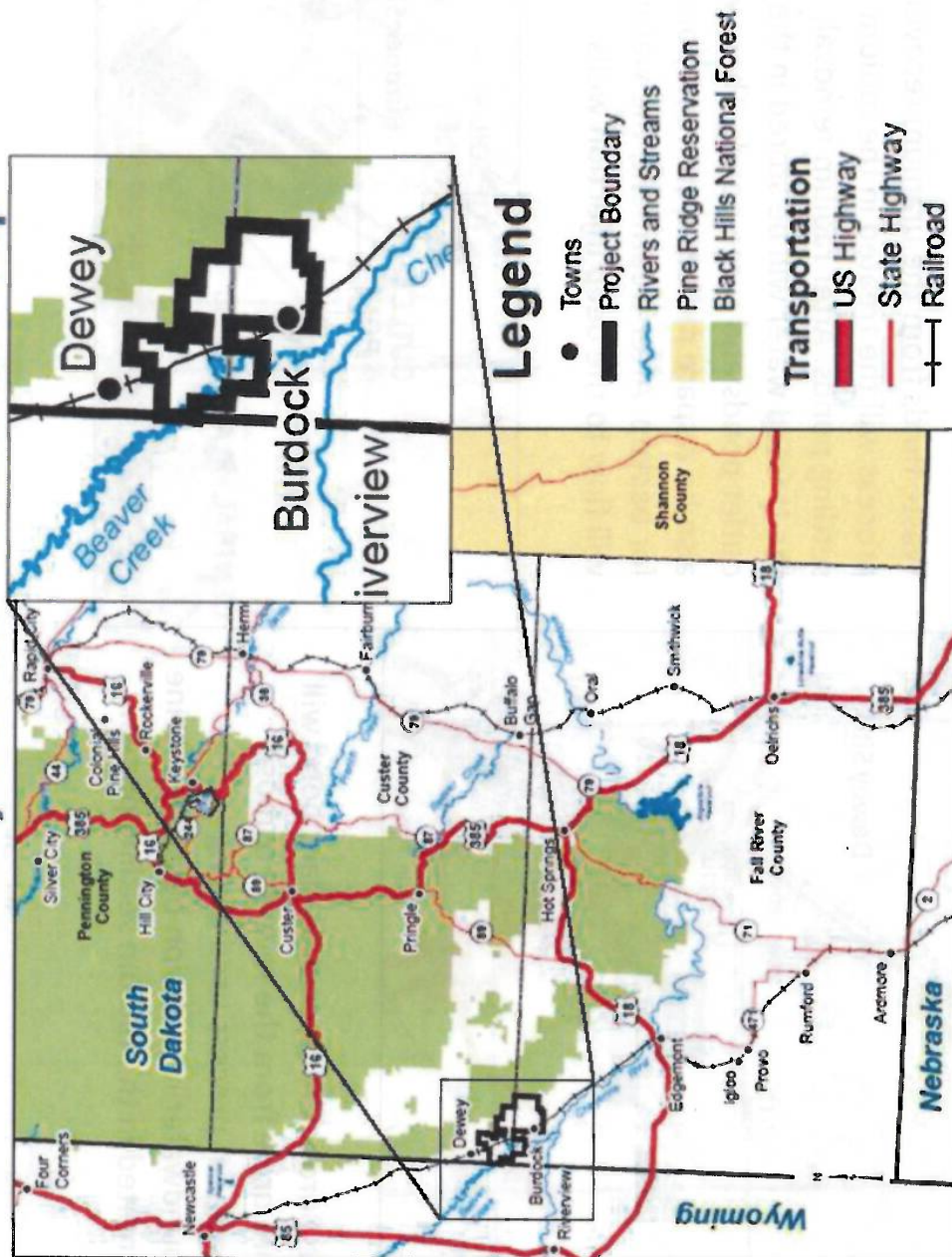
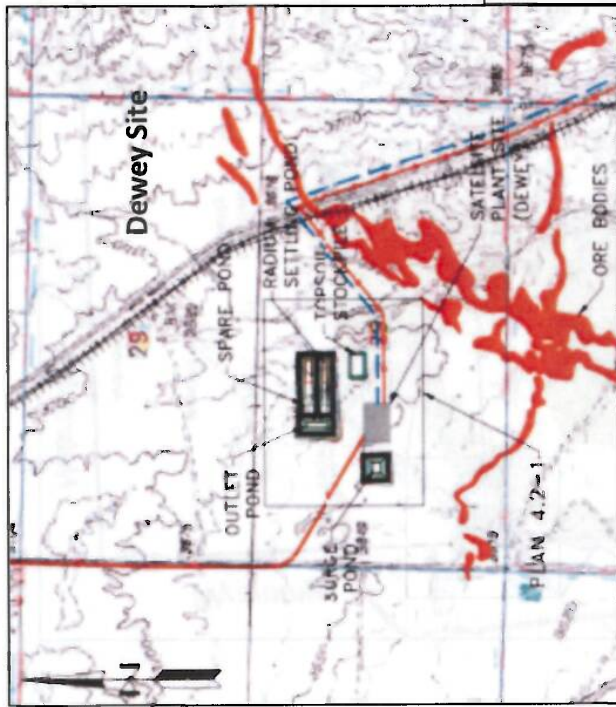


Figure 1. Map showing the location of the proposed Dewey-Burdock uranium recovery site.

## 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.

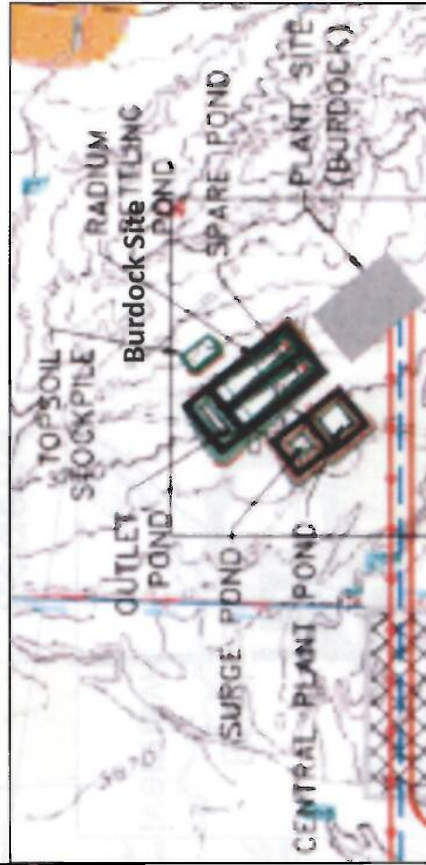


Figure 2. The Proposed Ponds for the Treatment and Storage of the Deep Injection Well Injectate.

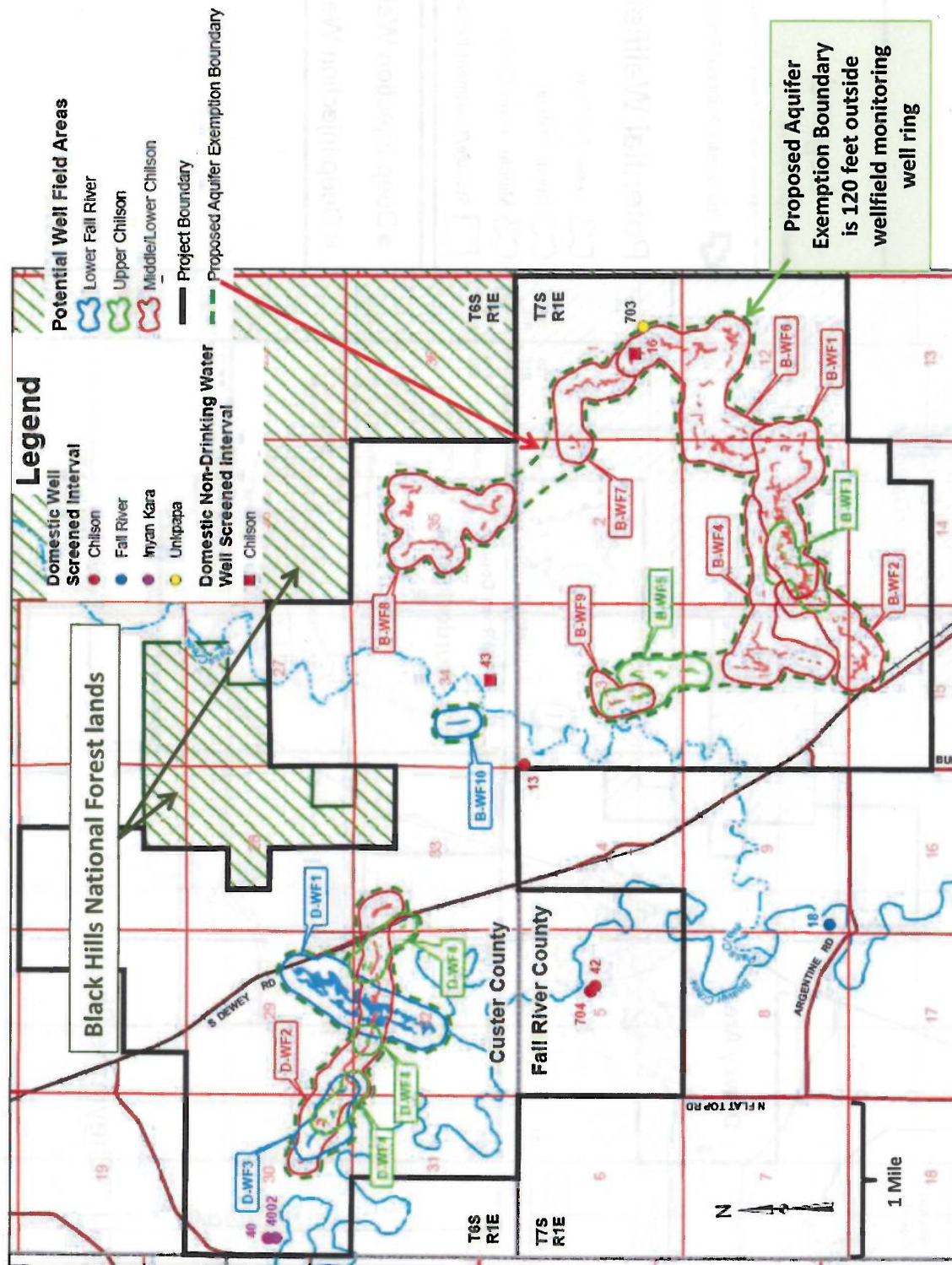
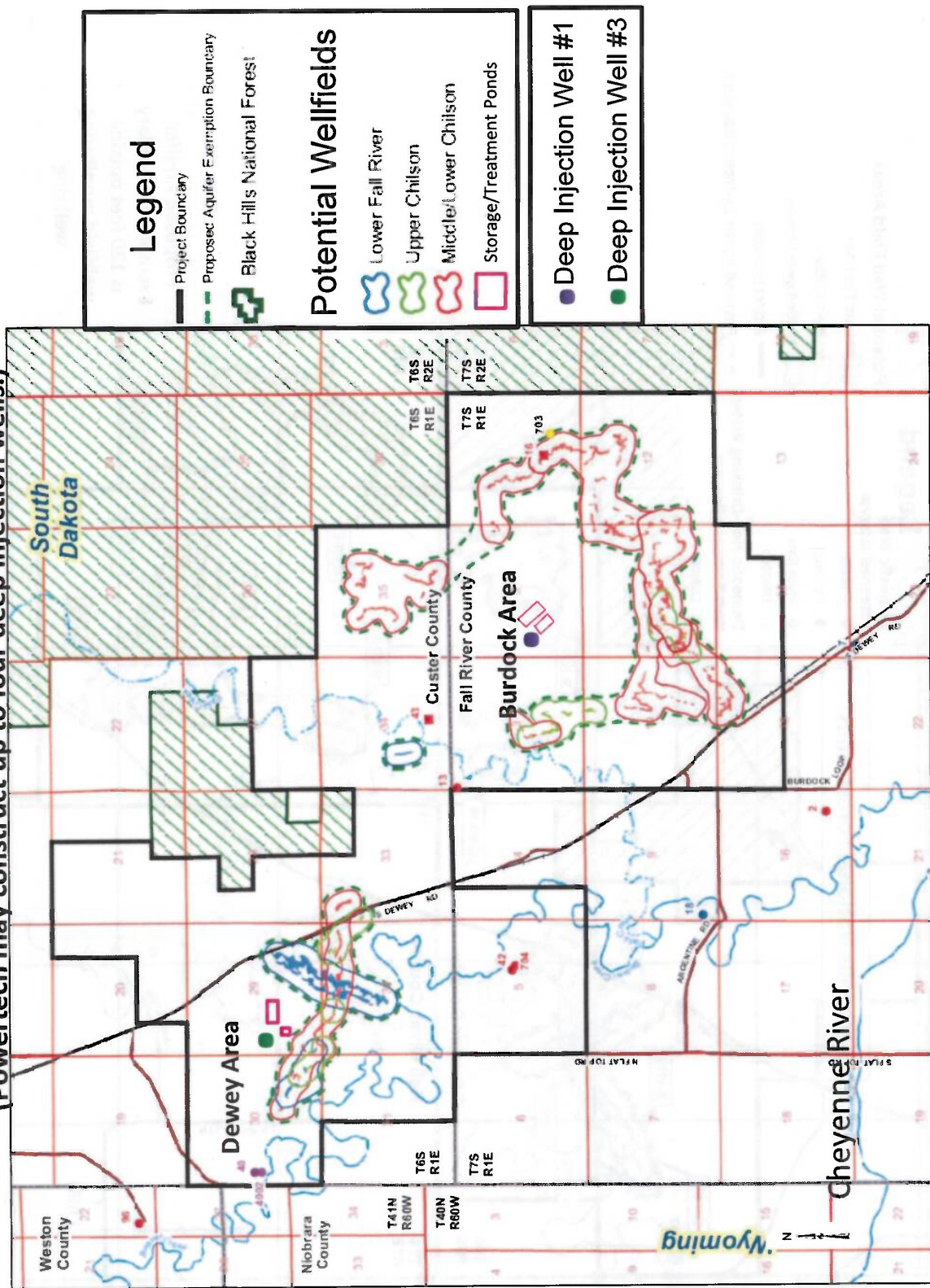
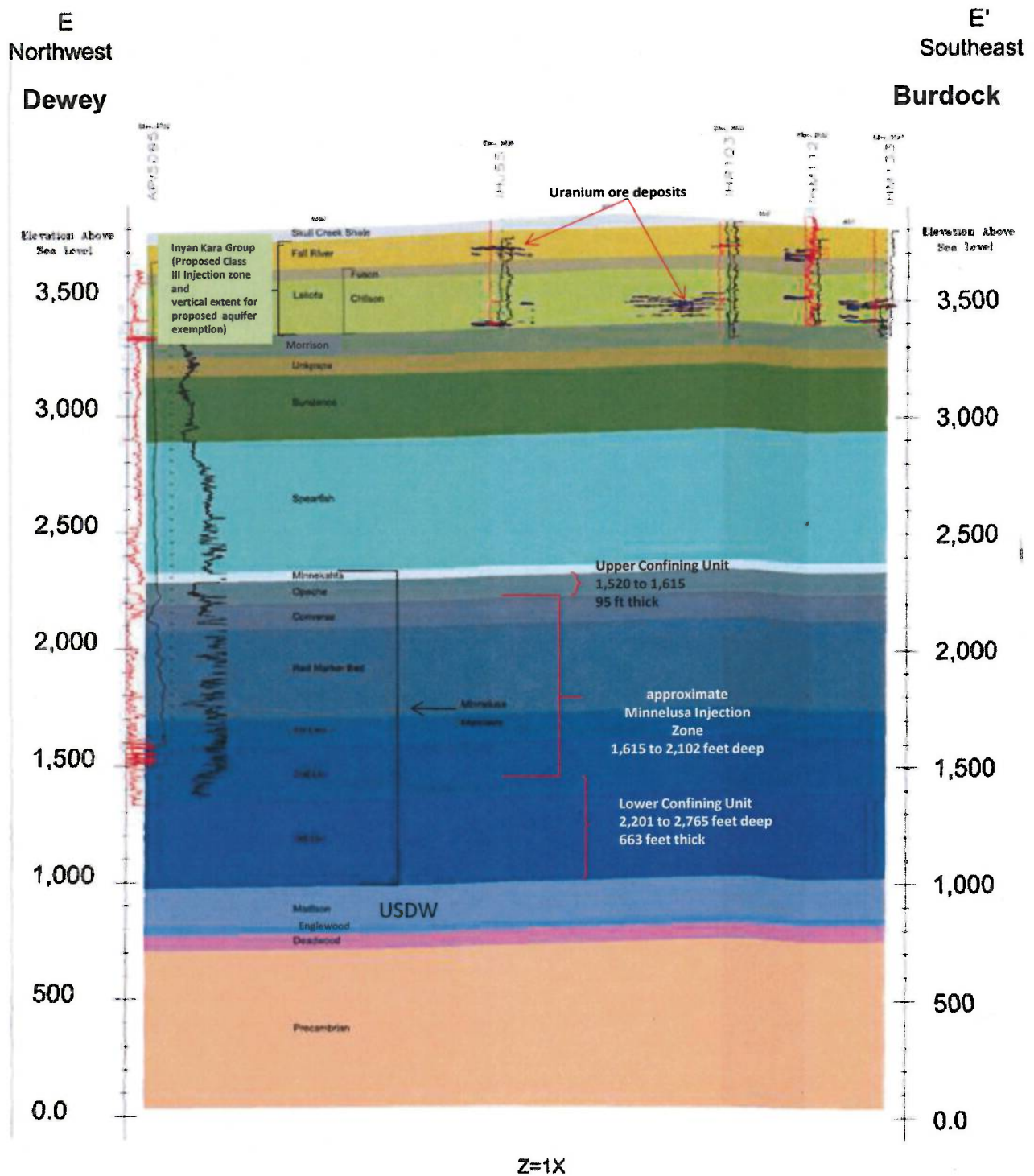


Figure 3. Map showing locations of the proposed wellfields containing Class III injection wells, the aquifer exemption boundary and the UIC permit boundary.

**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.**

**From:** [Galen Laurence](#)  
**To:** [gkriebs@poncatribes-ne.org](mailto:gkriebs@poncatribes-ne.org); [nmauro@poncatribes-ne.org](mailto:nmauro@poncatribes-ne.org)  
**Subject:** EPA Invitation for Consultation – The Ponca Tribe of Nebraska  
**Date:** Thursday, July 25, 2019 3:37:00 PM  
**Attachments:** [EPA ConsultationLetter\\_PoncaTribeNE.pdf](#)

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Greetings Georja and Nick,

The attached letter and enclosures are being sent to you on behalf of EPA Region 8. The EPA R8 Underground Injection Control (UIC) Program would like to invite you to consult on revised draft permits for injection wells and associated draft documents related to the proposed Dewey-Burdock uranium in-situ recovery site in the southern Black Hills region near Edgemont, South Dakota.

If you are interested in meeting with the EPA, please reply to Valois Robinson of the EPA R8 UIC program. Ms. Robinson can be reached at 800-227-8917 (extension 312-6276) or 303-312-6276. She may also be reached by email at [robinson.valois@epa.gov](mailto:robinson.valois@epa.gov).

If you have any questions, you may also respond to this email directly; we will be happy to convey questions or comments to EPA.

Thank you,

Galen Laurence

**Galen Laurence | Analyst**

Cadmus | 100 5th Avenue, Suite 100 | Waltham, MA, 02451-8727

Tel: (617) 673-7016



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

Sincerely,

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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**

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# Dewey Burdock Location Map

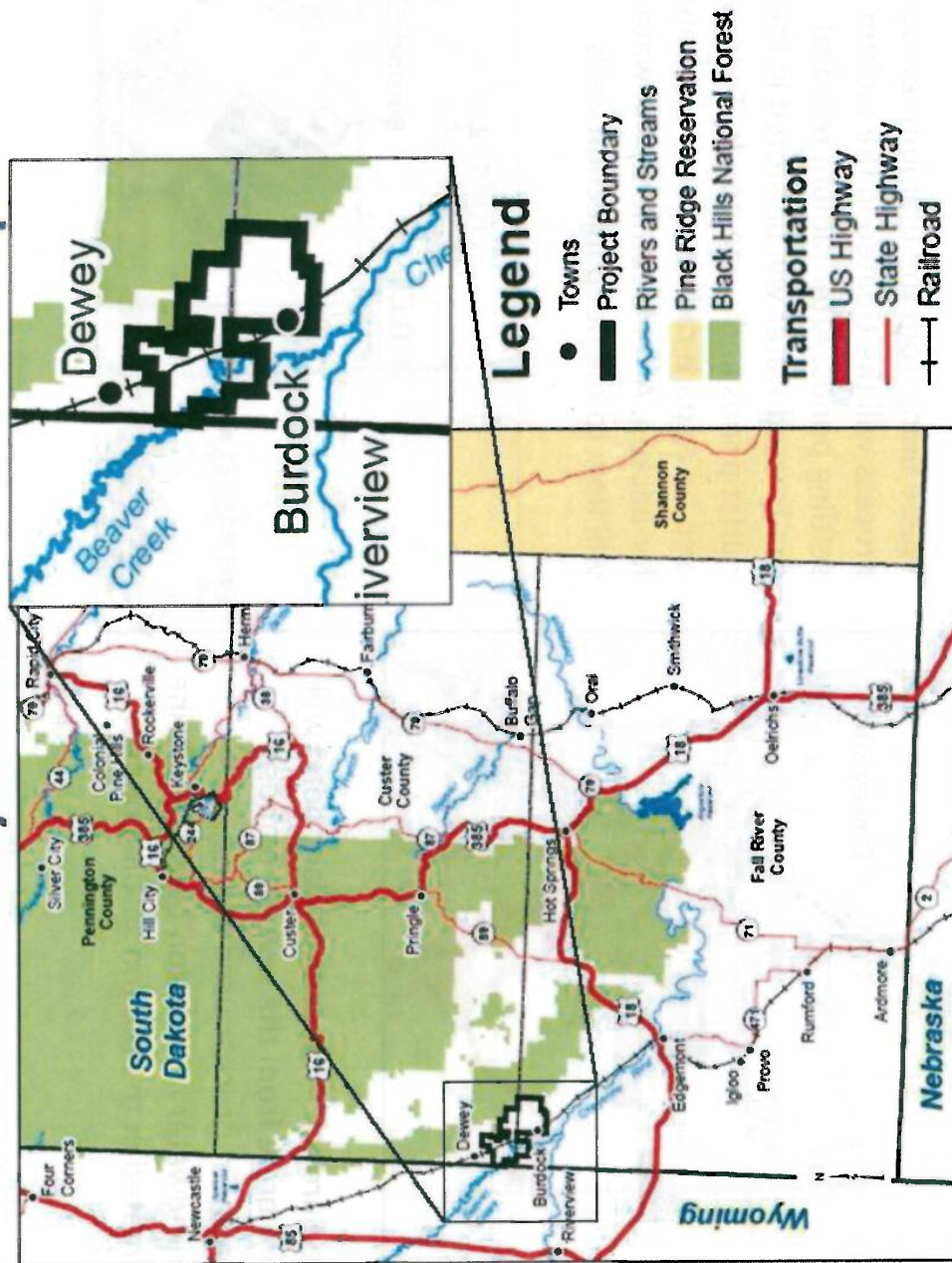
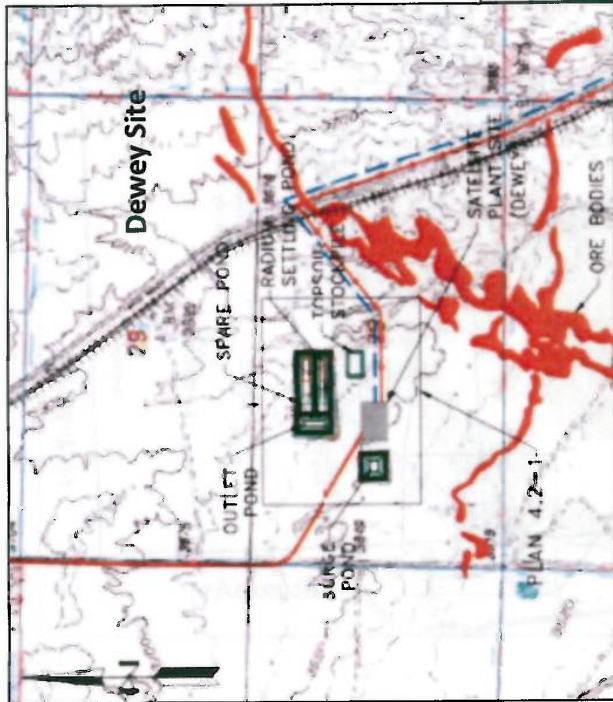


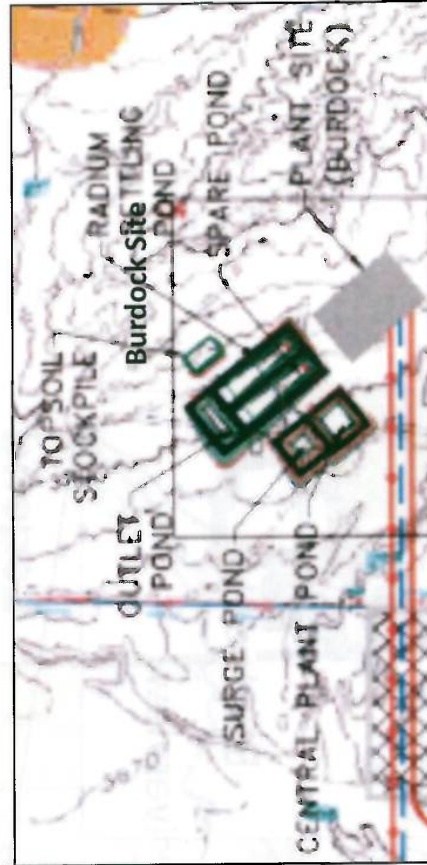
Figure 1. Map showing the location of the proposed Dewey-Burdock uranium recovery site.

## Treatment and Storage Ponds for Deep Well Injectate

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.**

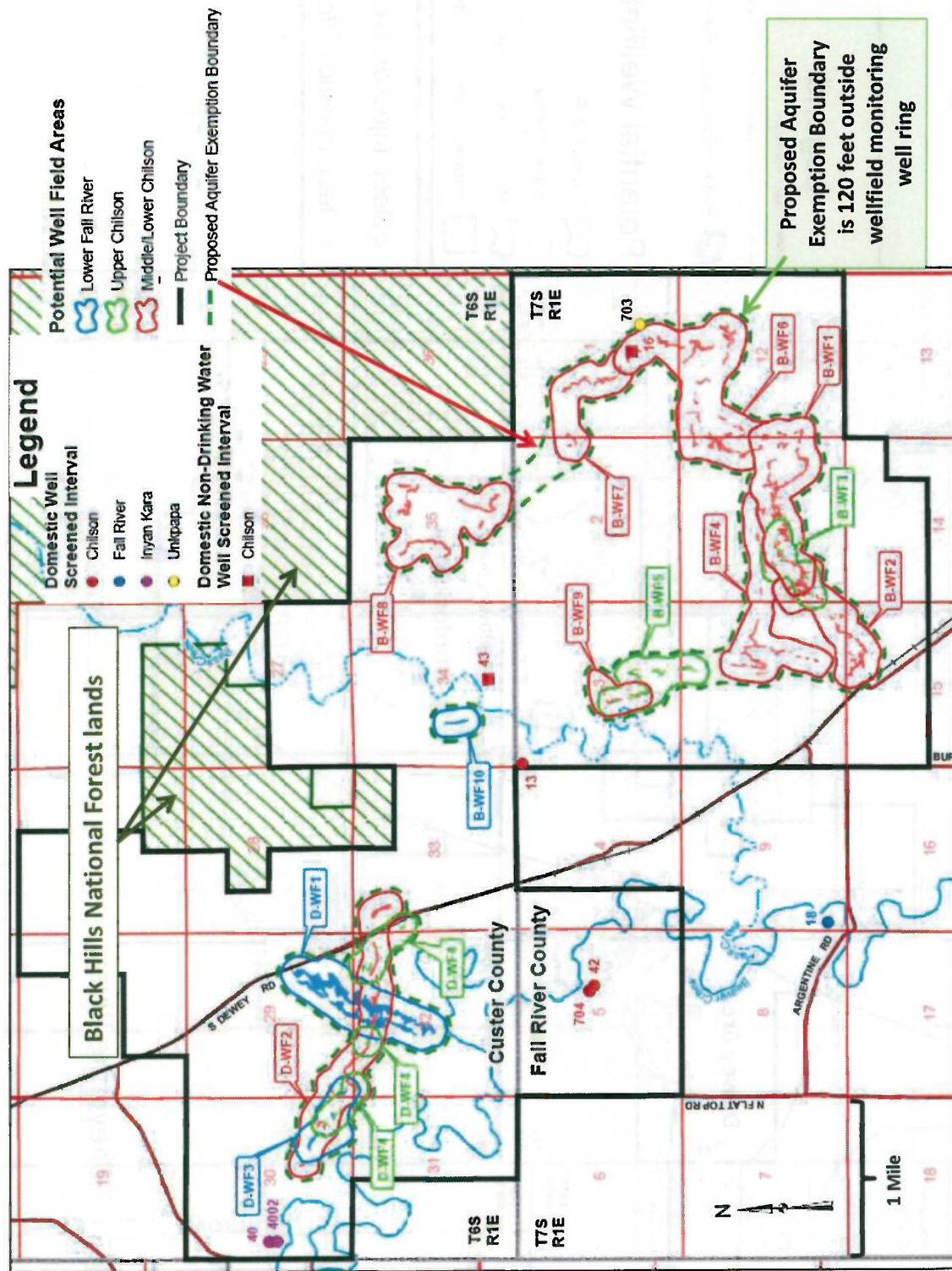
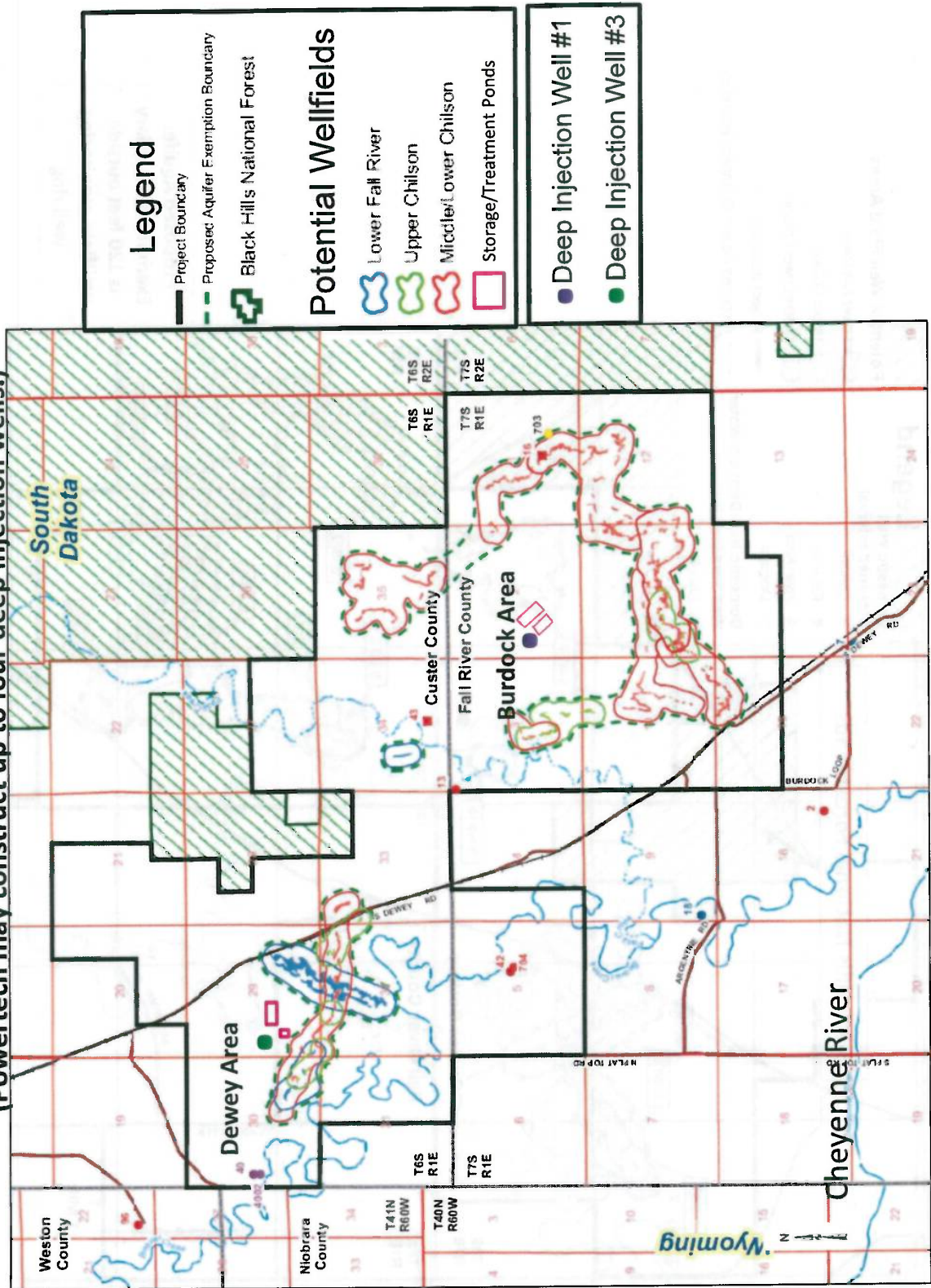
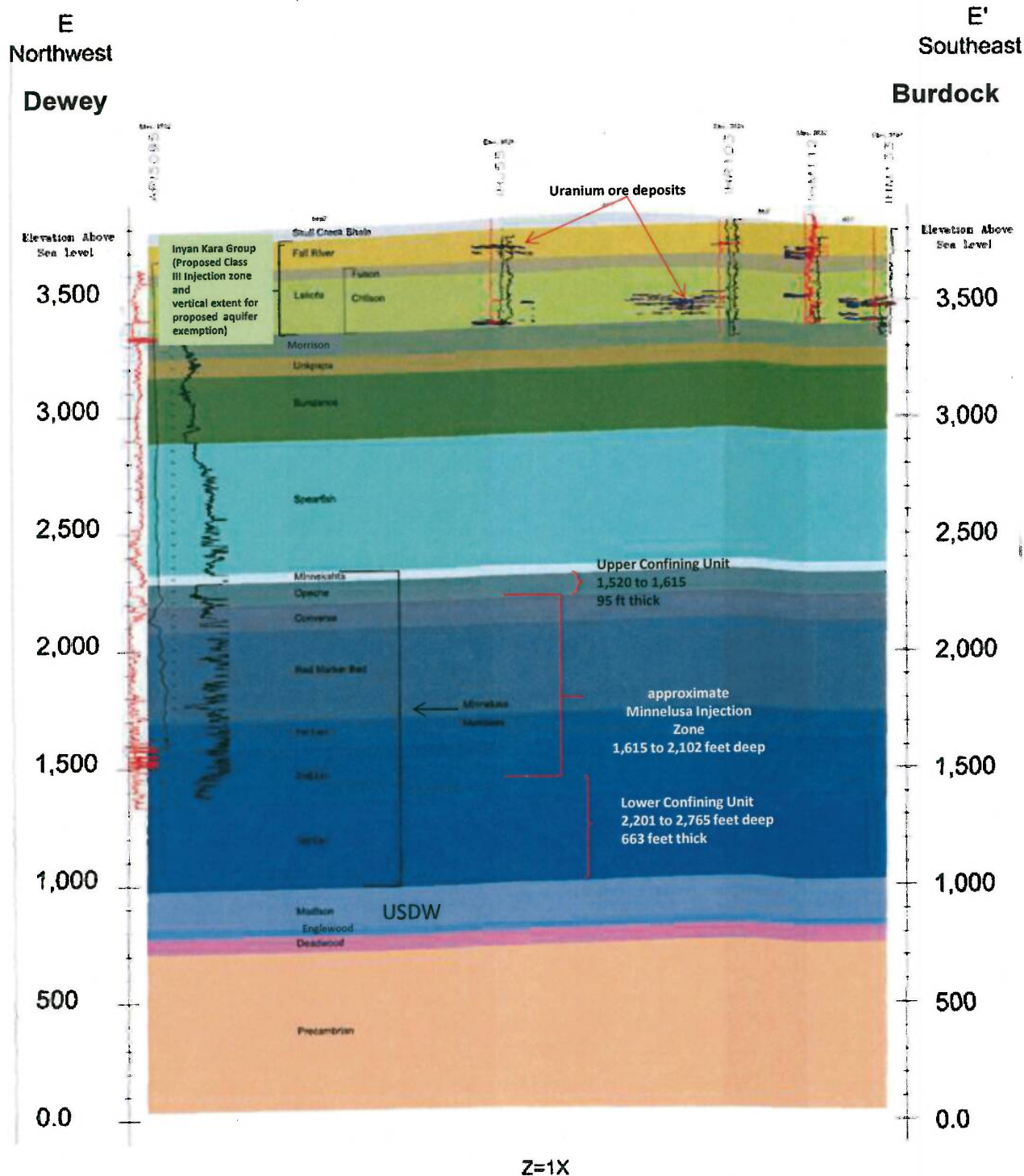


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(Powertech may construct up to four deep injection wells.)





**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:** [Galen Laurence](#)  
**To:** ["halona.clawson@ponca.com"](#); ["poncatrileoem@gmail.com"](#)  
**Subject:** EPA Invitation for Consultation – The Ponca Tribe of Oklahoma  
**Date:** Thursday, July 25, 2019 3:38:00 PM  
**Attachments:** [EPA ConsultationLetter\\_PoncaTribeOK.pdf](#)

---

Greetings Halona and Melissa,

The attached letter and enclosures are being sent to you on behalf of EPA Region 8. The EPA R8 Underground Injection Control (UIC) Program would like to invite you to consult on revised draft permits for injection wells and associated draft documents related to the proposed Dewey-Burdock uranium in-situ recovery site in the southern Black Hills region near Edgemont, South Dakota.

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Thank you,

Galen Laurence

**Galen Laurence | Analyst**

Cadmus | 100 5th Avenue, Suite 100 | Waltham, MA, 02451-8727

Tel: (617) 673-7016



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 Douglas Rhodd  
Chairman  
The Ponca Tribe of Oklahoma  
20 White Eagle Drive  
Ponca City, Oklahoma 74601

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 Rhodd:

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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 Ponca Tribe of Oklahoma 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 Ponca Tribe 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 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 Ponca Tribe of Oklahoma 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](mailto: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 Oklahoma'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: Melissa Palma, Environmental Director  
Halona Cabe, 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

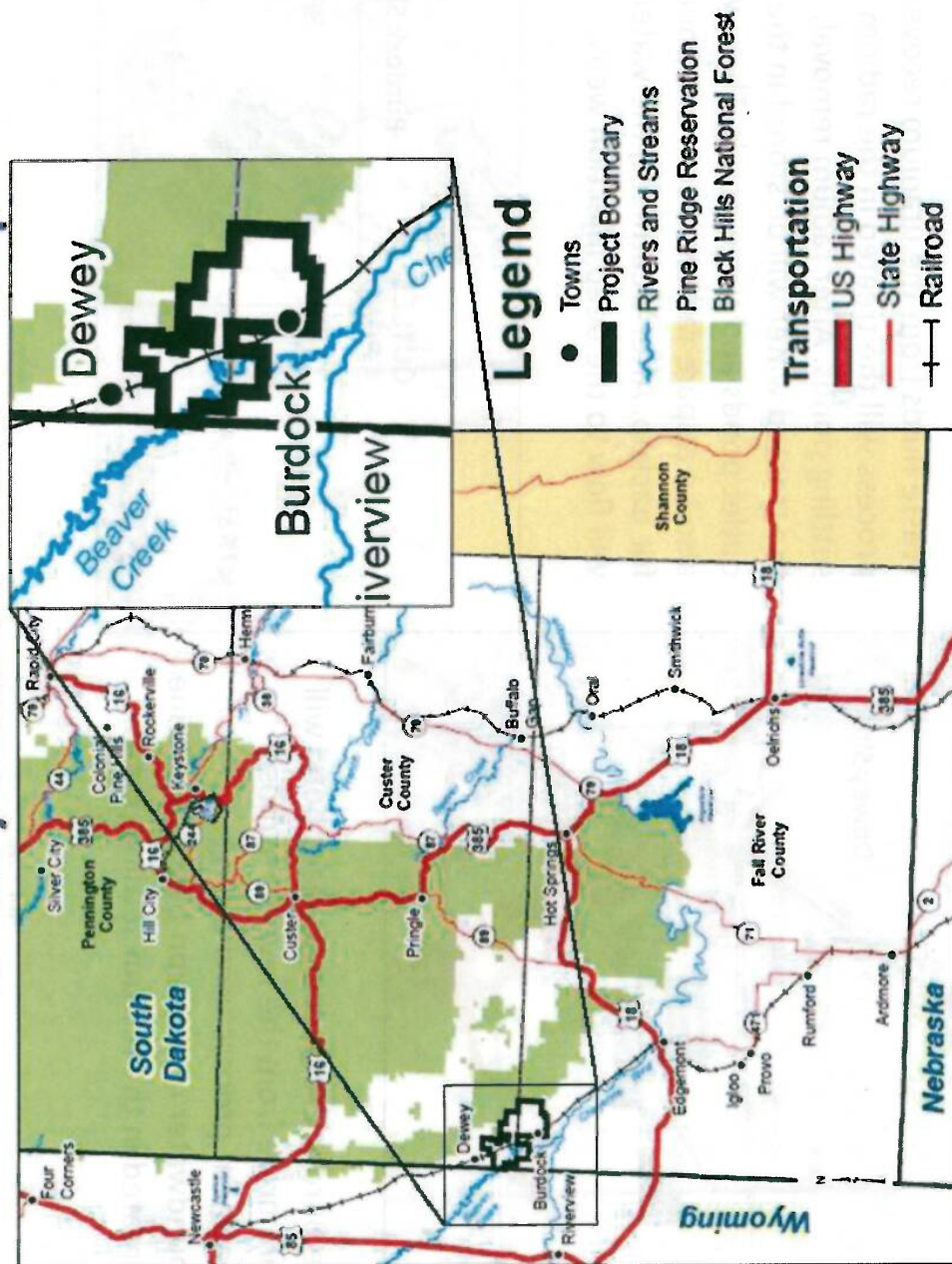
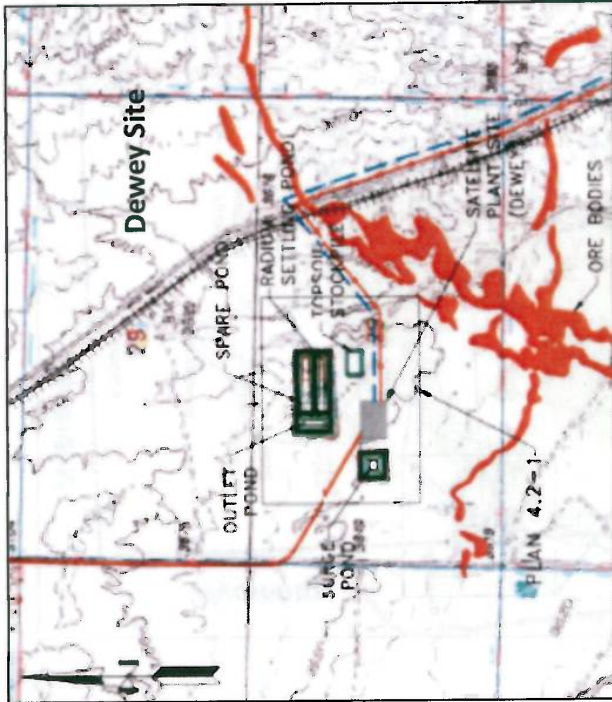


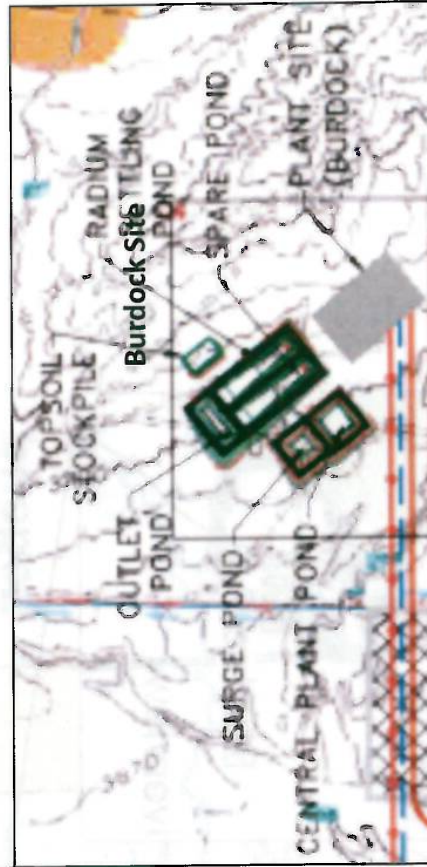
Figure 1. Map showing the location of the proposed Dewey-Burdock uranium recovery site.

## 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.**

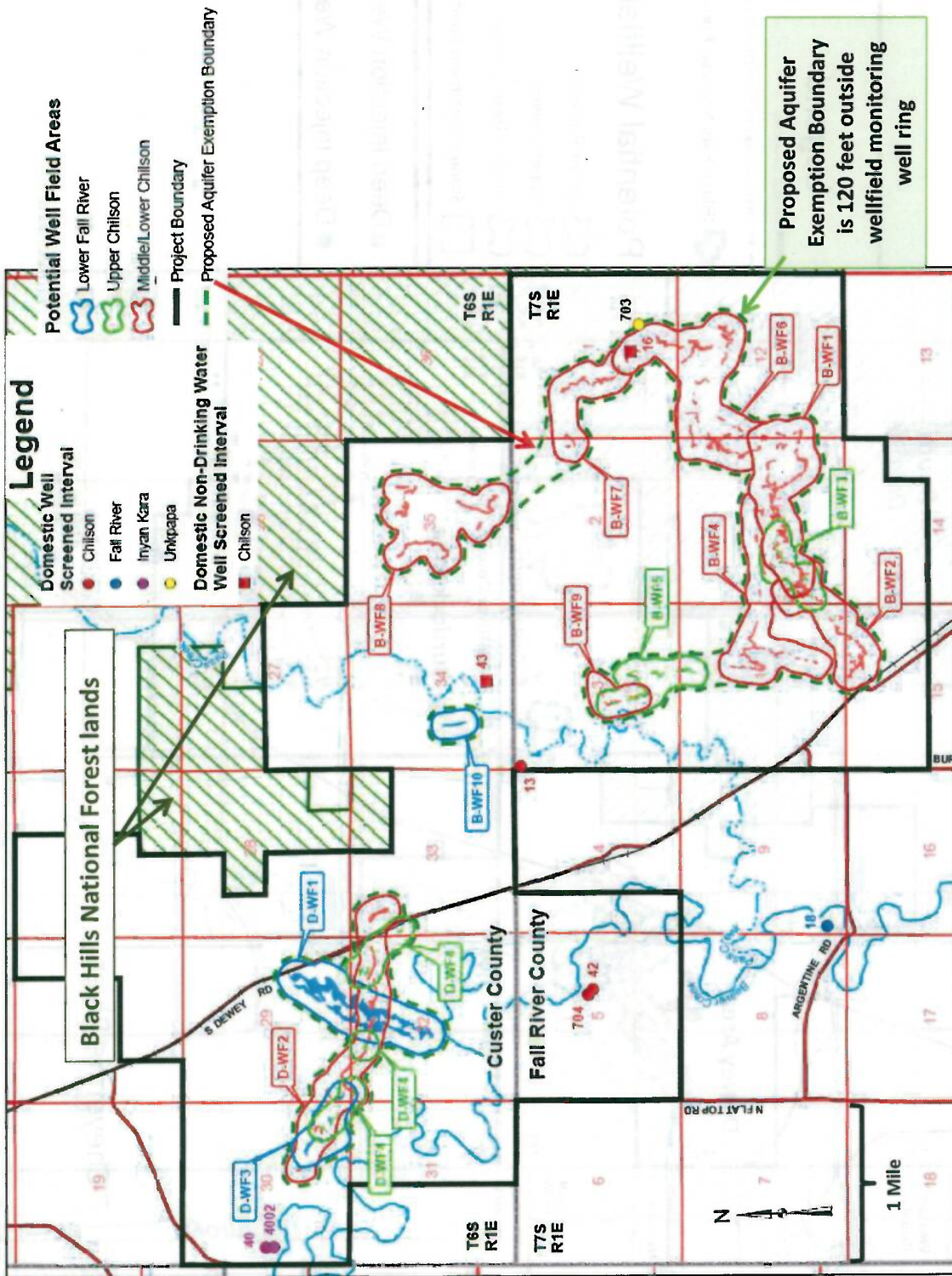
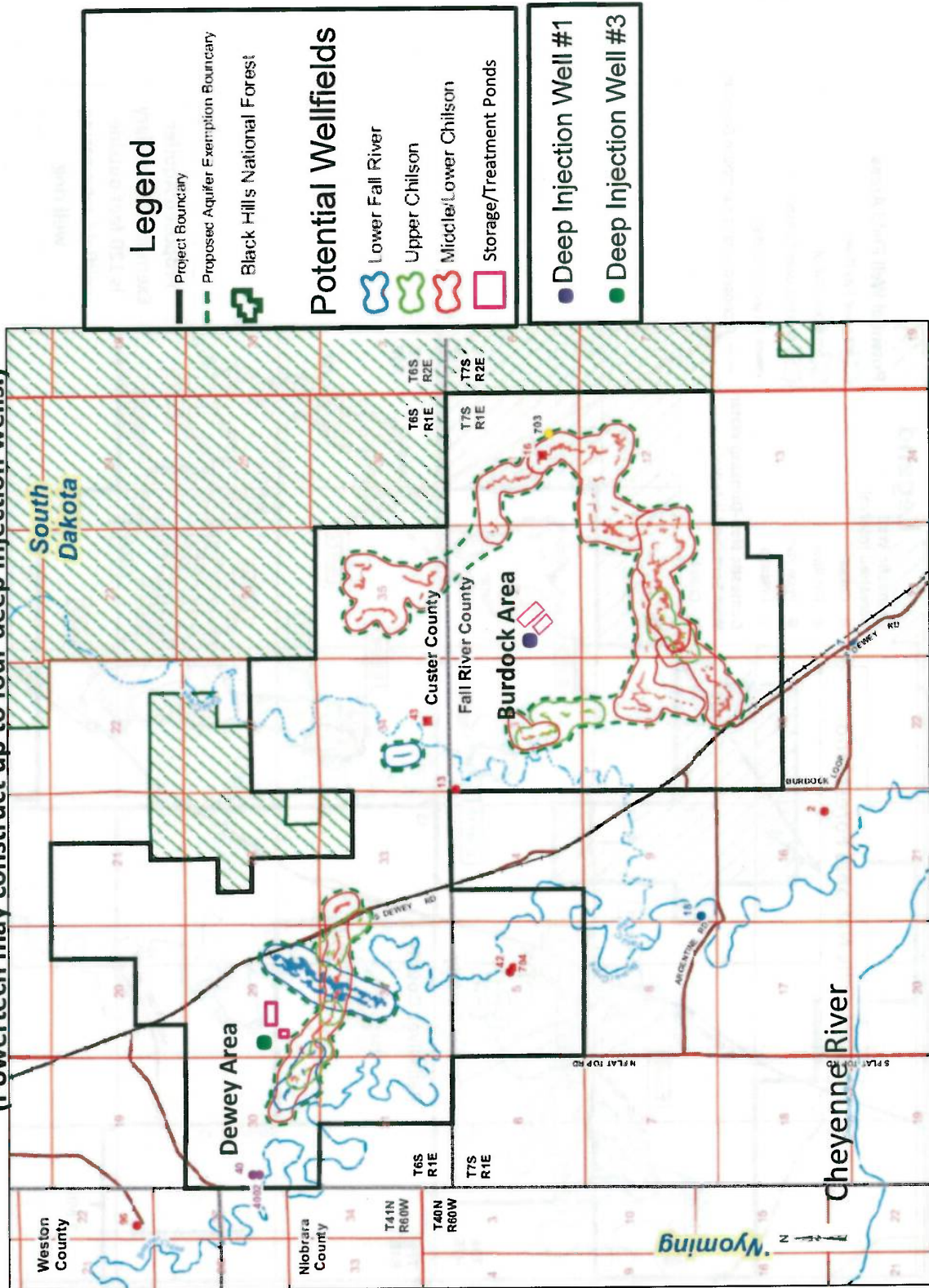
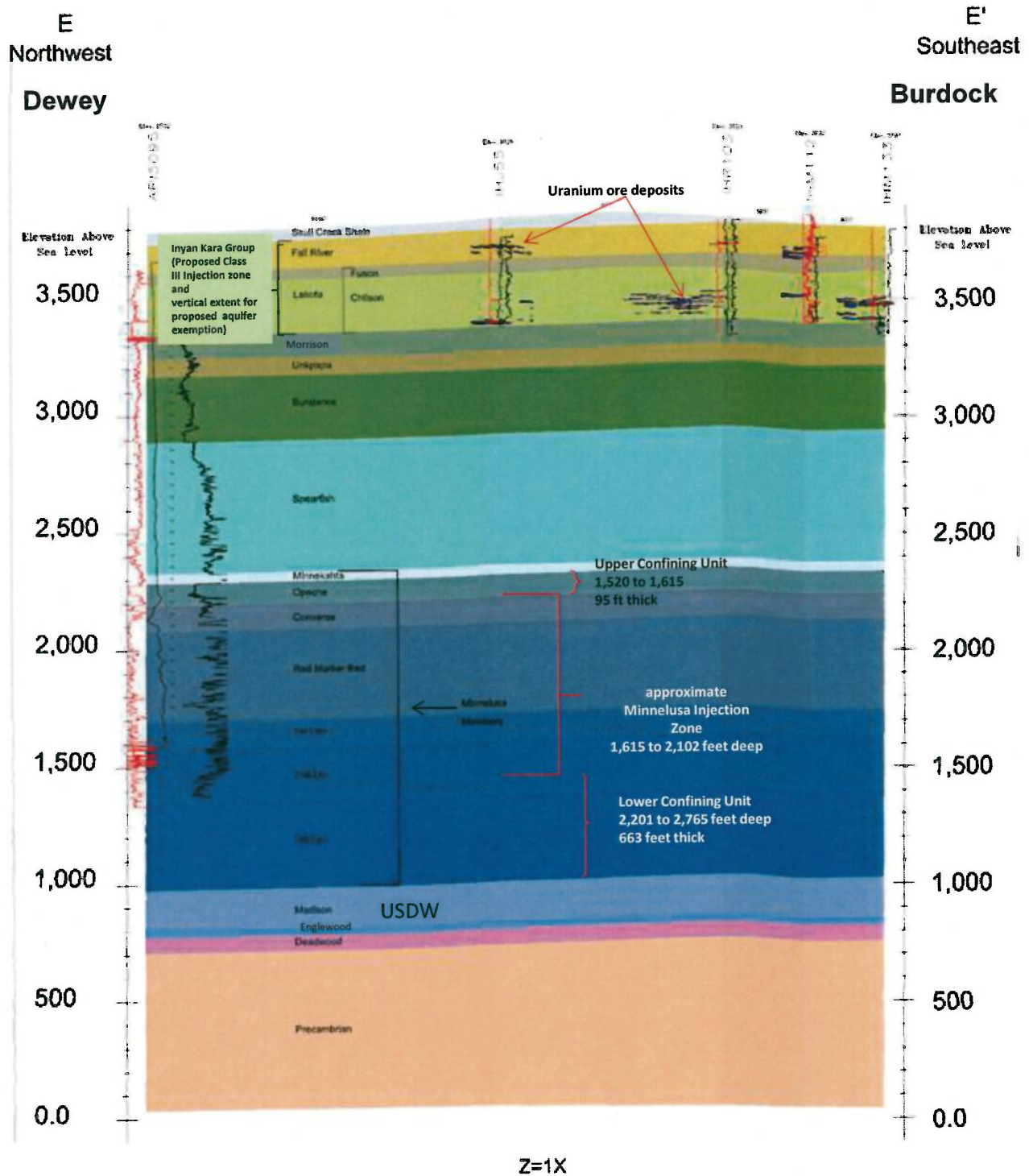


Figure 3. Map showing locations of the proposed wellfields containing Class III injection wells, the aquifer exemption boundary and the UIC permit boundary.

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:** [Galen Laurence](#)  
**To:** [gabriel.miller@piic.org](mailto:gabriel.miller@piic.org); [noah.white@piic.org](mailto:noah.white@piic.org)  
**Subject:** FW: EPA Invitation for Consultation – The Prairie Island Indian Community  
**Date:** Thursday, July 25, 2019 3:37:00 PM  
**Attachments:** [EPA\\_ConsultationLetter\\_PrairieIslandIndianCommunity.pdf](#)

---

Greetings Gabriel and Noah,

The attached letter and enclosures are being sent to you on behalf of EPA Region 8. The EPA R8 Underground Injection Control (UIC) Program would like to invite you to consult on revised draft permits for injection wells and associated draft documents related to the proposed Dewey-Burdock uranium in-situ recovery site in the southern Black Hills region near Edgemont, South Dakota.

If you are interested in meeting with the EPA, please reply to Valois Robinson of the EPA R8 UIC program. Ms. Robinson can be reached at 800-227-8917 (extension 312-6276) or 303-312-6276. She may also be reached by email at [robinson.valois@epa.gov](mailto:robinson.valois@epa.gov).

If you have any questions, you may also respond to this email directly; we will be happy to convey questions or comments to EPA.

Thank you,

Galen Laurence

**Galen Laurence | Analyst**

Cadmus | 100 5th Avenue, Suite 100 | Waltham, MA, 02451-8727

Tel: (617) 673-7016



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

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 Buck:

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 Prairie Island Indian 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](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 Prairie Island Indian 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?
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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 Prairie Island Indian 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;
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We understand that the The Prairie Island Indian 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 Prairie Island Indian 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](mailto: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.

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We appreciate the The Prairie Island Indian Community's prompt attention to this important matter.

Sincerely,

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

Darcy O'Connor, Director  
Water Division

Enclosures (6)

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

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

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## Dewey Burdock Location Map

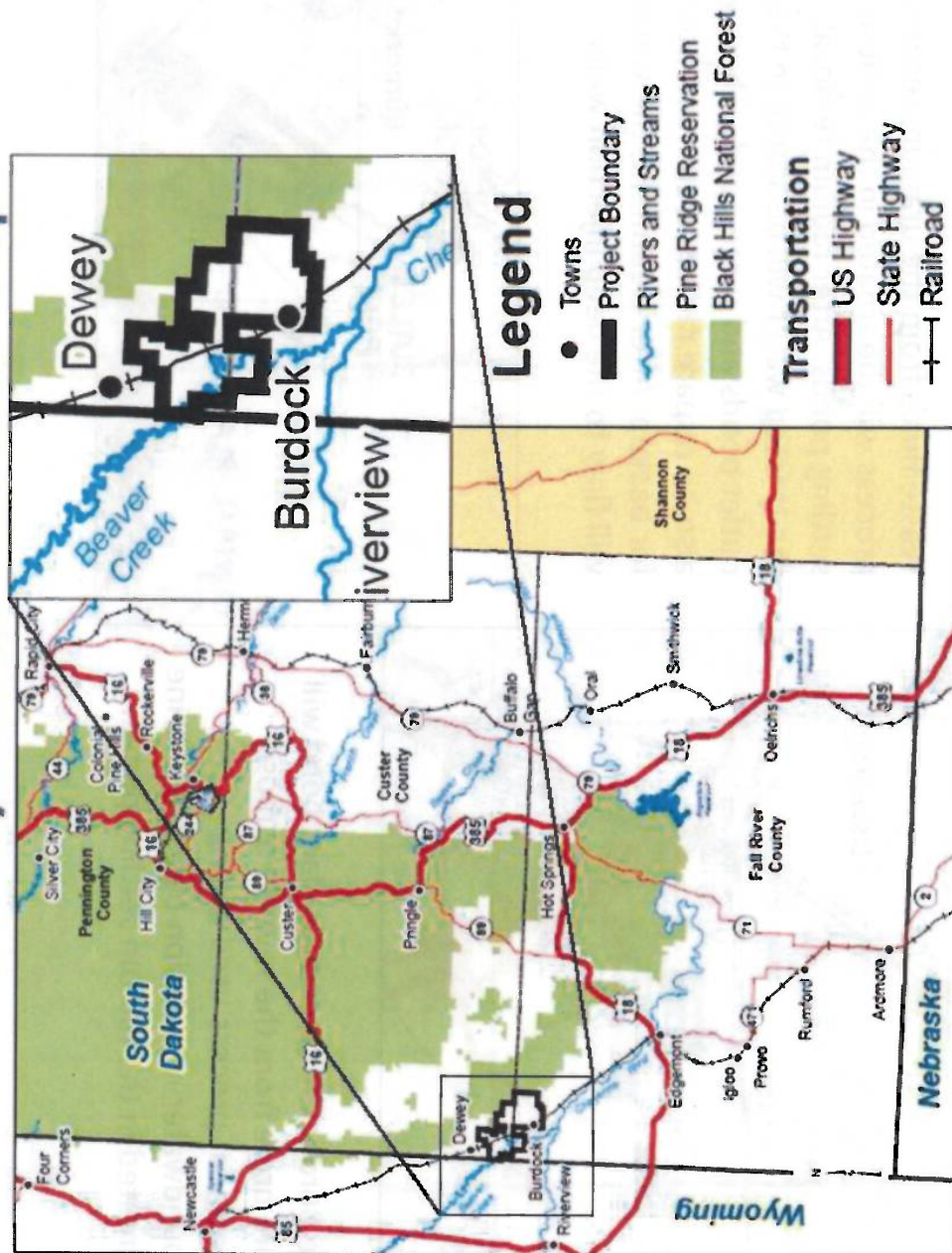
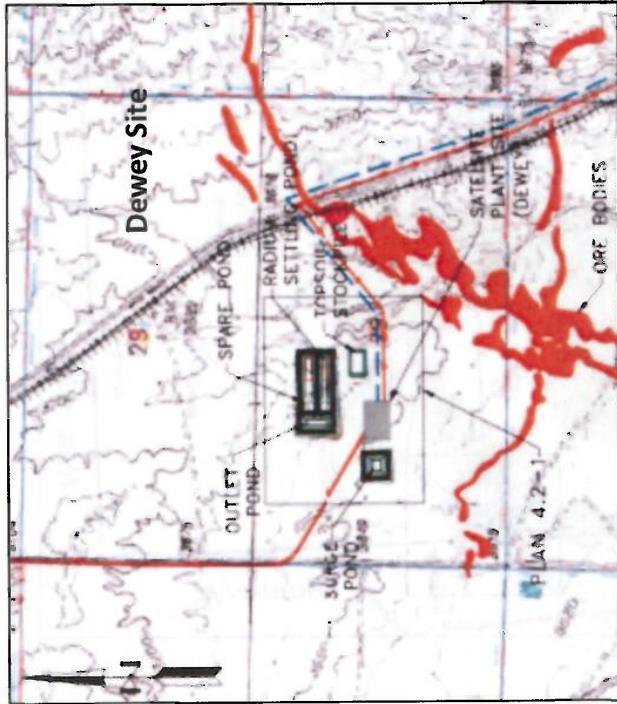


Figure 1. Map showing the location of the proposed Dewey-Burdock uranium recovery site.

## 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.

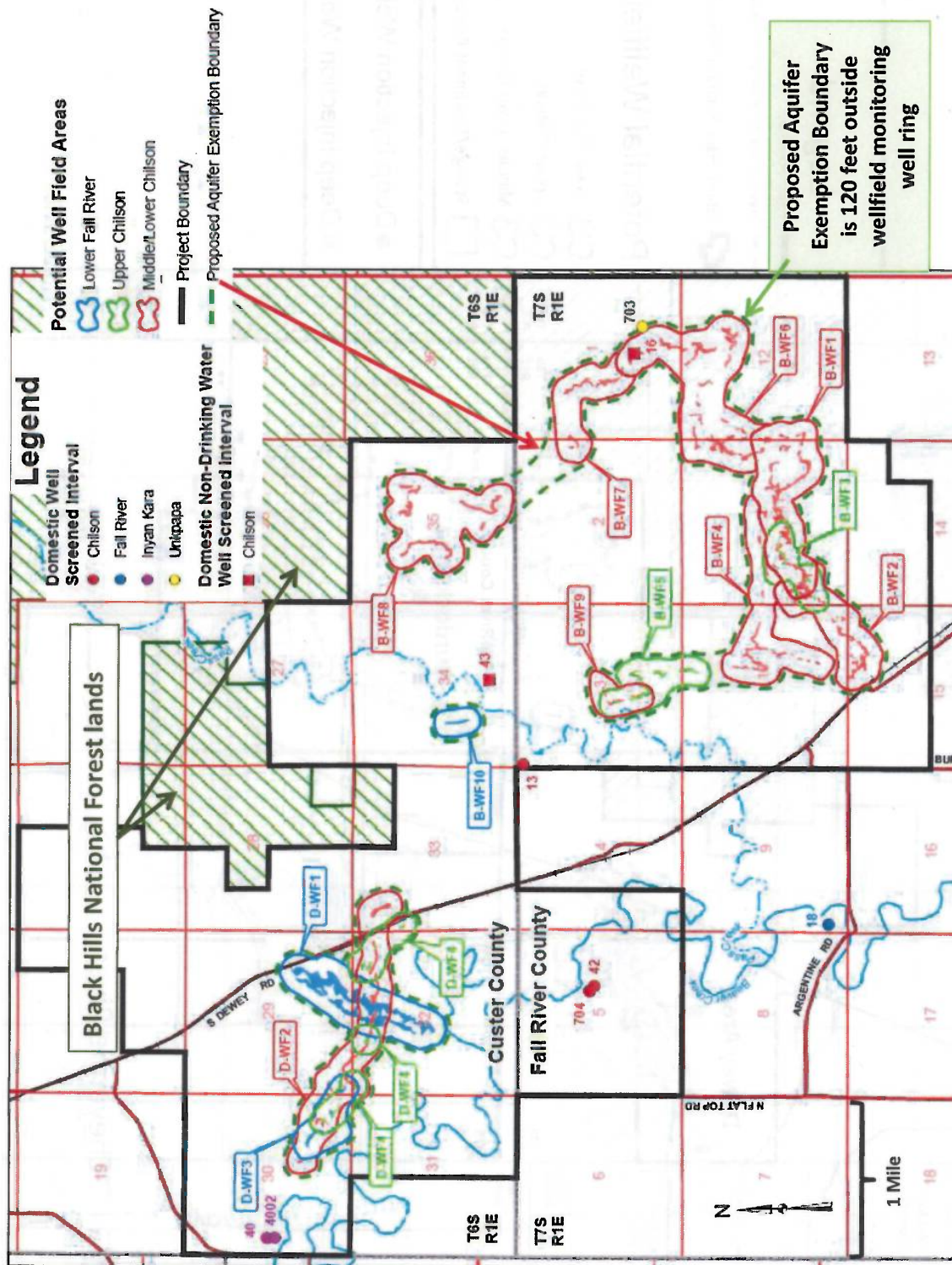
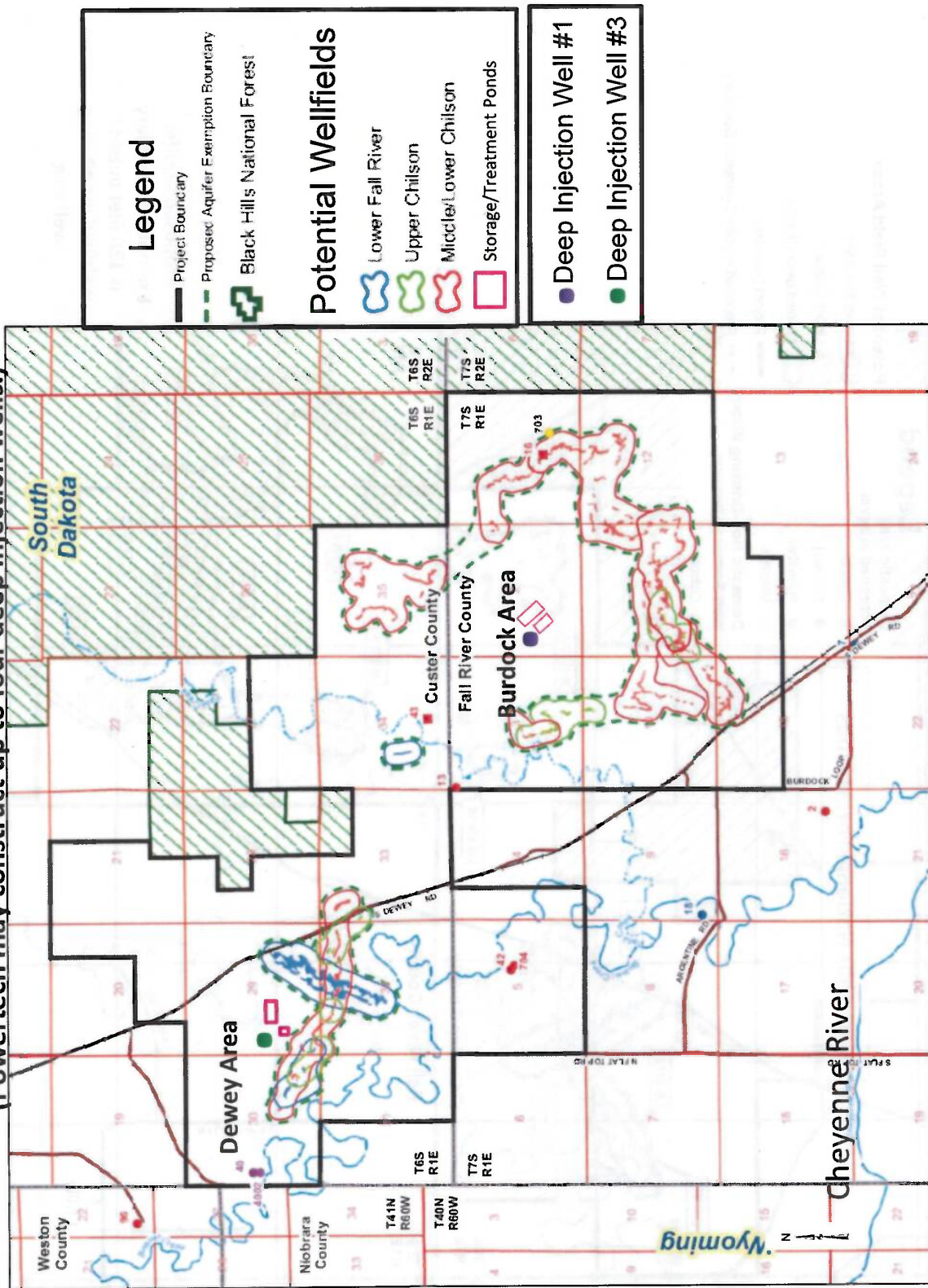
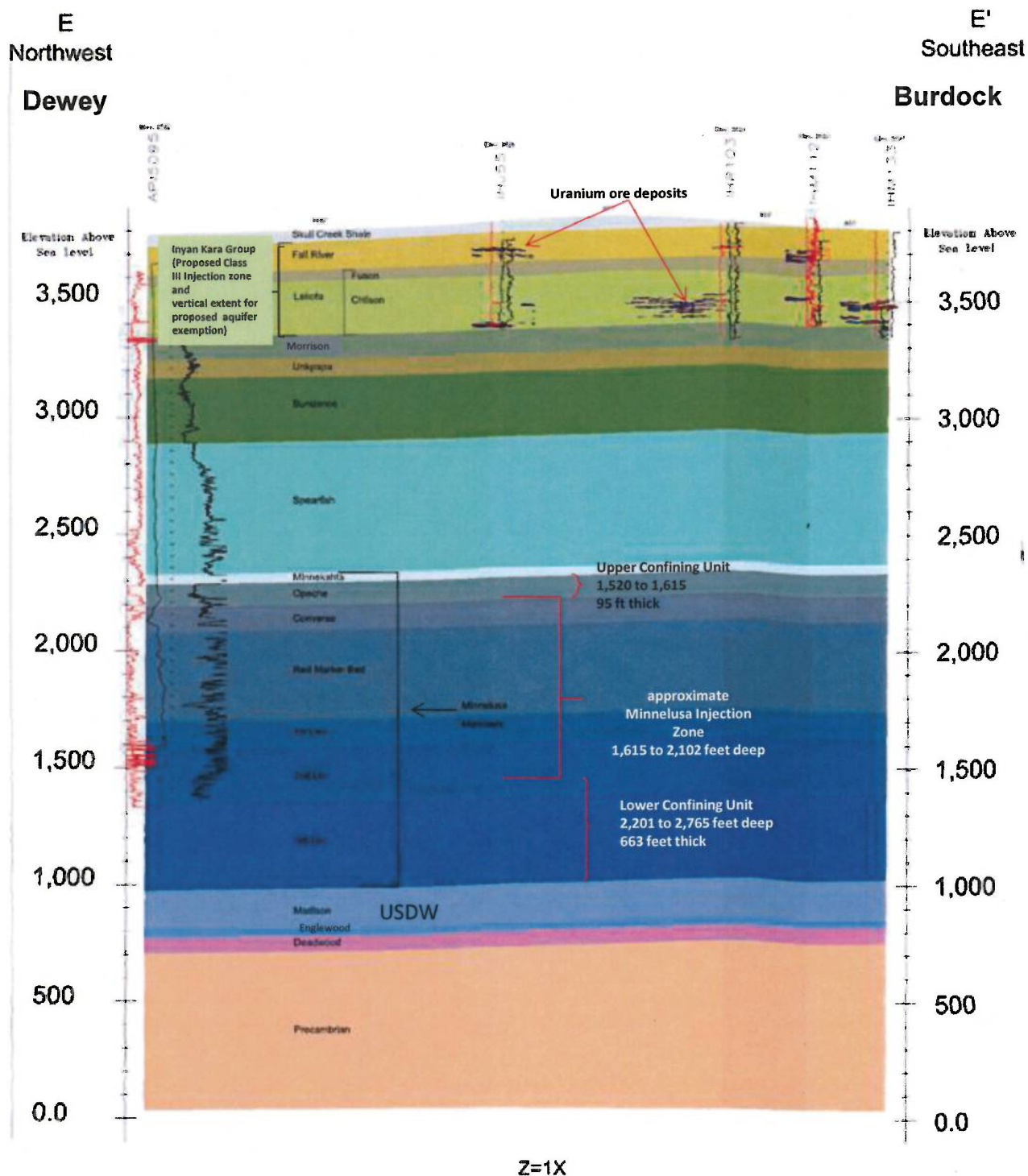


Figure 3. Map showing locations of the proposed wellfields containing Class III injection wells, the aquifer exemption boundary and the UIC permit boundary.

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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:** [Galen Laurence](#)  
**To:** [ivan.croweagle@rst-nsn.gov](mailto:ivan.croweagle@rst-nsn.gov); [Benjamin.Rhodd@rst-nsn.gov](mailto:Benjamin.Rhodd@rst-nsn.gov)  
**Subject:** EPA Invitation for Consultation – The Rosebud Sioux Tribe  
**Date:** Thursday, July 25, 2019 3:37:00 PM  
**Attachments:** [EPA ConsultationLetter\\_RosebudSiouxTribe.pdf](#)

---

Greetings Ivan and Benjamin,

The attached letter and enclosures are being sent to you on behalf of EPA Region 8. The EPA R8 Underground Injection Control (UIC) Program would like to invite you to consult on revised draft permits for injection wells and associated draft documents related to the proposed Dewey-Burdock uranium in-situ recovery site in the southern Black Hills region near Edgemont, South Dakota.

If you are interested in meeting with the EPA, please reply to Valois Robinson of the EPA R8 UIC program. Ms. Robinson can be reached at 800-227-8917 (extension 312-6276) or 303-312-6276. She may also be reached by email at [robinson.valois@epa.gov](mailto:robinson.valois@epa.gov).

If you have any questions, you may also respond to this email directly; we will be happy to convey questions or comments to EPA.

Thank you,

Galen Laurence

**Galen Laurence | Analyst**

Cadmus | 100 5th Avenue, Suite 100 | Waltham, MA, 02451-8727

Tel: (617) 673-7016



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 Rodney Bordeaux  
President  
The Rosebud Sioux Tribe  
P.O. Box 430  
Rosebud, South Dakota 57570-0430

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 Bordeaux:

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 Rosebud 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](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 Rosebud 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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We are requesting a reply from you as to whether the The Rosebud 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](mailto: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.

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We appreciate the The Rosebud Sioux Tribe'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: Ivan Crow Eagle, Environmental Director  
Benjamin Rhodd, 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

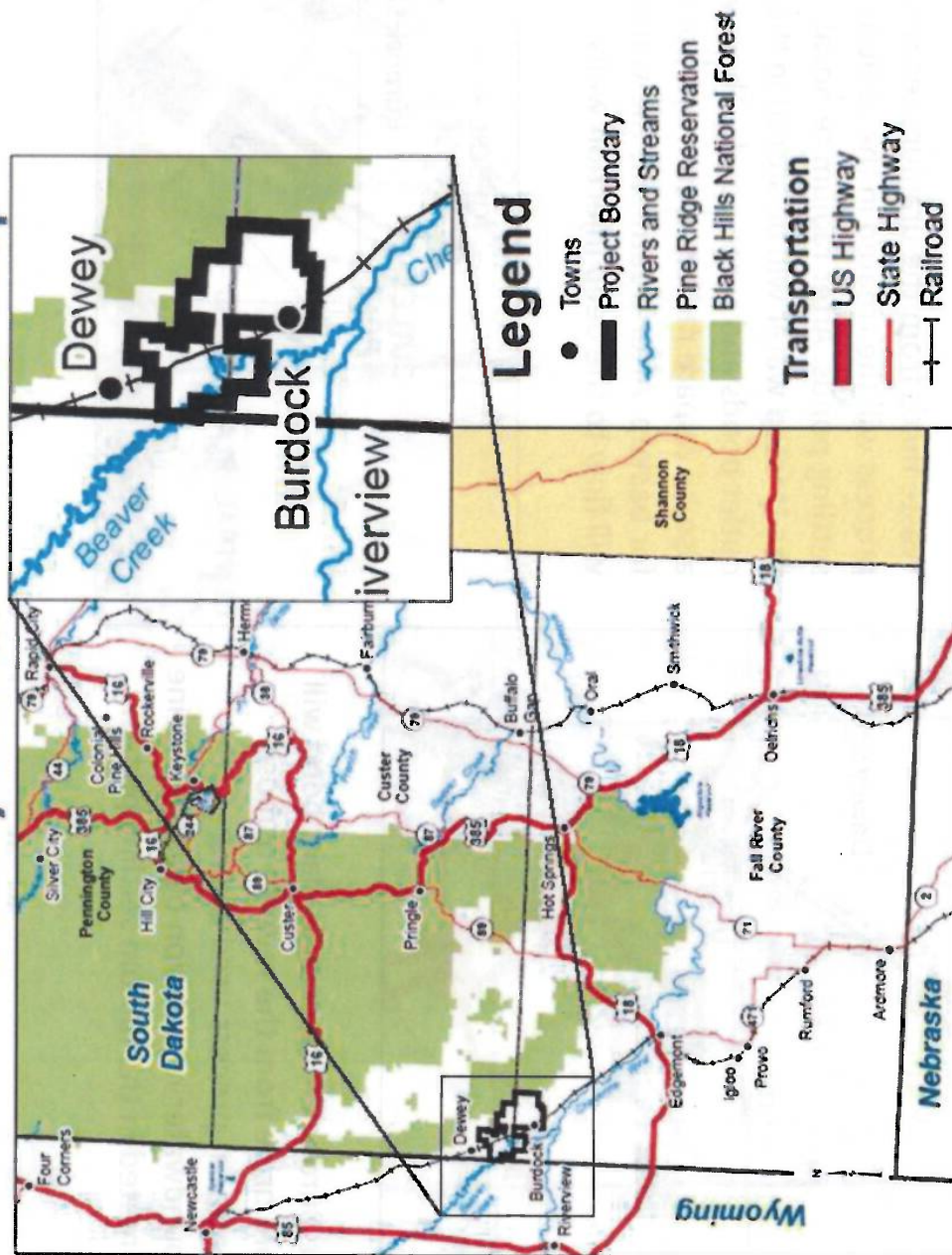
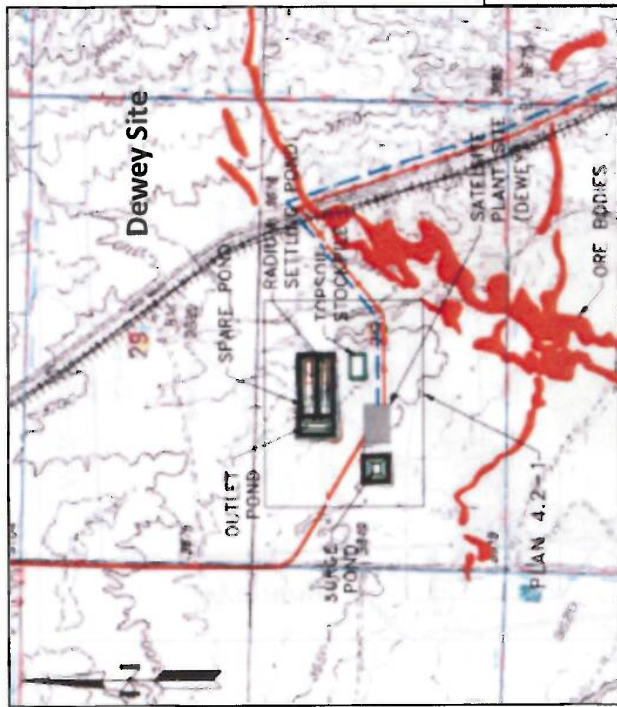


Figure 1. Map showing the location of the proposed Dewey-Burdock uranium recovery site.

## Treatment and Storage Ponds for Deep Well Injectate



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.

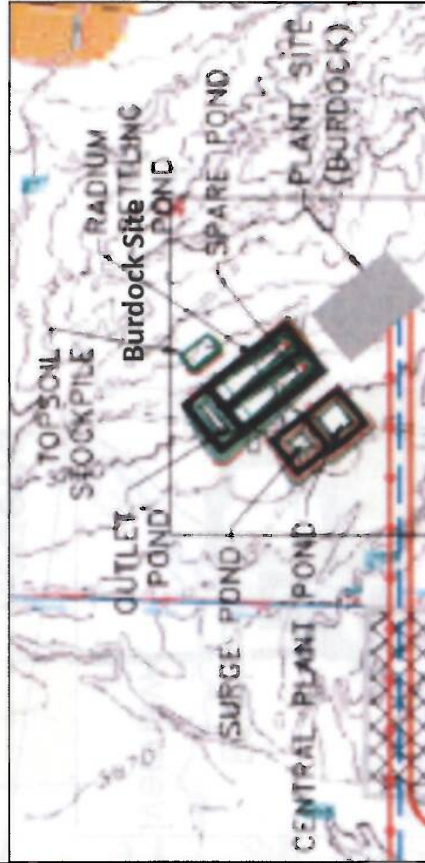


Figure 2. The Proposed Ponds for the Treatment and Storage of the Deep Injection Well Injectate.

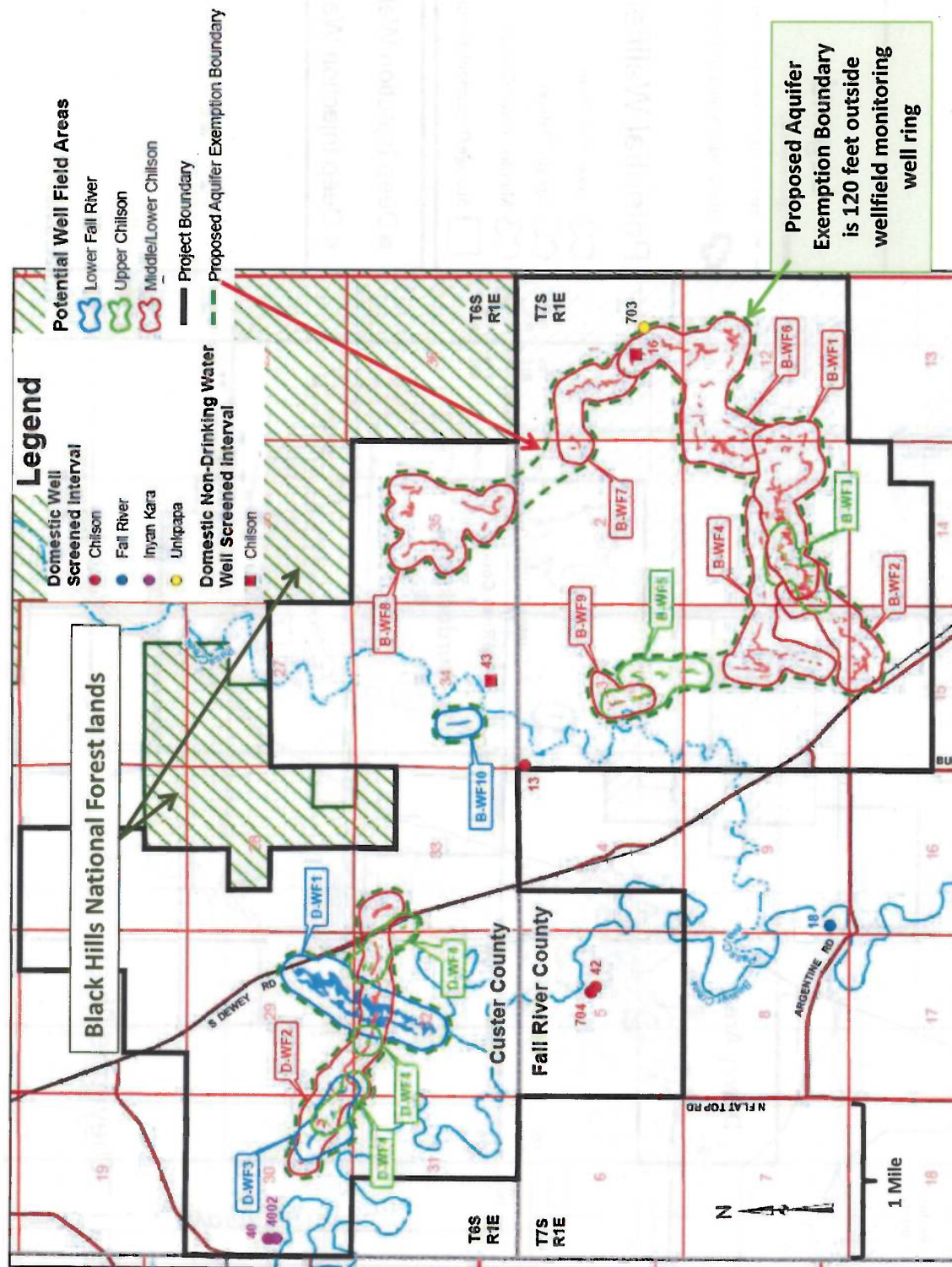
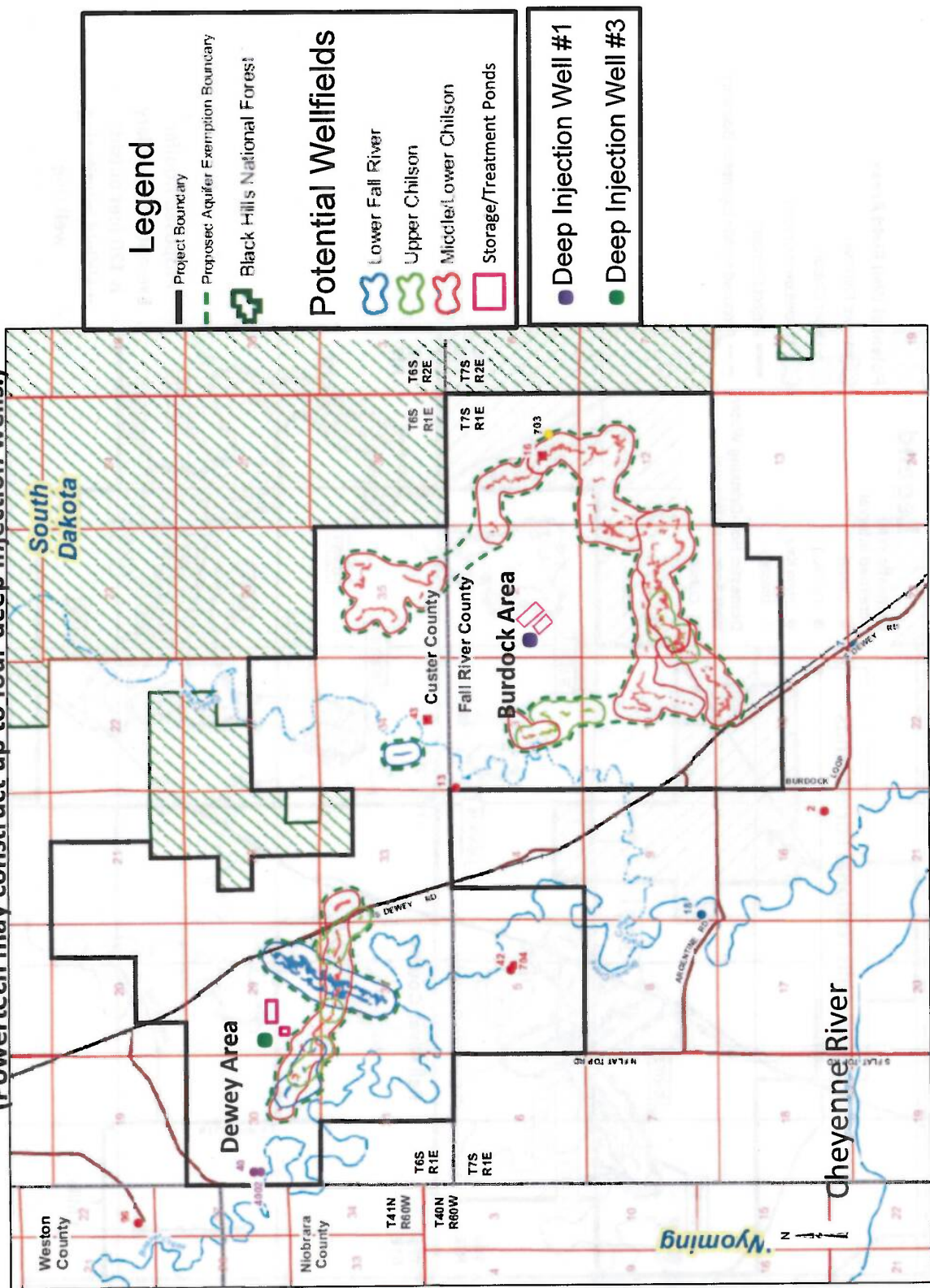
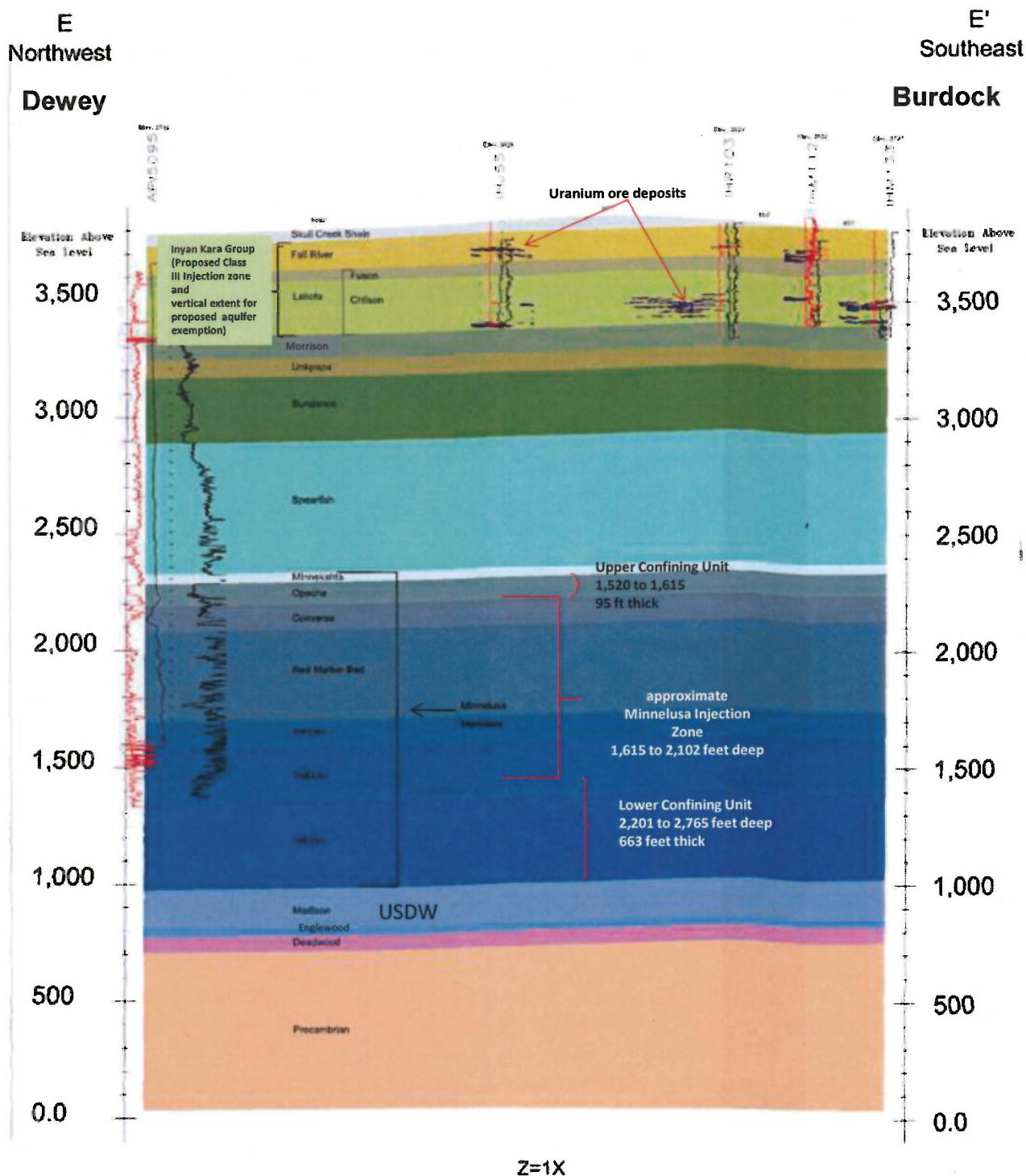


Figure 3. Map showing locations of the proposed wellfields containing Class III injection wells, the aquifer exemption boundary and the UIC permit boundary.

**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:** [Galen Laurence](#)  
**To:** [pegasixx@yahoo.com](mailto:pegasixx@yahoo.com); [alisha.bartling@santeeoep.com](mailto:alisha.bartling@santeeoep.com)  
**Subject:** EPA Invitation for Consultation – The Santee Sioux Tribe of Nebraska  
**Date:** Thursday, July 25, 2019 3:37:00 PM  
**Attachments:** [EPA ConsultationLetter\\_SanteeSiouxTribe.pdf](#)

---

Greetings Duane and Alisha,

The attached letter and enclosures are being sent to you on behalf of EPA Region 8. The EPA R8 Underground Injection Control (UIC) Program would like to invite you to consult on revised draft permits for injection wells and associated draft documents related to the proposed Dewey-Burdock uranium in-situ recovery site in the southern Black Hills region near Edgemont, South Dakota.

If you are interested in meeting with the EPA, please reply to Valois Robinson of the EPA R8 UIC program. Ms. Robinson can be reached at 800-227-8917 (extension 312-6276) or 303-312-6276. She may also be reached by email at [robinson.valois@epa.gov](mailto:robinson.valois@epa.gov).

If you have any questions, you may also respond to this email directly; we will be happy to convey questions or comments to EPA.

Thank you,

Galen Laurence

**Galen Laurence | Analyst**

Cadmus | 100 5th Avenue, Suite 100 | Waltham, MA, 02451-8727  
Tel: (617) 673-7016



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](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:

- (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 Santee Sioux Tribe of Nebraska 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 Santee Sioux 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](mailto: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 Santee Sioux Tribe of Nebraska's prompt attention to this important matter.

Sincerely,

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

Darcy O'Connor, Director  
Water Division

Enclosures (6)

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

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

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# Dewey Burdock Location Map

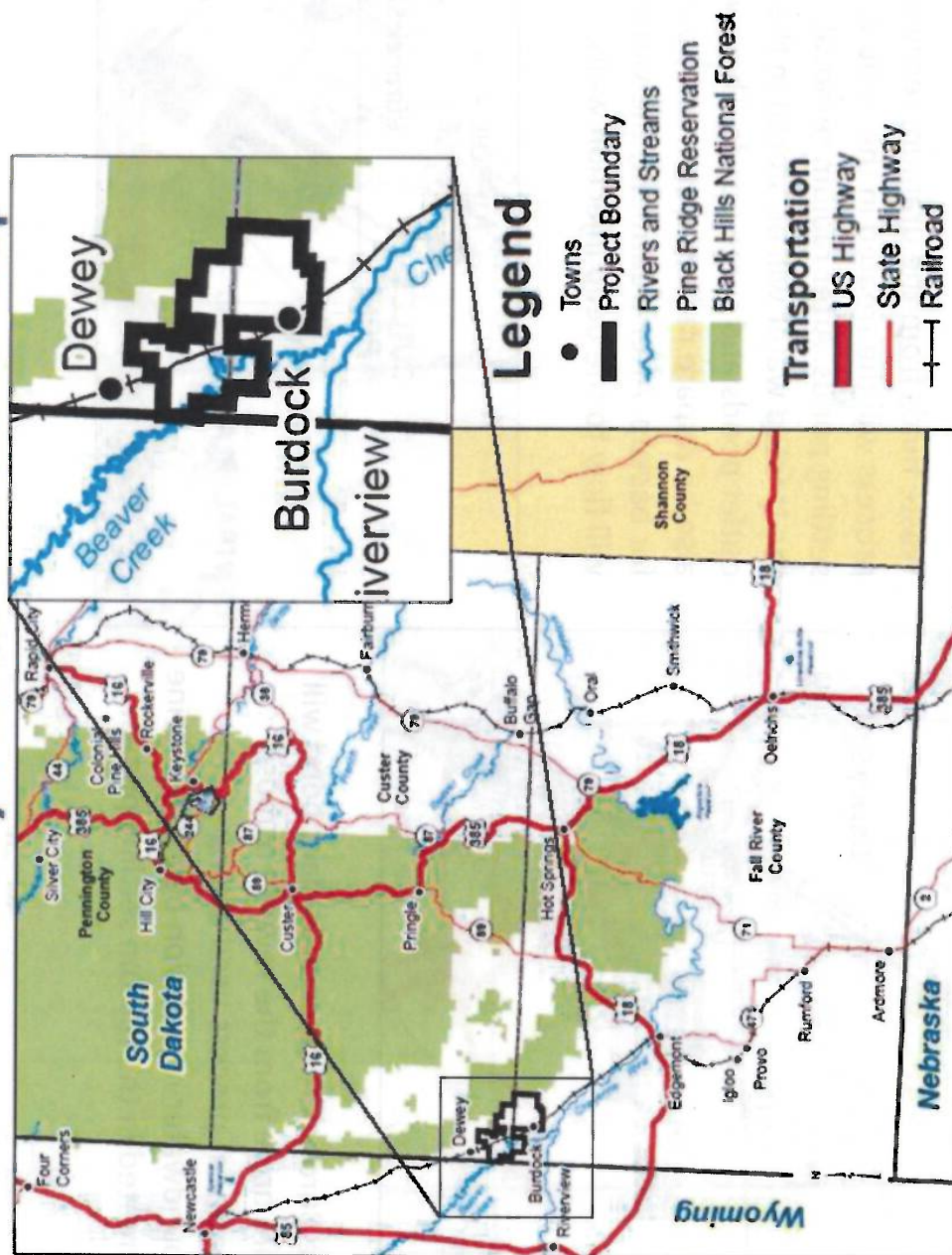
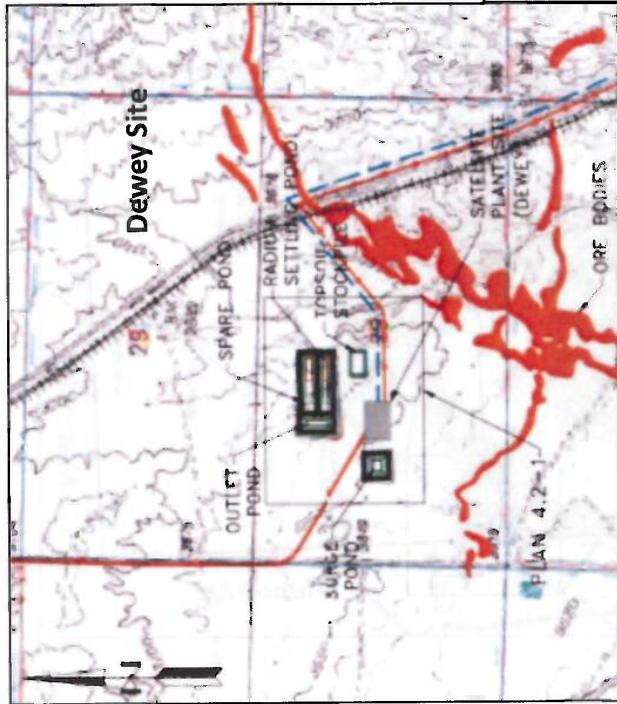


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The Burdock Area central plant pond will store brine from the reverse osmosis treatment process used during groundwater restoration before the brine is treated in the radium settling ponds.

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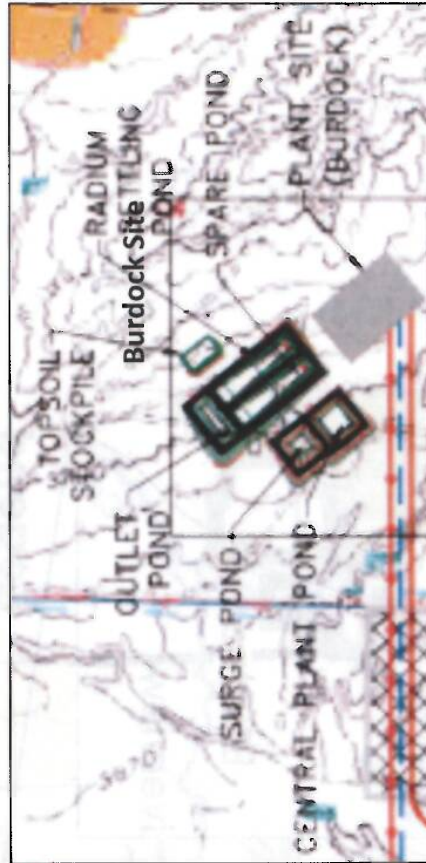


Figure 2. The Proposed Ponds for the Treatment and Storage of the Deep Injection Well Injectate.

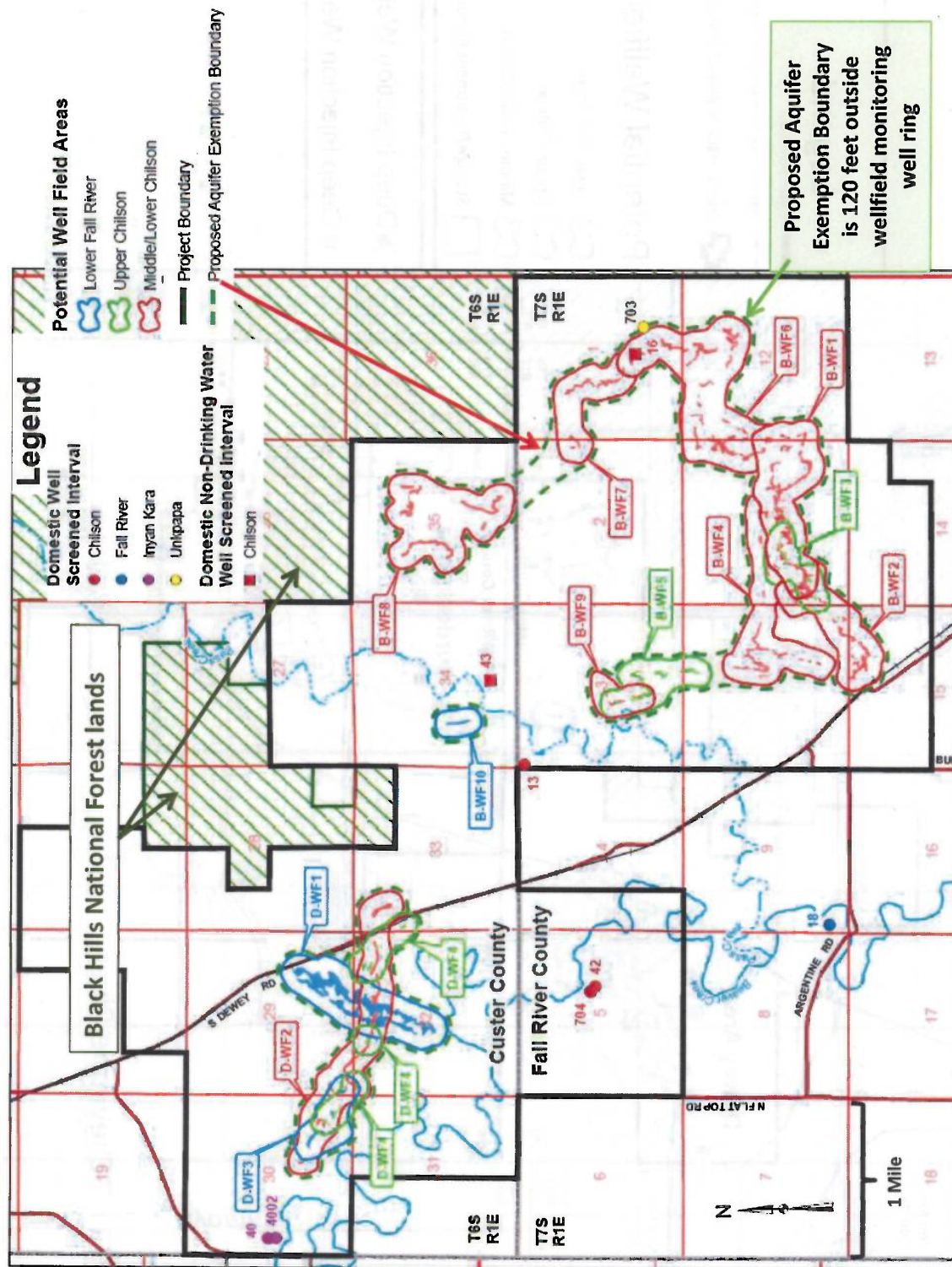
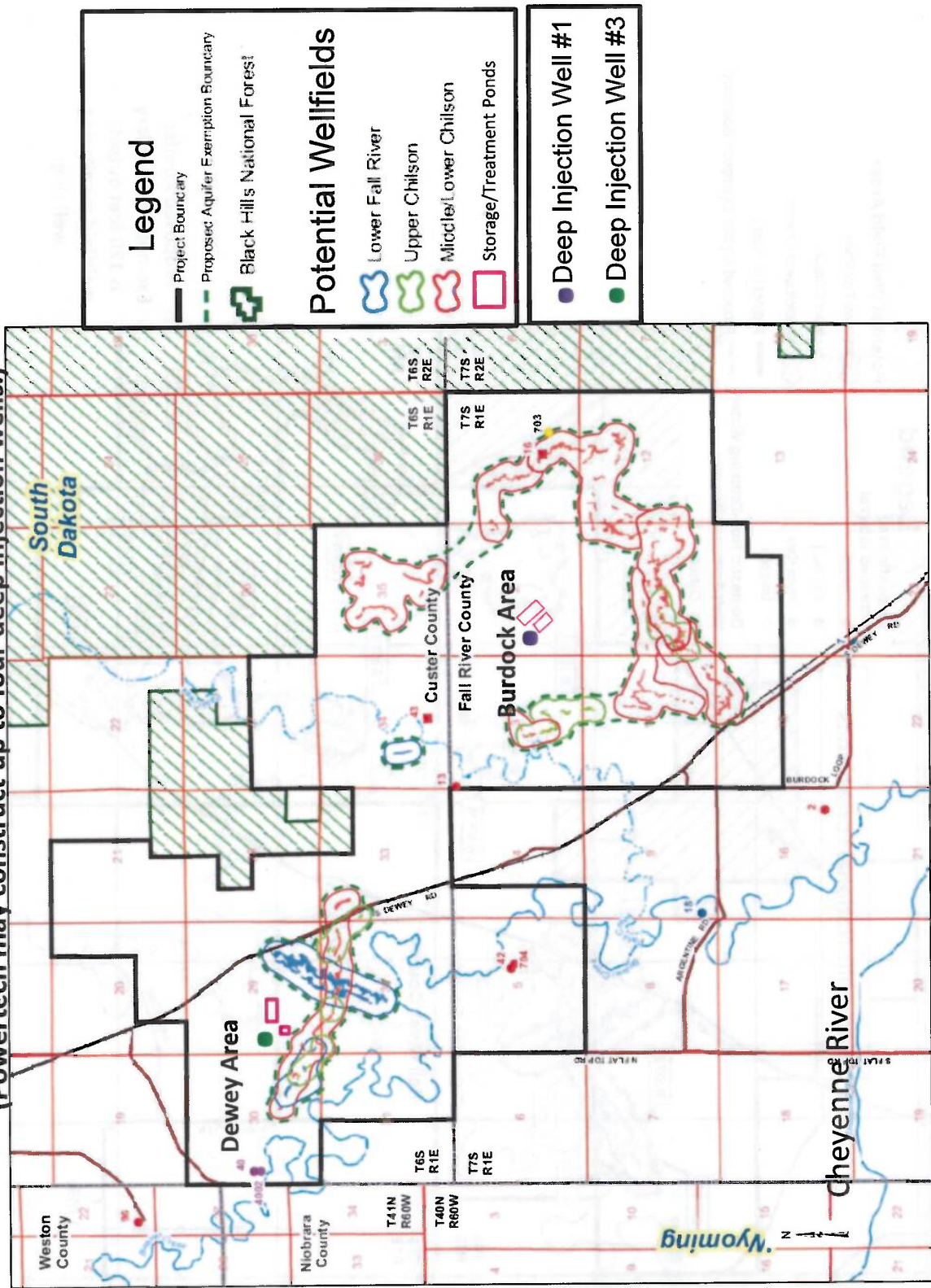
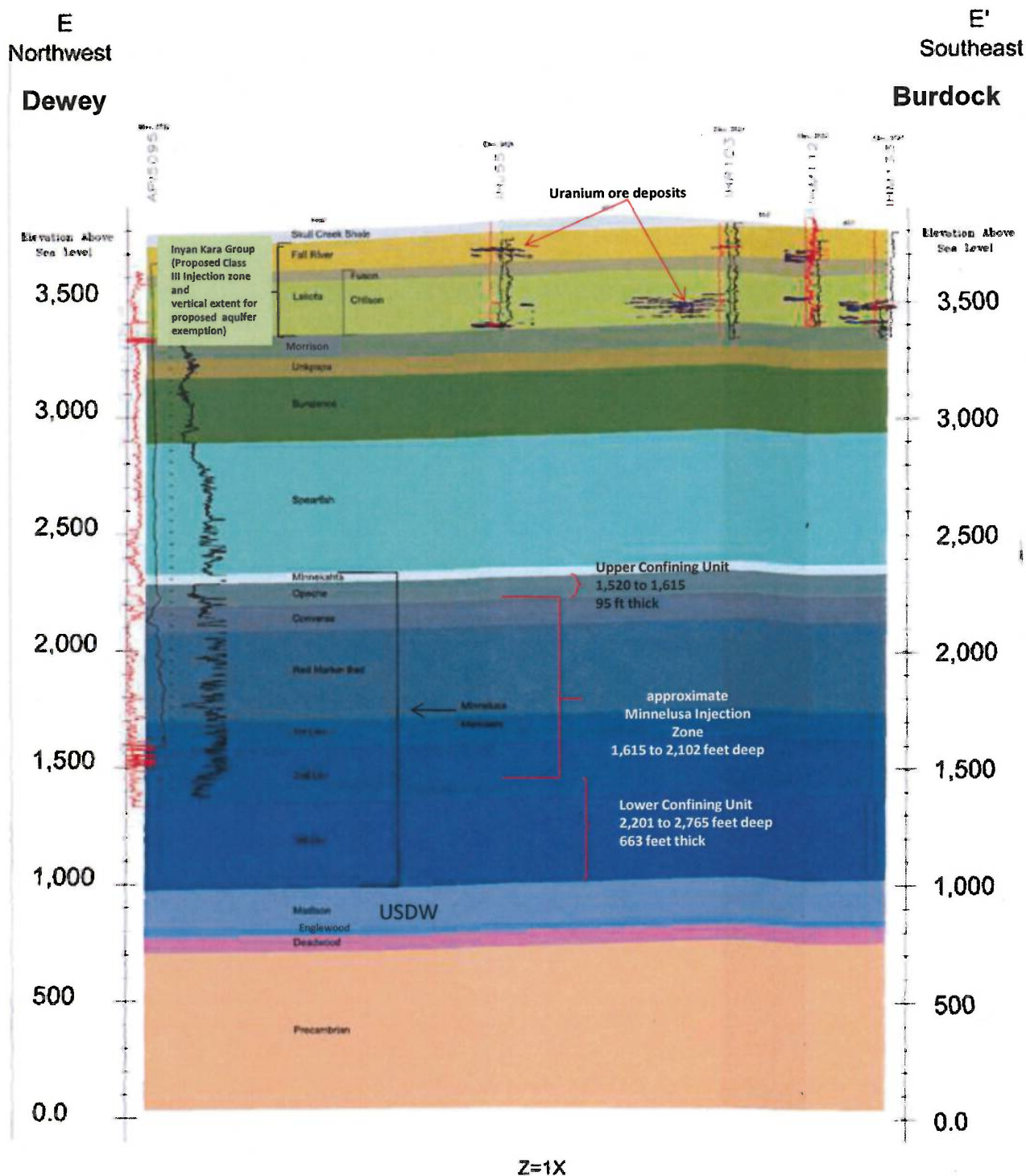


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**Figure 5. Stratigraphic cross-section of geologic formations present at the Dewey Burdock site and proposed injection zones for the Class III and deep Class V injections wells.**

**From:** [Galen Laurence](#)  
**To:** ["leonard.wabasha@shakoopedakota.org"](mailto:leonard.wabasha@shakoopedakota.org)  
**Subject:** EPA Invitation for Consultation – The Shakopee Mdewakanton Sioux Community  
**Date:** Thursday, July 25, 2019 3:39:00 PM  
**Attachments:** [EPA ConsultationLetter\\_ShakopeeMdewakantonSiouxCommunity.pdf](#)

---

Greetings Leonard,

The attached letter and enclosures are being sent to you on behalf of EPA Region 8. The EPA R8 Underground Injection Control (UIC) Program would like to invite you to consult on revised draft permits for injection wells and associated draft documents related to the proposed Dewey-Burdock uranium in-situ recovery site in the southern Black Hills region near Edgemont, South Dakota.

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**Galen Laurence | Analyst**

Cadmus | 100 5th Avenue, Suite 100 | Waltham, MA, 02451-8727

Tel: (617) 673-7016



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.

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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 loop followed by a long, horizontal, slightly wavy line.

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**

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# Dewey Burdock Location Map

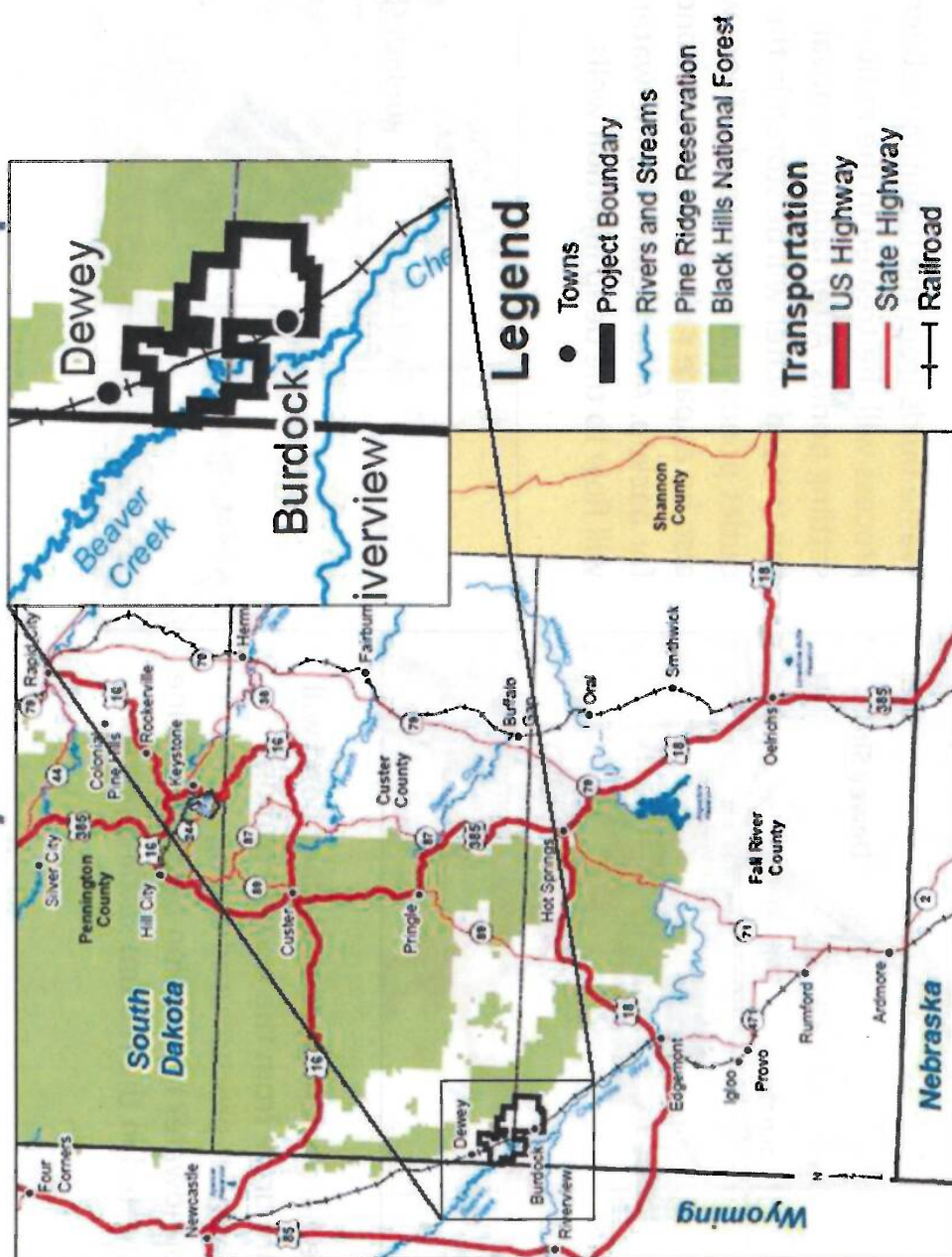
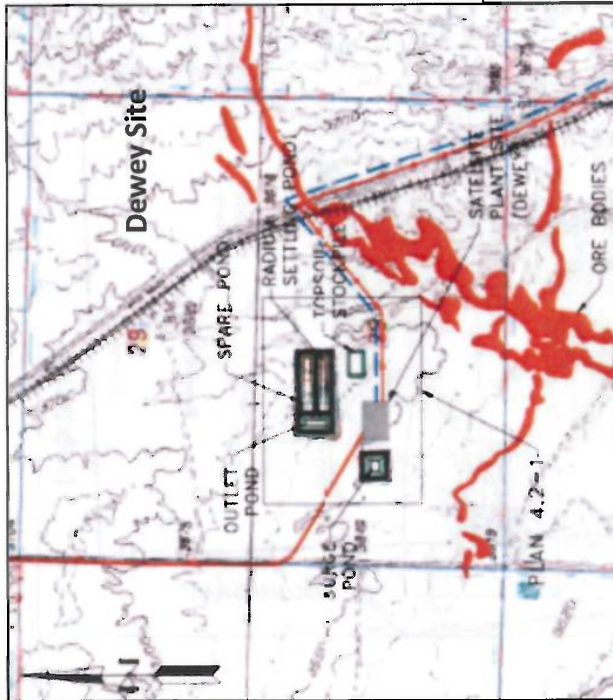


Figure 1. Map showing the location of the proposed Dewey-Burdock uranium recovery site.

## Treatment and Storage Ponds for Deep Well Injectate

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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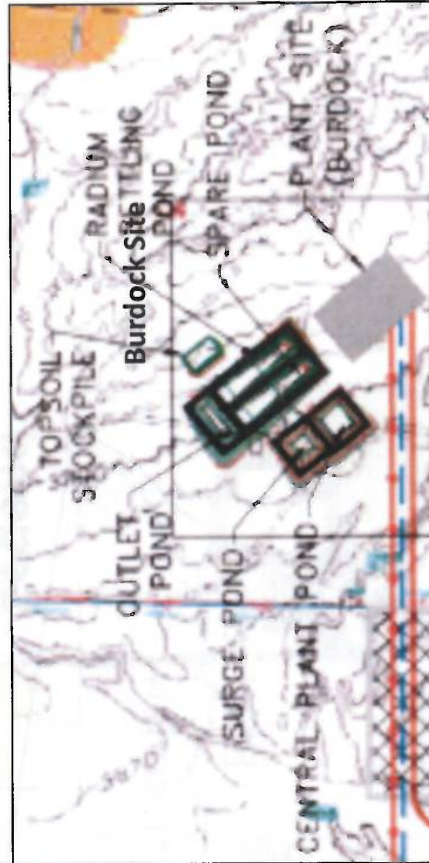


Figure 2. The Proposed Ponds for the Treatment and Storage of the Deep Injection Well Injectate.

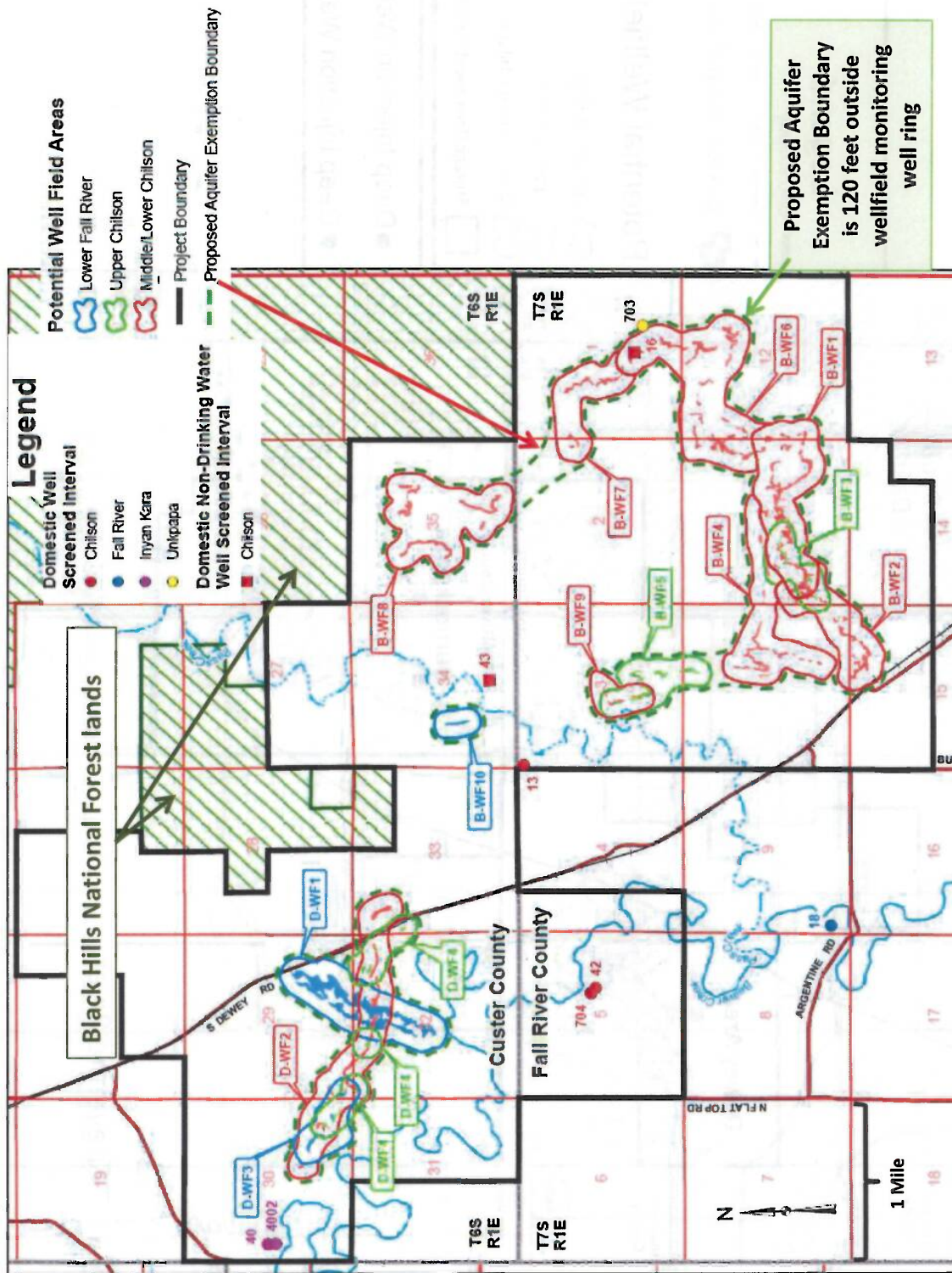
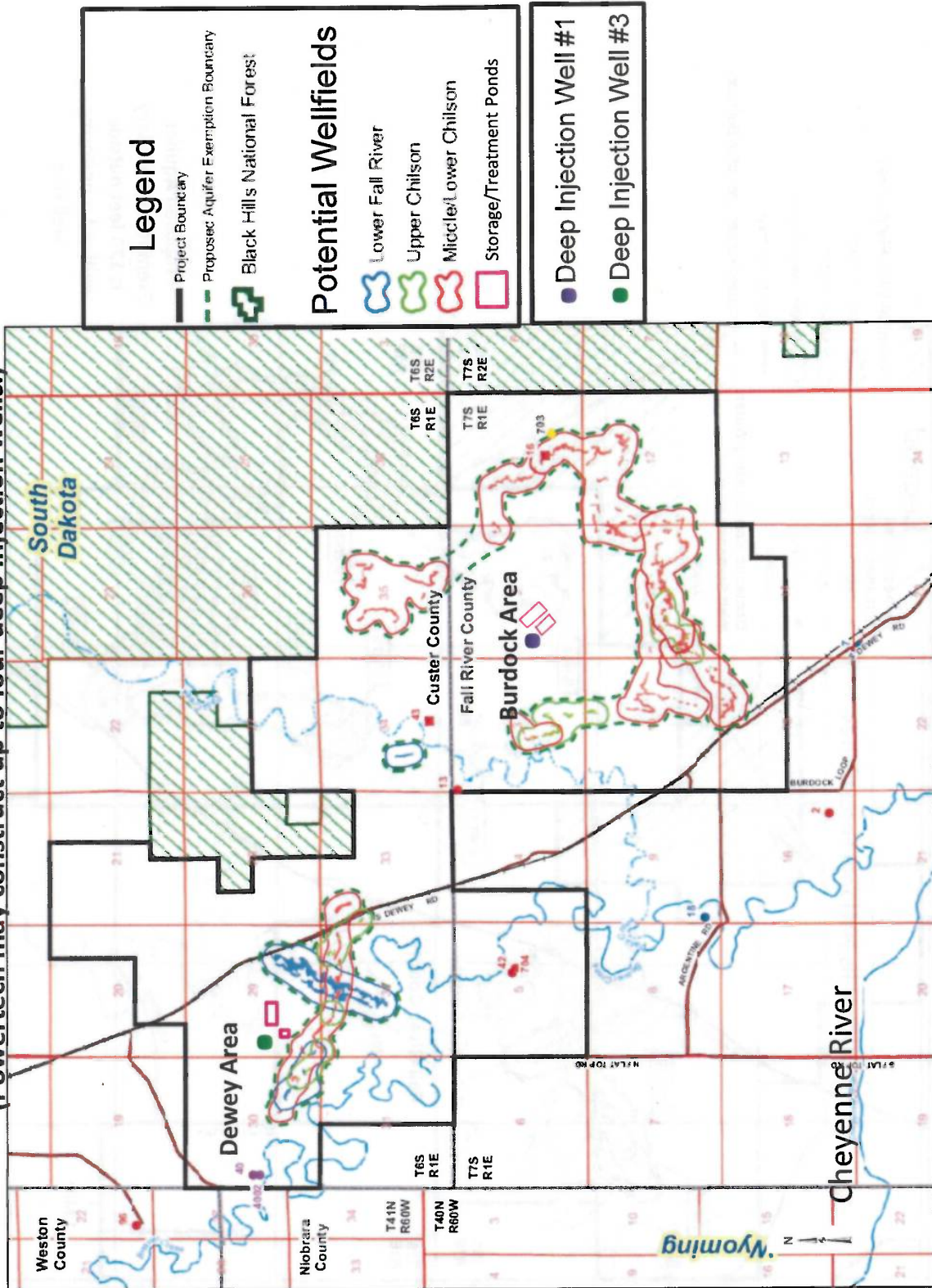
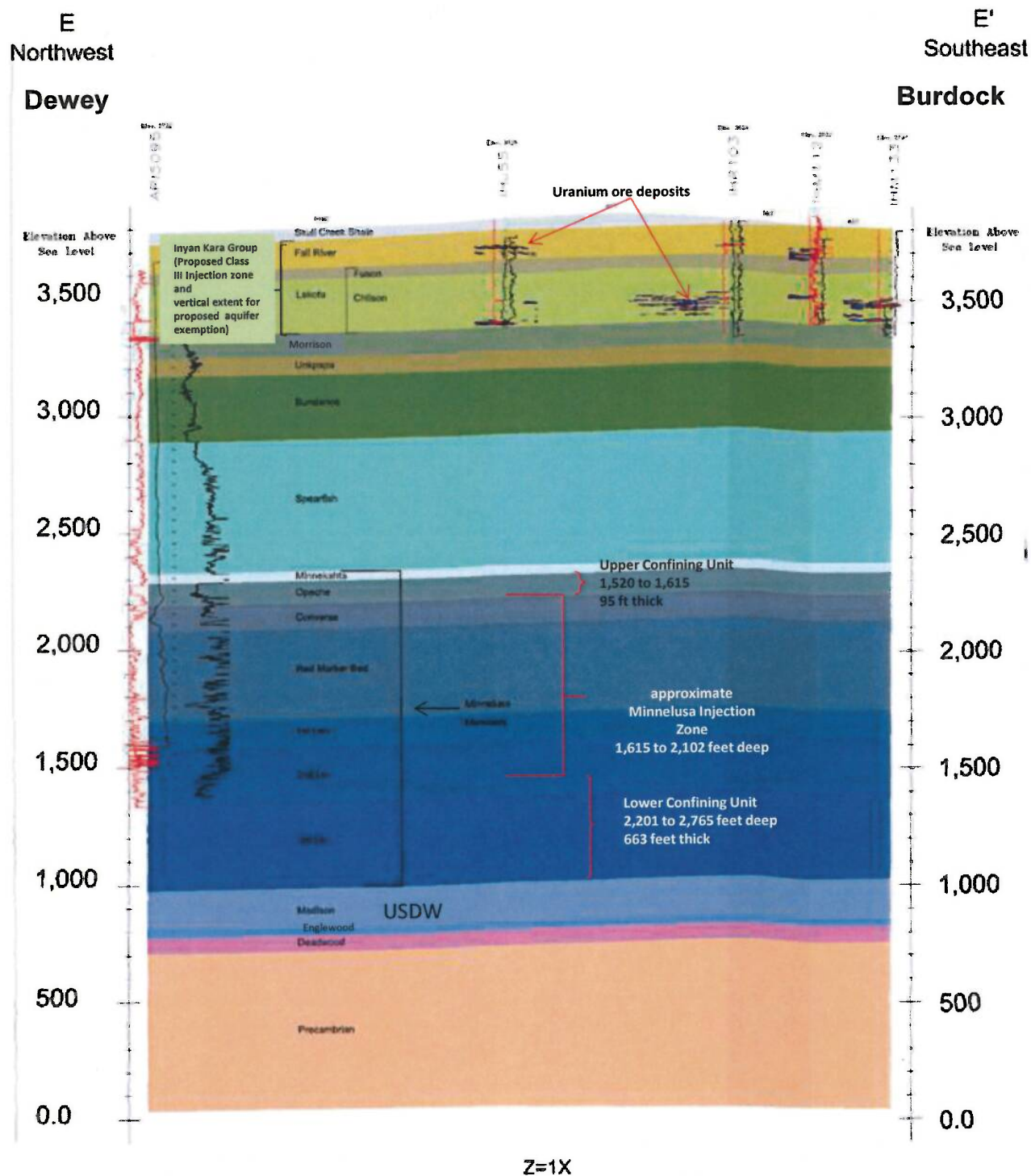


Figure 3. Map showing locations of the proposed wellfields containing Class III injection wells, the aquifer exemption boundary and the UIC permit boundary.

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:** [Galen Laurence](#)  
**To:** [dianned@swo-nsn.gov](mailto:dianned@swo-nsn.gov); [gabriellet@swo-nsn.gov](mailto:gabriellet@swo-nsn.gov)  
**Subject:** EPA Invitation for Consultation – The Sisseton-Wahpeton Oyate  
**Date:** Thursday, July 25, 2019 3:37:00 PM  
**Attachments:** [EPA ConsultationLetter\\_SissetonWahpetonOyate.pdf](#)

---

Greetings Dianne and Gabrielle,

The attached letter and enclosures are being sent to you on behalf of EPA Region 8. The EPA R8 Underground Injection Control (UIC) Program would like to invite you to consult on revised draft permits for injection wells and associated draft documents related to the proposed Dewey-Burdock uranium in-situ recovery site in the southern Black Hills region near Edgemont, South Dakota.

If you are interested in meeting with the EPA, please reply to Valois Robinson of the EPA R8 UIC program. Ms. Robinson can be reached at 800-227-8917 (extension 312-6276) or 303-312-6276. She may also be reached by email at [robinson.valois@epa.gov](mailto:robinson.valois@epa.gov).

If you have any questions, you may also respond to this email directly; we will be happy to convey questions or comments to EPA.

Thank you,

Galen Laurence

**Galen Laurence | Analyst**

Cadmus | 100 5th Avenue, Suite 100 | Waltham, MA, 02451-8727  
Tel: (617) 673-7016



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 Verlyn Beaudreau  
Interim Chairman  
The Sisseton-Wahpeton Oyate  
P.O. Box 509  
Agency Village, South Dakota 57262-0509

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 Interim Chairman Beaudreau:

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 Sisseton-Wahpeton Oyate'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](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 Sisseton-Wahpeton Oyate 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 Sisseton-Wahpeton Oyate 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 Sisseton-Wahpeton Oyate 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 Sisseton-Wahpeton Oyate 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](mailto: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 Sisseton-Wahpeton Oyate'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: Gabrielle Tiomanipi, Environmental Director  
Dianne Desrosiers, 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.

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

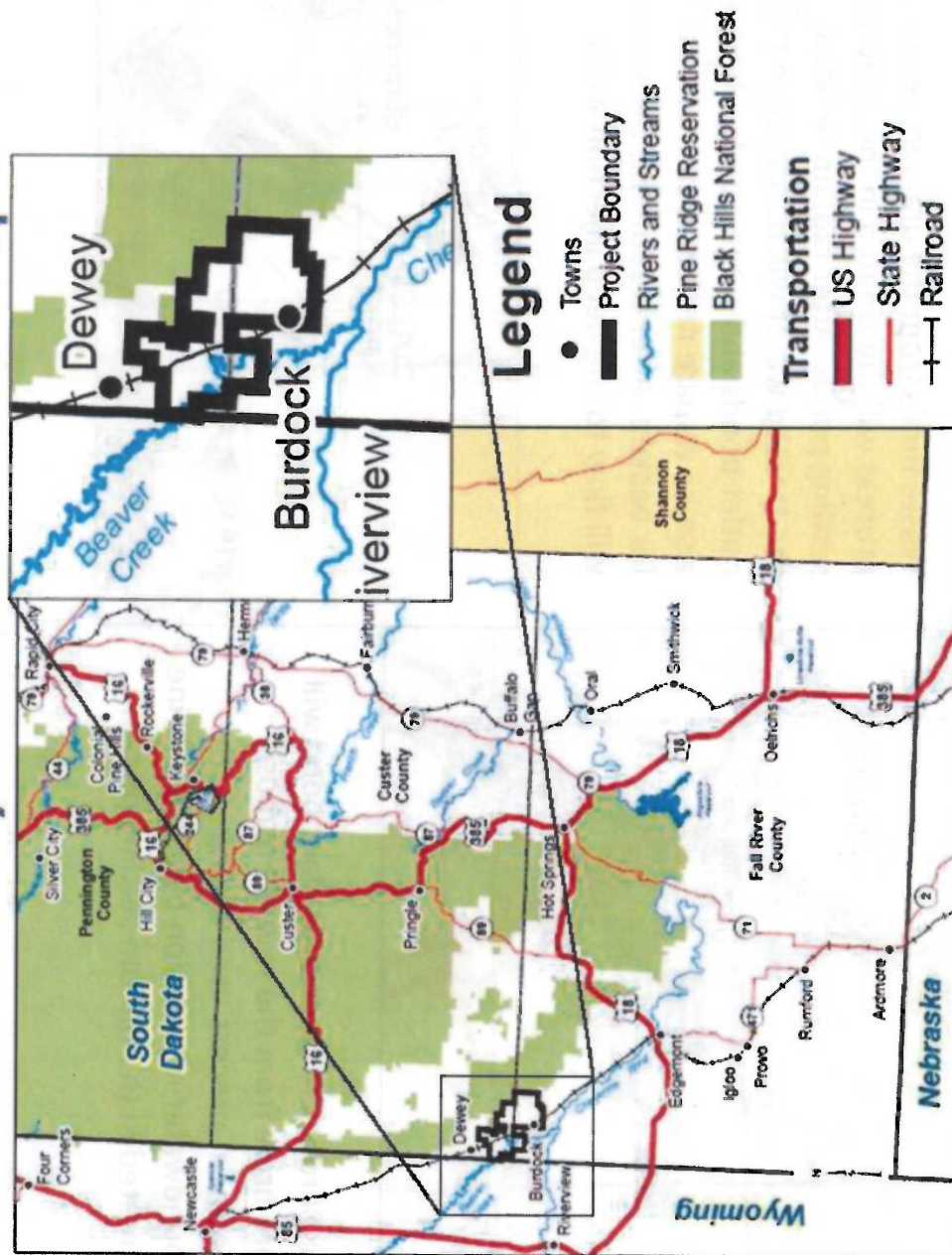
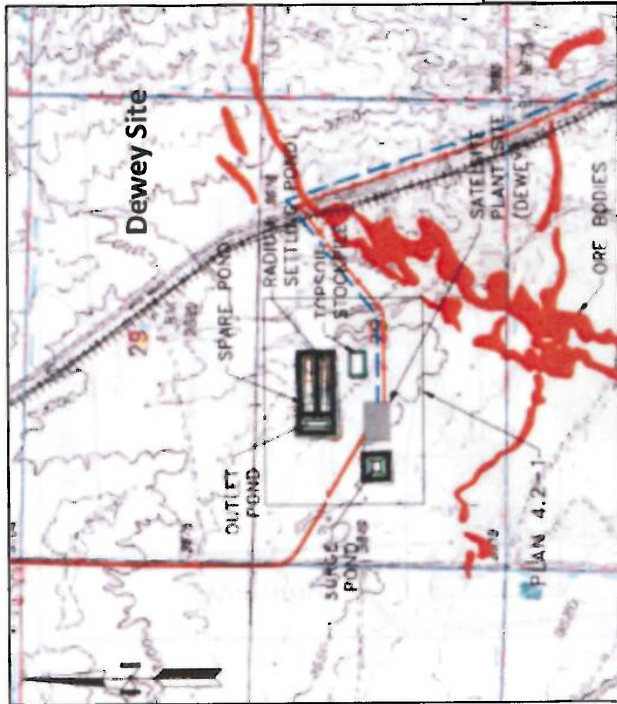


Figure 1. Map showing the location of the proposed Dewey-Burdock uranium recovery site.

## 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.

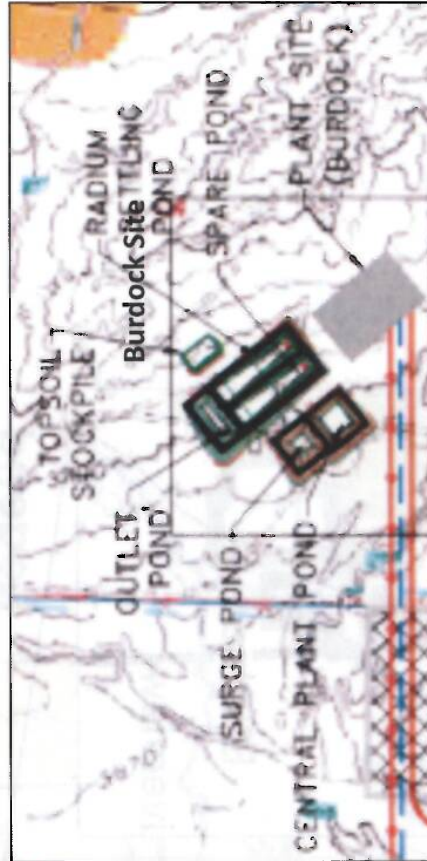


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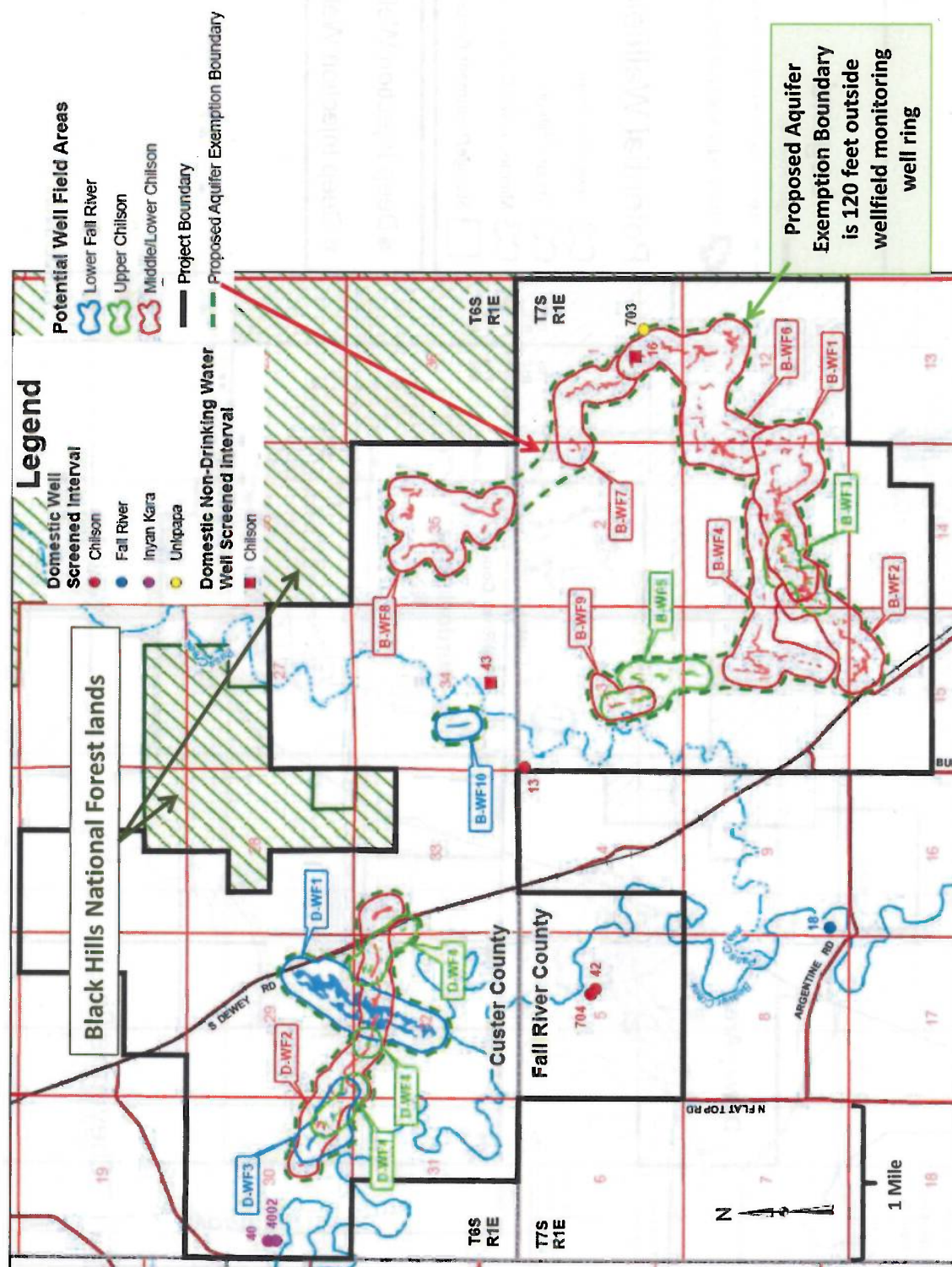
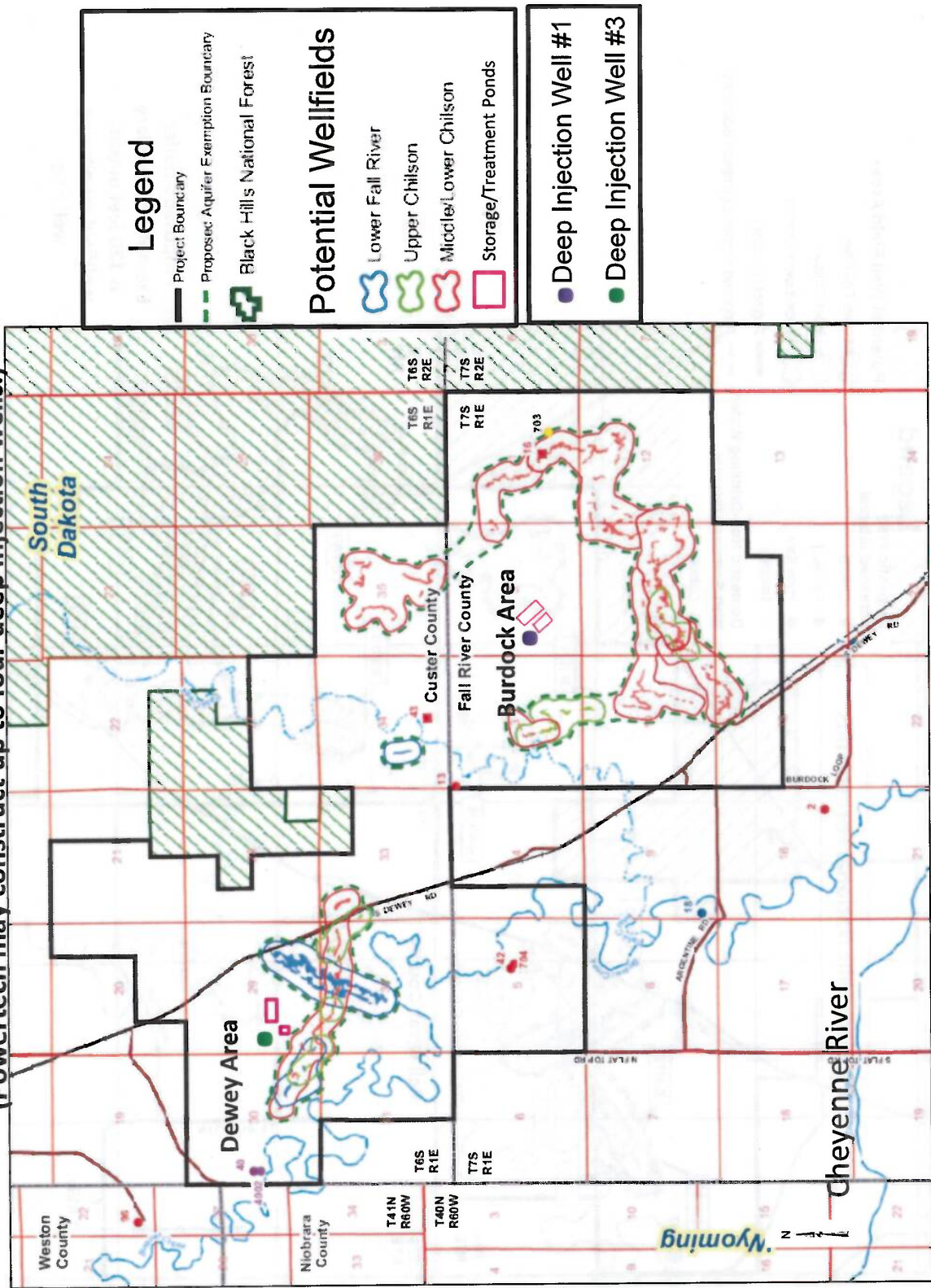


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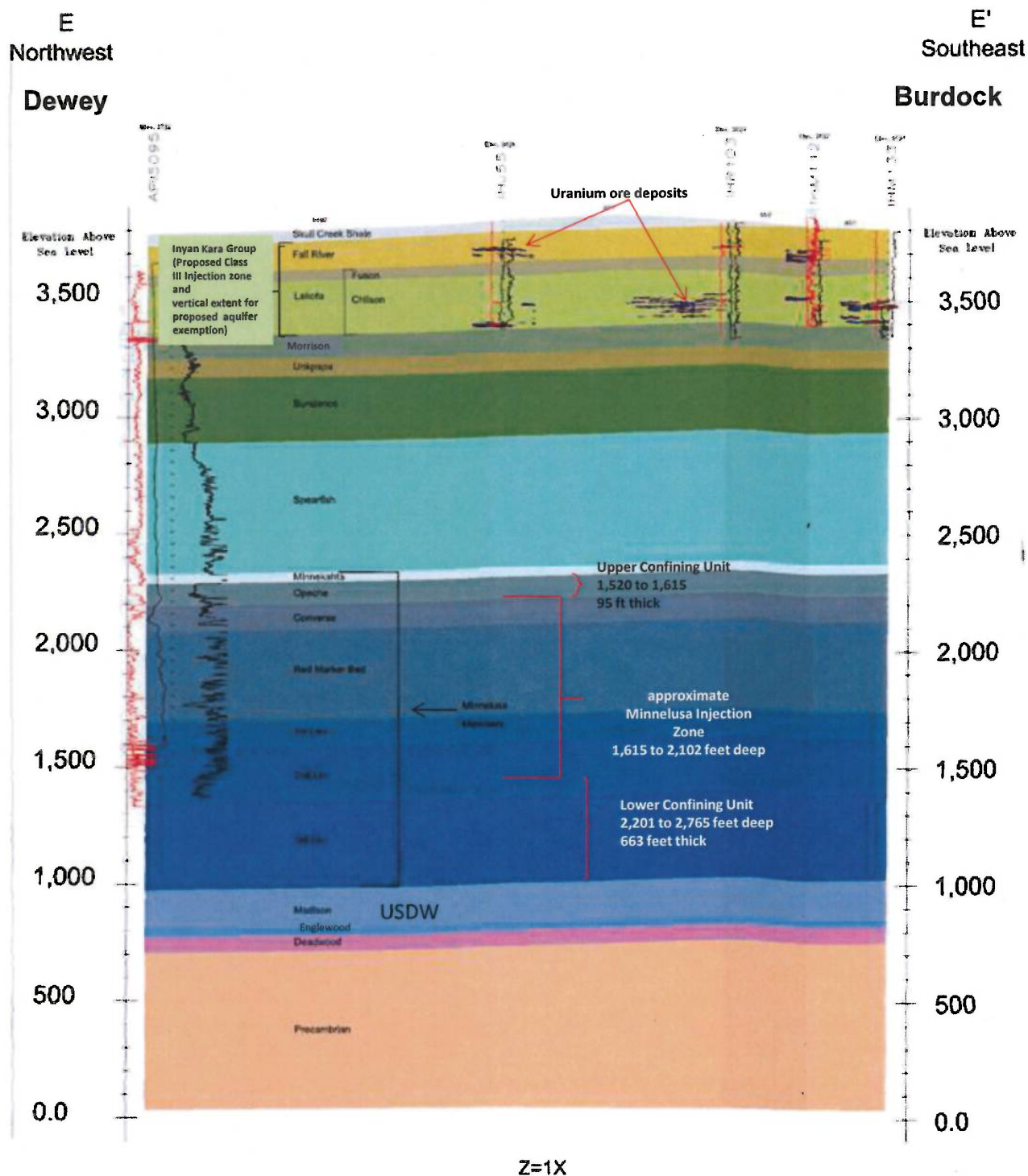


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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
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JUL 08 2019

Ref: 8WD-SDU

Honorable Candace Bear  
Chairwoman  
The Skull Valley Band of Goshutes  
407 Skull Valley Road  
Skull Valley Reservation, Utah 84029

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 Chairwoman Bear:

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Consistent with the Treaty Rights guidance, the EPA would also like input from the The Skull Valley Band of Goshutes 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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We appreciate the The Skull Valley Band of Goshutes' prompt attention to this important matter.

Sincerely,

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Darcy O'Connor, Director  
Water Division

Enclosures (6)

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# Dewey Burdock Location Map

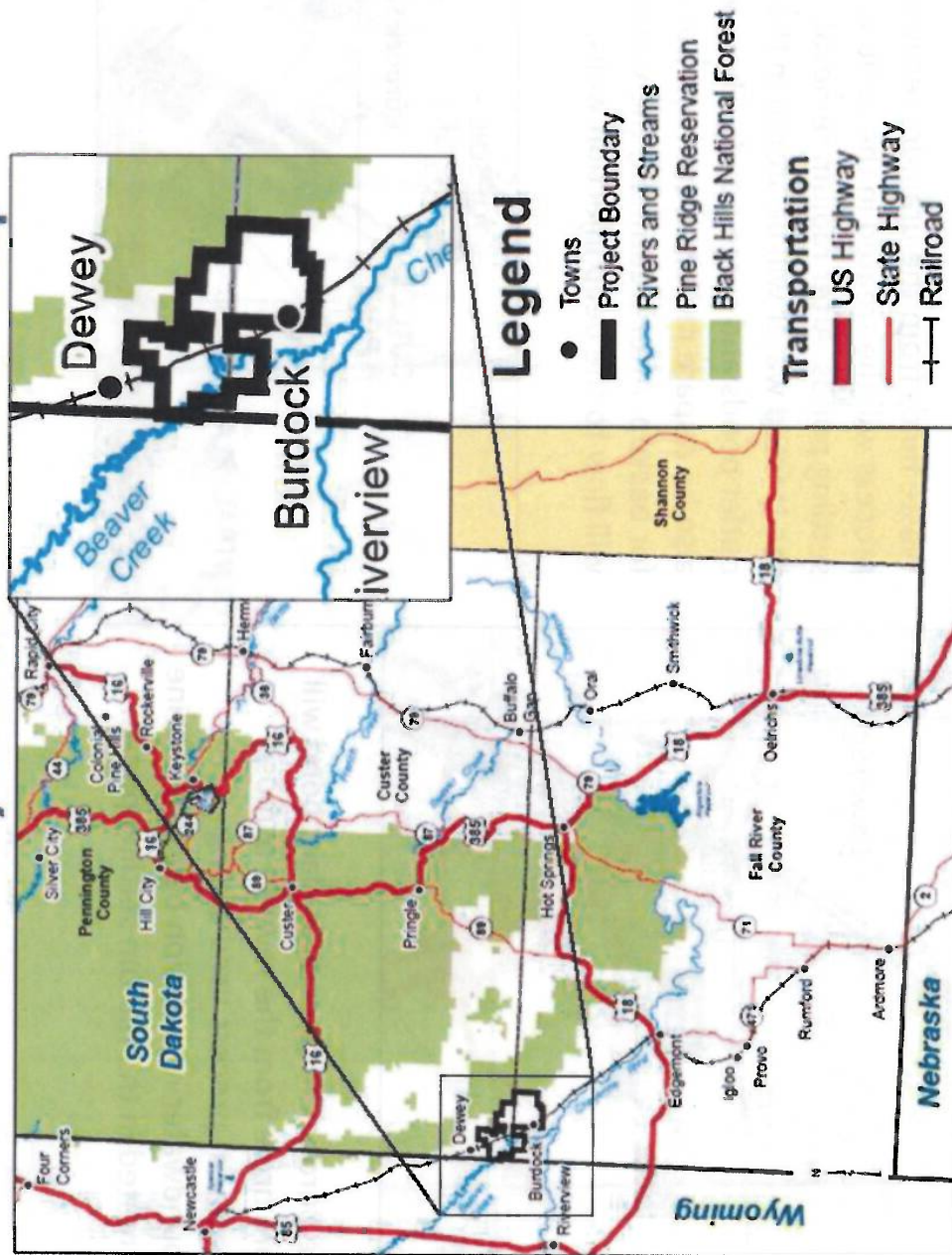
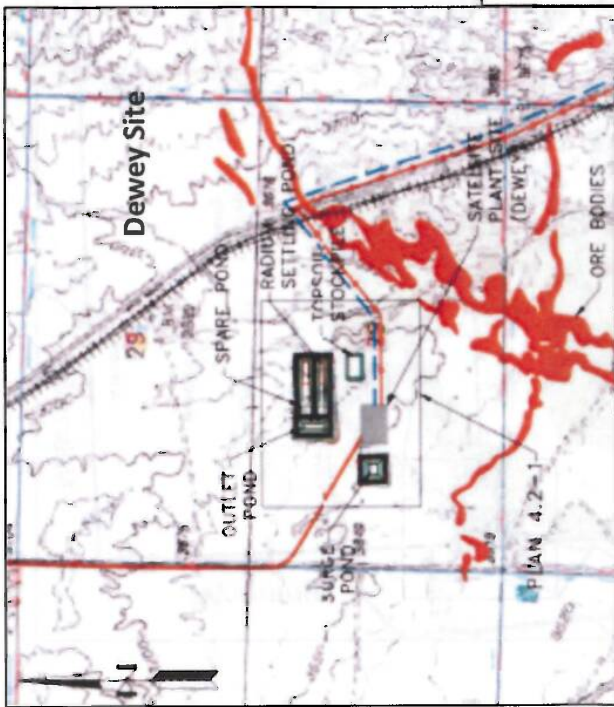


Figure 1. Map showing the location of the proposed Dewey-Burdock uranium recovery site.

## Treatment and Storage Ponds for Deep Well Injectate

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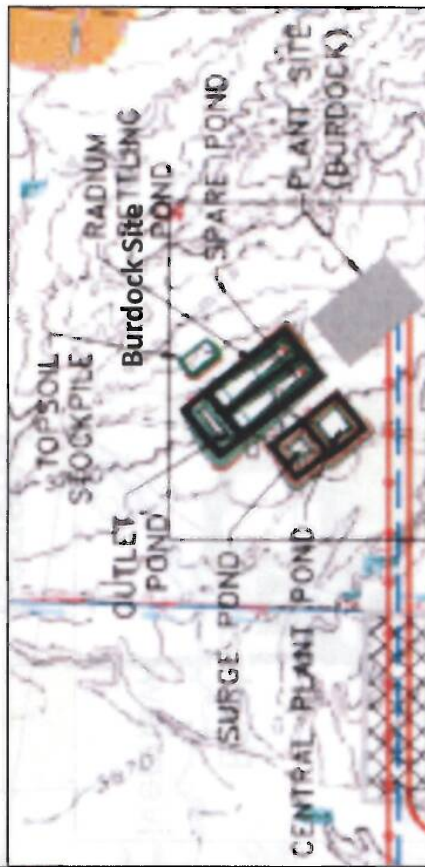


Figure 2. The Proposed Ponds for the Treatment and Storage of the Deep Injection Well Injectate.

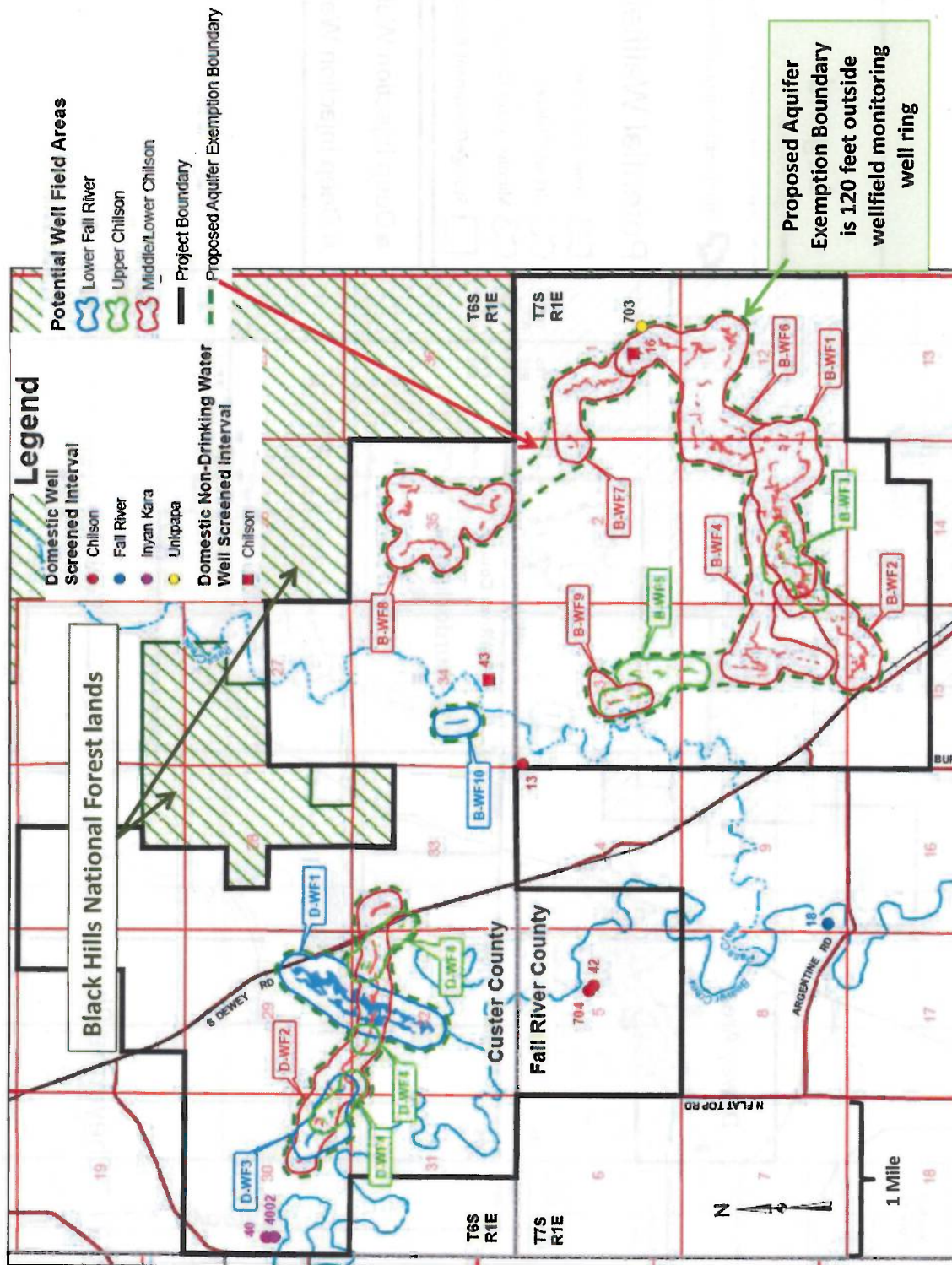
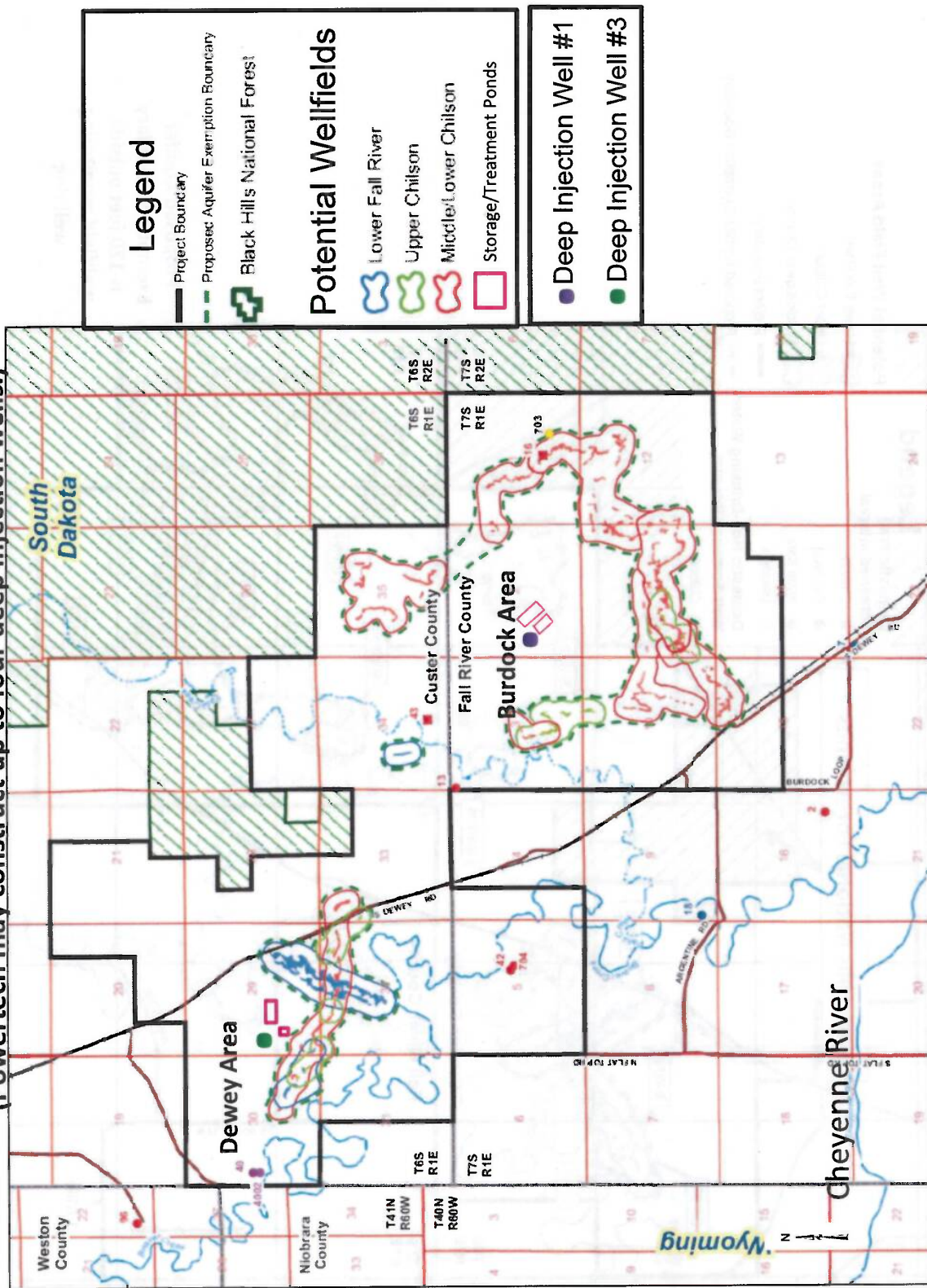
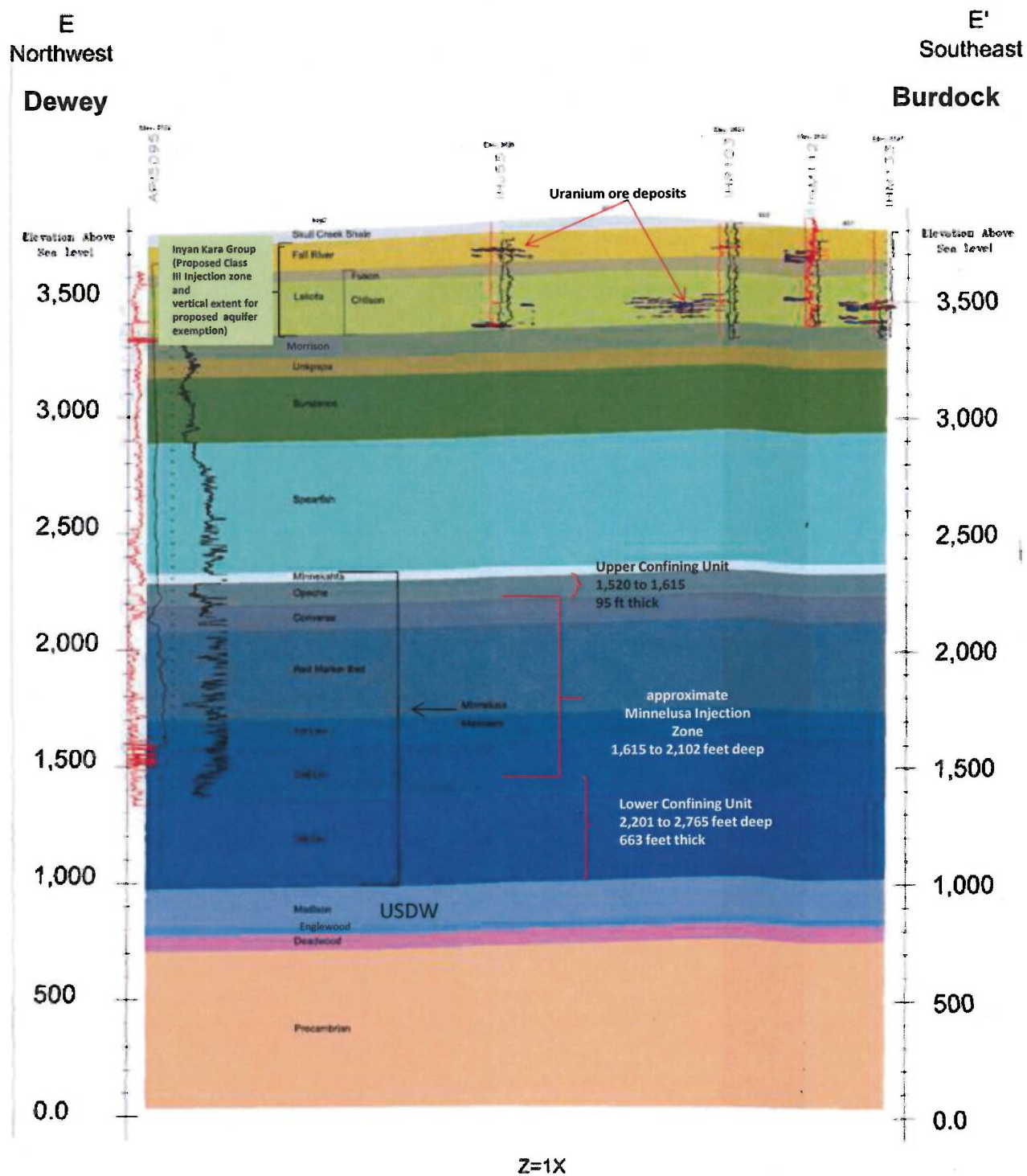


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**Figure 5. Stratigraphic cross-section of geologic formations present at the Dewey Burdock site and proposed injection zones for the Class III and deep Class V injections wells.**

**From:** [Galen Laurence](#)  
**To:** [eredd@southernute-nsn.gov](mailto:eredd@southernute-nsn.gov); [mhutson@southernute-nsn.gov](mailto:mhutson@southernute-nsn.gov)  
**Subject:** EPA Invitation for Consultation – The Southern Ute Tribe  
**Date:** Thursday, July 25, 2019 3:38:00 PM  
**Attachments:** [EPA ConsultationLetter\\_SouthernUteTribe.pdf](#)

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Greetings,

The attached letter and enclosures are being sent to you on behalf of EPA Region 8. The EPA R8 Underground Injection Control (UIC) Program would like to invite you to consult on revised draft permits for injection wells and associated draft documents related to the proposed Dewey-Burdock uranium in-situ recovery site in the southern Black Hills region near Edgemont, South Dakota.

If you are interested in meeting with the EPA, please reply to Valois Robinson of the EPA R8 UIC program. Ms. Robinson can be reached at 800-227-8917 (extension 312-6276) or 303-312-6276. She may also be reached by email at [robinson.valois@epa.gov](mailto:robinson.valois@epa.gov).

If you have any questions, you may also respond to this email directly; we will be happy to convey questions or comments to EPA.

Thank you,

Galen Laurence

**Galen Laurence | Analyst**

Cadmus | 100 5th Avenue, Suite 100 | Waltham, MA, 02451-8727  
Tel: (617) 673-7016



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 Christine Sage  
Chairman  
The Southern Ute Tribe  
P.O. Box 737  
Ignacio, Colorado 81137-0737

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 Sage:

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.

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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 Southern Ute 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>.

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Consistent with the Treaty Rights guidance, the EPA would also like input from the The Southern Ute 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?
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- (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 Southern Ute 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;
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- (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 Southern Ute 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 Southern Ute 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](mailto: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.

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We appreciate the The Southern Ute 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: Mark Hutson, Environmental Director

## **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

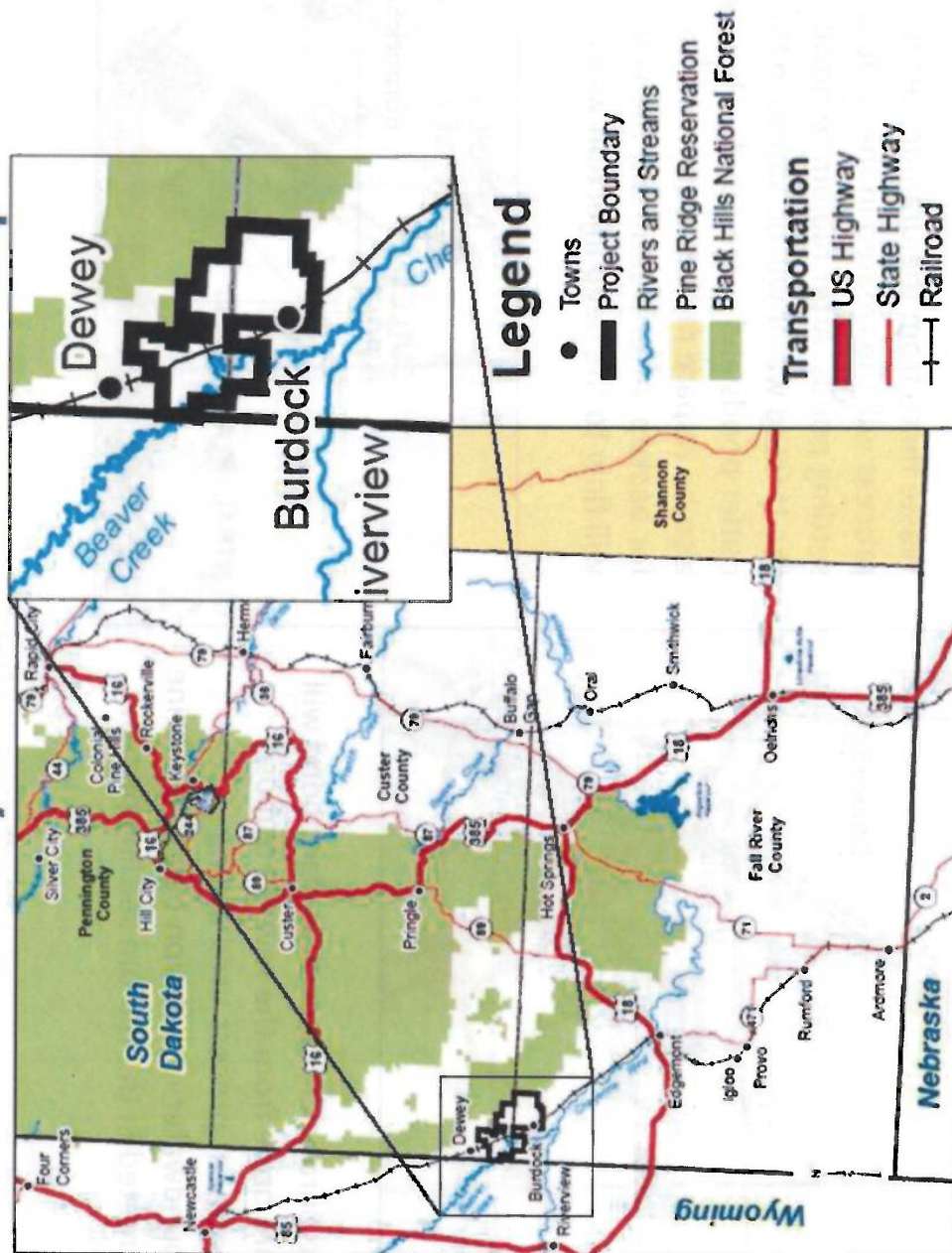
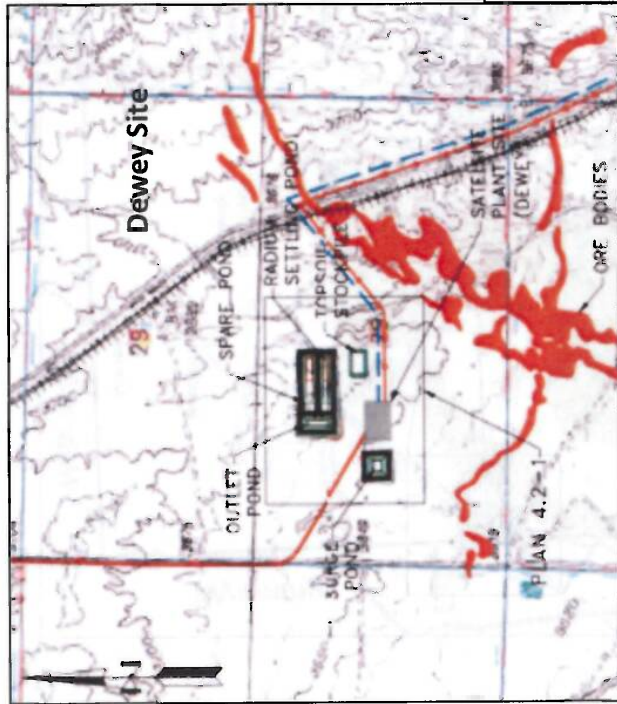


Figure 1. Map showing the location of the proposed Dewey-Burdock uranium recovery site.

## 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.

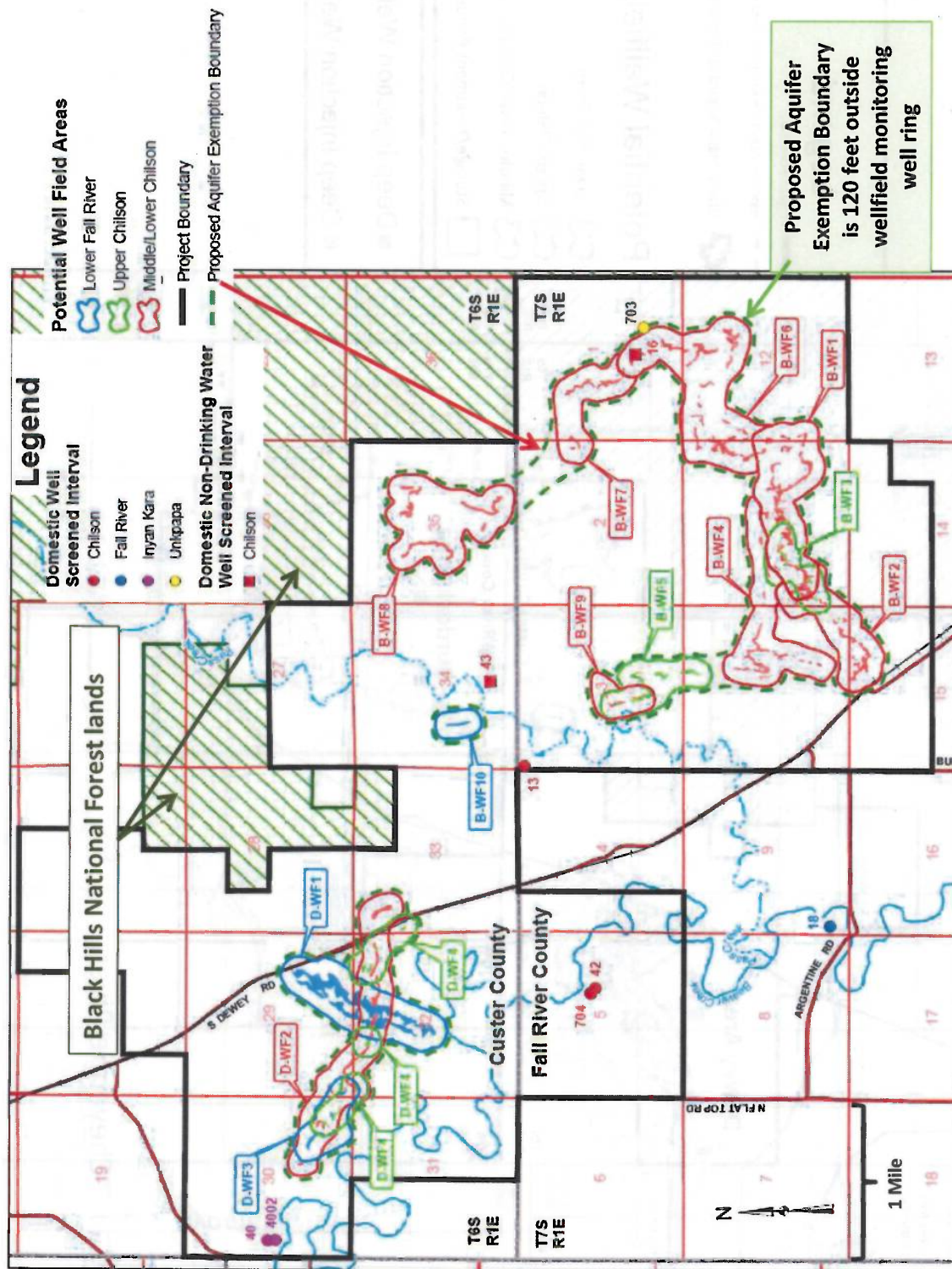
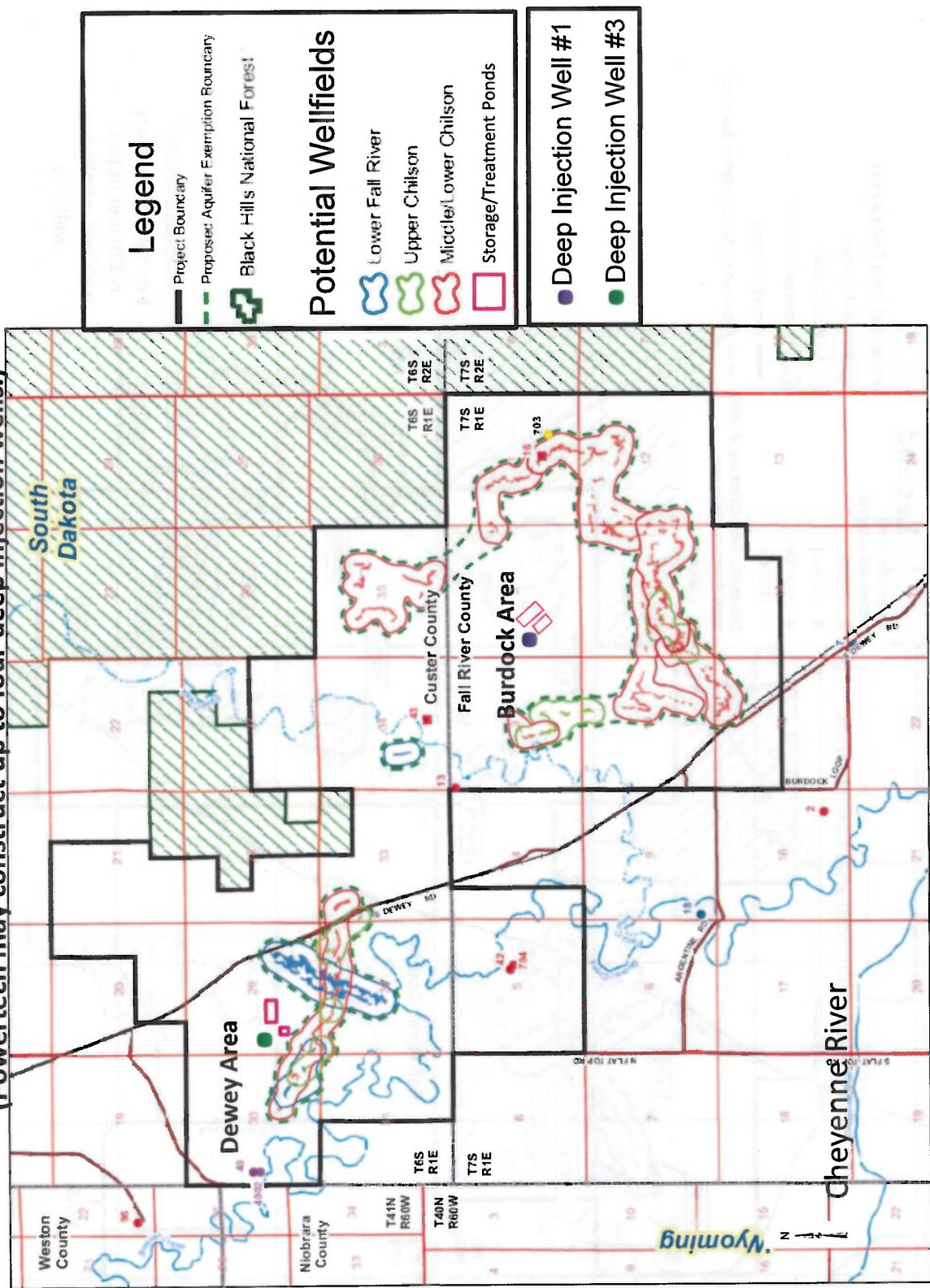


Figure 3. Map showing locations of the proposed wellfields containing Class III injection wells, the aquifer exemption boundary and the UIC permit boundary.

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



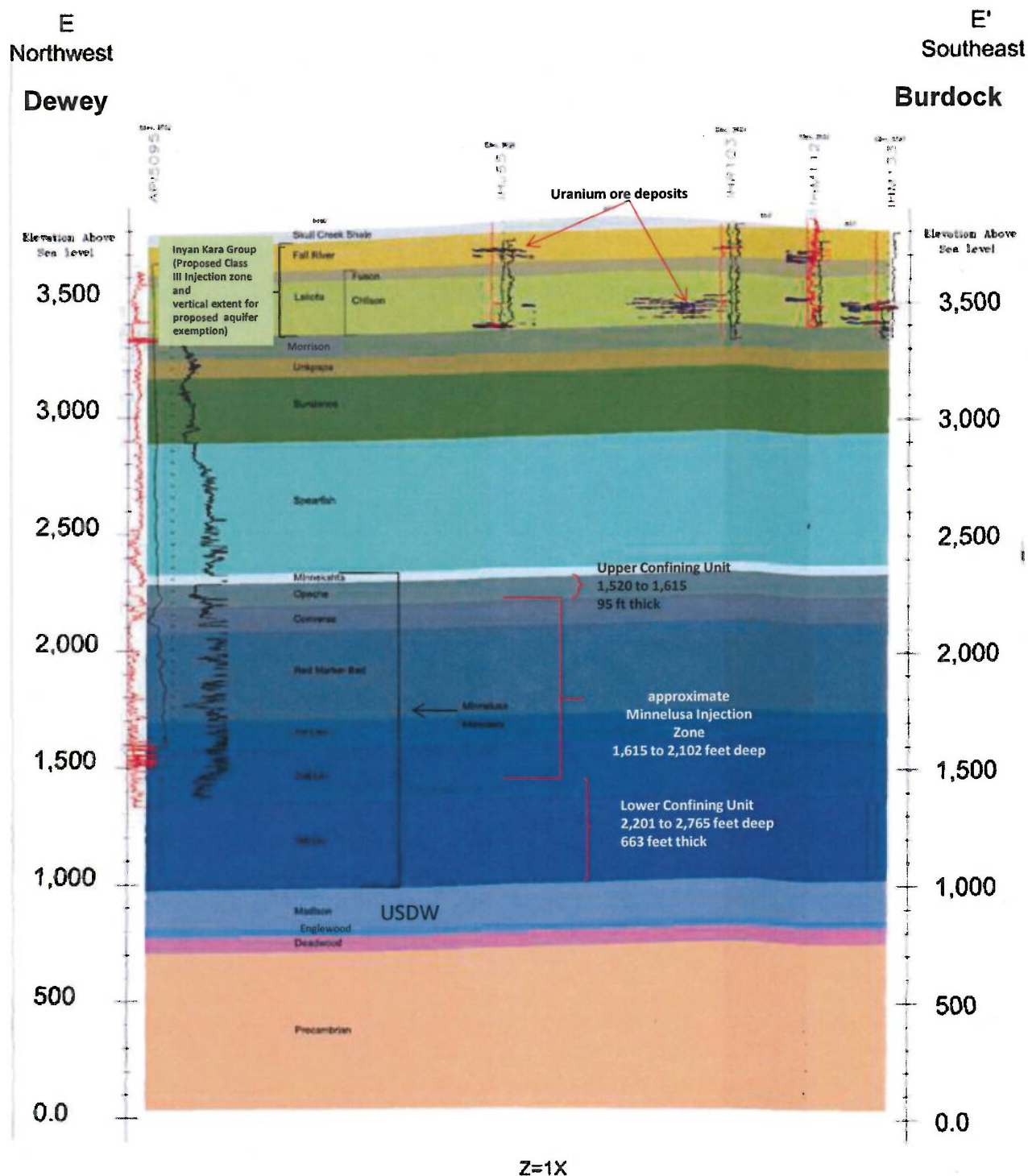


Figure 5. Stratigraphic cross-section of geologic formations present at the Dewey Burdock site and proposed injection zones for the Class III and deep Class V injections wells.

**From:** [Galen Laurence](#)  
**To:** [thpo@gondtc.com](mailto:thpo@gondtc.com); [epadir@spiritlakenation.com](mailto:epadir@spiritlakenation.com)  
**Subject:** EPA Invitation for Consultation – The Spirit Lake Sioux Tribe  
**Date:** Thursday, July 25, 2019 3:39:00 PM  
**Attachments:** [EPA ConsultationLetter\\_SpiritLakeSiouxTribe.pdf](#)

---

Greetings Erich and Joshua,

The attached letter and enclosures are being sent to you on behalf of EPA Region 8. The EPA R8 Underground Injection Control (UIC) Program would like to invite you to consult on revised draft permits for injection wells and associated draft documents related to the proposed Dewey-Burdock uranium in-situ recovery site in the southern Black Hills region near Edgemont, South Dakota.

If you are interested in meeting with the EPA, please reply to Valois Robinson of the EPA R8 UIC program. Ms. Robinson can be reached at 800-227-8917 (extension 312-6276) or 303-312-6276. She may also be reached by email at [robinson.valois@epa.gov](mailto:robinson.valois@epa.gov).

If you have any questions, you may also respond to this email directly; we will be happy to convey questions or comments to EPA.

Thank you,

Galen Laurence

**Galen Laurence | Analyst**

Cadmus | 100 5th Avenue, Suite 100 | Waltham, MA, 02451-8727  
Tel: (617) 673-7016



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 Myra Pearson  
Chairperson  
The Spirit Lake Sioux Tribe  
P.O. Box 359  
Ft. Totten, North Dakota 58335

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 Chairperson Pearson:

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.

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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 Spirit Lake 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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Consistent with the Treaty Rights guidance, the EPA would also like input from the The Spirit Lake 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?
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We appreciate the The Spirit Lake Sioux Tribe's prompt attention to this important matter.

Sincerely,

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Darcy O'Connor, Director  
Water Division

Enclosures (6)

cc: Joshua Tweeton, Environmental Director  
Erich Longie, Tribal Historic Preservation Officer

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# Dewey Burdock Location Map

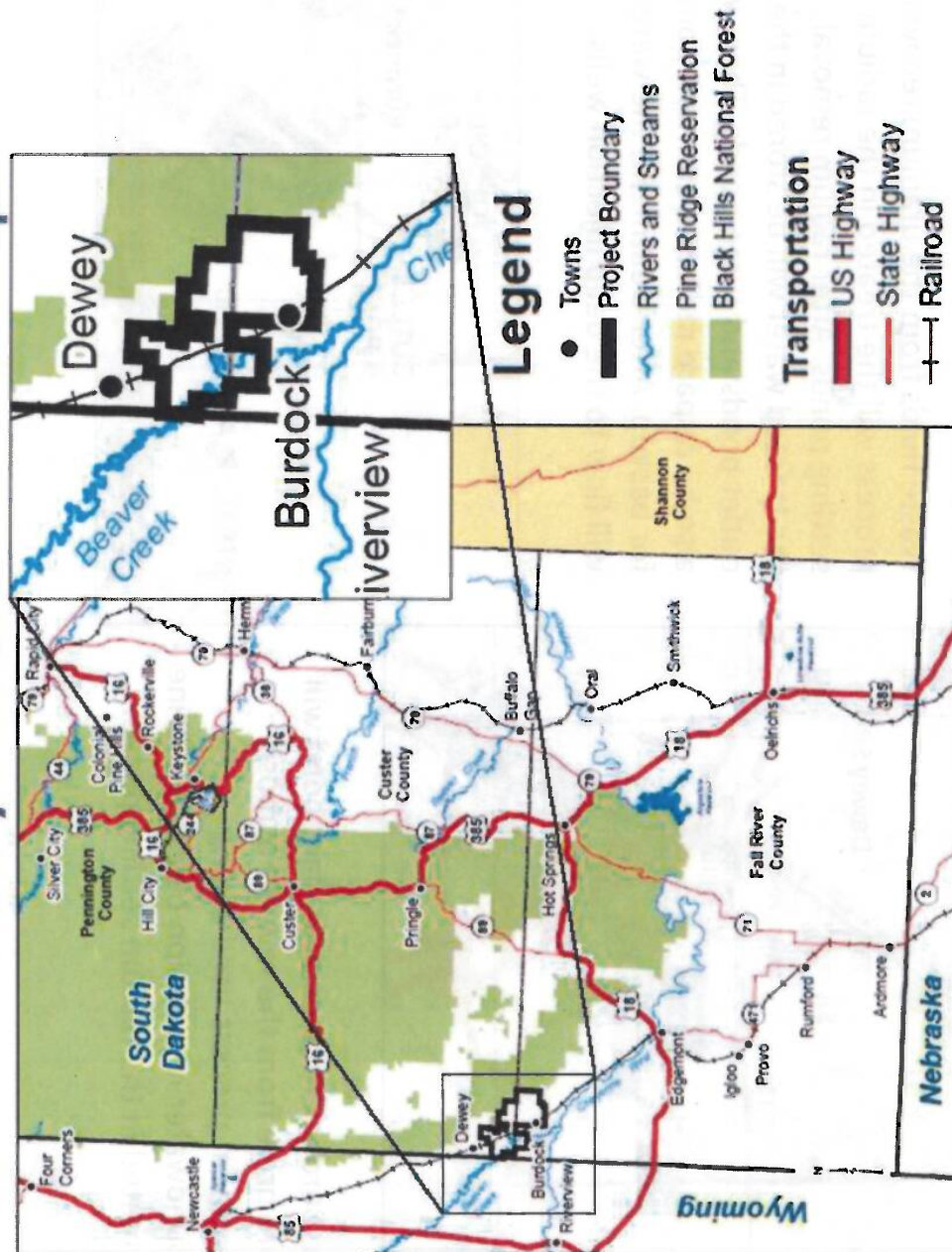
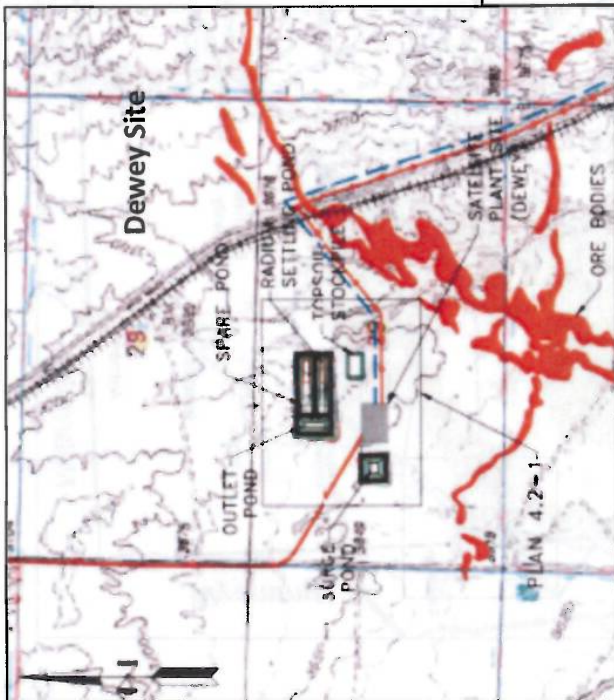


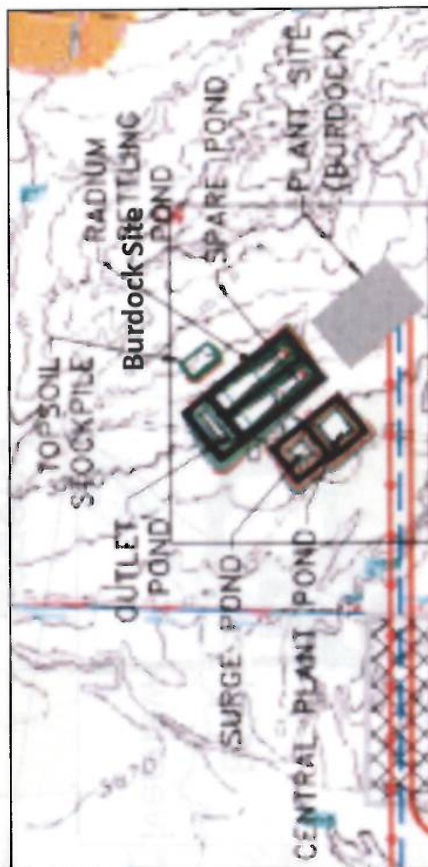
Figure 1. Map showing the location of the proposed Dewey-Burdock uranium recovery site.

## Treatment and Storage Ponds for Deep Well Injectate

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.**

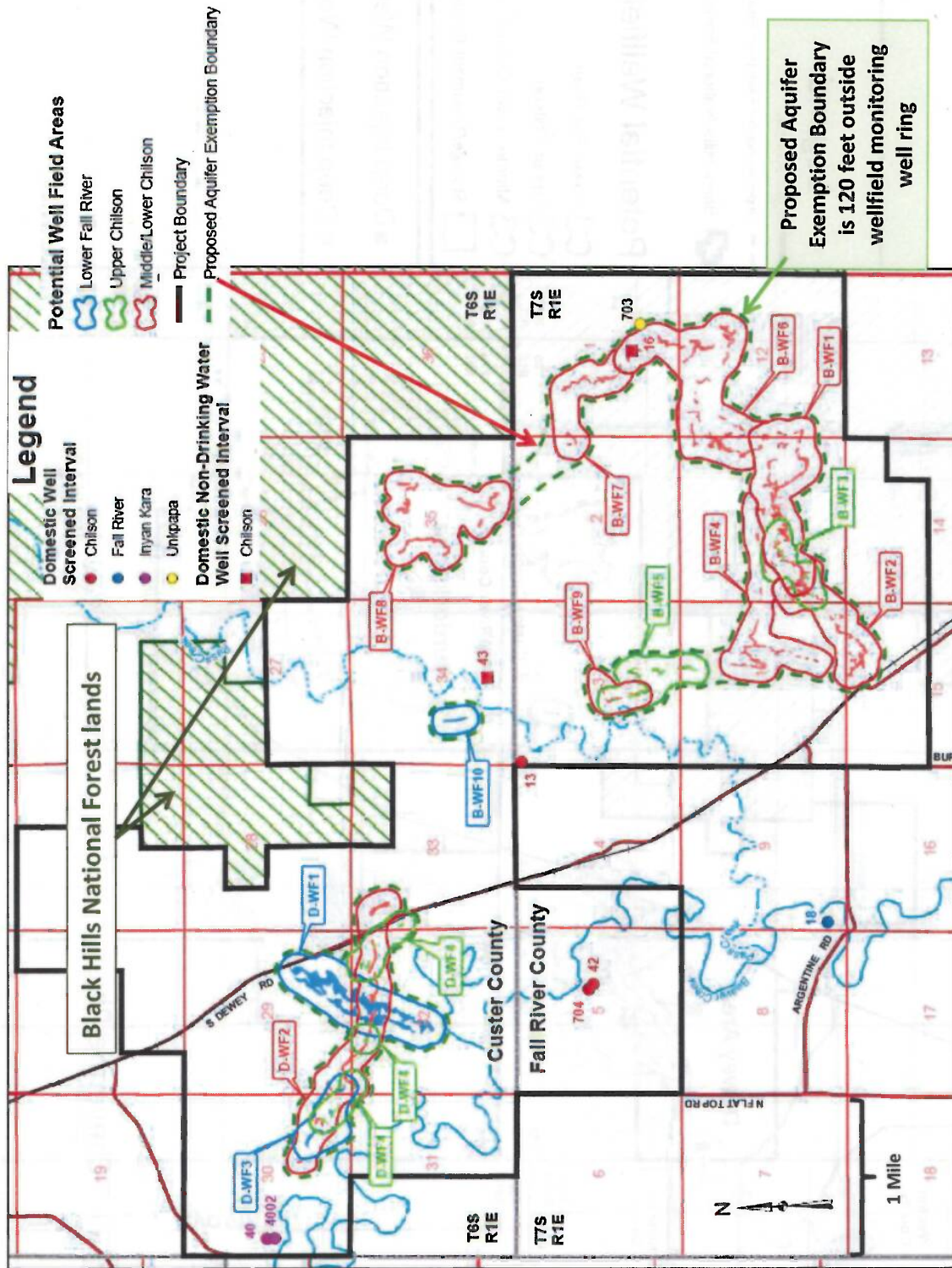
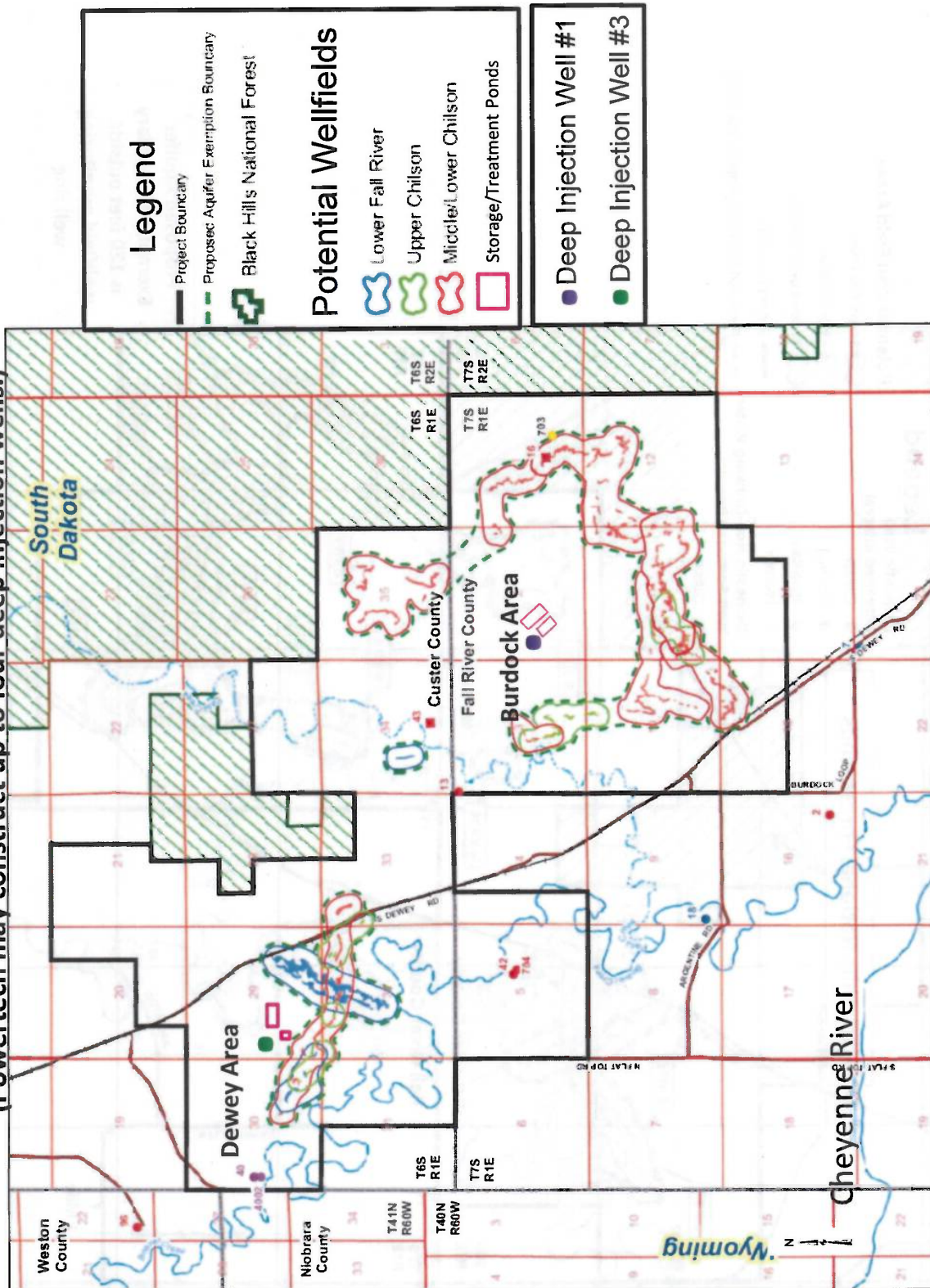
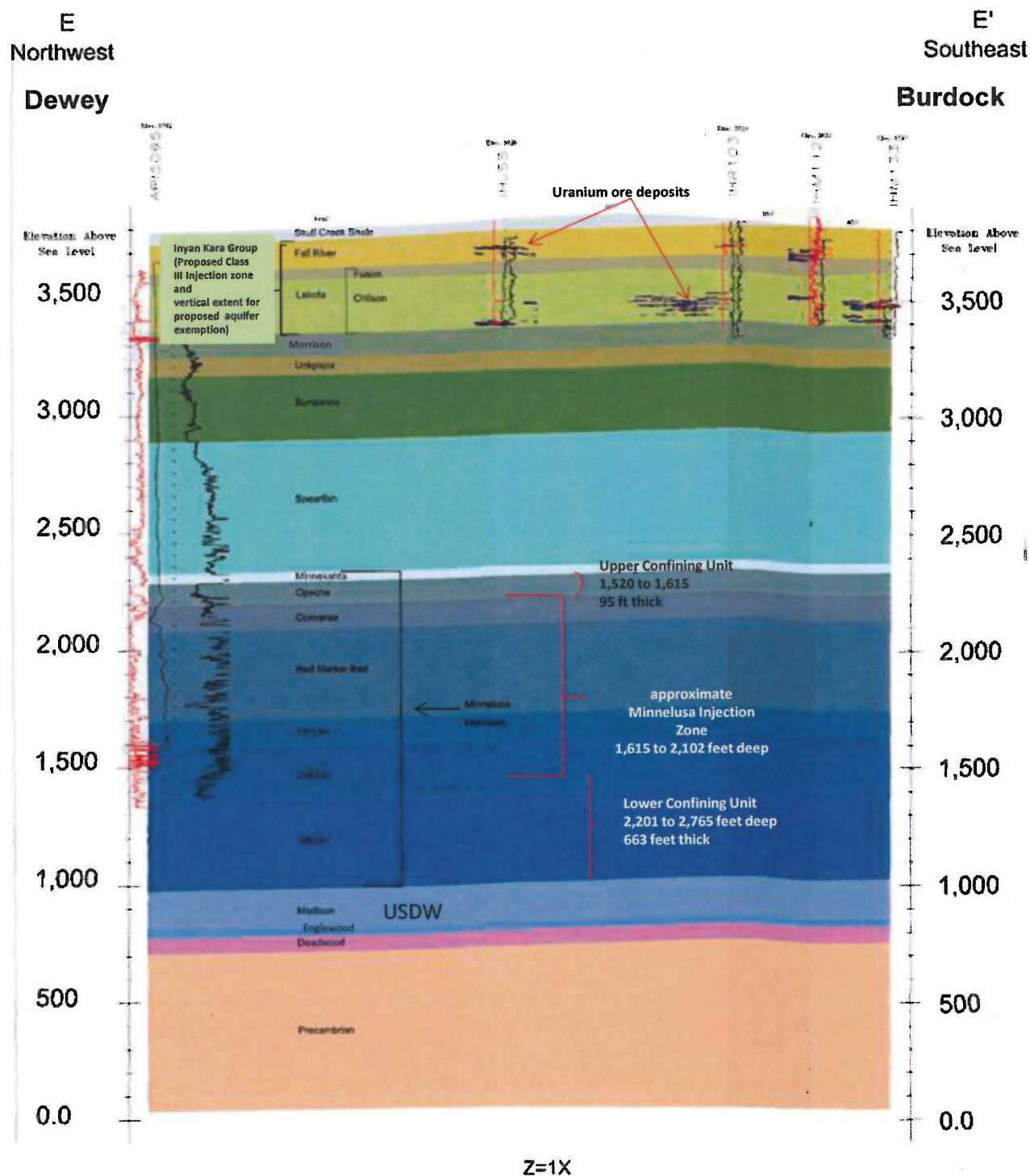


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**Figure 5. Stratigraphic cross-section of geologic formations present at the Dewey Burdock site and proposed injection zones for the Class III and deep Class V injections wells.**

**From:** [Galen Laurence](#)  
**To:** [atwobears@standingrock.org](mailto:atwobears@standingrock.org); [j.eagle@standingrock.org](mailto:j.eagle@standingrock.org)  
**Subject:** EPA Invitation for Consultation – The Standing Rock Sioux Tribe  
**Date:** Thursday, July 25, 2019 3:37:00 PM  
**Attachments:** [EPA\\_ConsultationLetter\\_StandingRockSiouxTribe.pdf](#)

---

Greetings Allyson and Jon,

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Thank you,

Galen Laurence

**Galen Laurence | Analyst**

Cadmus | 100 5th Avenue, Suite 100 | Waltham, MA, 02451-8727  
Tel: (617) 673-7016



**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 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:

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- (3) Potential historic properties, including those of traditional religious and cultural importance, within the Dewey-Burdock area of potential effect.

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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](mailto: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 dark 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

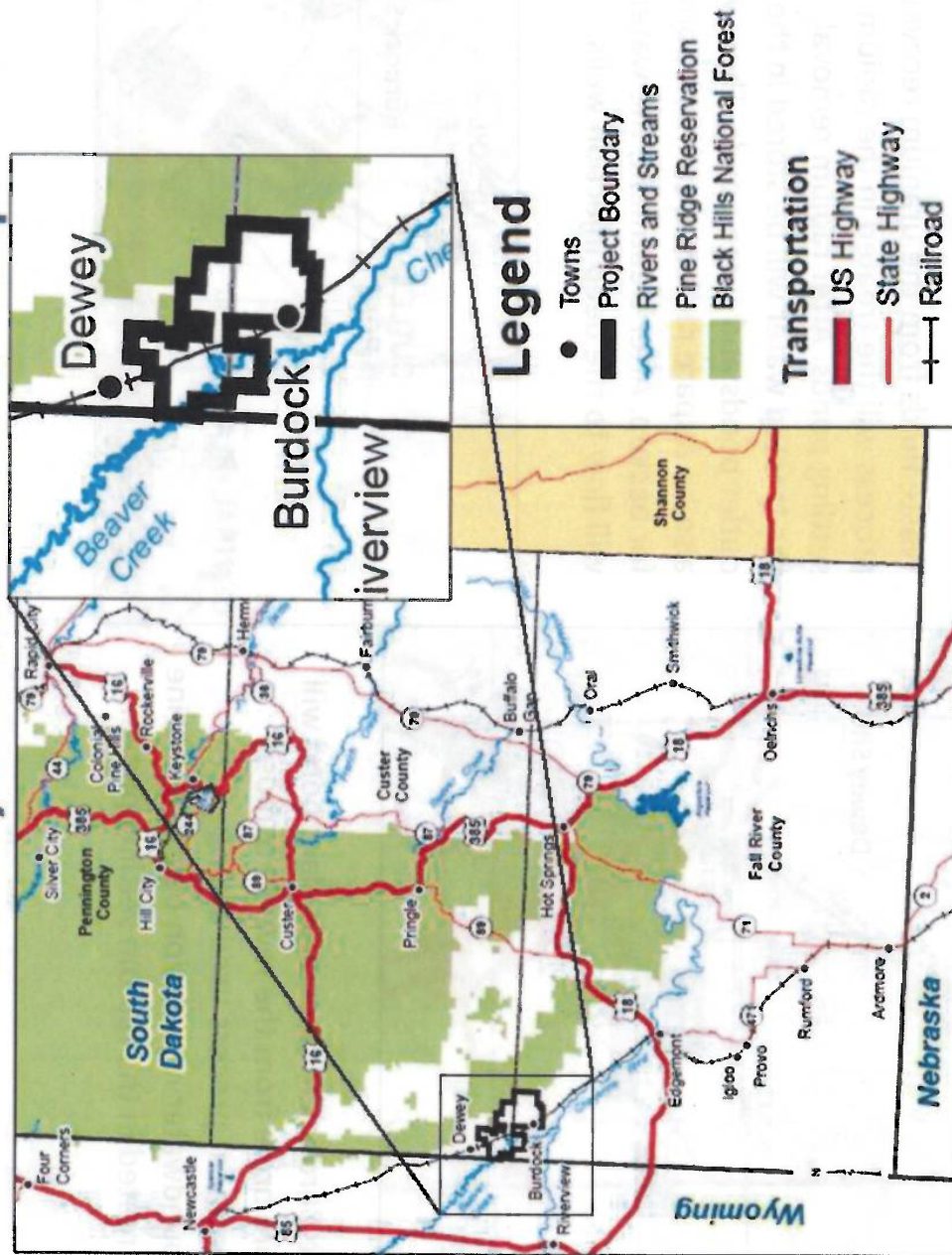
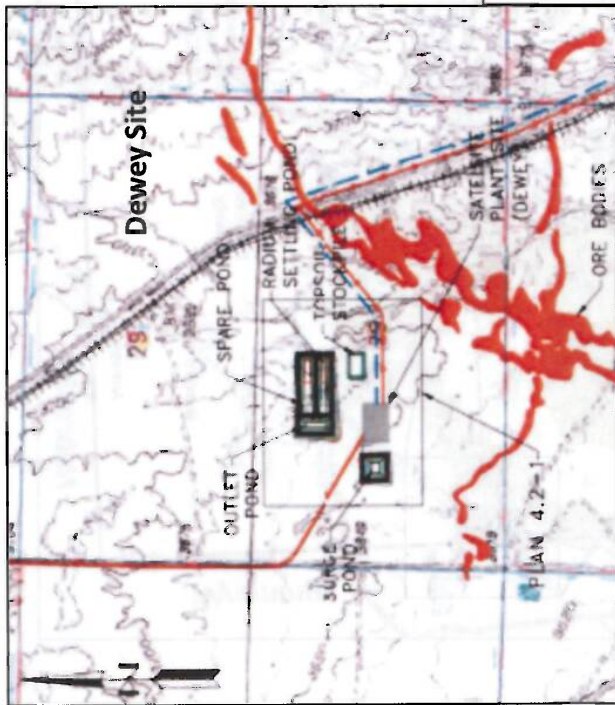


Figure 1. Map showing the location of the proposed Dewey-Burdock uranium recovery site.

## 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.

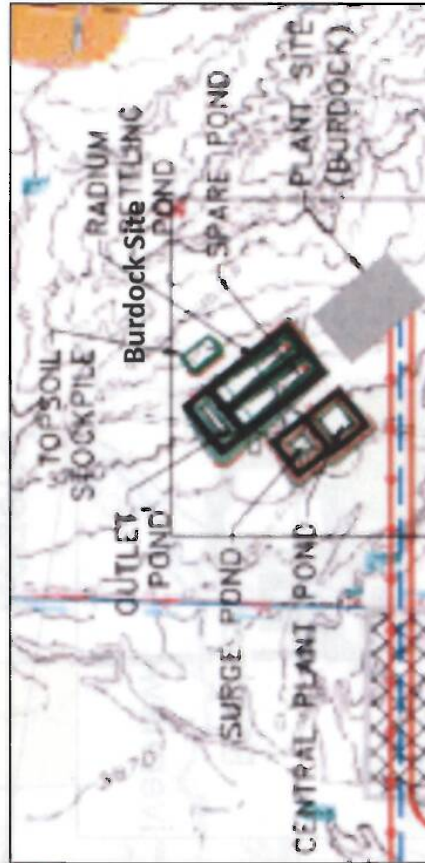


Figure 2. The Proposed Ponds for the Treatment and Storage of the Deep Injection Well Injectate.

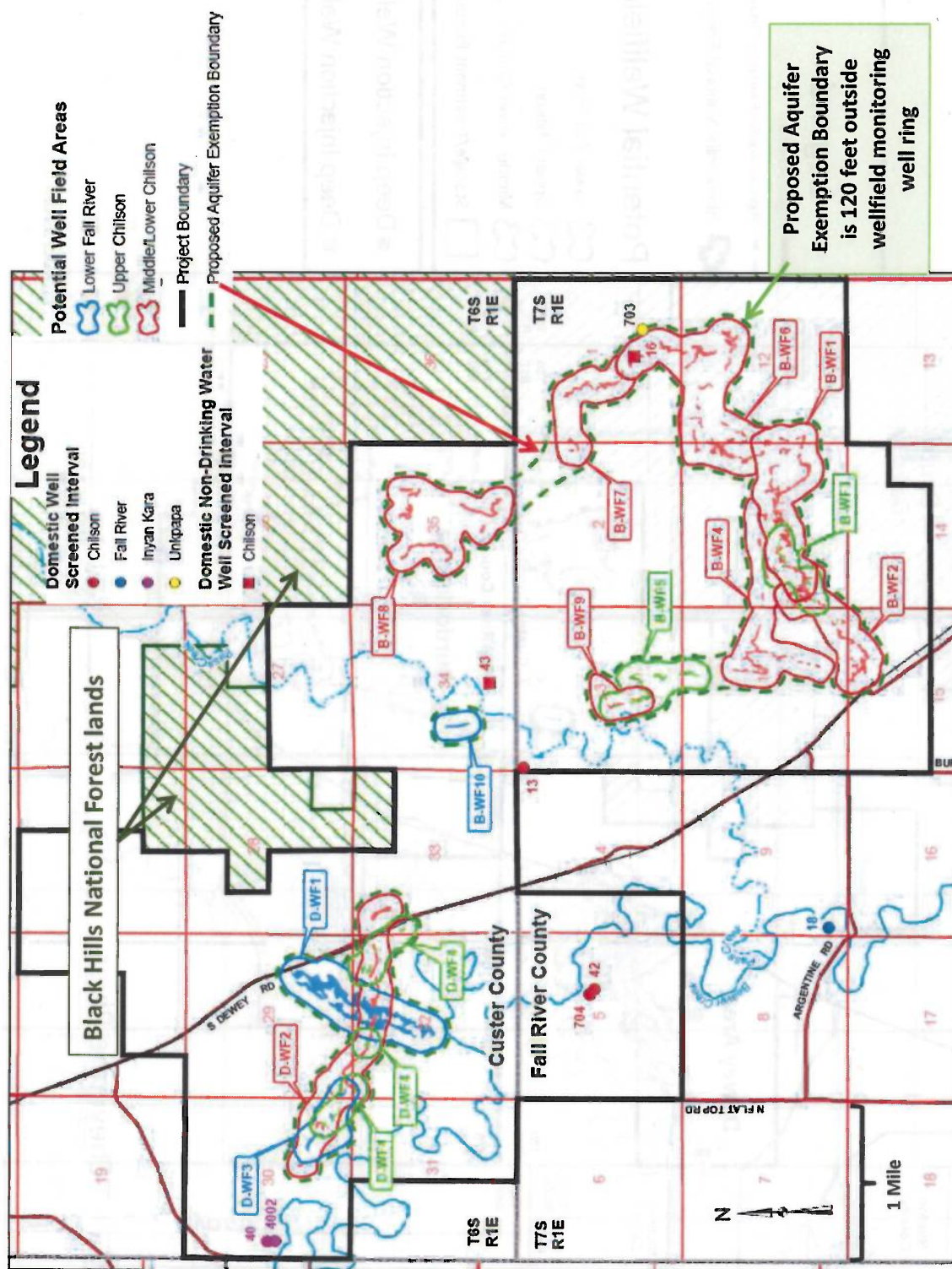
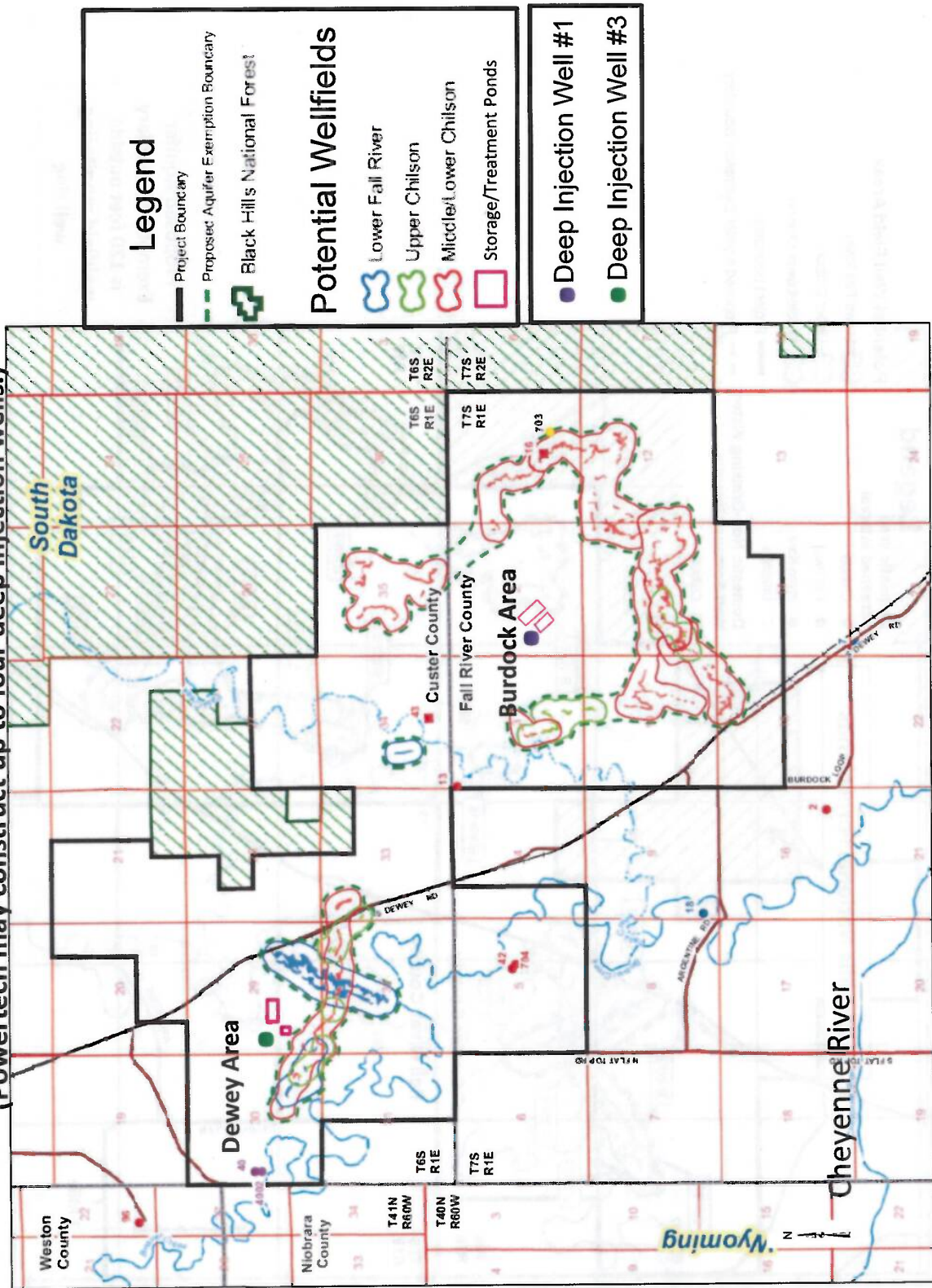
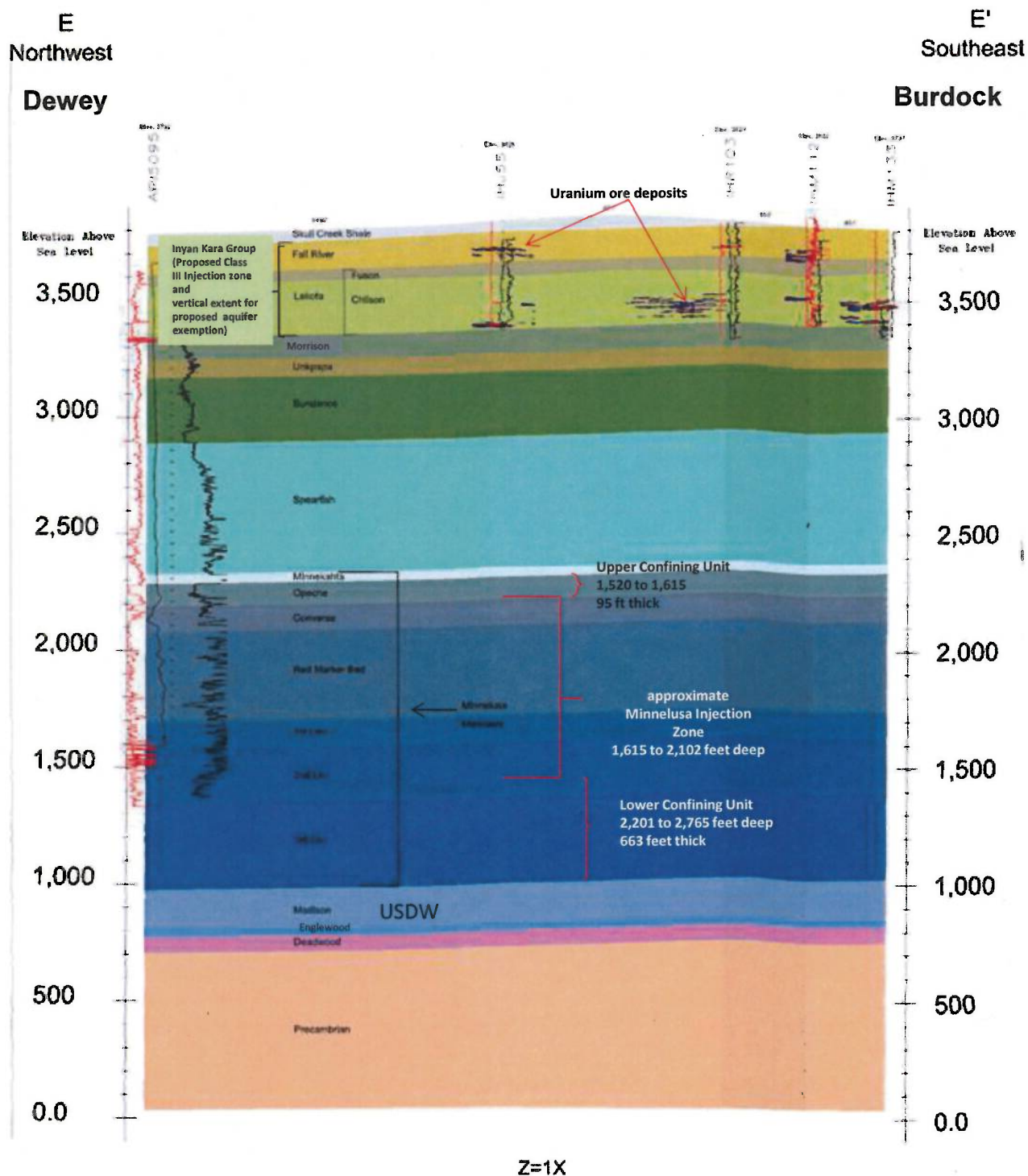


Figure 3. Map showing locations of the proposed wellfields containing Class III injection wells, the aquifer exemption boundary and the UIC permit boundary.

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:** [Galen Laurence](#)  
**To:** ["edmundbaker@mhanation.com"; "redhawk@mhanation.com"](#)  
**Subject:** EPA Invitation for Consultation – The Three Affiliated Tribes  
**Date:** Thursday, July 25, 2019 3:39:00 PM  
**Attachments:** [EPA ConsultationLetter\\_ThreeAffiliatedTribes.pdf](#)

---

Greetings Edmund and Elgin,

The attached letter and enclosures are being sent to you on behalf of EPA Region 8. The EPA R8 Underground Injection Control (UIC) Program would like to invite you to consult on revised draft permits for injection wells and associated draft documents related to the proposed Dewey-Burdock uranium in-situ recovery site in the southern Black Hills region near Edgemont, South Dakota.

If you are interested in meeting with the EPA, please reply to Valois Robinson of the EPA R8 UIC program. Ms. Robinson can be reached at 800-227-8917 (extension 312-6276) or 303-312-6276. She may also be reached by email at [robinson.valois@epa.gov](mailto:robinson.valois@epa.gov).

If you have any questions, you may also respond to this email directly; we will be happy to convey questions or comments to EPA.

Thank you,

Galen Laurence

**Galen Laurence | Analyst**

Cadmus | 100 5th Avenue, Suite 100 | Waltham, MA, 02451-8727  
Tel: (617) 673-7016



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 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](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

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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](mailto: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 loop followed by a long horizontal stroke.

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**

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# Dewey Burdock Location Map

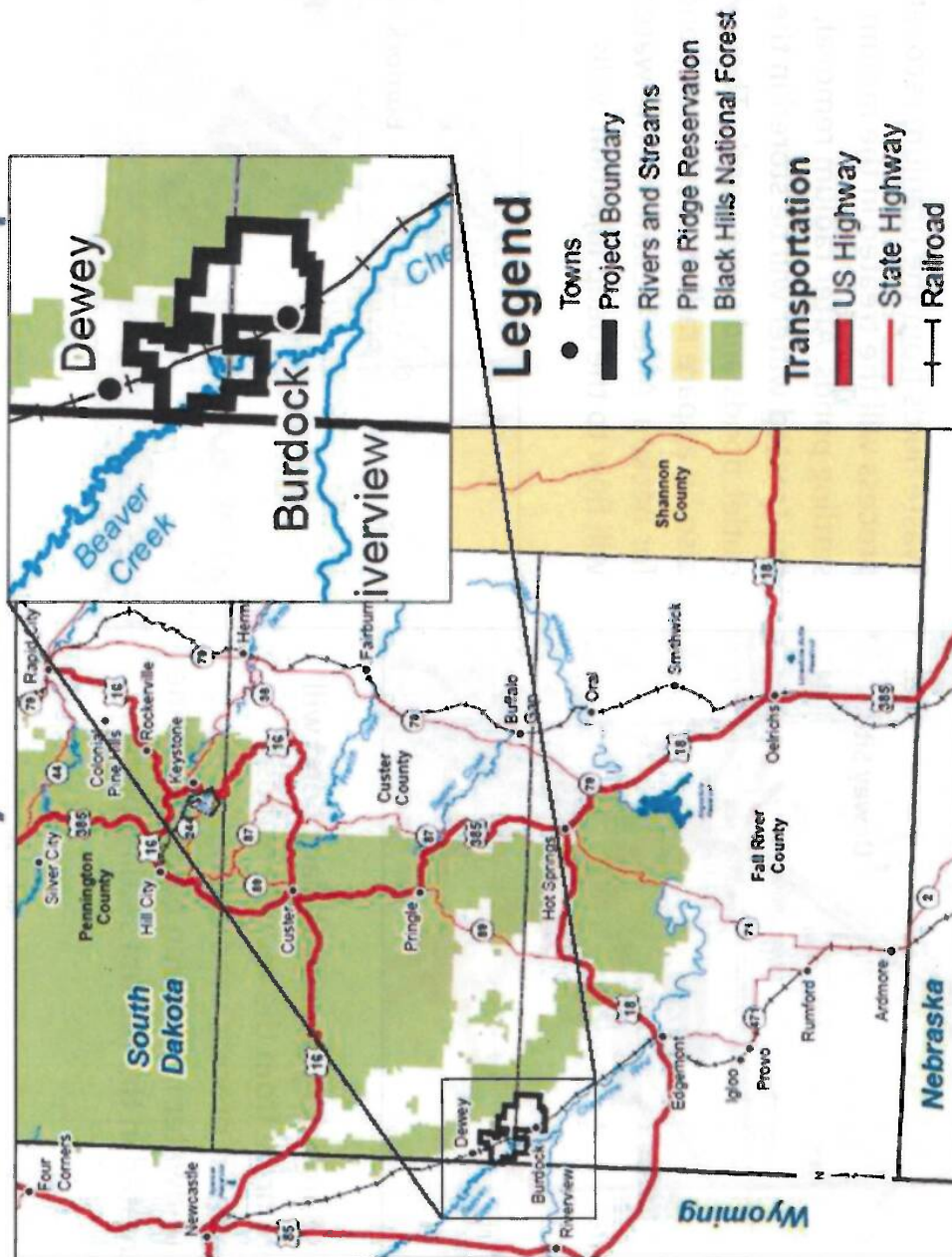
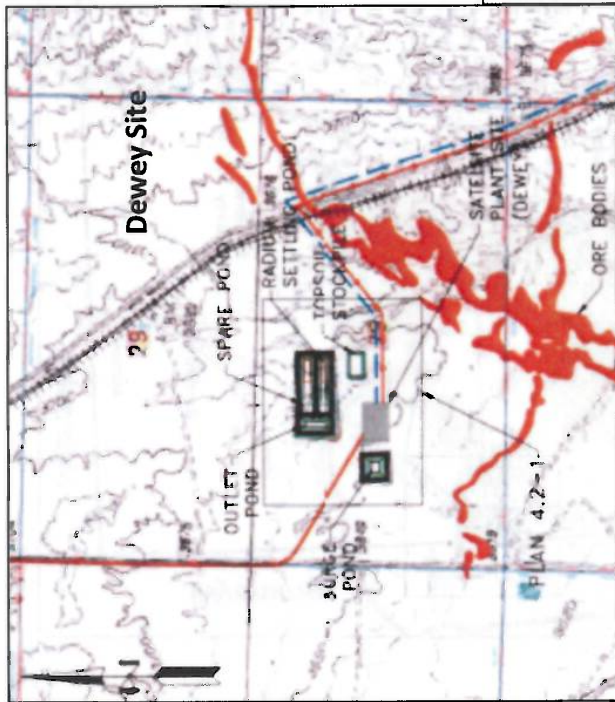


Figure 1. Map showing the location of the proposed Dewey-Burdock uranium recovery site.

## Treatment and Storage Ponds for Deep Well Injectate

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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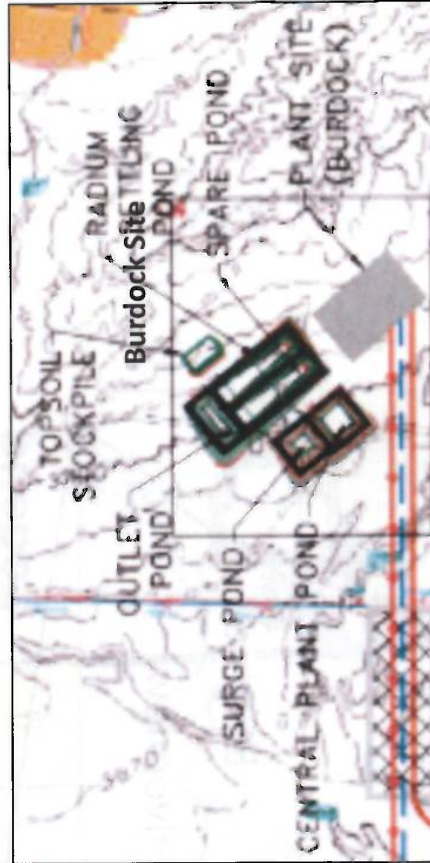


Figure 2. The Proposed Ponds for the Treatment and Storage of the Deep Injection Well Injectate.

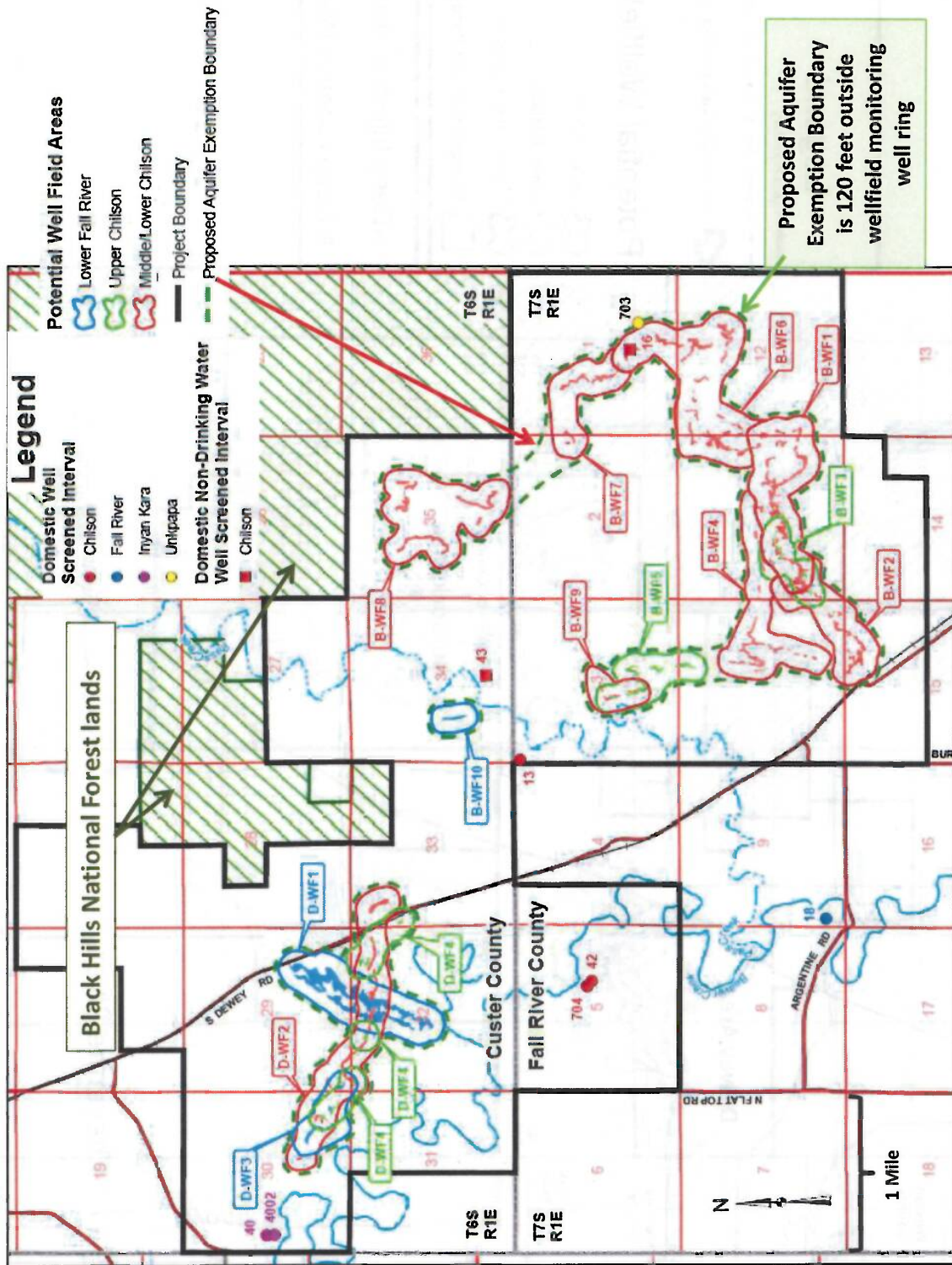
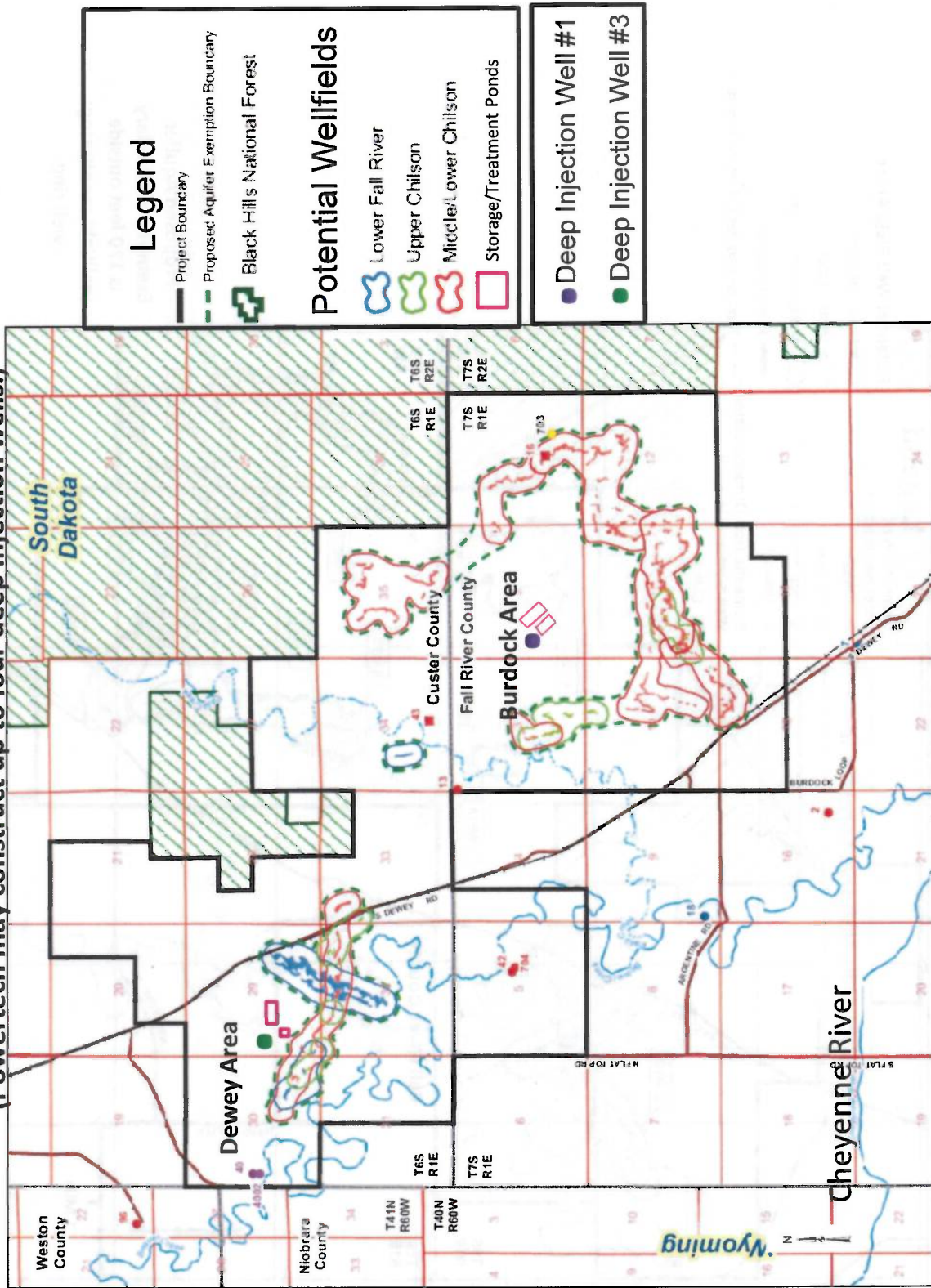
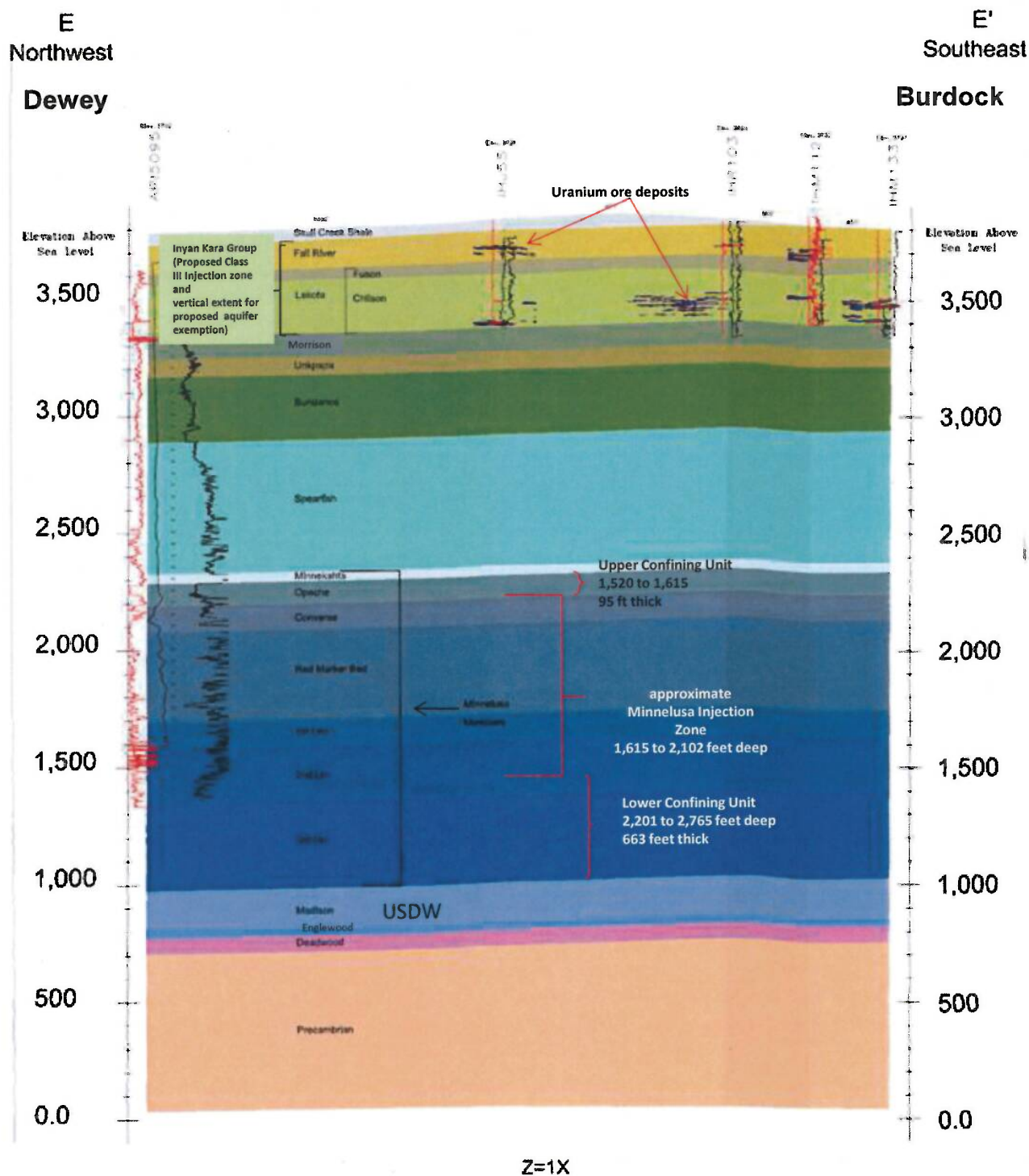


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(Powertech may construct up to four deep injection wells.)





**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:** [Galen Laurence](#)  
**To:** [desjarlaisjr.jeffrey@yahoo.com](mailto:desjarlaisjr.jeffrey@yahoo.com); [corachampagne@hotmail.com](mailto:corachampagne@hotmail.com)  
**Subject:** FW: EPA Invitation for Consultation – The Turtle Mountain Band of Chippewa Indians  
**Date:** Thursday, July 25, 2019 3:38:00 PM  
**Attachments:** [EPA\\_ConsultationLetter\\_TurtleMountainBandChippewa.pdf](#)

---

Greetings Jeff and Cora,

The attached letter and enclosures are being sent to you on behalf of EPA Region 8. The EPA R8 Underground Injection Control (UIC) Program would like to invite you to consult on revised draft permits for injection wells and associated draft documents related to the proposed Dewey-Burdock uranium in-situ recovery site in the southern Black Hills region near Edgemont, South Dakota.

If you are interested in meeting with the EPA, please reply to Valois Robinson of the EPA R8 UIC program. Ms. Robinson can be reached at 800-227-8917 (extension 312-6276) or 303-312-6276. She may also be reached by email at [robinson.valois@epa.gov](mailto:robinson.valois@epa.gov).

If you have any questions, you may also respond to this email directly; we will be happy to convey questions or comments to EPA.

Thank you,

Galen Laurence

**Galen Laurence | Analyst**

Cadmus | 100 5th Avenue, Suite 100 | Waltham, MA, 02451-8727  
Tel: (617) 673-7016



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 Jamie Azure  
Chairman  
The Turtle Mountain Band of Chippewa Indians  
P.O. Box 900  
Belcourt, North Dakota 58316-0900

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.

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We appreciate the The Turtle Mountain Band of Chippewa Indians' prompt attention to this important matter.

Sincerely,

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

Darcy O'Connor, Director  
Water Division

Enclosures (6)

cc: Cora Champagne, Environmental Director  
Jeff Desjarlais Jr., 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

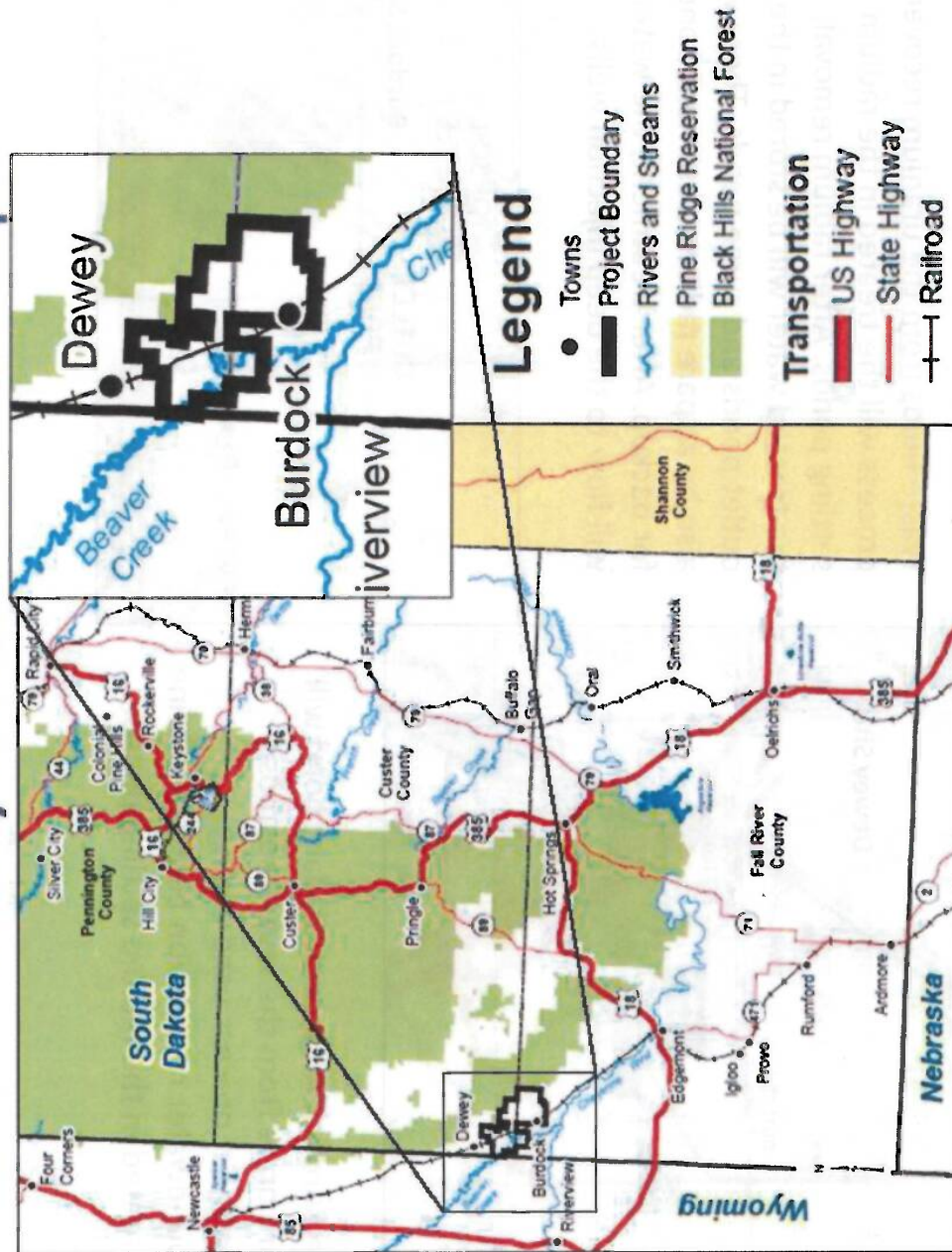
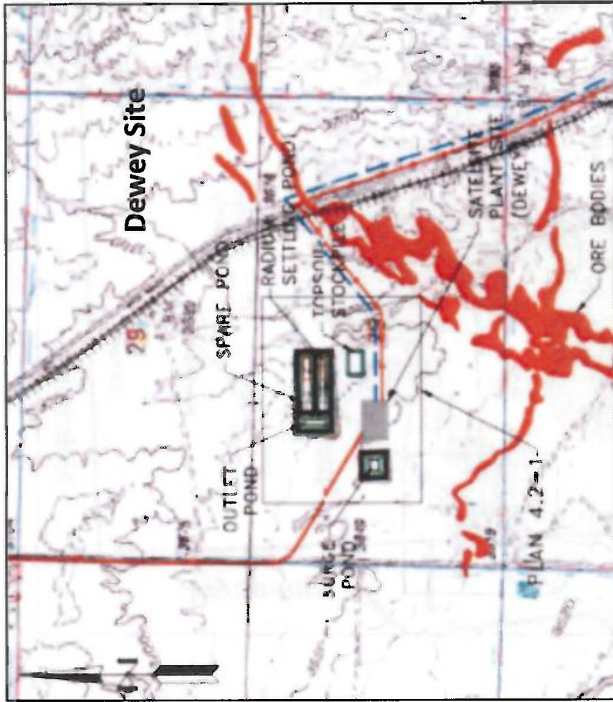


Figure 1. Map showing the location of the proposed Dewey-Burdock uranium recovery site.

## Treatment and Storage Ponds for Deep Well Injectate

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.

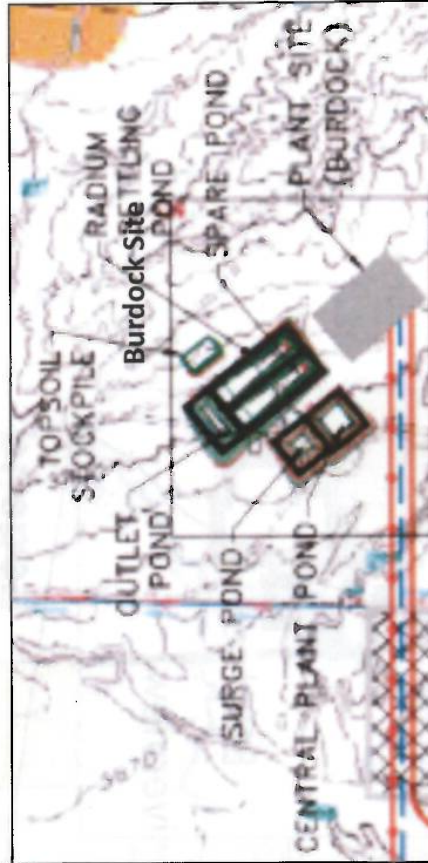


Figure 2. The Proposed Ponds for the Treatment and Storage of the Deep Injection Well Injectate.

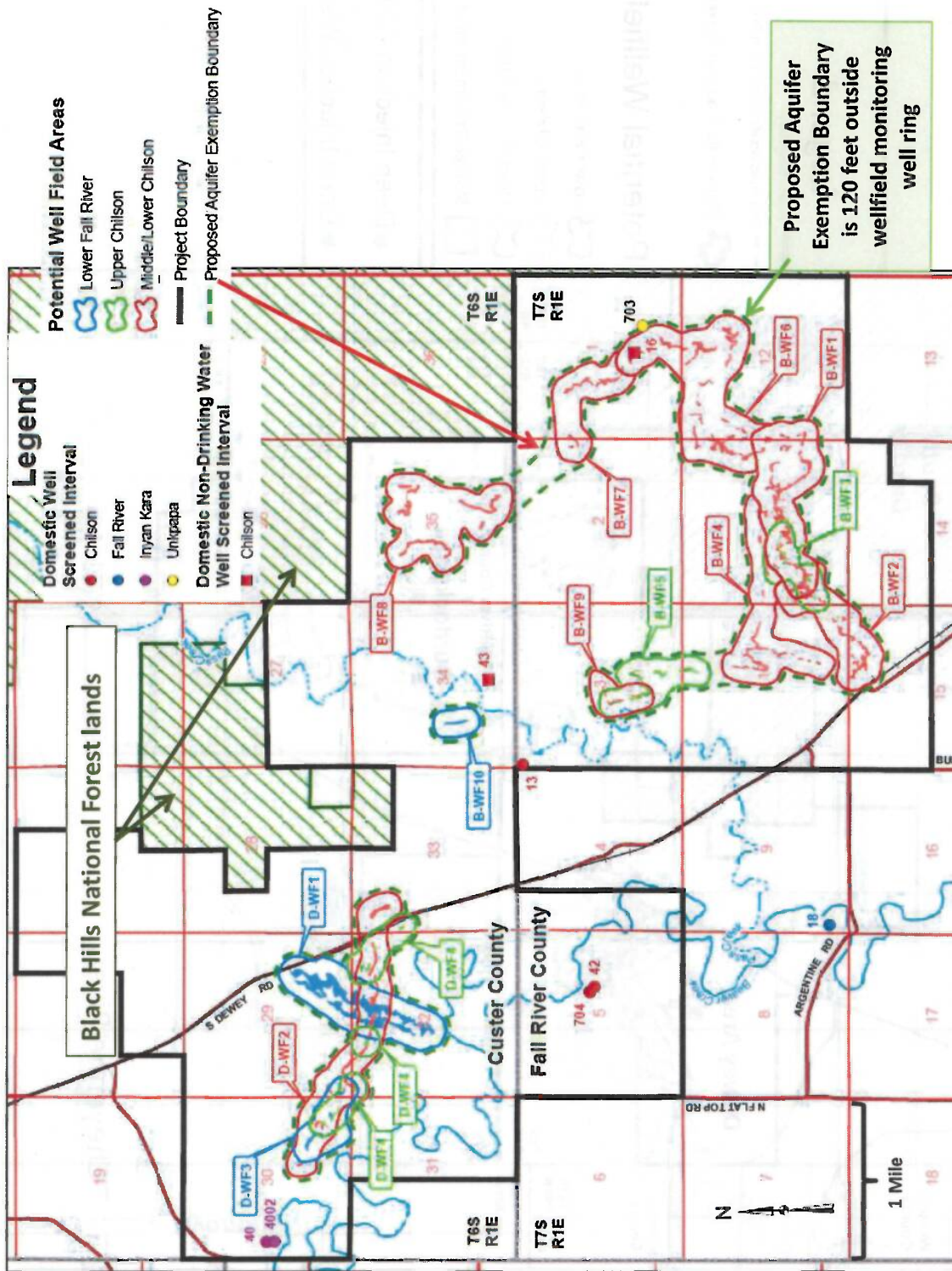
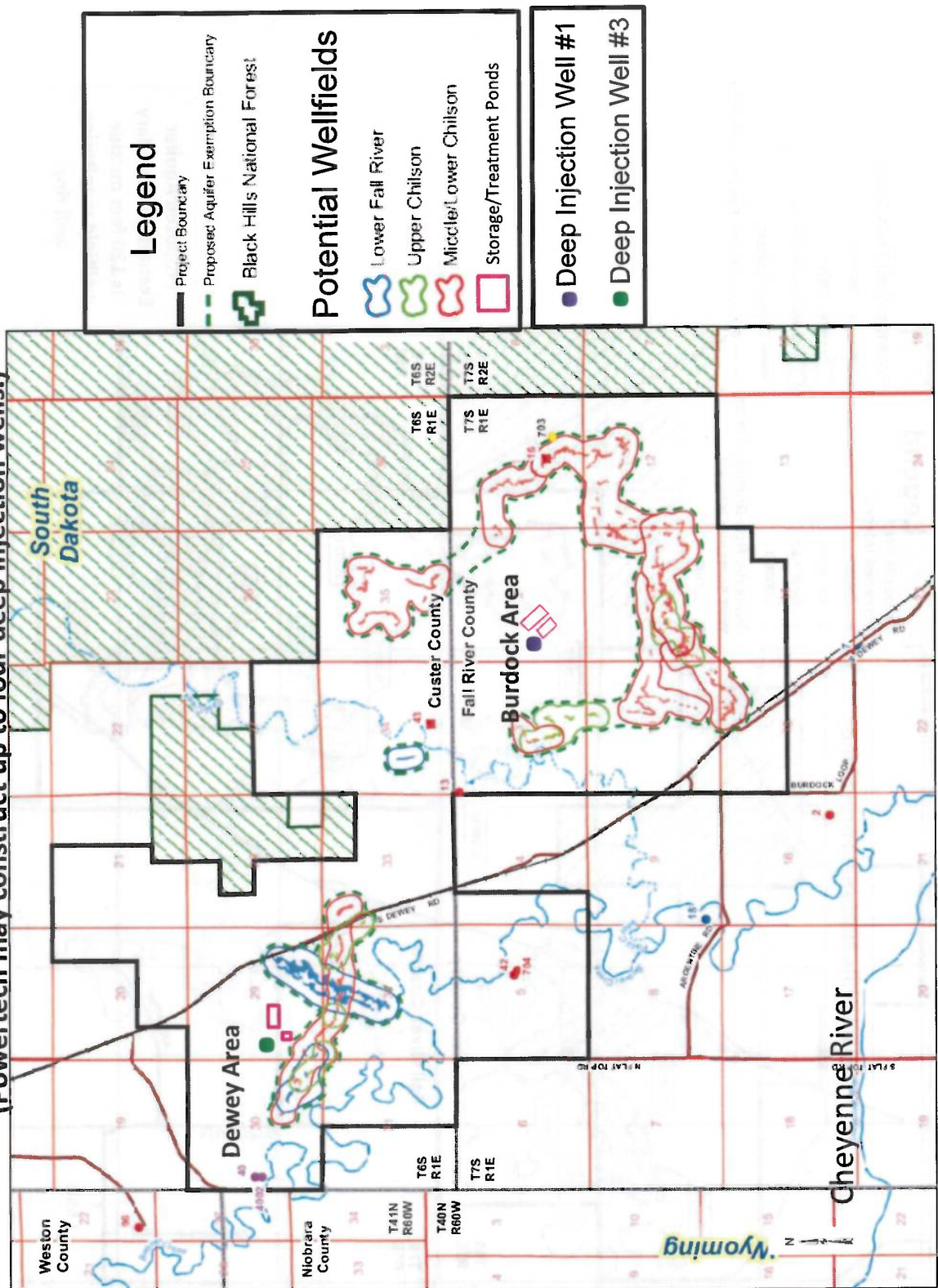


Figure 3. Map showing locations of the proposed wellfields containing Class III injection wells, the aquifer exemption boundary and the UIC permit boundary.

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



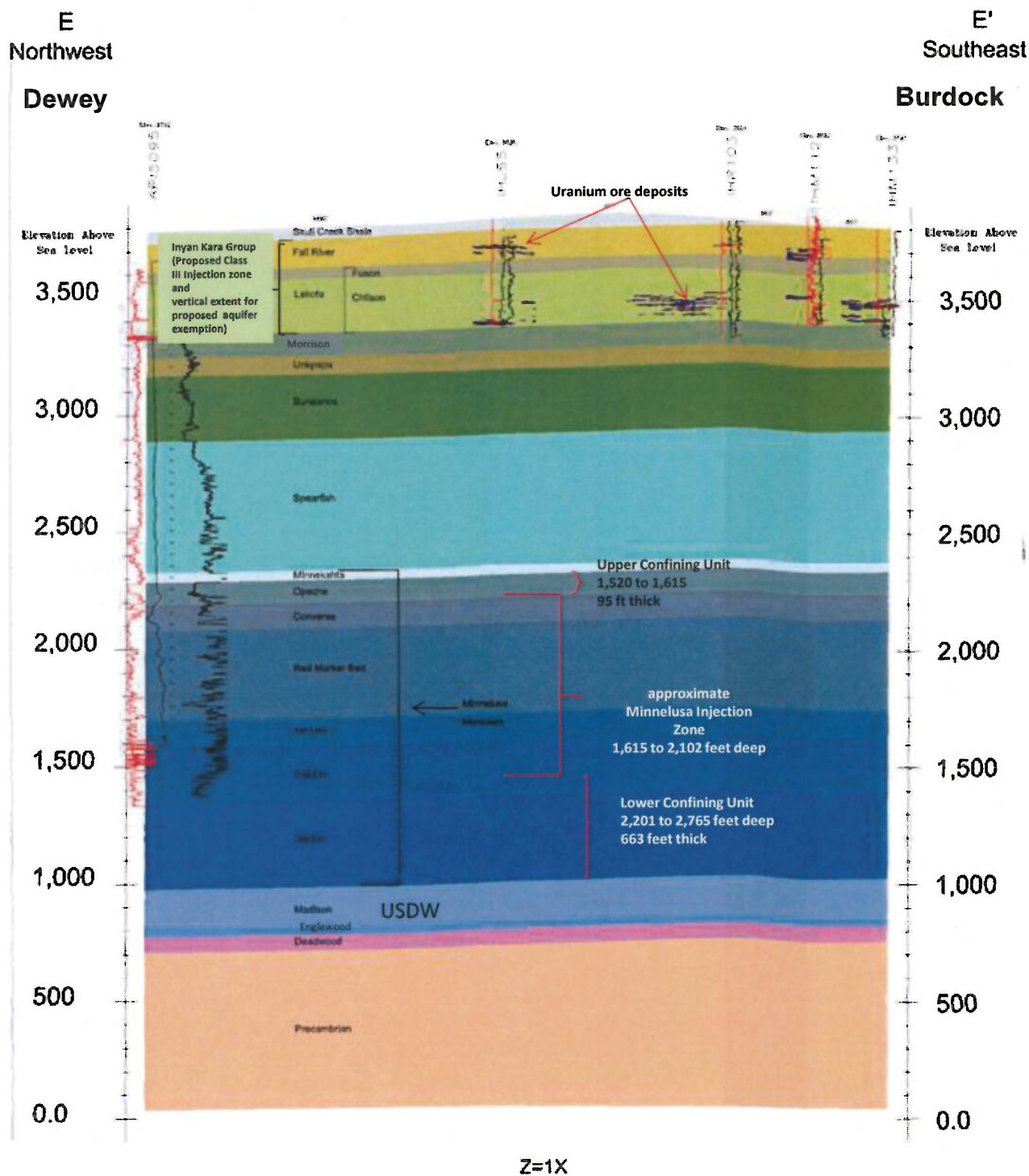


Figure 5. Stratigraphic cross-section of geologic formations present at the Dewey Burdock site and proposed injection zones for the Class III and deep Class V injections wells.

**From:** [Galen Laurence](#)  
**To:** [barbaral@uppersiouxcommunity-nsn.gov](mailto:barbaral@uppersiouxcommunity-nsn.gov); [samanthao@uppersiouxcommunity-nsn.gov](mailto:samanthao@uppersiouxcommunity-nsn.gov)  
**Subject:** EPA Invitation for Consultation – The Upper Sioux Community  
**Date:** Thursday, July 25, 2019 3:37:00 PM  
**Attachments:** [EPA ConsultationLetter\\_UpperSiouxCommunity.pdf](#)

---

Greetings Barbara and Samantha,

The attached letter and enclosures are being sent to you on behalf of EPA Region 8. The EPA R8 Underground Injection Control (UIC) Program would like to invite you to consult on revised draft permits for injection wells and associated draft documents related to the proposed Dewey-Burdock uranium in-situ recovery site in the southern Black Hills region near Edgemont, South Dakota.

If you are interested in meeting with the EPA, please reply to Valois Robinson of the EPA R8 UIC program. Ms. Robinson can be reached at 800-227-8917 (extension 312-6276) or 303-312-6276. She may also be reached by email at [robinson.valois@epa.gov](mailto:robinson.valois@epa.gov).

If you have any questions, you may also respond to this email directly; we will be happy to convey questions or comments to EPA.

Thank you,

Galen Laurence

**Galen Laurence | Analyst**

Cadmus | 100 5th Avenue, Suite 100 | Waltham, MA, 02451-8727  
Tel: (617) 673-7016



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](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](mailto: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.

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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

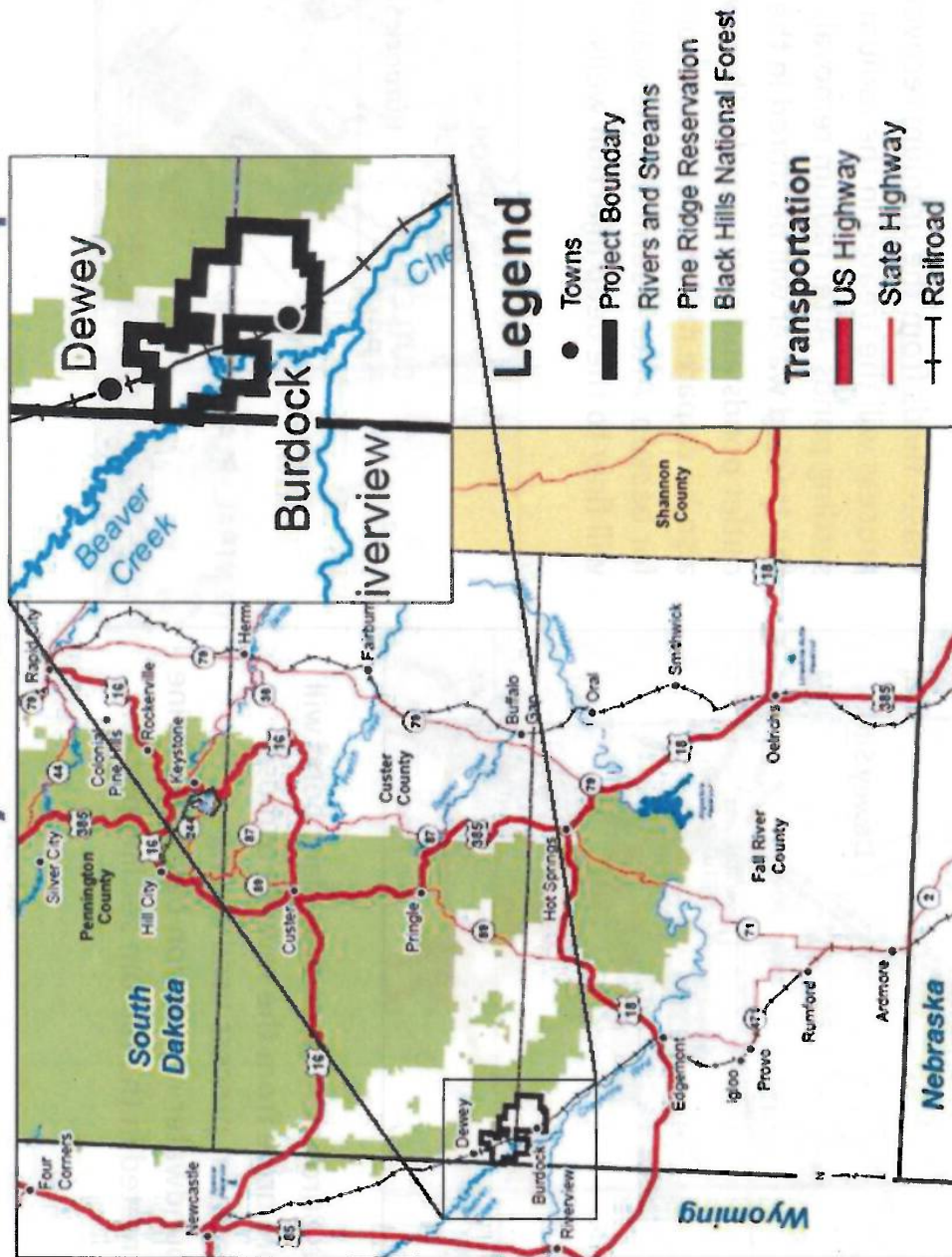
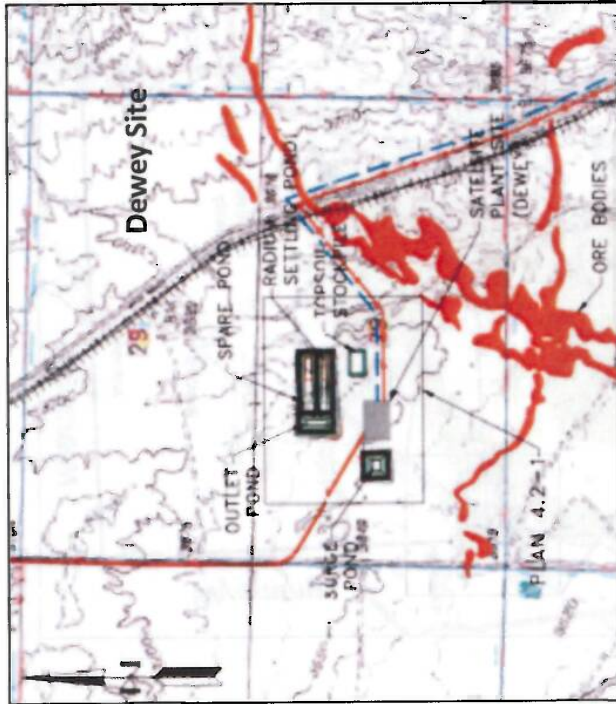


Figure 1. Map showing the location of the proposed Dewey-Burdock uranium recovery site.

## 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.

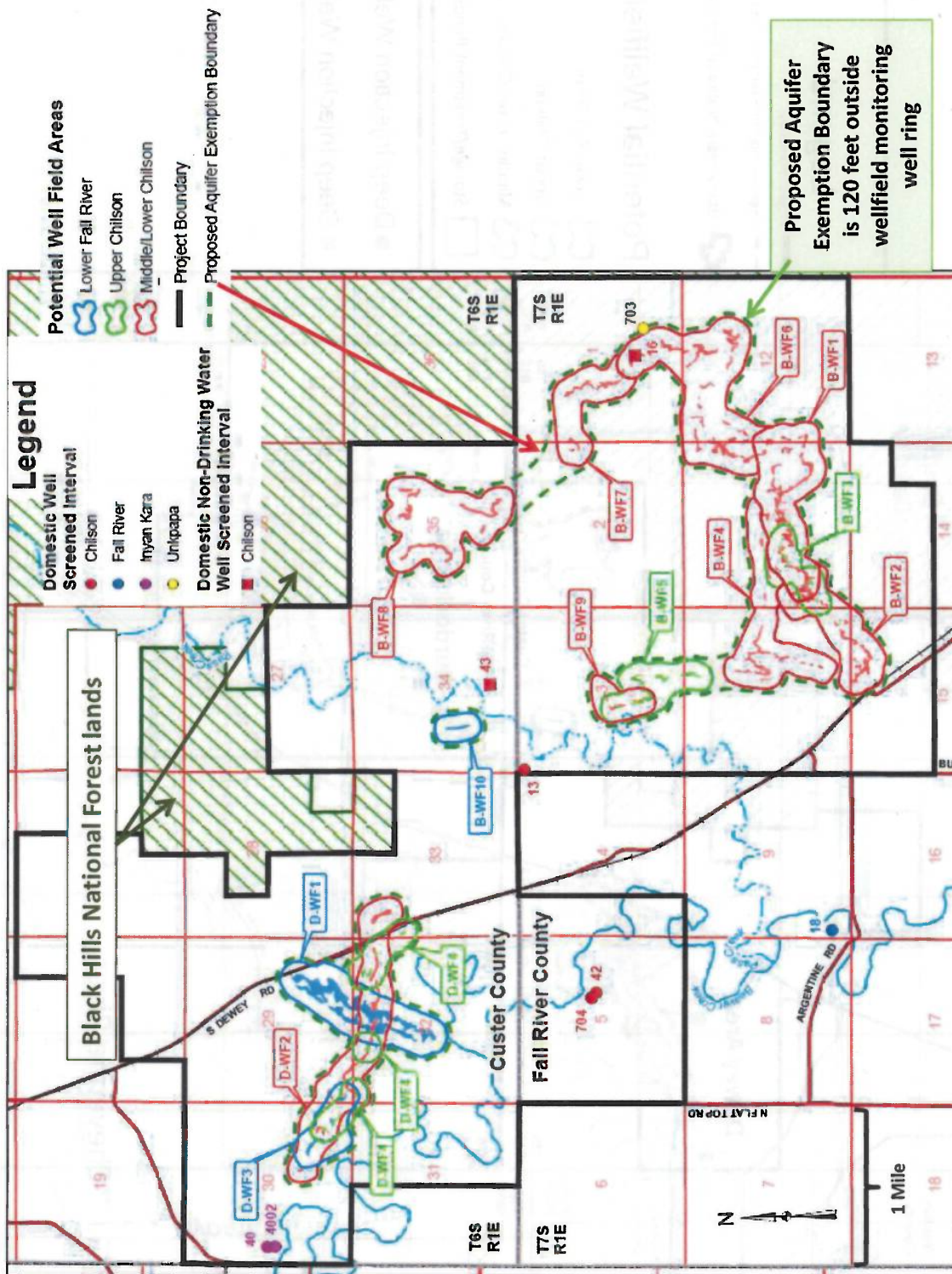
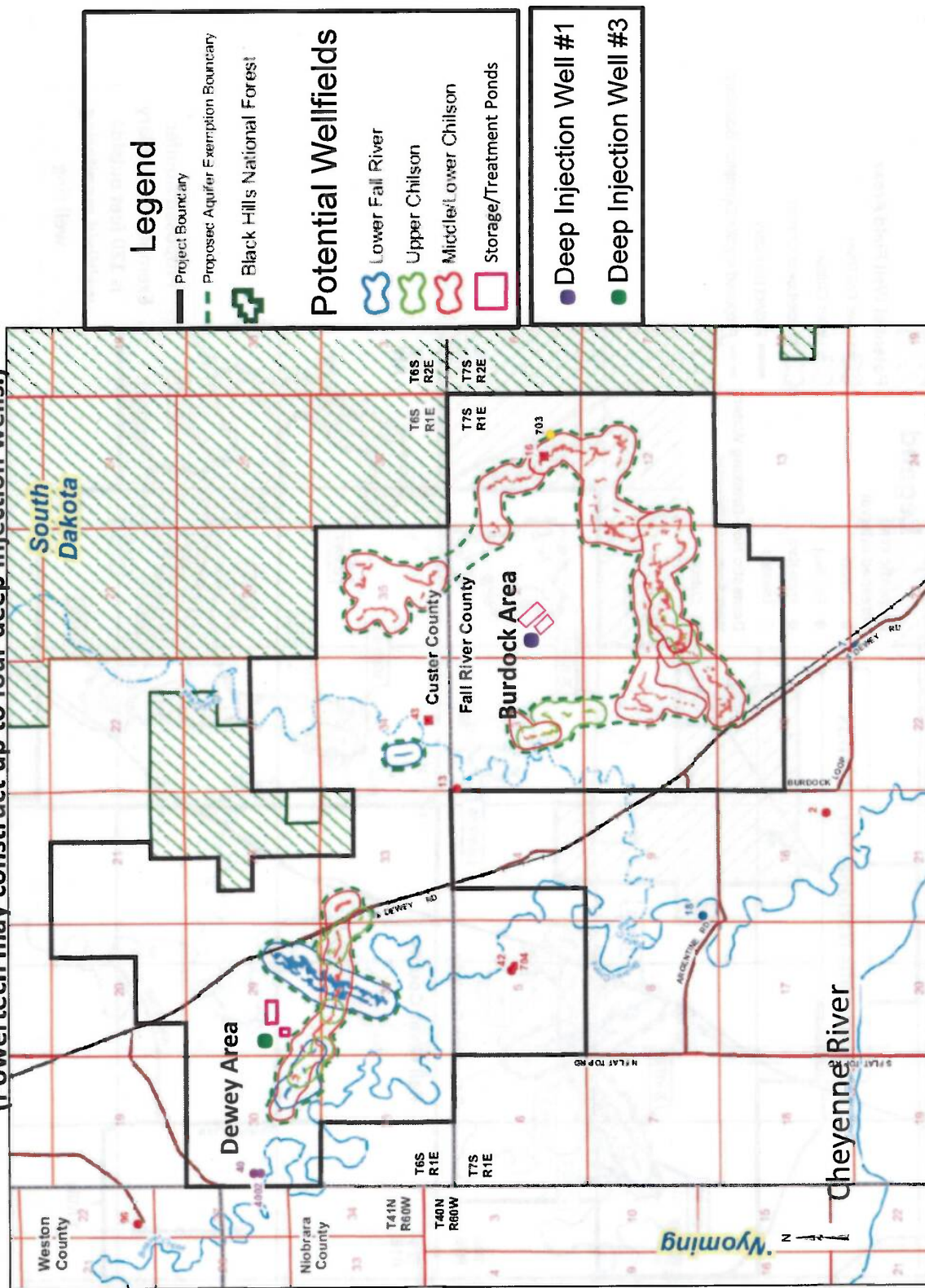
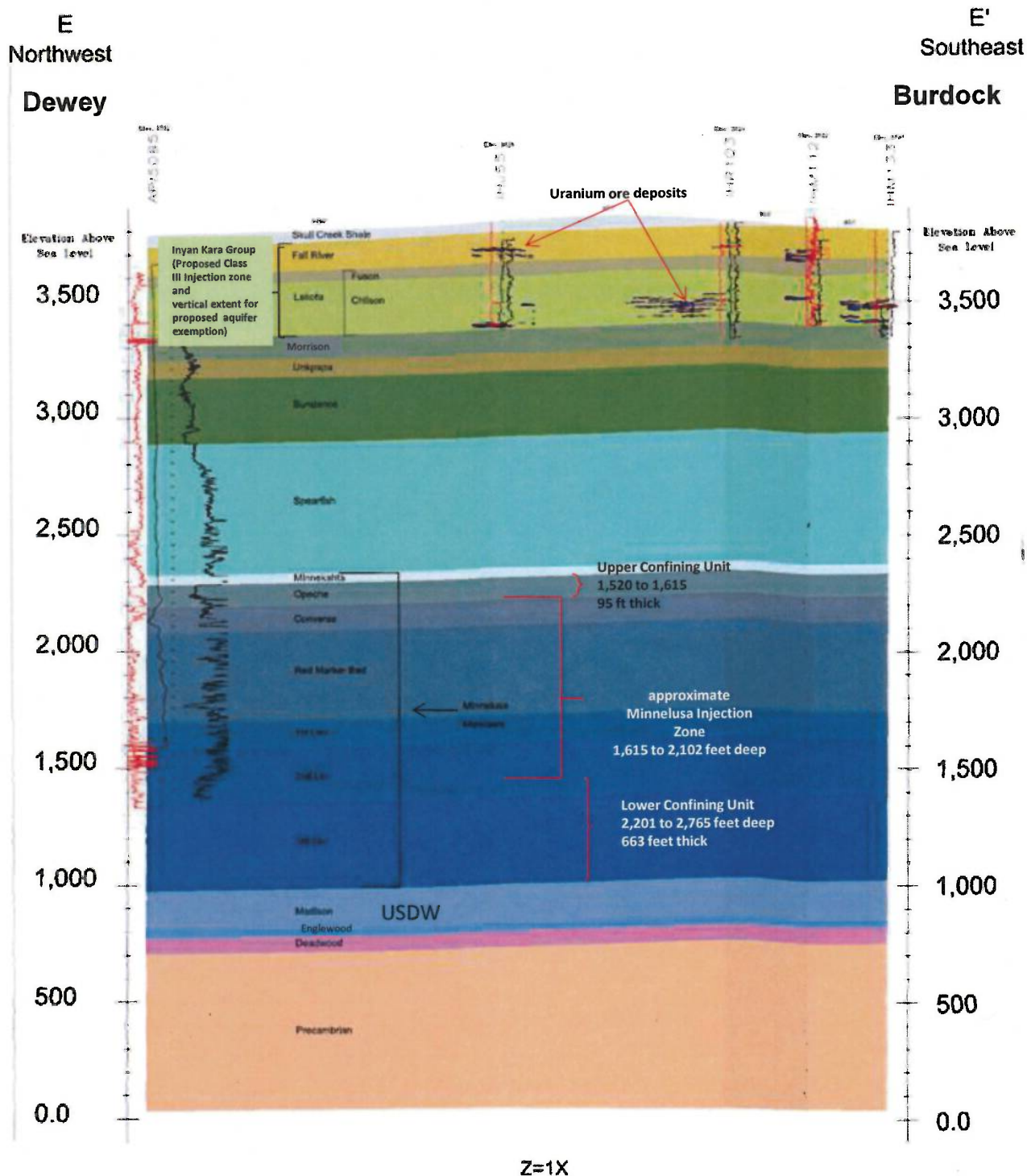


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(Powertech may construct up to four deep injection wells.)**





**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:** [Galen Laurence](#)  
**To:** [tknight@utemountain.org](mailto:tknight@utemountain.org); [sclow@utemountain.org](mailto:sclow@utemountain.org)  
**Subject:** EPA Invitation for Consultation – The Ute Mountain Ute Tribe  
**Date:** Thursday, July 25, 2019 3:38:00 PM  
**Attachments:** [EPA ConsultationLetter\\_UteMountainUteTribe.pdf](#)

---

Greetings Terry and Scott,

The attached letter and enclosures are being sent to you on behalf of EPA Region 8. The EPA R8 Underground Injection Control (UIC) Program would like to invite you to consult on revised draft permits for injection wells and associated draft documents related to the proposed Dewey-Burdock uranium in-situ recovery site in the southern Black Hills region near Edgemont, South Dakota.

If you are interested in meeting with the EPA, please reply to Valois Robinson of the EPA R8 UIC program. Ms. Robinson can be reached at 800-227-8917 (extension 312-6276) or 303-312-6276. She may also be reached by email at [robinson.valois@epa.gov](mailto:robinson.valois@epa.gov).

If you have any questions, you may also respond to this email directly; we will be happy to convey questions or comments to EPA.

Thank you,

Galen Laurence

**Galen Laurence | Analyst**

Cadmus | 100 5th Avenue, Suite 100 | Waltham, MA, 02451-8727

Tel: (617) 673-7016



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 Harold Cuthair  
Chairman  
The Ute Mountain Ute Tribe  
P.O. Box JJ  
Towaoc, Colorado 81334-0188

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 Cuthair:

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.

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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 Ute Mountain Ute 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**

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Consistent with the Treaty Rights guidance, the EPA would also like input from the The Ute Mountain Ute 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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We understand that the The Ute Mountain Ute 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


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We are requesting a reply from you as to whether the The Ute Mountain Ute 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](mailto: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.

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We appreciate the The Ute Mountain Ute Tribe's prompt attention to this important matter.

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

Enclosures (6)

cc: Scott Clow, Environmental Director  
Terry Knight, Tribal Historic Preservation Officer

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

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# Dewey Burdock Location Map

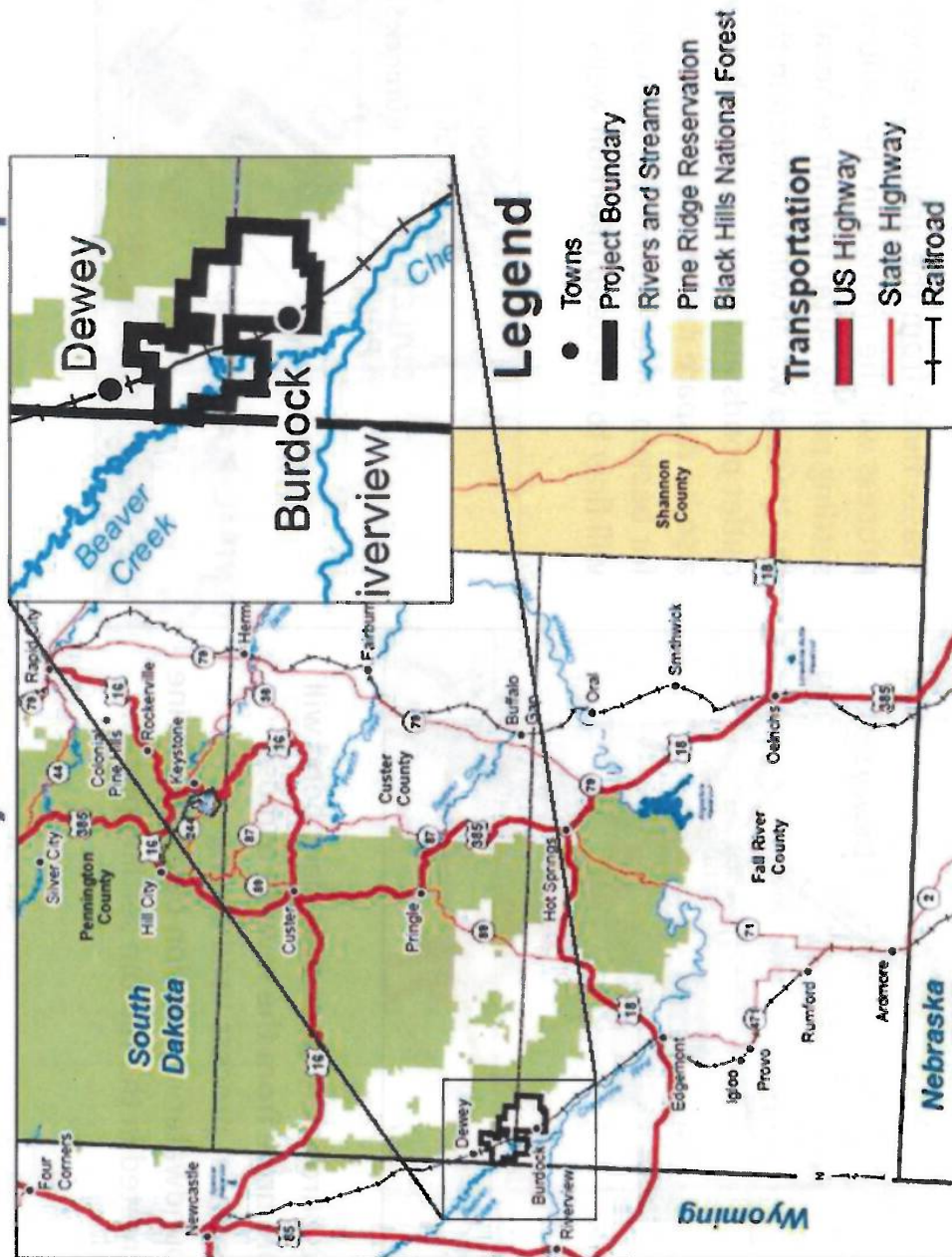
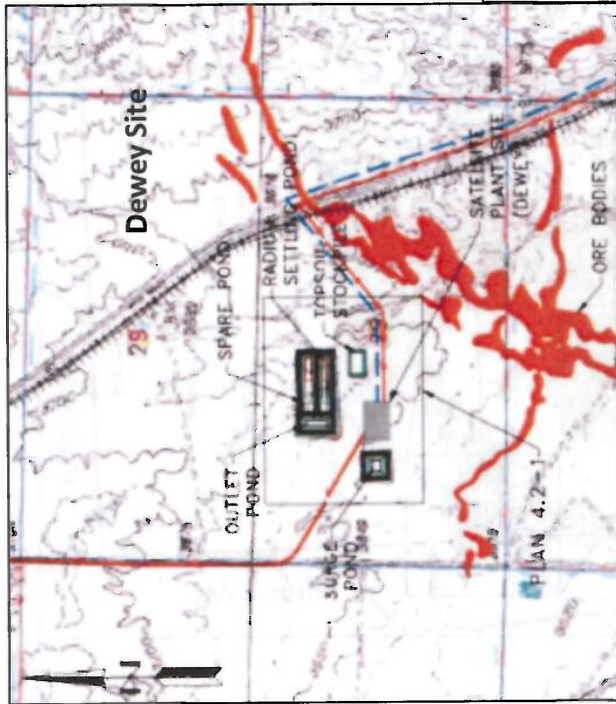
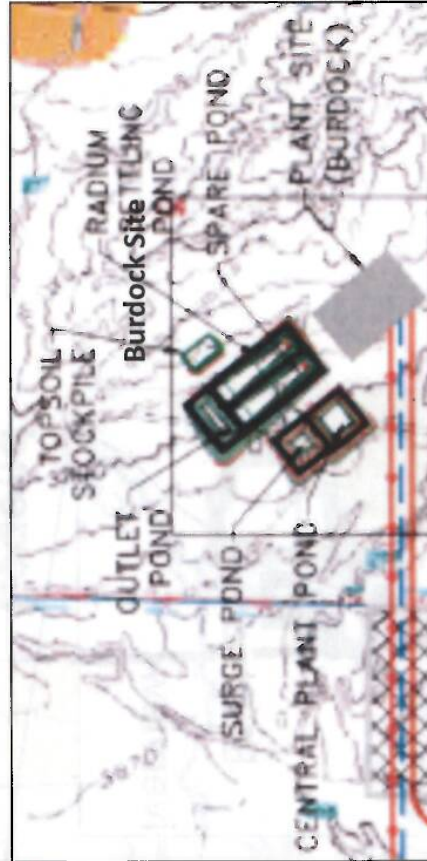


Figure 1. Map showing the location of the proposed Dewey-Burdock uranium recovery site.

## Treatment and Storage Ponds for Deep Well Injectate



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.

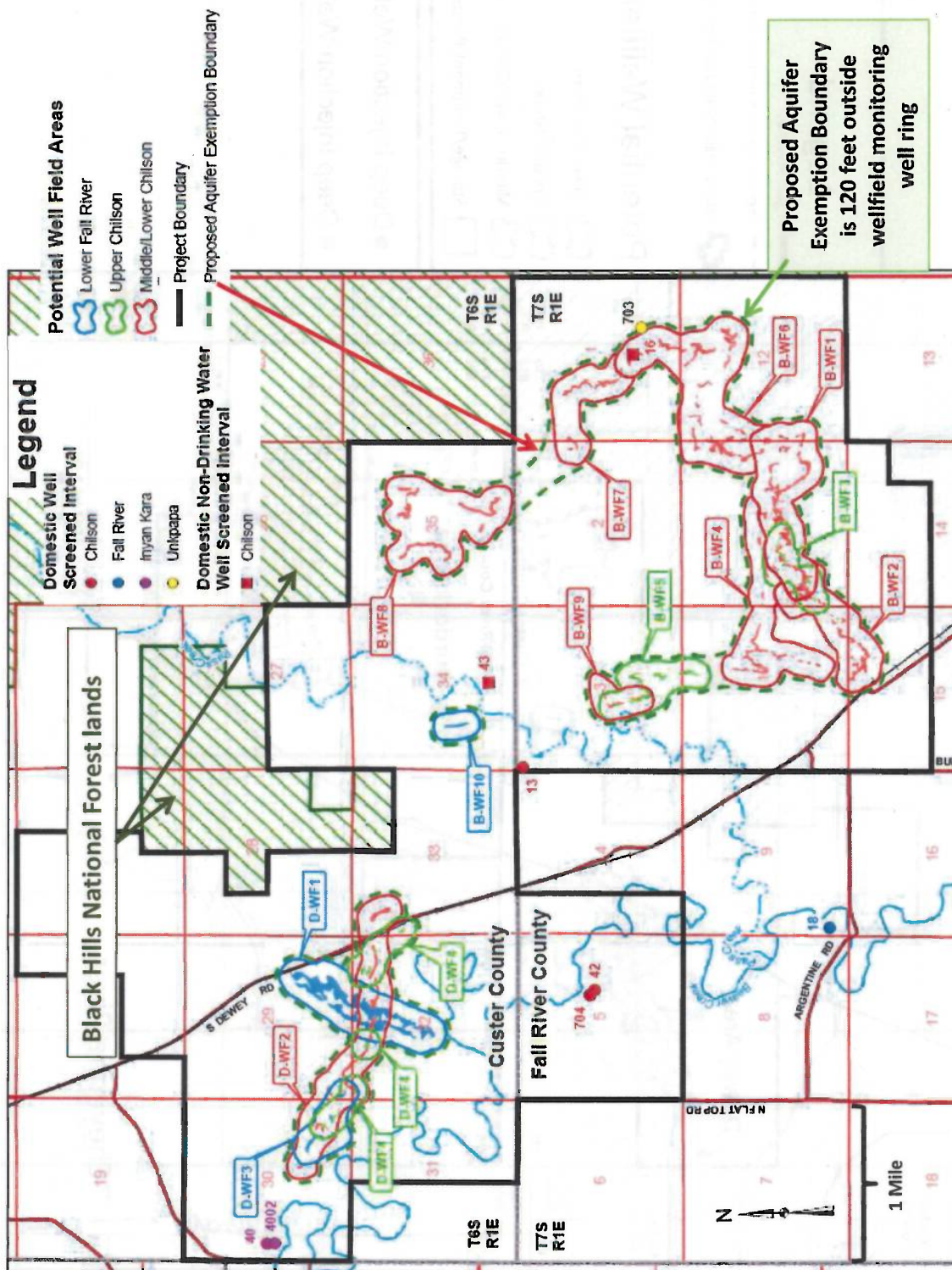
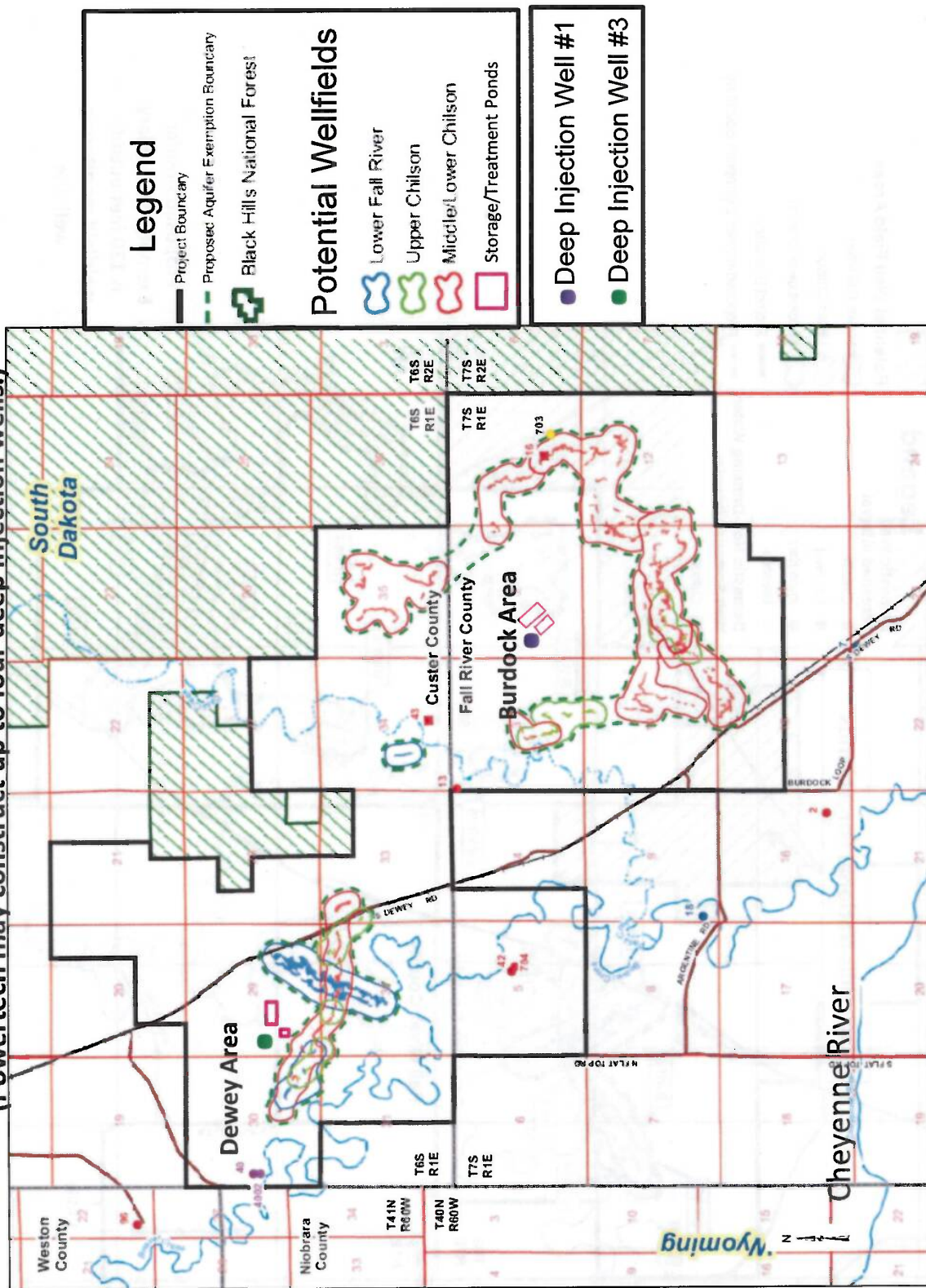
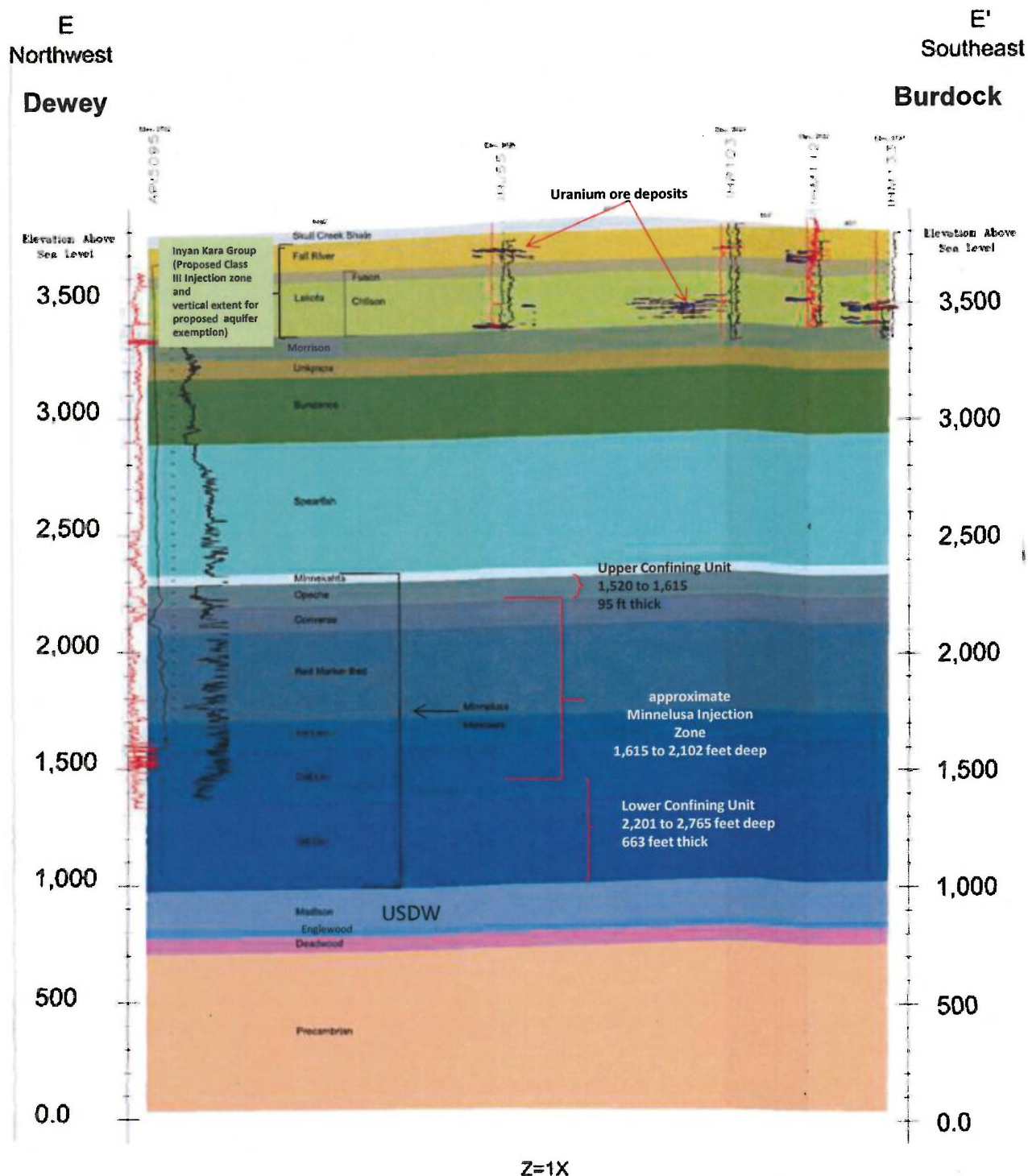


Figure 3. Map showing locations of the proposed wellfields containing Class III injection wells, the aquifer exemption boundary and the UIC permit boundary.

**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:** [Galen Laurence](#)  
**To:** ["sonjaw@utetribes.com"](mailto:sonjaw@utetribes.com); ["betsyc@utetribes.com"](mailto:betsyc@utetribes.com)  
**Subject:** EPA Invitation for Consultation – The Ute Indian Tribe  
**Date:** Thursday, July 25, 2019 3:39:00 PM  
**Attachments:** [EPA ConsultationLetter\\_UteIndianTribe.pdf](#)

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Greetings Sonja and Betsy,

The attached letter and enclosures are being sent to you on behalf of EPA Region 8. The EPA R8 Underground Injection Control (UIC) Program would like to invite you to consult on revised draft permits for injection wells and associated draft documents related to the proposed Dewey-Burdock uranium in-situ recovery site in the southern Black Hills region near Edgemont, South Dakota.

If you are interested in meeting with the EPA, please reply to Valois Robinson of the EPA R8 UIC program. Ms. Robinson can be reached at 800-227-8917 (extension 312-6276) or 303-312-6276. She may also be reached by email at [robinson.valois@epa.gov](mailto:robinson.valois@epa.gov).

If you have any questions, you may also respond to this email directly; we will be happy to convey questions or comments to EPA.

Thank you,

Galen Laurence

**Galen Laurence | Analyst**

Cadmus | 100 5th Avenue, Suite 100 | Waltham, MA, 02451-8727  
Tel: (617) 673-7016



**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 Luke Duncan  
Chairman  
The Ute Indian Tribe  
P.O. Box 190  
Ft. Duchesne, Utah 84026-0190

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 Duncan:

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 Ute Indian 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](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 Ute Indian 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 Ute Indian 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 Ute Indian 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

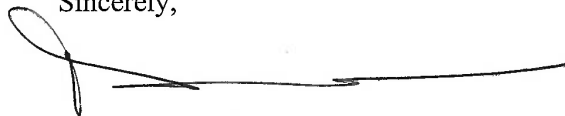
that any information you provide to the EPA in writing will become a part of the public record unless other arrangements are made to maintain confidentiality.

We are requesting a reply from you as to whether the The Ute Indian 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](mailto: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 Ute Indian Tribe's prompt attention to this important matter.

Sincerely,

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

Darcy O'Connor, Director  
Water Division

Enclosures (6)

cc: Sonja Willie, Natural Resources Director  
Betsy Chapoose, 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

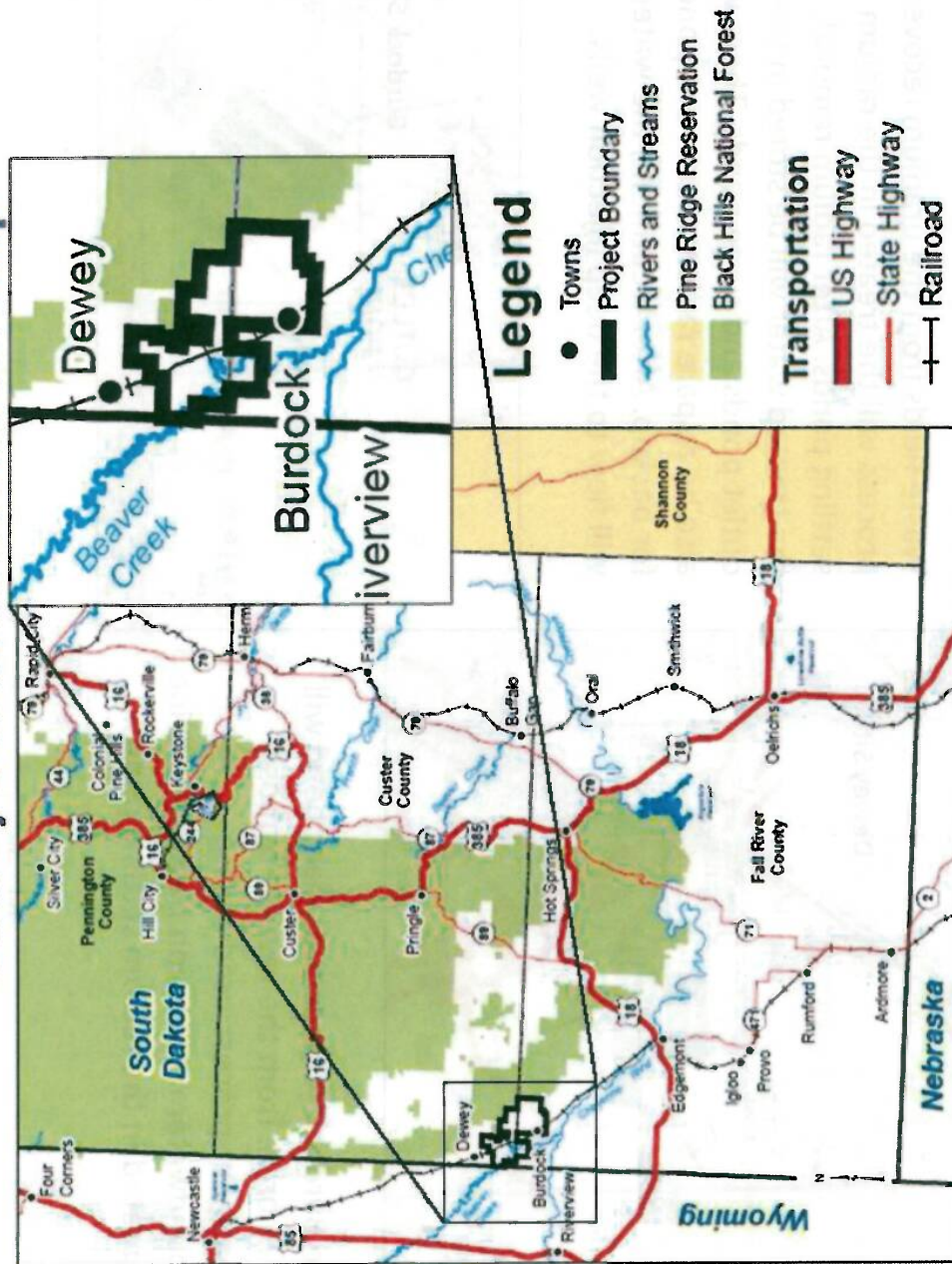
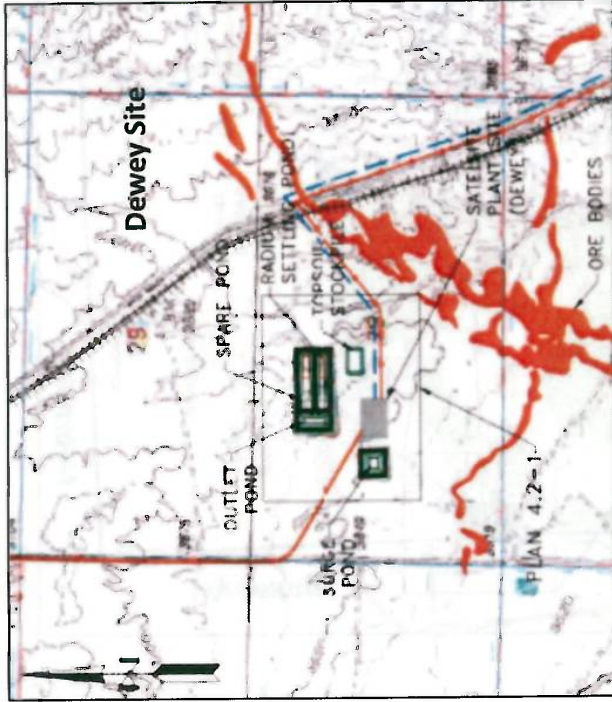


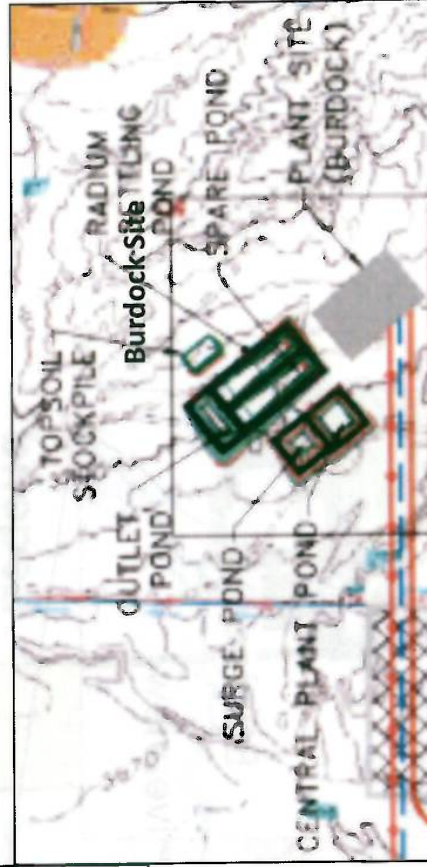
Figure 1. Map showing the location of the proposed Dewey-Burdock uranium recovery site.

## 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.**

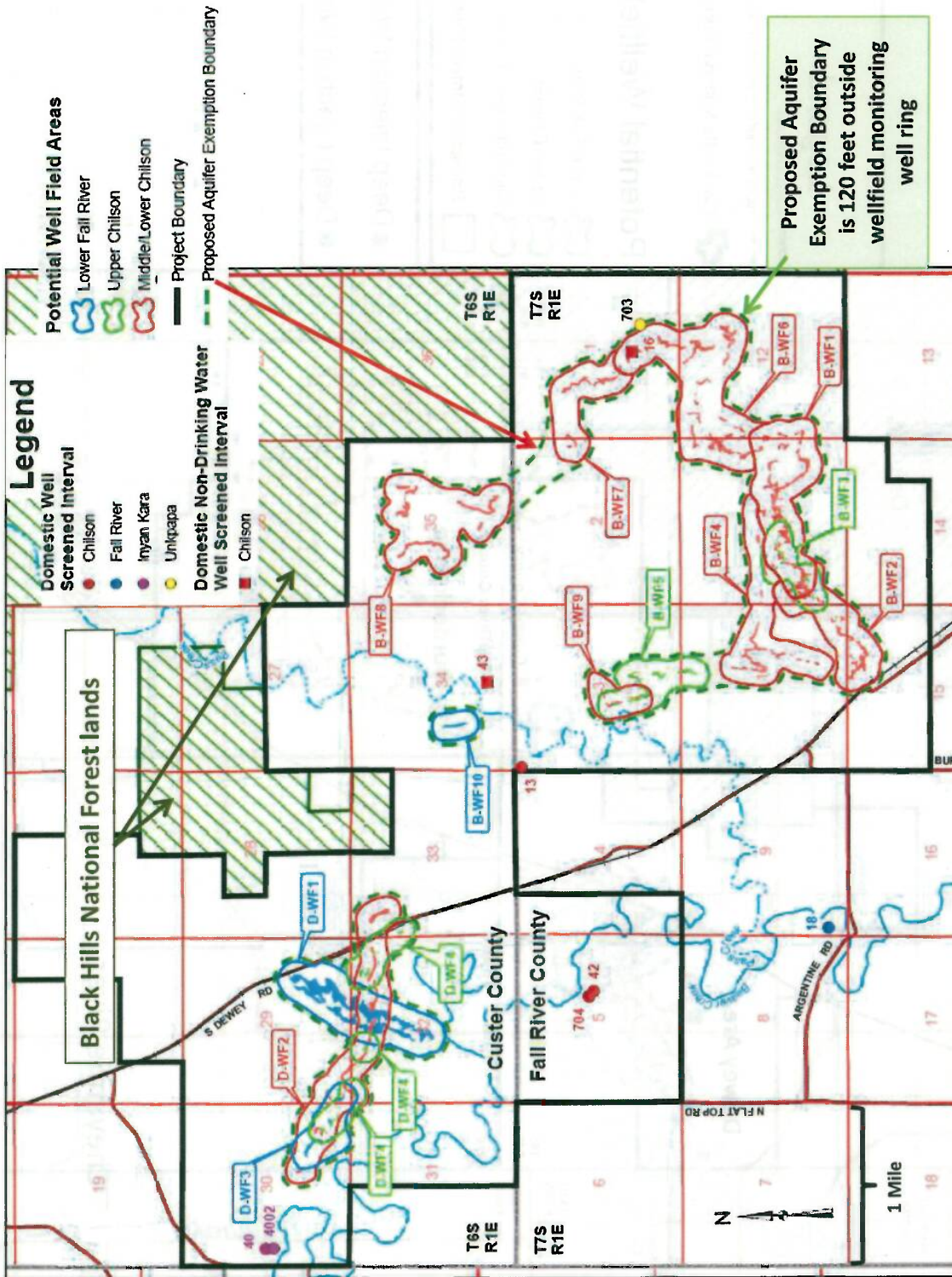
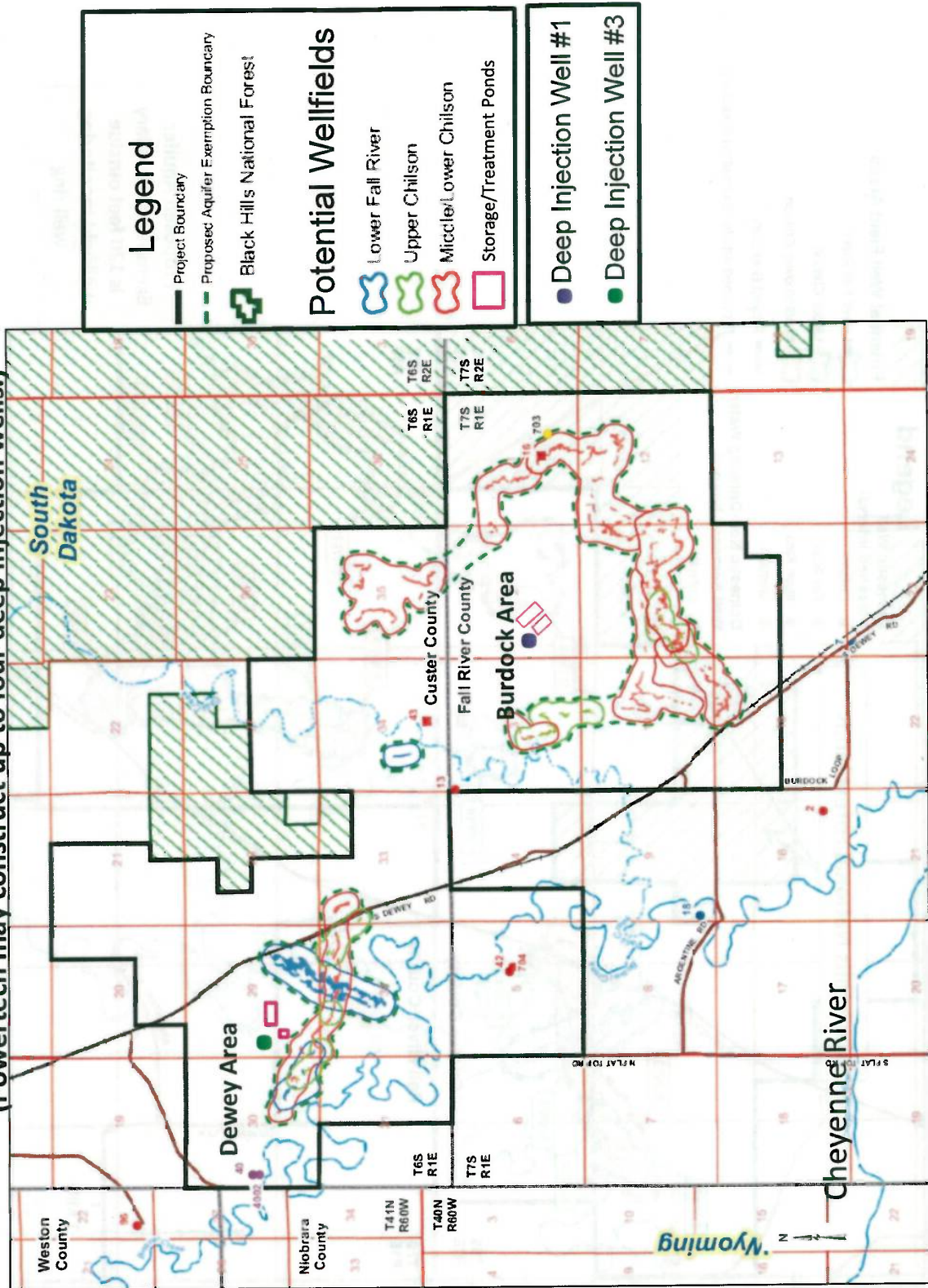
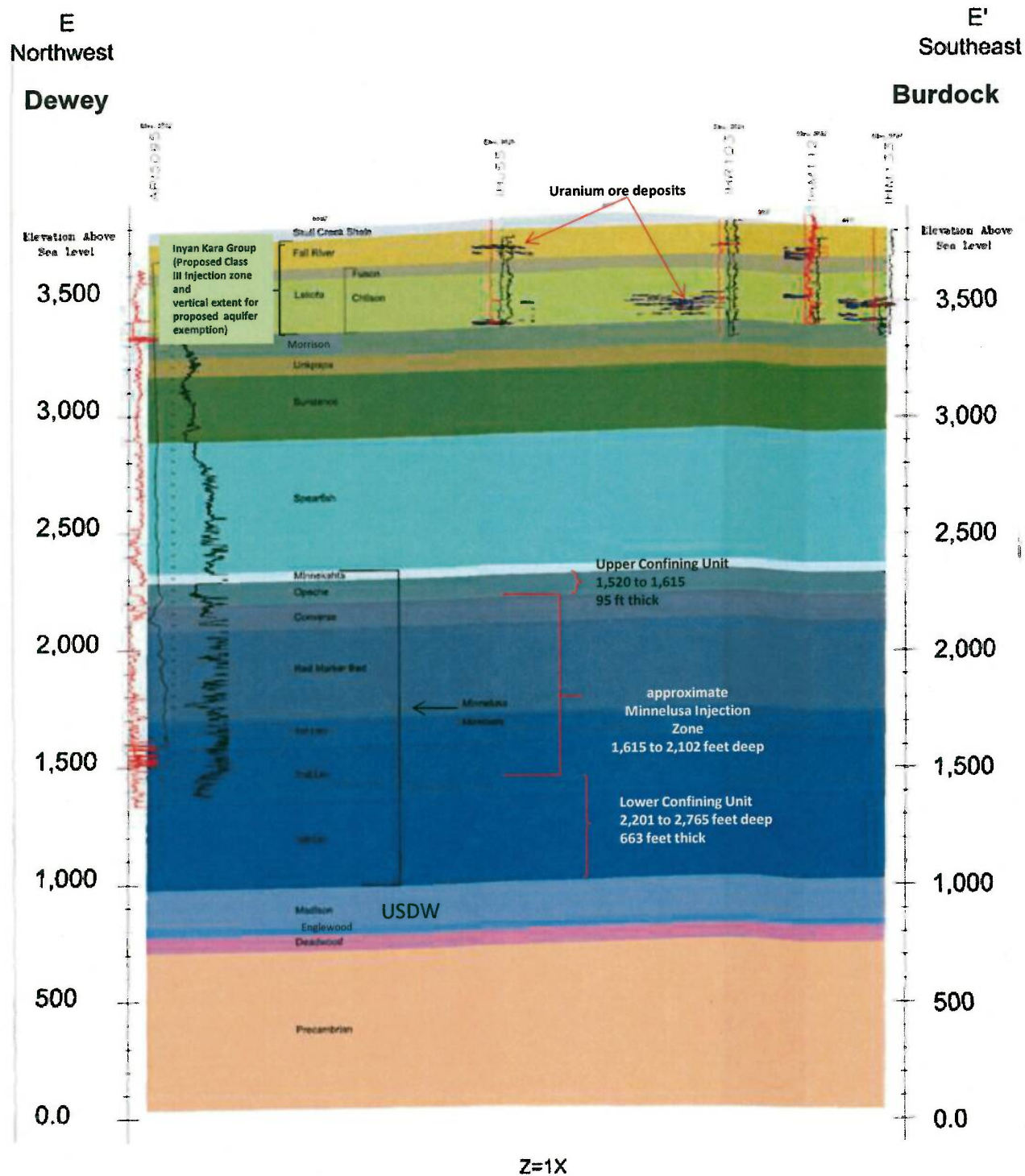


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**From:** [Galen Laurence](#)  
**To:** [ystepgap4@hotmail.com](mailto:ystepgap4@hotmail.com); [yst.thpo@gmail.com](mailto:yst.thpo@gmail.com)  
**Subject:** EPA Invitation for Consultation – The Yankton Sioux Tribe  
**Date:** Thursday, July 25, 2019 3:37:00 PM  
**Attachments:** [EPA\\_ConsultationLetter\\_YanktonSiouxTribe.pdf](#)

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Greetings Richard and Kip,

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If you are interested in meeting with the EPA, please reply to Valois Robinson of the EPA R8 UIC program. Ms. Robinson can be reached at 800-227-8917 (extension 312-6276) or 303-312-6276. She may also be reached by email at [robinson.valois@epa.gov](mailto:robinson.valois@epa.gov).

If you have any questions, you may also respond to this email directly; we will be happy to convey questions or comments to EPA.

Thank you,

Galen Laurence

**Galen Laurence | Analyst**

Cadmus | 100 5th Avenue, Suite 100 | Waltham, MA, 02451-8727

Tel: (617) 673-7016



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

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 Flying Hawk:

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.

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

Sincerely,

A handwritten signature in black ink, consisting of a large loop followed by a horizontal line and a small flourish at the end.

Darcy O'Connor, Director  
Water Division

Enclosures (6)

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



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

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# Dewey Burdock Location Map

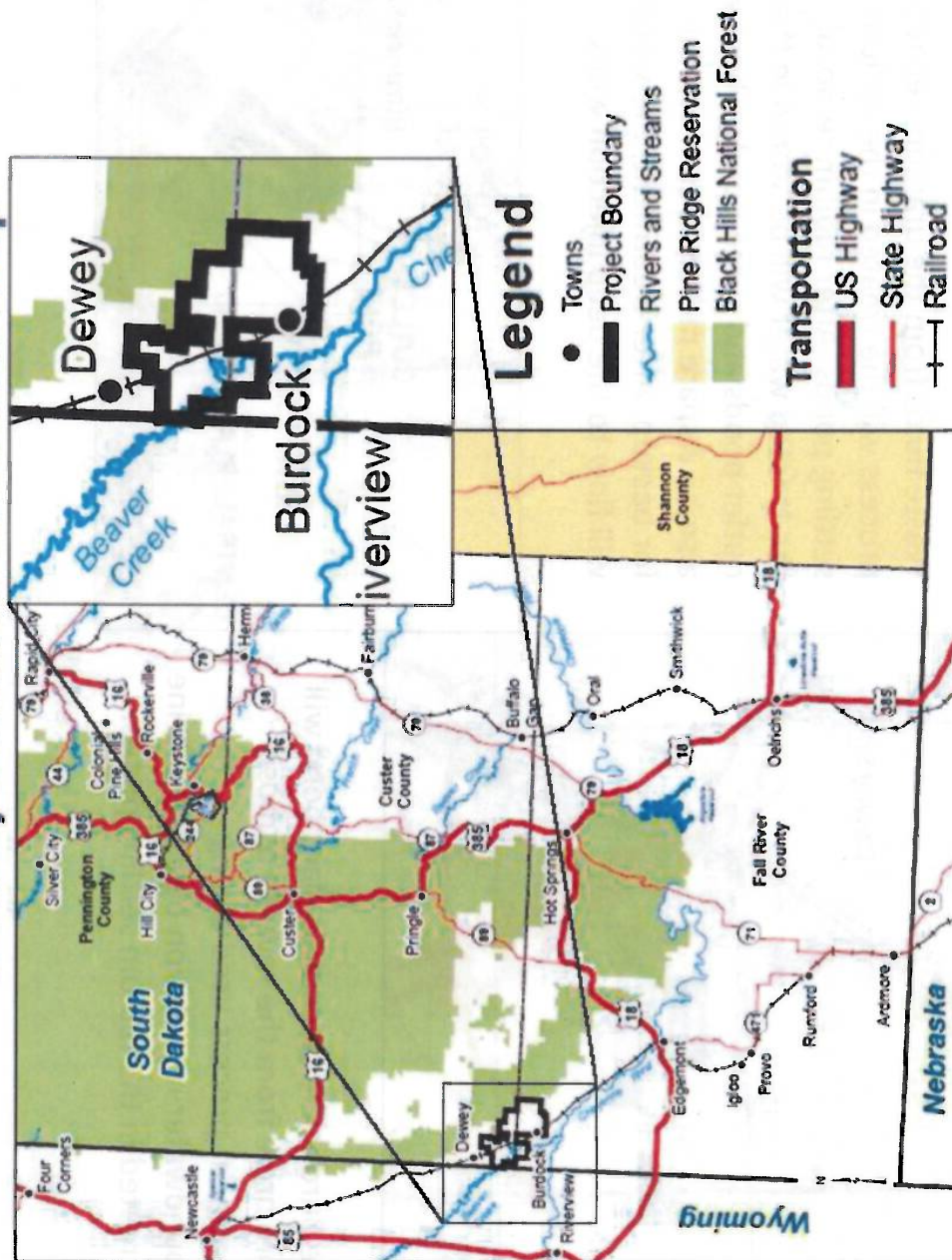
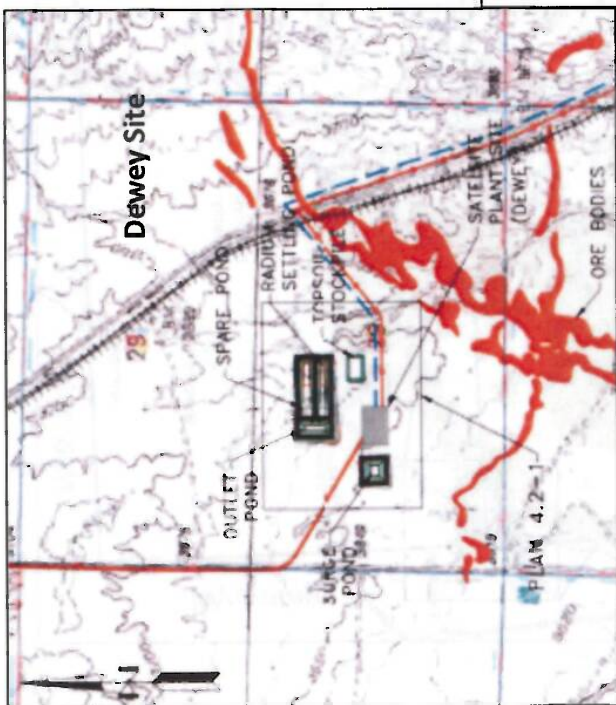


Figure 1. Map showing the location of the proposed Dewey-Burdock uranium recovery site.

## Treatment and Storage Ponds for Deep Well Injectate

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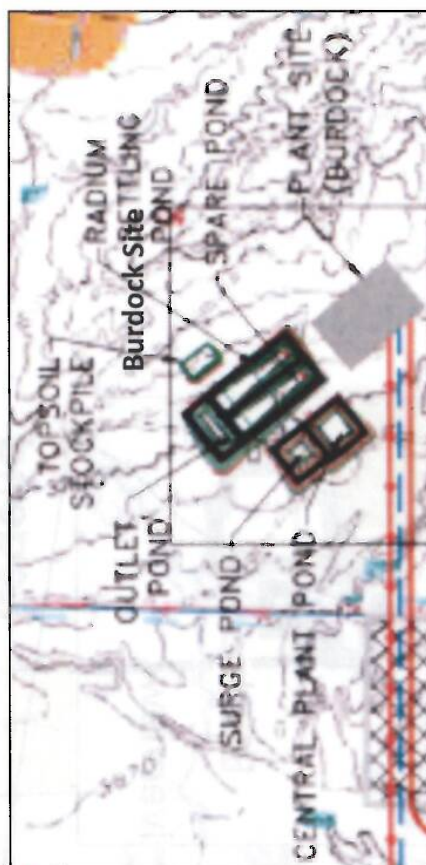


Figure 2. The Proposed Ponds for the Treatment and Storage of the Deep Injection Well Injectate.

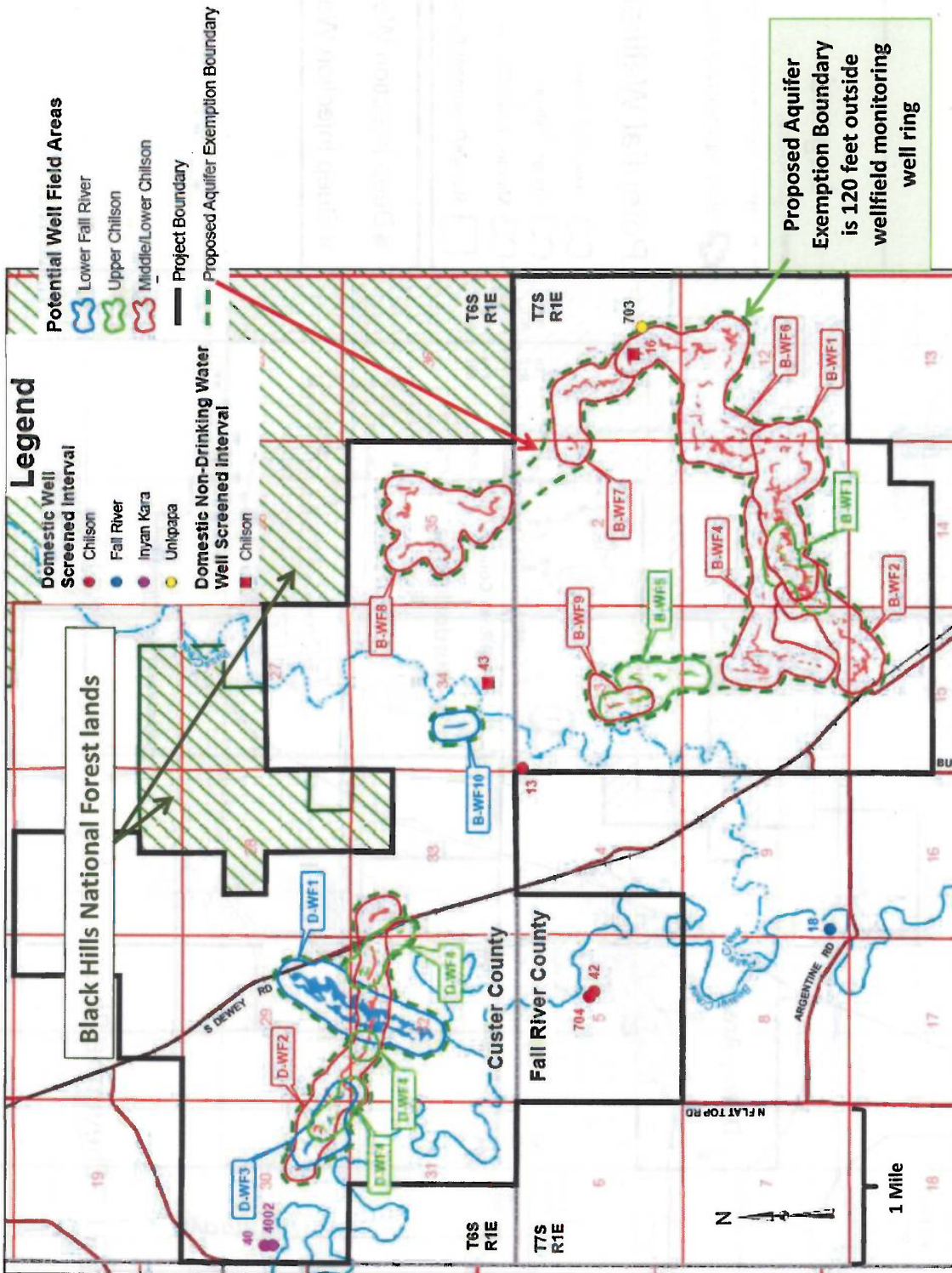
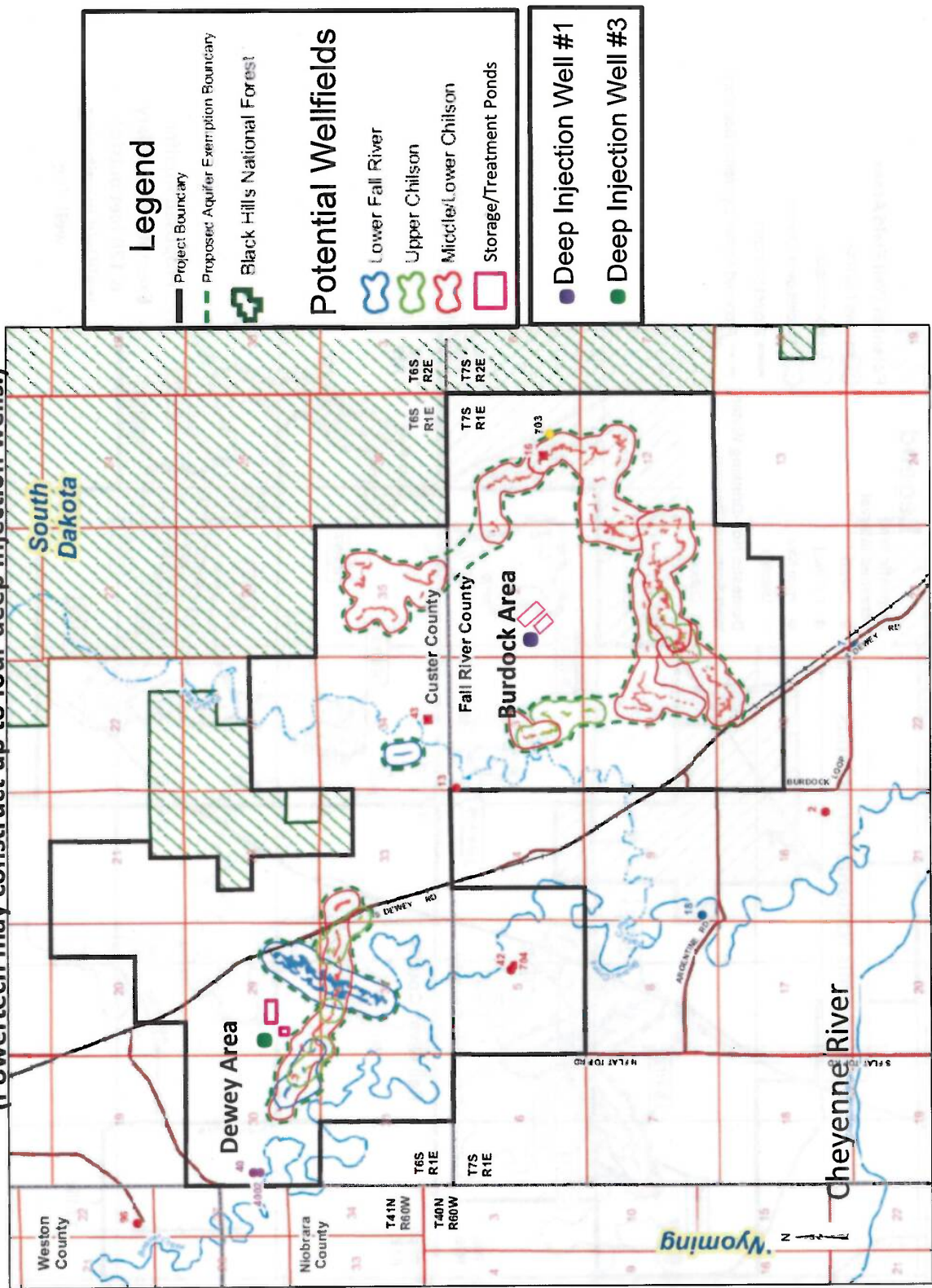
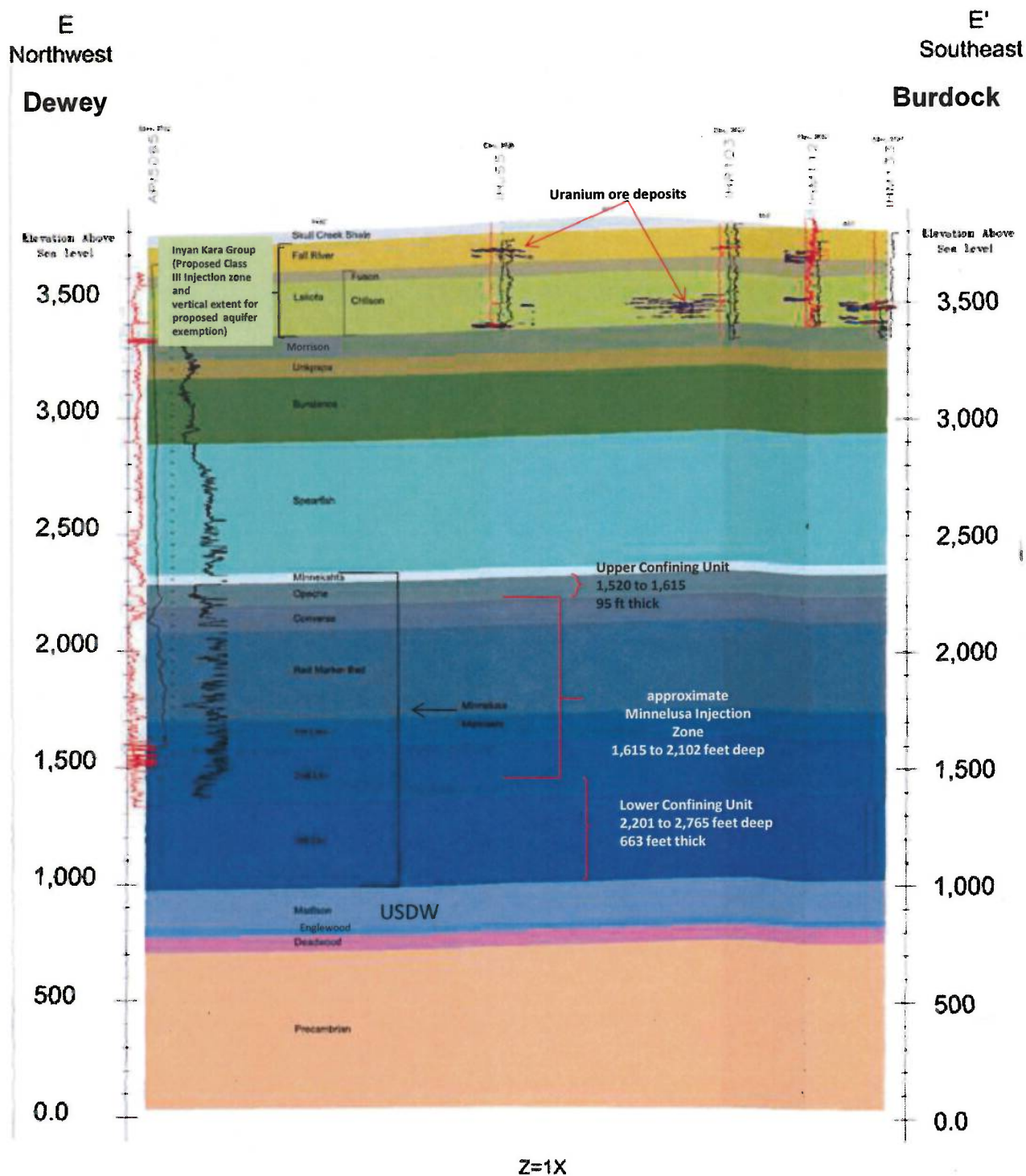


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**Figure 5. Stratigraphic cross-section of geologic formations present at the Dewey Burdock site and proposed injection zones for the Class III and deep Class V injections wells.**