

## ATTACHMENT 12

November 19, 2020 letter from EPA Region 8 to the Oglala Sioux Tribe



## UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

### REGION 8

1595 Wynkoop Street  
Denver, CO 80202-1129  
Phone 800-227-8917  
[www.epa.gov/region08](http://www.epa.gov/region08)

Ref: 8WD-SDU

### **SENT VIA EMAIL DIGITAL READ RECEIPT REQUESTED**

Honorable Julian Bear Runner  
President, Oglala Sioux Tribe  
Pine Ridge, South Dakota  
[president.bearrunner@oglala.org](mailto:president.bearrunner@oglala.org)

Re: Follow-up on Conclusion of Tribal Consultation on the Underground Injection Control (UIC) permit applications for the Dewey-Burdock Uranium In-Situ Recovery Site

Dear President Bear Runner:

On behalf of Administrator Wheeler and myself, I am writing in response to your November 2, 2020 letter regarding the Underground Injection Control (UIC) permit applications submitted by Powertech for the proposed Dewey-Burdock uranium in-situ recovery site near Edgemont, South Dakota. Specifically, your letter requested that the United States Environmental Protection Agency (EPA) continue tribal consultation with the Oglala Sioux Tribe (Tribe) and comply with the National Historic Preservation Act (NHPA) and the National Environmental Policy Act (NEPA).

Consistent with EPA's October 21, 2020 letter to the Tribe, EPA is concluding the tribal consultation process and is unable to fulfill the Tribe's request to schedule additional tribal consultation meetings related to the UIC permit applications. EPA conducted extensive tribal consultation with the Tribe, over a nearly five year period, consistent with the [EPA Policy on Consultation and Coordination with Indian Tribes](#). EPA appreciates the Tribe's participation in that process. EPA received significant input from the Tribe as part of tribal consultation, such as through meetings with the Tribe, and as part of the public comment process, such as through written comments from the Tribe.

During the final months of the tribal consultation process, EPA made multiple attempts to accommodate the Tribe due to the COVID-19 pandemic, including extending the tribal consultation period from April to October 2020, and offering to meet with the Tribe by videoconference or telephone to protect the health and well-being of both the Tribe and EPA.<sup>1</sup> EPA recognizes the significant impacts COVID-19 is having within Indian country, and

<sup>1</sup> Additional examples of EPA's tribal consultation efforts are explained in EPA's September 18, 2020 letter to the Tribe, and EPA's tribal consultation process with 38 federally-recognized tribes will be more comprehensively described in EPA's response to comments document accompanying our final decisions on the UIC permit applications.

acknowledges the Tribe's efforts to minimize and manage those impacts. EPA also acknowledges the importance of continued tribal consultation to the Tribe, and the efforts that both the Tribe and EPA have made to identify both virtual and in-person meeting opportunities. EPA also made every effort to schedule in-person meetings, which would satisfy the Tribe's efforts to comply with its own Tribal ordinances.

However, EPA must balance the Tribe's request to continue tribal consultation with the fact that the UIC permit applications have been pending since January 2013. EPA openly shared with the Tribe that while the COVID-19 pandemic created a number of complications regarding availability for meetings, and that while the EPA would do its best to accommodate requests to reschedule tribal consultation meetings, that the window to complete consultation was narrowing. EPA also communicated to the Tribe that a decision would be made shortly after the scheduled October 2, 2020 tribal consultation meeting date.

Based on EPA's many tribal consultation efforts throughout the years with the Oglala Sioux Tribe specifically, including the spring and summer of 2020, the EPA is able to consider input received from the Tribe throughout the overall tribal consultation process. Having fully considered all of the Tribe's input received to date, EPA intends to make final decisions very soon on the UIC permit applications. EPA's final decisions will include a response to comments document, which we will share with the Tribe, that will identify how the Tribe's input was considered in EPA's final decisions. This includes input from tribal consultation, other meetings with the Tribe, and from the public comment process, including both written and verbal comments from the Tribe. Also, EPA will satisfy our legal obligations under NHPA section 106 and NEPA before making final decisions on the UIC permit applications.

While EPA is moving forward with final decisions on the permit applications, EPA welcomes the opportunity for future communications with the Tribe regarding our decision-making process or answering questions on the final decisions. If you have any questions related to this letter or wish to discuss EPA's decision-making process and our forthcoming final decisions on the UIC permit applications, please feel free to contact me at 303-312-6170 or [sopkin.gregory@epa.gov](mailto:sopkin.gregory@epa.gov). Starting November 28, 2020, Deb Thomas will be acting Region 8 Regional Administrator and can be reached at 303-312-6298 or [thomas.debrah@epa.gov](mailto:thomas.debrah@epa.gov). Your staff may also reach out to Valois Robinson at 303-312-6276 or [robinson.valois@epa.gov](mailto:robinson.valois@epa.gov).

Sincerely,

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Signature and Date

Gregory Sopkin  
Regional Administrator  
EPA Region 8

cc: Ms. Jennifer Spotted Bear, Oglala Sioux Tribe Secretary  
Mr. Reno Red Cloud, Oglala Sioux Tribe Water Administrator  
Mr. Chancy Wilson, Oglala Sioux Tribe Land Committee, Chairman  
Ms. Barbara Yellow Hair, Oglala Sioux Tribe Land Committee, Secretary  
Mr. Russell Zephier, Oglala Sioux Tribe Attorney  
Mr. Mario Gonzalez, Oglala Sioux Tribe Attorney