



NUCLEAR REGULATORY COMMISSION

[Docket No. 40-9075; NRC-2024-0129]

Powertech USA, Inc.; Dewey-Burdock In Situ Uranium Recovery Project; Draft Programmatic Agreement

AGENCY: Nuclear Regulatory Commission.

ACTION: Request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment a draft Programmatic Agreement (PA), “Draft Programmatic Agreement Between the U.S. Nuclear Regulatory Commission, U.S. Bureau of Land Management, U.S. Environmental Protection Agency, South Dakota State Historic Preservation Office, and Powertech USA, Inc. Regarding the Dewey-Burdock In Situ Uranium Recovery Project in Custer and Fall River Counties, South Dakota,” regarding Powertech USA, Inc.’s request to renew Source and Byproduct Materials License No. SUA-1600 for the Dewey-Burdock in situ uranium recovery (ISR) project in Custer and Fall River counties, South Dakota. The NRC staff is pursuing execution of a PA pursuant to satisfy its obligations under Section 106 of the National Historic Preservation Act of 1966, as amended (NHPA).

DATES: Submit comments by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN FEDERAL REGISTER]**. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods; however, the NRC encourages electronic comment submission through the **Federal rulemaking website**.

- **Federal rulemaking website:** Go to <https://www.regulations.gov> and search for Docket ID **NRC-2024-0129**. Address questions about Docket IDs in [Regulations.gov](https://www.regulations.gov)

to Bridget Curran; telephone: 301-415-1003; email: Bridget.Curran@nrc.gov. For technical questions, contact the individual(s) listed in the “For Further Information Contact” section of this document.

- **Mail comments to:** Office of Administration, Mail Stop: TWFN-7-A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Program Management, Announcements and Editing Staff.

For additional direction on obtaining information and submitting comments, see “Obtaining Information and Submitting Comments” in the SUPPLEMENTARY INFORMATION section of this document.

FOR FURTHER INFORMATION CONTACT: Diana Diaz-Toro, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-0930; email: Diana.Diaz-Toro@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID **NRC-2024-0129** when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- **Federal Rulemaking Website:** Go to <https://www.regulations.gov> and search for Docket ID **NRC-2024-0129**.

- **NRC’s Agencywide Documents Access and Management System (ADAMS):** You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select “Begin ADAMS Public Search.” For problems with ADAMS, please contact the NRC’s Public Document Room (PDR) reference staff at 1-800-397-4209, at 301-415-4737, or by email to PDR.Resource@nrc.gov. For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the “Availability of Documents” section.

- **NRC's PDR:** The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to PDR.Resource@nrc.gov or call 1-800-397-4209 or 301-415-4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

B. Submitting Comments

The NRC encourages electronic comment submission through the **Federal rulemaking website** (<https://www.regulations.gov>). Please include Docket ID **NRC-2024-0129** in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at <https://www.regulations.gov> as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

The NRC is issuing for public comment a draft PA between the NRC, U.S. Bureau of Land Management (BLM), U.S. Environmental Protection Agency (EPA), South Dakota State Historic Preservation Office (SD SHPO), and Powertech. The NRC staff is pursuing execution of a PA pursuant to paragraph 800.4(b)(2) of title 36 of the *Code of Federal Regulations* (36 CFR) to satisfy its obligations under Section 106 of the NHPA for Powertech's license renewal request for the Dewey-Burdock ISR. The Dewey-Burdock ISR project is located in Custer and Fall River counties, South Dakota, and has

not been constructed.

On March 4, 2024, Powertech, which is the United States-based wholly owned subsidiary of enCore Energy Corp., submitted a license renewal application to the NRC for the Dewey-Burdock ISR project in accordance with part 40 of title 10 of the *Code of Federal Regulations*, “Domestic Licensing of Source Material.” Powertech requested renewal of its NRC license for a 20-year term. On March 31, 2025, Powertech updated its license renewal application. Powertech proposes to recover uranium using the ISR method where a liquid solution is injected into the ore body to mobilize uranium, which is then pumped to the surface and processed to produce yellowcake. The Dewey-Burdock ISR project would consist of processing facilities and sequentially-developed wellfields sited in two contiguous areas, the Burdock area and the Dewey area.

On August 9, 2024, the NRC issued a notice for an opportunity to request a hearing and to petition for leave to intervene (89 FR 65401) for Powertech's request to renew source and byproduct materials license SUA–1600.

III. Discussion

The NRC staff has determined a phased process for compliance with Section 106 of the NHPA is appropriate for this undertaking, as specifically permitted under 36 CFR 800.4(b)(2), Section 106 implementing regulations. Pursuant to 36 CFR 800.8, the NRC is coordinating its Section 106 process with its review under the National Environmental Policy Act of 1969, as amended.

In accordance with 36 CFR 800.2(c)(1)(i), the NRC staff initiated its Section 106 consultation with the SD SHPO for this undertaking, including preparation of this PA, via letter dated January 24, 2025.

In response to NRC staff's letter dated January 24, 2025, the BLM designated the NRC as the lead agency for compliance with requirements of Section 106 of the NHPA regarding the Dewey-Burdock ISR project pursuant to 36 CFR 800.2(a)(2). The NRC staff also invited the EPA to participate in the Section 106 process for this undertaking, and on November 14, 2025, the EPA designated the NRC as the lead

agency for compliance with requirements of Section 106 of the NHPA pursuant to 36 CFR 800.2(a)(2). On January 24, 2025, the NRC staff notified the Advisory Council on Historic Preservation (ACHP) of the undertaking and invited the ACHP to participate in NHPA Section 106 consultation. By letter dated October 14, 2025, the ACHP notified the NRC that Appendix A of the Section 106 implementing regulations, "Criteria for Council Involvement in Reviewing Individual Section 106 Cases," implementing regulations at 36 CFR part 800, does not apply to the undertaking and, therefore, its participation in the consultation to resolve adverse effects is not necessary. By letters dated January 24, 2025, the NRC invited 25 federally recognized Indian Tribes who may ascribe religious and cultural significance to historic properties that may be affected by the undertaking to participate in the Section 106 consultation and preparation of this PA. The NRC staff also invited Powertech, in accordance with 36 CFR 800.2(c)(4), via letter dated January 24, 2025. Additionally, in response to the NDN Collective's request dated March 14, 2025, the NRC invited the NDN Collective to participate as a consulting party in the Section 106 process for the undertaking.

The NRC staff continued its efforts to engage in consultation with Tribes by sending emails and holding meetings to gather information related to identification efforts and coordinate meetings. On March 5 and 13, 2025, the NRC staff held closed government-to-government virtual tribal information meetings. The purpose of the meetings was to engage with and hear from Tribal representatives invited to participate in and consult on the Section 106 process. On May 2, 2025, the NRC staff invited the Tribes to participate in a visit to the Dewey-Burdock ISR site. On June 11, 2025, the NRC staff held a Tribal site visit as part of its ongoing Section 106 consultation. The purpose of the Tribal site visit was to provide federally-recognized Tribes (i) an overview of the site and proposed ISR facilities, (ii) an overview of the area of potential effects, (iii) an overview of the areas where cultural resources have been identified in relation to potential surface disturbances, and (iv) answer questions from and gather information from Tribes about sites of religious and cultural significance to them and potential effects

on these from the undertaking.

By letter dated September 30, 2025, the NRC staff transmitted the draft PA, developed in accordance with 36 CFR 800.14(b)(3), to the Tribes, BLM, EPA, ACHP, SD SHPO, and Powertech for review and comment. In the letter, the NRC staff also proposed coordinating a Tribal Cultural Resource Survey to be conducted after execution of the new PA using the draft survey methodology included as Appendix D of the draft PA. The NRC staff also requested comments on the draft tribal survey methodology. On November 19, 2025, the NRC staff transmitted the draft PA and draft tribal survey methodology to NDN Collective for review and comment.

The NRC staff has updated the draft PA and draft tribal survey methodology based on the comments received. The NRC is requesting public comment on the updated draft PA. The NRC will consider these comments before finalizing the PA. The draft PA is available in ADAMS under Accession Nos. ML25346A149, ML25346A151, and ML25346A150.

IV. Availability of Documents

The documents identified in the following table are available to interested persons through one or more of the following methods, as indicated.

DOCUMENT DESCRIPTION	ADAMS ACCESSION NO.
Powertech's updated license renewal application for the Dewey-Burdock uranium recovery facility in Custer and Fall River counties, South Dakota, dated March 31, 2025	ML25091A216 (package)
NRC Letter to SD SHPO initiating the NHPA Section 106 Process, dated January 24, 2025	ML24291A051
NRC Letter to BLM initiating the NHPA Section 106 Process, dated January 24, 2025	ML24291A050
NRC Letter to EPA initiating the NHPA Section 106 Process, dated January 24, 2025	ML24291A056
NRC Letter to ACHP initiating the NHPA Section 106 Process, dated January 24, 2025	ML24291A049
NRC Letter to Powertech initiating the NHPA Section 106 Process, dated January 24, 2025	ML24291A094

NRC Letters to Consulting Tribes initiating the NHPA Section 106 Process, dated January 24, 2025	ML24290A178 (package)
NRC Letter to NDN Collective initiating the NHPA Section 106 Process, dated March 14, 2025	ML25067A003
BLM Letter to NRC Designating NRC as Lead Agency for the Section 106 Process, dated March 7, 2025	ML25071A049
NRC Summary of March 2025 Virtual Tribal Information Meetings, dated March 24, 2025	ML25077A115 (package)
NRC Summary of June 11, 2025, Tribal Site Visit, dated August 1, 2025	ML25213A145
NRC Letters to Consulting Tribes transmitting the Draft Section 106 Programmatic Agreement, dated September 30, 2025	ML25273A335 (package)
NRC Letters to BLM, EPA, ACHP, SD SHPO, and Powertech transmitting the Draft Section 106 Programmatic Agreement, dated September 30, 2025	ML25273A367 (package)
ACHP Letter to NRC regarding Participation in the Section 106 Process, dated October 14, 2025	ML25335A035
EPA Letter to NRC Designating NRC as Lead Agency for the Section 106 Process, dated November 14, 2025	ML25335A023
NRC Letter to NDN Collective transmitting the Draft Section 106 Programmatic Agreement, dated November 19, 2025	ML25318A141 (package)
Updated Draft Section 106 Programmatic Agreement for the Powertech License Renewal Application for the Dewey-Burdock Project	ML25346A149
Updated Draft Section 106 Programmatic Agreement Appendices for the Powertech License Renewal Application for the Dewey-Burdock Project	ML25346A151
Appendix D - Updated Draft Tribal Cultural Resource Survey Methodology for the Powertech License Renewal Application for the Dewey-Burdock Project	ML25346A150

Dated: December 17, 2025.

For the Nuclear Regulatory Commission.

Theodore Smith,
Acting Chief,
Environmental Technical Review Branch 1,

*Division of Rulemaking, Environmental,
and Financial Support,
Office of Nuclear Material Safety,
and Safeguards.*

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