

Standing Rock official blasts feds for uranium mining near sacred sites

By Talli Nauman, March 2014

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FT. YATES, N.D. — Besieged by uranium mining proposals near sacred sites, a highly placed official of the Standing Rock Sioux Tribe has filed a scathing condemnation of actions allegedly taken against Indians by the Nuclear Regulatory Commission (NRC) staff and its foreign corporate project proponents in the federal permit process.

“Information, suggestions and critical issues raised by the tribes are purposefully being ignored and omitted,” Tribal Historic Preservation Officer Wašté Wi? Young said in a recent letter to the NRC staff.

The letter heralded the Feb. 28 NRC staff announcement of a final supplemental environmental impact statement (SEIS) for the proposed Ross in-situ leach uranium mine and mill project near Bear Lodge (Devil’s Tower) in Crook County, on the northeastern Wyoming border with South Dakota and Montana.

“There are no environmental impacts that would preclude licensing the facility,” the staff said, using the exact same wording it did on Jan. 30 when it announced a final SEIS for the Dewey-Burdock uranium mine and mill project in the Black Hills counties of Custer and Fall River on South Dakota’s borders with Wyoming and Nebraska.

In both cases, the staff separated the tribal consultation process from the rest of statement in order to announce the finalization and declare “there are no environmental impacts...”

However, the staff noted that the NRC’s Atomic Safety and Licensing Board (ASLB) will have the final say later this year about whether to grant licenses to the applicants at the Ross and the Dewey-Burdock sites. The decisions will come after ASLB panels conduct public hearings in the cases, both of which are legally contested by tribal opponents, the staff said.

Meanwhile, it dealt the tribes deadlines to sign programmatic agreements (PAs) on sacred sites and cultural resources in relation with Section 106 of the National Historic Preservation Act (NHPA) and the National Environmental Protection Act (NEPA), prompting Young’s complaints.

“The incestuous relationship between the NRC and applicant ... has come to my attention reading through the proposed programmatic agreements for Ross and Dewey-Burdock,” Young said in her letter to staff.

“The gnawing disappointment of how you all have handled the Section 106 process under the NHPA is too overwhelming,” she said. Her letter is dated one day before the Feb. 21 NRC staff-imposed deadline for 23 consulting tribes to sign the programmatic agreement on the Dewey-Burdock proposal.

“The PA for Dewey-Burdock needs to be accurate. It needs to document tribal concerns. It needs to detail the unbalanced, unfair process that the tribes were up against,” Young wrote.

“Powertech is calling the shots and because the NRC does not know how to implement Section 106 or has no clue how to work with tribes, it is responsible for the destruction of this spiritual, cultural and historical landscape,” she added.

Powertech (USA), Inc. has been seeking a “new radioactive source materials facility” license, as well as other federal and state permits since 2009 for the Dewey-Burdock Project, which could become South Dakota’s first-ever in-situ leach uranium mining and yellow-cake processing endeavor.

The operation proposed on 10,580 acres of Standing Rock Tribe’s ancestral treaty lands in the Black Hills, would have “adverse effects” where ground disturbance occurs on any of the more than 250 historic properties identified, the NRC staff acknowledges.

Young and other officials of Standing Rock, as well as those of other tribes, are not satisfied that the area has been sufficiently surveyed and analyzed. They remain skeptical that the programmatic agreement will resolve their concerns.

With Young’s letter, the Standing Rock Sioux Tribe joins the Oglala Sioux Tribe in rejecting the agreement on Dewey-Burdock. Oglala Sioux Tribal President Bryan Brewer informed the NRC on Feb. 5 that his government would not sign it as things stand.

According to the Dewey-Burdock environmental impact statement, the largest effect of any in the project would be on the historic and cultural resources at the site. The Oglala Sioux Tribe contends that finalizing the impact statement is illegal without including the cultural resources survey involving the tribes.

Another attorney in the contested case hearing before the ASLB panel, David Frankel, said the NRC staff plans to misuse the programmatic agreement as proof they have discharged their responsibilities for the cultural resources review.

“The entire programmatic agreement is a scam to allow the NRC to push through the mining permits without real compliance with their consultation obligations to the Native Americans,” Frankel said.

Representing the Consolidated Interveners in the case against Powertech, Frankel, together with other lawyers, including the Oglala Sioux Tribe’s attorney in the case, Jeff Parsons, have a March 17 deadline to contest the impact statement and its exclusion of tribal historical preservation conclusions.

In addition to a license from the NRC for a “new radioactive source materials facility,” the project developer says it also requires the rights to pump some 9,000 gallons per minute from South Dakota’s Inyan Kara and Madison aquifers.

Granting the water rights would allow the project to flush uranium, vanadium and other heavy metals out of their ore bed in the Inyan Kara Aquifer to a surface facility for refining, treatment and disposition.

The company also seeks approval for underground and surface disposal of the mined water, an exemption from the federal Safe Drinking Water Act, and other permits. The installation is envisioned with enough capacity to process deliveries of similar materials from proposed future uranium mining expansion in South Dakota, Nebraska and Wyoming.

The Vancouver, Canada-based holding company Powertech Uranium Corp., which is the original owner of Powertech (USA), Inc., announced on Feb. 26, that it plans to merge with its majority shareholder, Hong Kong-based equity fund Azarga Resources Ltd., to become Azarga Uranium Corp.

The stated purpose of the merger is “to reduce Powertech's exposure to permitting risk at Dewey Burdock.” Powertech has never mined uranium before, but Azarga has an interest in operations in Colorado, Turkey and Kyrgyz.

In the South Dakota State Legislature on Feb. 27, House Concurrent Resolution 1025 to protect the water passed the lower chamber, 36-30, with representatives from heavily Native American voting districts in favor.

Co-sponsored by Native American lawmakers Troy Heinert and Kevin Killer, among others, the resolution “reaffirming the value of South Dakota's groundwater resources and recognizing the need for ongoing evaluation of our groundwater management” went to the Senate Agriculture and Natural Resources Committee.

It reiterates “the public policy of this state to conserve the waters of the state and to protect, maintain, and improve the quality thereof for water supplies; for the propagation of wildlife, fish, and aquatic life; and for domestic, agricultural, industrial, recreational, and other legitimate uses; and ...

“to provide that no waste be discharged into any waters of the state without first receiving the necessary treatment or other corrective action to protect the legitimate and beneficial uses of such waters; and ...

“To provide for the prevention, abatement, and control of new and existing water pollution.” It also expresses recognition of a “need for ongoing evaluation of our groundwater management based on rapidly changing technology and the impacts of technological advances on our groundwater resources.”

In Wyoming, the Ross Project aims to employ approximately 200 people in the construction of 15 to 25 well fields and a total of 1,400 to 2,200 injection wells on a 1,721-acre site contiguous to additional uranium resources that provides the potential for expansion of operations to a larger geographic area.

The proposal includes a yellow-cake processing plant that, like the one sought for Dewey-Burdock, would have the capacity to mill uranium and byproducts from Nebraska, South Dakota and Wyoming. The applicant, Strata Energy Inc., is a wholly owned subsidiary of the Australian company Peninsula Energy Ltd.

The company intends to use surface water from either the Oshoto Reservoir or the Little Missouri River, as well as underground water, for its operation. The SEIS considers its impacts on groundwater can range from “small” to “large”.

Likewise, project impacts on historical and cultural resources could be small, medium, or large, according to the environmental statement. The document notes that “efforts to evaluate historic and cultural properties and to determine adverse effects and mitigation measures are incomplete. “Every effort would be made to avoid, minimize, and mitigate adverse effects to historic properties in accordance with the Ross Project Programmatic Agreement (PA) that is currently being developed,” it continues.

“However, a large impact is not impossible, depending upon the significance and integrity of, and the extent of adverse effects on, previously identified historic properties or those potentially inadvertently discovered.”

The NRC sent letters in February of 2011 to 24 Tribes, inviting them to formal consultations for the proposed Ross Project. Representatives of the Cheyenne and Arapaho Tribes of Oklahoma, the Chippewa Cree Tribe, the Northern Cheyenne Tribe, the Fort Peck Assiniboine and Sioux Tribes, and the Cheyenne River Sioux Tribe have been in discussions about the project’s implications for nearby Bear Lodge, a traditional location for cultural activities, prayers, and other religious and spiritual purposes.

The staff says that 27 tribal representatives from 10 tribes took part in field surveys of the Ross Project but Standing Rock Sioux Tribe did not due to an argument over the terms of remuneration.

Standing Rock’s Young said the tribe will not bother to participate in consultation on the proposed Reno Creek in-situ uranium mine and mill, proposed by AUC LLC for a 6,000-acre site in Campbell County Wyoming.

“Thank you for your invitation to the Standing Rock Sioux Tribe, inviting us to participate in Section 106 consultation under the NHPA for Reno Creek,” she wrote to the NRC staff.

“Due to the complete lack of confidence, bad faith and ill will that the Nuclear Regulatory Commission has shown towards the SRST, as well as other tribes, we will have to decline to participate in this consultation.”

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