

June 22, 2004

MEMORANDUM TO: Mark S. Delligatti, Acting Section Chief
Environmental and Low-Level Waste Section
Division of Waste Management
and Environmental Protection
Office of Nuclear Material Safety
and Safeguards

THRU: Melanie Wong, Project Manager **/RA/**
Environmental and Low-Level Waste Section
Division of Waste Management
and Environmental Protection
Office of Nuclear Material Safety
and Safeguards

FROM: Samuel Hernandez, Chemical Engineer **/RA/**
Environmental and Low-Level Waste Section
Division of Waste Management
and Environmental Protection
Office of Nuclear Material Safety
and Safeguards

SUBJECT: SUMMARY OF JUNE 9, 2004 CONFERENCE CALL RELATED TO THE
SECTION 106 CONSULTATION PROCESS OF THE NATIONAL
HISTORIC PRESERVATION ACT FOR THE PROPOSED LOUISIANA
ENERGY SERVICES NATIONAL ENRICHMENT FACILITY

On June 9, 2004, U.S. Nuclear Regulatory Commission (NRC) staff conducted a telephone conference call with representatives from the New Mexico State Historic Preservation Office (NMSHPO), the New Mexico State Land Office (NMSLO), the Advisory Council on Historic Preservation (Council) and Louisiana Energy Services (LES). The purpose of the call was to discuss the effects of the proposed undertaking on historic properties at the proposed LES National Enrichment Facility.

Summary of Issues Discussed:

During the conference call, the proposed undertaking to construct, operate, and decommission a gas centrifuge uranium enrichment facility to be located near Eunice, New Mexico was discussed. In addition, because the undertaking is located on the land currently owned by the State of New Mexico, a proposed land exchange process was discussed. In the land exchange process, this land would eventually be deeded to LES.

The discussion focused on (1) the NMSLO course of action regarding the land exchange process and the applicability of any State of New Mexico regulations and (2) the Section 106 consultation process of the National Historic Preservation Act which requires the NRC to take

into account the effects of the proposed undertaking on historic properties. A LES representative indicated that information on the State of New Mexico regulations related to the land exchange process was available. LES committed to providing a copy of this information to the participants. The participants recommended that a single Memorandum of Agreement (Agreement) addressing the effects of the land exchange process and the construction, operation and decommissioning of the proposed facility be developed. The NRC staff indicated it will need to further consider the preparation of a single Agreement.

Furthermore, the participants discussed the affected cultural resources identified in the cultural resource inventory, dated January 26, 2004, and their eligibility determinations. Seven prehistoric archeological sites were identified with several of these sites occurring in the Area of Potential Effects (APE). The SHPO representative noted that the land exchange process would be considered an "adverse effect" to these seven sites due to the transfer of State land to a private entity (i.e., LES).

The representative from the Council questioned whether any Indian Tribes have been consulted. The NRC staff noted that the Section 106 consultation process has been initiated and have consulted with several Indian tribes including the Apache Tribe of Oklahoma, Kiowa Tribe of Oklahoma, Comanche of Oklahoma, Mescalero Apache, and the Ysleta del Sur Pueblo to determine if there are any properties within the APE that they have traditional religious and cultural significance. The Mescalero Apache Tribe and the Ysleta del Sur Pueblo have indicated they would like to sign the Agreement.

In addition, the schedule for the development of the Agreement and a treatment plan was discussed. The NRC staff noted that the Section 106 consultation process would need to be completed prior to the issuance of any license for the proposed undertaking. The requirements of 36 CFR Part 800, specifically the public involvement in the Section 106 consultation process, was discussed. The NRC staff indicated that the draft Environmental Impact Statement being prepared on the proposed undertaking would assess the potential impacts of the proposed facility on the historic resources and would discuss any proposed mitigation measures which would be folded into the treatment plan. LES indicated that it could provide a summary of proposed mitigation measures to the NRC staff in the near future.

Action Items:

NRC: 1) Schedule a meeting within two weeks to continue discussion on the Section 106 consultation process

LES: 1) Provide information on the State of New Mexico regulations related to the land exchange process
2) Provide a summary of the proposed mitigation measures

Attendees:

J. Biella/NMSHPO	S. Hernandez/NRC	P. Nickens/ATL	M. Wong/NRC
D. Eck/NMSLO	R. Krich/LES	L. Nuello/LES	
D. Gallegos/LES	N. Morgan/NRC	A. Stanfill/Council	

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