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PROGRAMMATIC AGREEMENT (PA) ANNUAL REPORT FOR CALENDAR YEAR 2008

Reference: Ltr, Boyle to Clark, dtd 5/21/09 (DOE Ltr. No. OCSM:RES-0611)

The purpose of this letter is to transmit a copy of the first Annual Report on the implementation of the *Programmatic Agreement Among the United States Department of Energy, Office of Civilian Radioactive Waste Management, the Nevada State Historic Preservation Office, and the Advisory Council on Historic Preservation for Licensing and Development of a Nuclear Waste Repository at Yucca Mountain, Nye County, Nevada*. This 2008 Annual Report on Historic Preservation Activities for the Yucca Mountain Project describes cultural resources management efforts conducted during calendar year 2008.

The Annual Report contains information defined in the PA, Section (B.5), and is provided to your staff to help fulfill the U.S. Nuclear Regulatory Commission's obligation under the National Historic Preservation Act.

There are no new regulatory commitments in this letter. Please contact Jeffrey R. Williams at (202) 586-9620, or e-mail jeff.williams@rw.doe.gov with any questions regarding this report or if any additional information is required.

William J. Boyle, Director
Regulatory Affairs Division
Office of Technical Management

OTM:GFS-1098

Enclosure:
2008 Annual Report on Historic
Preservation Activities for the YMP

NM5525

OCT 27 2009

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**2008 ANNUAL REPORT
ON HISTORIC PRESERVATION ACTIVITIES
FOR THE YUCCA MOUNTAIN PROJECT**

January 1 to December 31, 2008

**Office of Civilian Radioactive Waste Management
U.S. Department of Energy
Las Vegas, Nevada**

June 2009

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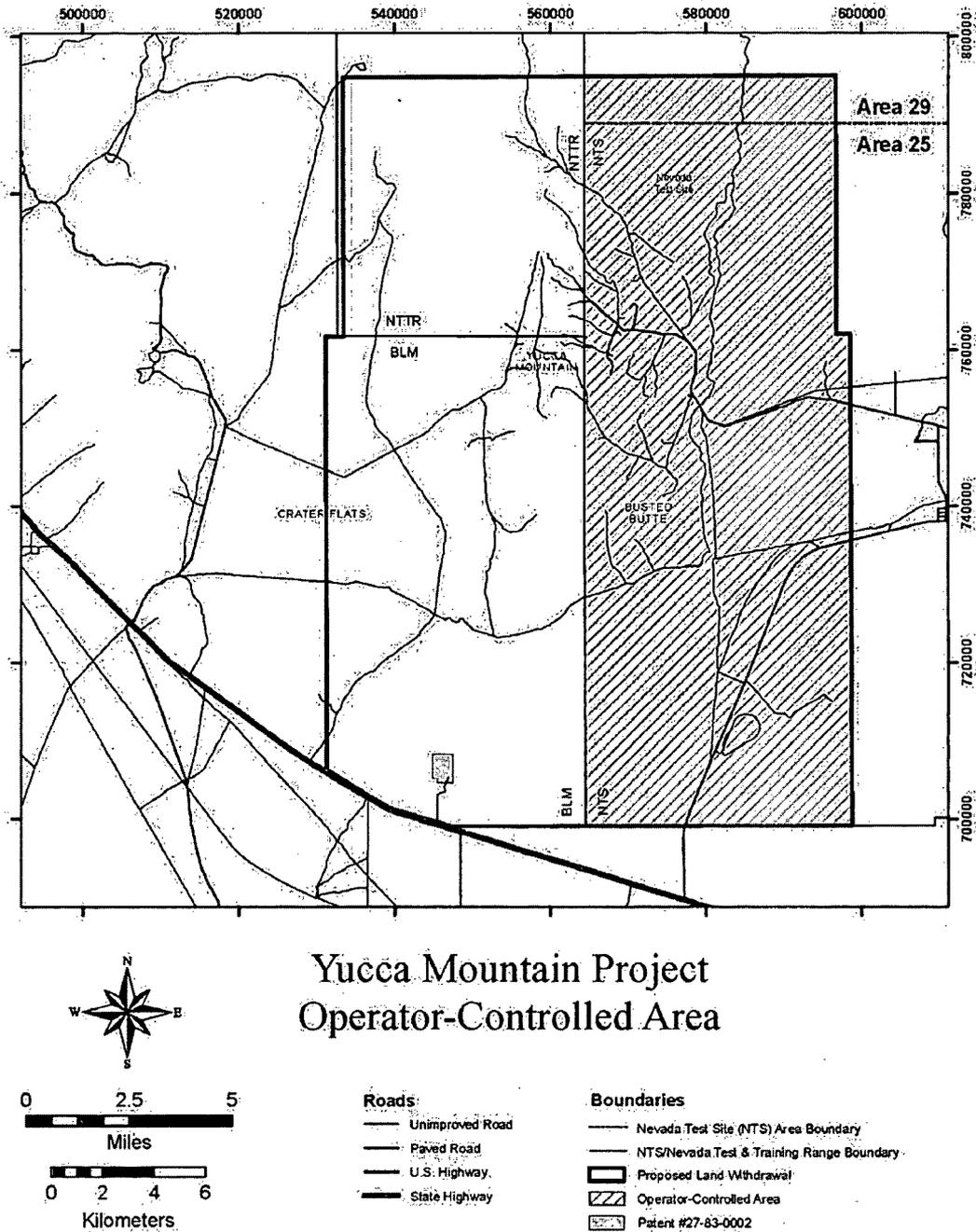
1.0 INTRODUCTION

On July 23, 2002, the President signed into law (Public Law 107-200) a joint resolution of the U.S. House of Representatives and the U.S. Senate designating the Yucca Mountain site in Nye County, Nevada, for development as a geologic repository for the disposal of spent nuclear fuel and high-level radioactive waste. This decision followed two decades of scientific study, under the Nuclear Waste Policy Act of 1982 (NWPA), as amended, to characterize the region as a potentially suitable site for a repository. The President's approval required the U.S. Department of Energy (DOE) to take the next steps in establishing a nuclear waste repository at Yucca Mountain. To that end, the Office of Civilian Radioactive Waste Management (OCRWM) has submitted a license application to the U.S. Nuclear Regulatory Commission (NRC) for authorization to construct a repository at Yucca Mountain, and the NRC has issued a notice of acceptance for docketing this license application (73 FR 53284; September 15, 2008). In addition, the DOE has issued several environmental impact statements involving the proposed repository.

To fulfill its statutory responsibilities under Sections 106 and 110 of 16 U.S.C. 470, the National Historic Preservation Act (NHPA), and related obligations under the Archaeological Resources Protection Act and certain Executive Orders. The OCRWM entered into a programmatic agreement (PA) with the Nevada State Historic Preservation Office (SHPO) and the Advisory Council on Historic Preservation (ACHP), in consultation with the NRC, and Native American Tribes and organizations with cultural and historic ties to the Yucca Mountain area. The PA, entitled *Programmatic Agreement Among the United States Department of Energy Office of Civilian Radioactive Waste Management, the Nevada State Historic Preservation Office, and the Advisory Council on Historic Preservation for Licensing and Development of a Nuclear Waste Repository at Yucca Mountain, Nye County, Nevada*, was formally approved and signed by authorized representatives of the OCRWM, the SHPO and the ACHP, in early 2009.

In accordance with Stipulation B.5 of the PA, the OCRWM is required to prepare an annual report on the implementation of this Agreement, describing cultural resource management efforts conducted. The annual report describes cultural resources management efforts conducted in the previous calendar year. The present annual report is the first to be prepared under the new PA; it covers activities conducted in calendar year 2008 within the bounds of the Yucca Mountain Operator-Controlled Area (OCA; Figure 1), the area covered under the PA.

Yucca Mountain Project activities may be conducted at localities outside of the OCA. Cultural resource management work associated with these activities is conducted in coordination with other federal agencies, including the Bureau of Land Management, the Department of Energy Nevada Nuclear Security Administration, which operates the Nevada Test Site, the Department of Defense Nevada Test and Training Range, and other agencies, as required.



September 9, 2008

Projected Coordinate System: NAD27 State Plane Nevada Central FIPS 2702

YMP-06-047-3
T08-00109

Figure 1. **The Yucca Mountain Project Operator-Controlled Area**
Location of Yucca Mountain Operator-Controlled Area (hachured area), which is subject to the stipulations of the PA, and is the subject of this annual report.

2.0 PROPOSED ACTIVITIES SUBJECT TO HISTORIC PROPERTY INVESTIGATIONS

Stipulation D of the PA requires OCRWM to ensure that historic properties are identified and evaluated, and that any potential effects are assessed and either avoided or mitigated prior to implementing activities that could affect historic properties. The OCRWM conducts historic property investigations in advance of potentially ground-disturbing or resource-affecting activities, as part of an established land access request process. During calendar year 2008, two proposed activities were subject to historic property investigations.

One proposed activity consisted of real-time monitoring of the placement of control markers and benchmarks for digital terrain modeling of the Yucca Mountain area. There were fifteen potential locations for this throughout the OCA, each approximately four square miles in area. Temporary control panels were placed at thirteen of the locations, while more permanent benchmarks were set in two locations. No historic properties or other cultural resources were identified at any of the locations.

The other proposed activity involved locations where an NRC field trip was planned. No historic properties or other cultural resources were identified at any of these locations.

2.1 FINDINGS OF NO HISTORIC PROPERTIES AFFECTED

No historic properties or other cultural resources were identified as being affected by either of the two above proposed activities subject to historic property investigations. Therefore, the OCRWM determined that “no historic properties were affected” and authorized these activities to proceed without further consultation, in accordance with Stipulation D of the PA.

2.2 INVENTORIES CONDUCTED AND RESULTS

No inventories were conducted during 2008.

2.3 HISTORIC PROPERTIES IDENTIFIED AND EVALUATED

No historic properties were identified and evaluated in 2008.

3.0 PERIODIC ASSESSMENT (MONITORING) OF HISTORIC PROPERTIES

To minimize adverse effects to known historic properties from unanticipated impacts, the OCRWM periodically assesses the condition of historic properties within the Yucca Mountain Project OCA. Per Stipulation F, this assessment includes visits by specialists to historic properties, an assessment of existing conditions, potential sources of adverse effects, and comparison of the condition of the property with previous assessments.

In 2008, the OCRWM conducted monitoring visits to seven historic properties, including a two-day monitoring visit with six Tribal representatives participating. The historic properties that were visited included 26NY2960, 26NY3039, 26NY3042, 26NY4753, 26NY7920, 26NY7922 and 26NY8288. No actual or potential adverse effects to the sites were observed during monitoring. A report of the monitoring activity conducted with Native American tribal representatives was prepared by the OCRWM in 2008 and provided to the SHPO and Tribes. This monitoring activity was also described in the tribal representatives' monitoring report, entitled "YMP American Indian Monitoring Report, May 27-30, 2008."

4.0 SITUATIONS INVOLVING AFFECTED HISTORIC PROPERTIES, INCLUDING SUMMARY OF TREATMENT PLANS

Historic properties may be subject to adverse effects from Yucca Mountain Project-related activities or other causes. In such situations, the OCRWM will take efforts to avoid or minimize the effects by eliminating, modifying, or restricting the affecting condition, agent or activity; or, it may mitigate effects through various measures, including recovery of important historic or archaeological data, preparing brochures or signs highlighting the historic significance of a resource, or other means.

In 2008, the OCRWM determined that no historic properties would be expected to sustain adverse effects from Yucca Mountain Project-related activities, so no data recovery, other mitigation efforts, or preparation of treatment plans were required.

5.0 CONSULTATION EFFORTS

The OCRWM consulted extensively with several agencies and organizations in 2008, notably on the development of the current PA. In particular, the OCRWM consulted with the SHPO, ACHP, the NRC, and Native American Tribes and organizations with cultural and historic ties to the Yucca Mountain area regarding the content of the PA, which was signed by authorized representatives from OCRWM, the SHPO, and the ACHP in early 2009.

6.0 EFFECTIVENESS OF PROTECTIVE ACTIONS

Protective actions are employed to ensure that an activity will not cause effects to nearby historic properties. Per Stipulation D.10, protective actions may include the establishment of buffer zones between the work area and an historic property, the deployment of monitors during conduct of the activity to assure site avoidance, stabilization efforts, post-activity assessments, or other measures.

In 2008, no historic properties or other cultural resources were identified at the two proposed activities subject to historic property investigations; therefore, no protective actions for these proposed activities were implemented.

As discussed in Section 3 of this Annual Report, monitors were deployed in 2008 by the

OCRWM to seven historic properties, including a two-day monitoring visit with six Tribal representatives participating. The historic properties that were visited included 26NY2960, 26NY3039, 26NY3042, 26NY4753, 26NY7920, 26NY7922, and 26NY8288. No actual or potential adverse effects to the sites were observed during monitoring.

7.0 OTHER ACTIONS PERTAINING TO PA IMPLEMENTATION

In 2008, the OCRWM continued its worker education training for protection of archaeological and historic resources. This class instruction is part of a comprehensive environmental requirements training program, and included: (1) emphasizing the importance of archaeological, historic, and cultural resources; (2) discussing the responsibility of workers in protecting the historic and cultural resources in the region; and (3) verifying that workers understand these issues by successfully passing an exam. A computer-based training refresher course is taken on an annual basis by all employees who work in the field, ensuring their continued understanding of environmental requirements including those concerning historic properties.

Archaeological records associated with the Yucca Mountain Project are maintained in facilities under the management of the Desert Research Institute (DRI). Paper copies of all records are housed in secure, fire-proof storage files, and electronic copies of all site and survey records are maintained in a GIS-based database platform.

All artifacts collected by the Yucca Mountain Project are stored in an artifact curation facility, located in the DRI's Frank H. Rogers Science and Technology Building, in accordance with the requirements of Title 36, Part 79 of the Code of Federal Regulations. This facility is secure, climate-controlled and resistant to hazards such as insects, pests, fire, or other damage. Approximately 500 cubic feet of artifacts associated with the Yucca Mountain Project are securely stored in the facility, for controlled access to researchers, interested Native American groups, and others as needed. No new collections were made during calendar year 2008.