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Wyoming State Parks & Cultural Resources

8:30 AM

2/1/2010
ADB Rec'd

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January 25, 2010

Chief, Rulemaking and Directives Branch
U.S. Nuclear Regulatory Commission
Mail Stop TWB-05-B01
Washington, D.C. 20555-0001

12/11/09
74FR65804
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re: Environmental Impact Statement for the Lost Creek ISR Project in Sweetwater County, Wyoming. Draft Report for Comment (SHPO File # 0608JEK008)

Dear Chief:

Thank you for consulting with the Wyoming State Historic Preservation Office (SHPO) regarding the above referenced project. Review of the document identified several inaccuracies. These are identified below.

Page 3-55, Lines 44-45 indicates that there is a "50-year cutoff for possible inclusion on the NRHP". While the 50 year date is a good rule of thumb, it is not a hard and fast rule which fully excludes sites younger than that for inclusion. Please reference National Register Bulletin 15, "How to Apply the National Register Criteria for Evaluation, Chapter VII, Criteria Consideration G: Properties that Have Achieved Significance Within the Past Fifty Years".

Page 3-57, Lines 30-31. Please note that the State Protocol between the BLM and the Wyoming SHPO only applies if the BLM is the lead federal agency, and does not apply to this undertaking. However, isolated recourses are categorically ineligible to the NRHP throughout the State of Wyoming.

Page 3-59, Line 7. Section 3.9.3 "Historic Properties Listed in the National and State Registers". This should be corrected as the State of Wyoming does not maintain a Register of Historic Places.

Page 4-65, Lines 28-29, in part (emphasis added), discusses eligibility for the NRHP "under criteria in 36 CFR 60.4(a)-(d) and/or a Traditional Cultural Properties". Per National Register Bulletin 38, "Guidelines for Evaluating and Documenting Traditional Cultural Properties (TCP)", page 9, "Determining Eligibility: Step by Step", in order for a property to be eligible as a TCP it must be eligible under one of the four criteria of eligibility set for in 36 CFR 60.4. This should be stated clearly in this document.

F-RIDS = ADM-03

Add = A. Bjorsen (9665)

SONSI Review Complete
Dump Site = ADM-013



Dave Freudenthal, Governor
Milward Simpson, Director

Page 4-65, lines 37-40, addresses discovery situations and notes that (emphasis added) “an NRC licensee would **likely** be required under conditions in its license, to stop work upon discovery of previously undocumented historic or cultural resources etc.”. We recommend that the word “likely” be replaced with “shall”.

Page 4-64, Lines 43-44, indicates that direct impacts from construction on eligible archaeological sites would be short term. This is factually incorrect. Impacts to archaeological resources, whether mitigated or not, are permanent and irretrievable.

Page 5-16, Lines 7- 10 indicates that “The potential impact to historic and cultural resources would likely be minimized for projects occurring on federal or state lands or which are funded in part by the government since these projects would be subject to the National Historic Preservation Act (NHPA), Section 106 consultation process, and applicable statutes, whereas actions that are on private land pose the threat of irrevocable loss of cultural resources”. Be aware that this project is a federal undertaking per 36 CFR § 800.16(y). As such, the requirements of Section 106 of the NHPA apply regardless of land ownership, and minimization/mitigation of adverse effects is required.

Thank you for the opportunity to comment on this document. We look forward to further consultation with your office concerning this project.

Please refer to SHPO project #0608JEK008 on any future correspondence regarding this project. If you have any questions, please contact me at 307-777-5497.

Sincerely,



Richard L. Currit
Senior Archaeologist

