

March 24, 2017

Mr. Danny Breuninger, President
Mescalero Apache Tribe
P.O. Box 227
Mescalero, NM 88340

SUBJECT: NOTIFICATION OF AND INVITATION FOR FORMAL SECTION 106
CONSULTATION PURSUANT TO THE NATIONAL HISTORIC
PRESERVATION ACT REGARDING WASTE CONTROL SPECIALISTS LLC'S
PROPOSED CONSOLIDATED INTERIM STORAGE FACILITY FOR SPENT
NUCLEAR FUEL TO BE LOCATED IN ANDREWS COUNTY, TEXAS
(DOCKET NUMBER: 72-1050)

Dear President Breuninger:

The U.S. Nuclear Regulatory Commission (NRC) staff received a license application from Waste Control Specialists LLC (WCS), by letter dated April 28, 2016, to construct and operate a consolidated interim storage facility (CISF) for spent nuclear fuel at WCS' site in Andrews County, Texas. WCS requested a license from NRC to store up to 5,000 metric tons uranium (MTUs) in the CISF and proposes to eventually store up to 40,000 MTUs in the CISF. The NRC accepted WCS's license application for detailed technical review on January 26, 2017. A map showing the proposed project location in Andrews County, Texas is enclosed (Enclosure 1).

By a *Federal Register* Notice (FRN) published on November 14, 2016 (Enclosure 2), the NRC noticed its intent to prepare an Environmental Impact Statement (EIS) to document NRC's independent evaluation of the potential effects on the human environment from WCS' proposed action. The EIS will be prepared in accordance with the regulatory provisions in Title 10 of the *Code of Federal Regulations* (CFR) Part 51, "Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions," which implement the requirements of the National Environmental Policy Act of 1969, as amended (NEPA). In an FRN published on March 16, 2017 (Enclosure 3), the NRC extended the scoping period for the EIS until April 28, 2017.

In accordance with Title 36 of the CFR Part 800.8, "Coordination with the National Environmental Policy Act," the NRC staff is using the NEPA process to comply with its obligations under Section 106 of the National Historic Preservation Act of 1966, as amended (NHPA). The EIS will include analyses of potential impacts to historic and cultural resources.

Through this letter, the NRC staff invites your Tribe to participate as a consulting party under Section 106 of the NHPA and assist in the identification and evaluation of historic properties that may be affected by WCS' proposed action and in the development of proposals to address adverse effects that may be identified during the evaluation process.

Please indicate whether or not you wish to participate as a consulting party by completing the enclosed form (Enclosure 4). The NRC staff asks that the form be returned soon, preferably within 30 days of your receipt of this letter, given our belief that early engagement on historic and cultural resources would be a benefit to the NHPA Section 106 consultation process. You may also contact us if you want to discuss concerns about the confidentiality of information that may be provided to the NRC. Please note that according to NRC policy, correspondence provided to the NRC, including emails, may be made publicly available. Therefore, the NRC recommends that the Tribe avoid including any information in its submission that tribal officials do not want to be publically disclosed (e.g., personal email addresses).

For additional information, documents related to the WCS CISF application are available on the NRC's project webpage at: <http://www.nrc.gov/waste/spent-fuel-storage/cis/waste-control-specialist.html>. If you would like a copy of the application or any other publically available project-related documents, please contact the NRC staff identified below.

The NRC appreciates the opportunity to consult with you on issues regarding this proposed license application. For the purposes of meeting with tribal leaders, the Division of Fuel Cycle Safety, Safeguards, and Environmental Review's Division Director, Deputy Division Director, or Environmental Review Branch Chief will represent the NRC.

If you have any questions or need any additional information regarding the proposed license application or the EIS process, please contact Mr. James Park by telephone at 301-415-6954, or via email at: James.Park@nrc.gov.

Sincerely,

/RA/

Craig G. Erlanger, Director
Division of Fuel Cycle Safety, Safeguards,
and Environmental Review
Office of Nuclear Material Safety
and Safeguards

Docket No.: 72-1050

Enclosures:

1. Maps of the Proposed CISF Location
2. November 14, 2016 *Federal Register* Notice
3. March 13, 2017 *Federal Register* Notice
4. Tribal Response Form

NOTIFICATION OF AND INVITATION FOR FORMAL SECTION 106 CONSULTATION
PURSUANT TO THE NATIONAL HISTORIC PRESERVATION ACT REGARDING WASTE
CONTROL SPECIALISTS LLC'S PROPOSED CONSOLIDATED INTERIM STORAGE
FACILITY FOR SPENT NUCLEAR FUEL TO BE LOCATED IN ANDREWS COUNTY, TEXAS
(DOCKET NUMBER: 72-1050)

DISTRIBUTION: FCSE r/f

ADAMS Accession Package Number: ML17069A409 *by email

OFC	NMSS/FSCE/ERB	NMSS/FSCE/ERB	NMSS/FSCE/ERB	OGC	NMSS/FSCE
NAME	JPark*	AWalker-Smith	CRoman-Cuevas	ACoggins*	CErlanger
DATE	3/15/2017	3/13/2016	3/16/2017	3/11/2017	3/24/2017

OFFICIAL RECORD COPY