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From: Price, Kimeka <Price.Kimeka@epa.gov>
Sent: Thursday, March 09, 2017 3:41 PM
To: WCS_CISFEIS Resource; Park, James
Cc: Price, Kimeka
Subject: [External_Sender] U.S. Nuclear Regulatory Commission Consolidated Interim Storage Facility - Detailed Scoping Letter
Attachments: NRC-2016-0231.pdf

Thanks for the opportunity to provide comments during the scoping process. Please see attached recommendations for consideration in the development of the Environmental Impact Statement. A hardcopy of the letter should be received in the next few days.

If there are questions, please let me know.

Kimeka Price
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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region 6

**1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733**

March 8, 2017

Ms. Cindy Bladey
Office of Administration (OWFN-12 H08)
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

**Subject: Detailed Scoping Comments on the Environmental Impact Statement for the Consolidated Interim Storage Facility in Andrews County, Texas.
Docket No. NRC-2016-0231**

Dear Ms. Bladey,

The Region 6 office of the U.S. Environmental Protection Agency (EPA) has reviewed the Federal Register notification dated November 14, 2016 for the proposal to prepare an Environmental Impact Statement (EIS) for the proposed Consolidated Interim Storage Facility Project.

The purpose of the proposed project is to authorize the storage of spent nuclear fuel in a consolidated interim storage facility located in Andrews County, Texas. To assist in the scoping process, EPA has identified the following issues for your attention in the preparation of the EIS: water supply and water quality; air quality; biological resources; coordination with Tribal Governments; historic preservation; and environmental justice. Our recommendations are provided pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508) and Section 309 of the Clean Air Act.

EPA appreciates the opportunity to participate in the scoping process and are available to discuss our comments. If you have any questions, please contact Kimeka Price of my staff at (214) 665-7438 or by e-mail at price.kimeka@epa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert Houston".

Robert Houston, Chief
Special Projects Section

Enclosure

**DETAILED SCOPING COMMENTS
ON THE
U.S. NUCLEAR REGULATORY COMMISSION (NRC)
ENVIRONMENTAL IMPACT STATEMENT (EIS)
FOR THE PROPOSED
CONSOLIDATED INTERIM STORAGE FACILITY PROJECT
IN
ANDREWS COUNTY, TEXAS**

EPA offers the following recommendations for consideration by NRC in preparation of the EIS:

Water Supply and Water Quality

Public drinking water supplies and/or their source areas exist in many watersheds. Source water is water from streams, rivers, lakes, springs, and aquifers used as a supply of drinking water. Source water areas are delineated and mapped by the state for each federally-regulated public water system. The 1996 amendments to the Safe Drinking Water Act require federal agencies to protect sources of drinking water for communities.

Recommendations:

EPA recommends the EIS address the potential effects of discharges on surface water quality. Specific discharges should be identified, where appropriate, and potential effects of discharges on designated beneficial uses of affected waters should be analyzed.

EPA recommends the EIS describe current groundwater conditions in the relevant planning area and fully assess potential impacts to groundwater quality and quantity from reasonably foreseeable activities.

EPA also recommends the EIS identify mitigation measures to prevent or reduce adverse impacts to groundwater quality and discuss their effectiveness. EPA recommends NRC work closely with state and local agencies which regulate the protection of groundwater resources (i.e., state health departments and water pollution control agencies.)

EPA recommends the EIS describe the original (natural) drainage patterns in the planning area, as well as the potential impacts to drainage patterns of the area and within a 50 or 100-year floodplain.

EPA notes that, under the Federal Clean Water Act, any construction project disturbing a land area of one or more acres requires a construction stormwater discharge permit. We recommend the associated requirement to develop a stormwater pollution prevention plan be described as appropriate in the EIS, if applicable.

EPA also recommends the EIS discuss any other practicable, specific mitigation measures that may be necessary or beneficial in reducing adverse impacts from stormwater to water quality and aquatic resources.

Air Quality

EPA recommends the EIS provide a detailed discussion of ambient air conditions (Baseline or existing conditions), National Ambient Air Quality Standards (NAAQS) and non-NAAQS pollutants, criteria pollutant nonattainment areas, and potential air quality impacts of the proposed project (including cumulative and indirect impacts). Such an evaluation is necessary to understand the potential impacts from temporary, long-term, or cumulative degradation of air quality.

We further recommend the EIS describe and estimate air emissions from potential construction and maintenance activities, as well as proposed mitigation measures to minimize those emissions. EPA recommends an evaluation of the following measures to reduce emissions of criteria air pollutants and hazardous air pollutants (air toxics).

Recommendations:

Existing Conditions – We recommend the EIS provide a detailed discussion of ambient air conditions, National Ambient Air Quality Standards, and criteria pollutant nonattainment areas in the vicinity of the project.

Quantify Emissions – We recommend the EIS estimate emissions of criteria and hazardous air pollutants (air toxics) from the proposed project and discuss the timeframe for release of these emissions over the lifespan of the project. We recommend the EIS describe and estimate emissions from potential construction activities, as well as proposed mitigation measures to minimize these emissions.

Specify Emission Sources – We recommend the EIS specify all emission sources by pollutant from mobile sources, stationary sources (including portable and temporary emission units), fugitive emission sources, area sources, and ground disturbance. This source specific information should be used to identify appropriate mitigation measures and areas in need of the greatest attention. The EIS should include an analysis relating to community exposure to traffic emissions, including dust and potential hazardous substances, transportation of substances, and identify additional mitigation measures needed to protect the environment and communities affected, as appropriate.

Construction Emissions Mitigation Plan – We recommend the EIS include a draft Construction Emissions Mitigation Plan. In addition to all applicable local, state, or federal requirements, we recommend the following control measures (Fugitive Dust, Mobile and Stationary Source and Administrative) be included in the Construction Emissions Mitigation Plan in order to reduce impacts associated with emissions of particulate matter and other toxics from construction-related activities. (See Attachment 1)

Dredge and Fill Impacts to Waters of the United States

Clean Water Act (CWA) Section 404 regulates the discharge of dredged or fill material into waters of the United States (WOUS), including streams, wetlands, some arroyos, and other

special aquatic sites. If there is potential for the need for placement of fill material into regulated WOUS, specifically construction of aboveground facilities, access roads, drilling pads, pipelines, and related facilities, these actions may require a Section 404 permit under the CWA, and coordination with the U.S. Army Corps of Engineers (Corps) may be needed.

If an individual permit is required, the Corps will issue a public notice for the CWA Section 404 permit application, and EPA will review the project for compliance with Federal Guidelines for Specification of Disposal Sites for Dredged or Fill Materials (40 C.F.R. 230), promulgated pursuant to Section 404(b)(1) of the CWA.

Recommendations:

EPA recommends the EIS discuss the CWA 404 permit requirements, specifically the requirement to seek the least damaging practicable alternative and to avoid and minimize any required aquatic impacts.

The EIS should identify reasonably foreseeable potential impacts to aquatic habitats, including direct, secondary, and cumulative impacts to arroyos, ephemeral, intermittent and perennial streams, and wetlands. Both permanent and temporary impacts should be identified.

EPA recommends that NRC include a wetland compensatory mitigation discussion that would disclose options for mitigation to compensate for unavoidable impacts to aquatic resources.

Clean Water Act (CWA) Section 303(d)

The CWA requires States to develop a list of impaired waters that do not meet water quality standards, establish priority rankings, and develop action plans, called Total Maximum Daily Loads (TMDLs), to meet water quality standards.

Recommendations:

EPA recommends the EIS provide information on CWA Section 303(d) impaired waters in the project area, if any, and efforts to develop and revise TMDLs. EPA recommends the EIS describe existing restoration and other enhancement efforts for those waters, how the proposed project may affect on-going protection efforts, and any mitigation measures that will be implemented to avoid further degradation of impaired waters.

Existing impaired waters under Section 303(d) of the Clean Water Act do not represent the entire universe of potential water and sediment quality concerns that may need to be addressed. NRC should ensure the EIS considers if there are water or sediment quality concerns that are documented by sources of information other than the 303(d) list.

Biological Resources, Habitat and Wildlife

Recommendations:

EPA recommends the EIS identify all candidate and listed threatened and endangered species and designated critical habitat within the project area. We further recommend the EIS identify, as appropriate, species or critical habitat potentially affected by each alternative and possible practicable mitigation.

EPA recommends the analysis of potential impacts and mitigation for at-risk species include:

- Baseline conditions of habitats and populations of the covered species, where available.
- Potential monitoring and adaptive management efforts to promote species and habitat conservation effectiveness.

EPA recommends incorporating information on the potential for compensatory mitigation, as appropriate, for unavoidable impacts to WOUS and biological resources in the EIS.

EPA recommends identifying potential compensatory mitigation lands or available lands for compensatory habitat mitigation (i.e., other than mitigation for impacts to aquatic habitats under Clean Water Act Section 404) as well as the reasonably foreseeable need for compensation in the area, as appropriate.

EPA recommends incorporating mitigation, monitoring, and reporting measures that result from consultation with the U.S. Fish and Wildlife Service (FWS), as appropriate. We recommend the EIS also discuss, as appropriate, recently released guidance to avoid and minimize adverse effects to sensitive biological resources.

EPA further recommends that the EIS describe the potential for habitat fragmentation and obstructions for wildlife movement, as appropriate. We recommend the EIS discuss the need for monitoring, mitigation, and if applicable, translocation management plans for sensitive, high value biological resources.

Finally, EPA recommends the EIS specifically address the potential impact of construction, installation, and maintenance activities (deep trenching, grading, filling, and fencing) on habitat. EPA recommends the EIS describe the reasonably foreseeable extent of these activities and the associated impacts on important habitats.

The EIS should incorporate a discussion regarding any impacts to agricultural activities associated with implementing the proposed project.

Coordination with Tribal Governments

Executive Order 13175, *Consultation and Coordination with Indian Tribal Governments* (November 6, 2000), was issued in order to establish regular and meaningful consultation and collaboration with tribal officials in the development of federal policies that have tribal implications, and to strengthen the United States government-to-government relationships with

Indian tribes. As appropriate, we recommend the EIS describe the process and outcome of government-to-government consultation between the NRC and with any and each of the tribal governments within the project area, issues that were raised (if any), and how those issues were addressed in the selection of the proposed alternative.

Recommendation:

We recommend the EIS describe the process and outcome of government-to-government consultation between NRC and each of the tribal governments within the project area, issues that were raised (if any), and how those issues were addressed in the selection of the proposed alternative.

National Historic Preservation Act (NHPA) and Executive Order 13007

Consultation regarding cultural resources, including those of concern to tribes, is required under Section 106 of the National Historic Preservation Act. Historic properties under the NHPA are properties that are listed in the National Register of Historic Places or that meet the criteria for listing in the National Register. Section 106 of the NHPA requires a Federal agency, upon determining that activities under its control could affect historic properties, consult with the appropriate State Historic Preservation Officer (SHPO)/Tribal Historic Preservation Officer (THPO), Indian tribes, or any other interested party. Under both NHPA and NEPA, any impacts to tribal, cultural, or other treaty resources must be discussed and mitigated. Section 106 of the NHPA requires that Federal agencies consider the effects of their actions on cultural resources, following the Advisory Council on Historic Preservation's implementing regulations at 36 CFR 800.

Recommendation:

We recommend the EIS address the existence of cultural and historic resources, including Indian sacred sites and traditional cultural properties, in the project areas, and address compliance with Section 106 of the NHPA, as appropriate. It should also address Executive Order 13007, distinguish it from Section 106 of the NHPA, and discuss how the applicant will avoid adversely affecting the physical integrity, accessibility, or use of sacred sites, if they exist. We recommend the EIS provide a summary of all coordination and consultations with Tribes, the SHPO/THPO, or any other party; and identify all NHPA listed or eligible sites, and the development of a Cultural Resource Management Plan for the area, as appropriate.

Environmental Justice

Executive Order 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (February 11, 1994) and the Interagency Memorandum of Understanding on Environmental Justice (August 4, 2011) direct federal agencies to identify and address disproportionately high and adverse human health or environmental effects on minority and low-income populations, and allow those populations a

meaningful opportunity to participate in the decision-making process. Guidance¹ by CEQ clarifies the terms low-income and minority population (which includes Native Americans) and describes the factors to consider when evaluating disproportionately high and adverse human health effects.

Recommendations:

EPA recommends the EIS include an evaluation of environmental justice populations within the geographic scope of the proposal. EPA recommends the EIS address, as appropriate, the potential for disproportionate adverse impacts to minority and low-income populations, and the approaches used to foster public participation by these populations. Assessment of the proposal's anticipated impact on minority and low-income populations should reflect coordination with those affected populations.

EPA recommends the EIS also describe outreach activities to potentially affected communities, including rural communities (which may be among the most vulnerable to health risks). We recommend a comprehensive communication strategy.

We recommend NRC identify the population demographic near the proposed project. EPA recommends that all appropriate tools and methods (i.e., E1 Screen, U.S. Census Bureau and area knowledge) be used in identifying and screening low income and minority populations within or near the proposed planning area.

We recommend that NRC utilize the Promising Practices Report (https://www.epa.gov/sites/production/files/2016-/documents/iwg_promising_practices_final_5-16-2016.pdf) to supplement the applicable requirements, as appropriate for considering and analyzing environmental justice populations for the proposed planning area.

¹ Environmental Justice Guidance under the National Environmental Policy Act, Appendix A (Guidance for Federal Agencies on Key Terms in Executive Order 12898), CEQ, December 10, 1997.

ATTACHMENT 1

Control Measures

(Fugitive Dust, Mobile and Stationary Source and Administrative)

- Fugitive Dust Source Controls: We recommend the EIS identify the need for a Fugitive Dust Control Plan to reduce Particulate Matter <10 micrometer and Fine Particulate Matter < 2.5 micrometer emissions during construction and operations. We recommend that the plan include these general commitments:
 - Stabilize heavily used unpaved construction roads with a non-toxic soil stabilizer or soil weighting agent that will not result in loss of vegetation, or increase other environmental impacts.
 - During grading, use water, as necessary, on disturbed areas in construction sites to control visible plumes.
 - Vehicle Speed
 - Limit speeds to 25 miles per hour on stabilized unpaved roads as long as such speeds do not create visible dust emissions.
 - Limit speeds to 10 miles per hour or less on unpaved areas within construction sites on un-stabilized (and unpaved) roads.
 - Post visible speed limit signs at construction site entrances.
 - Inspect and wash construction equipment vehicle tires, as necessary, so they are free of dirt before entering paved roadways, if applicable.
 - Provide gravel ramps of at least 20 feet in length at tire washing/cleaning stations, and ensure construction vehicles exit construction sites through treated entrance roadways, unless an alternative route has been approved by appropriate lead agencies, if applicable.
 - Use sandbags or equivalent effective measures to prevent run-off to roadways in construction areas adjacent to paved roadways. Ensure consistency with the project's Storm Water Pollution Prevention Plan, if such a plan is required for the project
 - Sweep the first 500 feet of paved roads exiting construction sites, other unpaved roads or routes from the construction site, or construction staging areas whenever dirt or runoff from construction activity is visible on paved roads, or at least twice daily (less during periods of precipitation).
 - Stabilize disturbed soils (after active construction activities are completed) with a non-toxic soil stabilizer, soil weighting agent, or other approved soil stabilizing method.
 - Cover or treat soil storage piles with appropriate dust suppressant compounds and disturbed areas that remain inactive for longer than 10 days. Provide vehicles (used to transport solid bulk material on public roadways and that have potential to cause visible emissions) with covers. Alternatively, sufficiently wet and load materials onto the trucks in a manner to provide at least one foot of freeboard.
 - Use wind erosion control techniques (such as windbreaks, water, chemical dust suppressants, and/or vegetation) where soils are disturbed in construction, access and maintenance routes, and materials

stock pile areas. Keep related windbreaks in place until the soil is stabilized or permanently covered with vegetation.

○ Mobile and Stationary Source Controls:

- If practicable, lease new, clean equipment meeting the most stringent of applicable Federal² or State Standards³. In general, commit to the best available emissions control technology. Tier 4 engines should be used for project construction equipment to the maximum extent feasible⁴.
- Where Tier 4 engines are not available, use construction diesel engines with a rating of 50 hp or higher that meet, at a minimum, the Tier 3 California Emission Standards for Off-Road Compression-Ignition Engines, unless such engines are not available.
- Where Tier 3 engine is not available for off-road equipment larger than 100 hp, use a Tier 2 engine, or an engine equipped with retrofit controls to reduce exhaust emissions of nitrogen oxides and diesel particulate matter to no more than Tier 2 levels.
- Consider using electric vehicles, natural gas, biodiesel, or other alternative fuels during construction and operation phases to reduce the project's criteria and greenhouse gas emissions.
- Plan construction scheduling to minimize vehicle trips.
- Limit idling of heavy equipment to less than 5 minutes and verify through unscheduled inspections.
- Maintain and tune engines per manufacturer's specifications to perform at CARB and/or EPA certification levels, prevent tampering, and conduct unscheduled inspections to ensure these measures are followed.

○ Administrative controls:

- Develop a construction traffic and parking management plan that maintains traffic flow and plan construction to minimize vehicle trips.
- Identify any sensitive receptors in the project area, such as children, elderly, and the infirm, and specify the means by which impacts to these populations will be minimized (e.g. locate construction equipment and staging zones away from sensitive receptors and building air intakes).
- Include provisions for monitoring fugitive dust in the fugitive dust control plan and initiate increased mitigation measures to abate any visible dust plumes.

² EPA's website for non-road mobile sources is <http://www.epa.gov/nomroad/>.

³ For California, see ARB emissions standards, see: <http://www.arb.ca.gov/msprog/offroad/offroad.htm>.

⁴ Diesel engines < 25 hp rated power started phasing in Tier 4 Model Years in 2008. Larger Tier 4 diesel engines will be phased in depending on the rated power (e.g., 25 hp - <75 hp: 2013; 75 hp - < 175 hp: 2012-2013; 175 hp - < 750 hp: 2011 - 2013; and ≥ 750 hp 2011- 2015).