



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

November 13, 2018

Mr. Theodore Isham
Historic Preservation Officer
Seminole Nation of Oklahoma
P.O. Box 1498
Wewoka, OK 74884

SUBJECT: RESPONSE TO COMMENTS FROM THE SEMINOLE NATION OF OKLAHOMA
ON THE DRAFT ENVIRONMENTAL IMPACT STATEMENT FOR AN EARLY
SITE PERMIT AT THE CLINCH RIVER NUCLEAR SITE IN ROANE COUNTY,
TENNESSEE

Dear Mr. Isham:

Thank you for your comments dated July 11, 2018, regarding the U.S. Nuclear Regulatory Commission's (NRC's) draft environmental impact statement (EIS) for an early site permit (ESP) at the Clinch River Nuclear (CRN) Site in Oak Ridge, Roane County, Tennessee. On September 20, 2018, the NRC staff met with you via teleconference to better understand and discuss the Seminole Nation's comments and concerns. The NRC staff followed up with you by e-mail on September 21, 2018, providing a summary of issues discussed during the teleconference, and forwarding botanical survey reports that the applicant, Tennessee Valley Authority (TVA), prepared in support of its ESP application.

The purpose of this letter is to formally respond to your letter dated July 11, 2018, and to document the NRC's National Historic Preservation Act (NHPA) Section 106 consultation for the ESP. The NRC is coordinating its Section 106 consultations for the ESP through the National Environmental Policy Act (NEPA) process per Title 36 of the *Code of Federal Regulations* 800.8(c). The staff will document the results of its consultation with the Seminole Nation of Oklahoma in the final EIS for the purposes of the administrative record.

As discussed during the September 20, 2018 teleconference, the NRC's undertaking is to issue an ESP, which would result in the approval of a site as suitable for future deployment of two or more small modular reactors (SMRs) with the characteristics presented in the application. The issuance of an ESP does not authorize construction and operation of a nuclear power plant. Should TVA choose to proceed with their proposed project, they would need to apply for, and receive, a separate authorization from the NRC (such as a combined license) in order to construct and operate a nuclear power plant at the CRN Site. This authorization would constitute a separate NRC undertaking and would require the NRC to prepare a supplemental EIS and complete a separate NHPA Section 106 review and consultation.

In addition to being an applicant for an ESP before the NRC, TVA is a Federal land managing agency having its own obligations under the NHPA. TVA's undertaking is to construct and operate two or more SMRs and it has initiated its own NHPA Section 106 review and

consultation. Between 2011 and 2015, TVA conducted five historic and cultural resource investigations as part of its NHPA Section 106 compliance responsibilities for its proposed project. These investigations resulted in an updated inventory of archaeological and architectural resources located within the onsite direct- and indirect-effects areas of potential effect (APE).

Between 2015 and 2016, TVA developed and executed a programmatic agreement (PA) in consultation with the Tennessee Historical Commission and American Indian Tribes to address how TVA would comply with the ongoing NHPA Section 106 requirements associated with its proposed project. The PA includes stipulations that address the inadvertent discovery of historic and cultural resources and the potential for deeply buried deposits. Stipulation 1A of the PA states that if project plans include activities in areas with the potential for deeply buried cultural deposits that would disturb soils or sediments greater than the maximum depth investigated previously during the archaeological surveys of the APE (approximately 80 centimeters or 31 inches), the APE would be vertically enlarged. In addition to its separate review and consultation under Section 106 of the NHPA, TVA is also obligated to complete a NEPA analysis independent of the one conducted by the NRC.

With permission from TVA, and in response to your request, we have enclosed a CD that contains unredacted versions of TVA's cultural resource survey reports and the executed PA. We copied Ms. Marianne Shuler on this transmittal per TVA's request.

During our teleconference, we gained clarity regarding your concern with the identification of all flora in the Seminole Nation of Oklahoma's ancestral homelands, as it relates to the identification of possible traditional cultural properties at the CRN Site. As mentioned above, the NRC staff provided you two botanical survey reports containing an inventory of flora observed at the CRN Site in its September 21, 2018 email correspondence. This correspondence is publicly available through the NRC's Agencywide Documents Access and Management System under Accession No. ML18264A327. Upon your review of the botanical and cultural resource survey documents, we ask that if you have any specific technical questions or comments regarding these reports, that you direct them to TVA as the project proponent. These questions and comments are pertinent to TVA's undertaking and its ongoing NHPA Section 106 consultation considerations.

During our teleconference, we clarified that because the ESP does not authorize construction or operation of a nuclear power plant, the Seminole Nation of Oklahoma's concerns regarding the identification and mitigation of potential impacts to traditional cultural properties associated with traditional plants do not apply to the current NRC undertaking associated with the ESP. As we discussed during the teleconference, should TVA choose to move forward with this project, these concerns would be applicable to TVA's NHPA Section 106 considerations as well as part of NRC's potential future review of a combined license application. The NRC intends to document at a high-level the Seminole Nation of Oklahoma's NHPA Section 106 concerns in the final EIS for the CRN Site ESP application, for the purposes of retaining NRC's NHPA Section 106 administrative record.

With regards to your comments on stop work and notification procedures, Stipulations IV and V of TVA's PA address notification and stop work procedures regarding inadvertent discovery of archaeological remains or human remains and related items covered under the Native American

Graves and Repatriation Act. Sections 4.6.1 and 5.6.1 of the NRC's EIS discuss the procedural steps TVA would employ in the event of an inadvertent discovery.

If your office has any ongoing concerns associated with identification and mitigation of traditional cultural properties at the CRN Site or specific comments on TVA's undertaking, cultural resource survey reports, botanical survey reports, or the PA, those concerns are best addressed by TVA as part of its ongoing NHPA Section 106 process. If comments or concerns are provided to the NRC, we will forward them to TVA (Ms. Shuler).

If you have any questions concerning the NRC staff's environmental review of this ESP application, please contact Ms. Tamsen Dozier, NRC Environmental Project Manager for the CRN ESP project, at (301) 415-2272 or by e-mail at Tamsen.Dozier@nrc.gov, or in her absence, please contact Ms. Jennifer Davis at (301) 415-3835 or by e-mail at Jennifer.Davis@nrc.gov.

Sincerely,

/RA/

Jennivine Rankin, Acting Chief
Licensing Branch 3
Division of Licensing, Siting and
Environmental Analysis
Office of New Reactors

Docket No.: 52-047

Enclosure: CD containing following items:

Leigh 1999 - Geomorphology and Site Burial Potential for VA Property along Clinch River Miles 14.6 to 18.9 (ADAMS Accession Number ML18309A126)

Stanyard 2003 - Cultural Resource Survey of a Proposed Storage/Disposal and Borrow Area on the Clinch River Breeder Reactor Site in Roane County, Tennessee (ADAMS Accession Number ML18309A125)

Barrett et al. 2011 - Phase I Archaeological Survey of the Clinch River Small Modular Reactors Project (SMR), Roane County, Tennessee Restated (ADAMS Accession Number ML18310A160)

Barrett et al. 2011 - Phase I Archaeological Survey, TVA Clinch River Site Characterization Project, Roane County, Tennessee (ADAMS Accession Number ML18310A159)

AMEC 2015 (Hunter et al.) - Phase I Archaeological Survey, TVA Clinch River SMR, Roane County, Tennessee (ADAMS Accession Number ML18310A158)

Karpyniec 2011 - Phase I Architectural Survey, TVA Clinch River Site Characterization Project, Roane County, Tennessee (ADAMS Accession Number ML18310A163)

TVA 2016 - Programmatic Agreement Between the Tennessee Valley Authority and the Tennessee State Historic Preservation Office Regarding the Management of Historic Properties Affected by the Clinch River SMR Project - Amended and Restated (ADAMS Accession Number ML18310A161)

TVA 2015 – TVA correspondence dated May 20, 2015 from TVA's environmental report, Appendix A, Revision 0 (ADAMS Accession Number ML18036A936)

cc: Marianne M. Shuler, TVA (mmshuler@tva.gov)
Ray Schiele, TVA, (rjschiele@tva.gov)
Daniel Stout, TVA (dpstout@tva.gov)

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JDavis, NRO

ADAMS Accession No.: ML18267A267**via e-mail****NRO-002**

OFFICE	PM:DLSE	LA:DLSE	PM:DLSE
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DATE	10/01/2018	10/01/2018	9/28/2018
OFFICE	BC:DLSE(Acting)	OGC	DD:DLSE (Acting)
NAME	JRankin (signed)	OMikula	MMcCoppin
DATE	11/13/2018	10/31/2018	11/02/2018

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