



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

May 7, 2019

Mr. Michael Silvas, Governor  
Yselta del Sur Pueblo  
117 South Old Pueblo Drive  
El Paso, TX 79907

SUBJECT: RE-INVITATION FOR FORMAL SECTION 106 CONSULTATION  
PURSUANT TO THE NATIONAL HISTORIC PRESERVATION ACT  
REGARDING INTERIM STORAGE PARTNERS LLC'S PROPOSED  
CONSOLIDATED INTERIM STORAGE FACILITY FOR SPENT NUCLEAR  
FUEL, ANDREWS COUNTY, TEXAS (DOCKET NUMBER: 72-1050)

Dear Governor Silvas:

The U.S. Nuclear Regulatory Commission (NRC) received a license application from Waste Control Specialists LLC (WCS), on April 28, 2016, to construct and operate a consolidated interim storage facility (CISF) for spent nuclear fuel, in Andrews County, Texas. On January 26, 2017, NRC found the WCS application acceptable for detailed technical review. On April 21, 2017, WCS requested a temporary suspension of NRC's review of the license application. On June 8, and July 19, 2018, Interim Storage Partners LLC [ISP] (a joint partnership between WCS and Orano USA) requested that NRC resume its review, and provided a revised license application. On August 21, 2018, the NRC staff determined that the revised application contained sufficient information for the NRC to resume its review. Maps showing the proposed project location are provided (Enclosure 1).

The NRC staff is preparing an Environmental Impact Statement (EIS) to document NRC's independent evaluation of the potential effects on the human environment from the proposed action. The EIS will be prepared in accordance with the regulatory provisions in Title 10 of the *Code of Federal Regulations* Part 51, which implement the requirements of the National Environmental Policy Act of 1969, as amended (NEPA).

In accordance with 36 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.

By letter dated February 1, 2017, the NRC staff invited the Yselta del Sur Pueblo to participate as a consulting party under Section 106 of the NHPA and to assist in the identification and evaluation of historic properties that may be affected by the proposed action and in the development of proposals to address adverse effects that may be identified during the evaluation process. By letter dated March 13, 2017, Mr. Javier Loera, War Captain and Tribal Historic Preservation Officer for the Yselta del Sur Pueblo, stated that the Pueblo did not have any comments on the Section 106 consultation and believed that the project would not adversely affect traditional, religious or culturally significant sites of the Pueblo and that the Pueblo had no opposition to the project. Mr. Loera also stated that the Pueblo would like to request consultation should any human remains or artifacts unearthed during the project be determined to fall under the Native American Graves Protection and Repatriation Act (NAGPRA) guidelines. A copy of Mr. Loera's letter is enclosed (Enclosure 2).

Through this current letter, the NRC staff renews its invitation to the Pueblo to participate as a consulting party, given the recent resumption of the NRC's review. The NRC staff requests that the Pueblo indicate whether it intends to participate as a consulting party by completing the enclosed form (Enclosure 3). The NRC staff respectfully requests that the form be returned soon preferably within 30 days of your receipt of this letter, to further early engagement on historic and cultural resources as a benefit to the NHPA Section 106 consultation process. Additionally, the NRC staff requests copies of the Pueblo's Culture Affliction Position Paper and Consultation policy, as offered by Mr. Loera in his March 13, 2017, letter.

You may also contact the NRC staff 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 Pueblo avoid including any information in its submission that tribal officials do not want to be publicly disclosed (e.g., personal email addresses).

For additional information, documents related to the ISP 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 publicly available project-related documents, please contact the NRC staff identified below.

The NRC appreciates the opportunity to consult with you regarding this proposed license application. For the purpose 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 e-mail at: [James.Park@nrc.gov](mailto:James.Park@nrc.gov).

Sincerely,

**/RA For/**

Michael F. King, 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. March 13, 2017, Letter from Mr. Javier Loera
3. Tribal Response Form

cc: Javier Loera, NAGPRA Representative

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**DATED:** May 7, 2019

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