



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

OCT 19 1979

Docket 40-8681

Mr. Melvin T. Smith
 Director and State Historic
 Preservation Officer
 Utah Department of Development Services
 Crane Building, Suite 1000
 307 West 2nd South
 Salt Lake City, Utah 84101

Dear Mr. Smith:

Thank you for your letter of September 12, 1979, in which you expressed concerns about the Memorandum of Agreement concerning the Mitigation of Adverse Effect at the White Mesa Project Millsite. This Memorandum of Agreement was formally issued after approval by the Chairman of the Advisory Council on Historic Preservation (ACHP) on August 15, 1979. Your earlier letter of May 3, 1979, did indicate that although it had been determined by the State that the proposed mitigation was adequate, there would be correspondence forthcoming to itemize specific concerns about "unnecessary mitigation by the developer." This letter is to confirm a telephone conversation on October 16, 1979 between your Dr. J. Dykman and Mr. E. A. Trager of my staff in which your specific concerns were addressed on an item-by-item basis as follows:

Item 1. Under I(a) it states that "sites that will ultimately be located within one hundred feet of the perimeter of the reclaimed tailings impoundment area are considered unavoidable and shall be recovered through archeological excavation." This may be an unnecessary measure, since excavation will disturb sites which may not be impacted. We would recommend avoidance before recovery.

Response The Memorandum of Agreement called for a license condition similar to the following:

"The licensee shall avoid by project design where feasible the sites designated "Eligible" in the attached Table A. Sites that will ultimately be located within 100 feet of the perimeter of the reclaimed tailings impoundment area are considered unavoidable and shall be recovered through archeological excavation."

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This was the language used in Condition No. 40 of Source Material License No. SUA-1358 which was issued on August 17, 1979, for the White Mesa Project (Please note that the licensee is required to avoid "Eligible" sites where feasible). Since eligible sites within the perimeter of the reclaimed impoundment would be covered by riprap and intrusion into the reclamation cover would be prohibited, these sites must be recovered through archeological excavation. For sites within 100 feet of the perimeter of the reclaimed impoundment it was thought prudent to protect the sites from heavy earthmoving equipment. If the licensee (Energy Fuels Nuclear, Inc.) feels that some of these sites can be adequately protected by other means, then the licensee can propose an amendment to modify the license condition for specific sites.

Item 2. I(b) This paragraph is somewhat unclear in intent. It seems to indicate that all archeological sites (on Table A) that are of undetermined eligibility would be tested. This would be an unnecessary adverse effect. Sites should only be tested if they are to be impacted under site specific plans.

Response License Condition No. 41 of Source Material License No. SUA-1358 is as follows:

"The licensee shall conduct testing as required and shall report the results of the testing to enable the Commission to determine if those archeological sites designated "Undetermined" in Table A are of significance warranting their redesignation as "Eligible." This action by the licensee shall be completed by January 1, 1981. In all cases such testing and a review of the testing results by the Commission shall be completed before any aspect of the undertaking affects a site."

The testing that is to be performed would be limited to the minimum amount sufficient to determine the significance of individual sites. If properly conducted this testing should not result in an adverse effect. Determinations of significance for all sites will help to ensure that the significant sites will be adequately protected.

Item 3. I(i) Recovery of all sites in the stockpile area is not necessary since selected sites might be avoided, thus preserving them for future recovery. Additionally, the recovery to be completed by December 31, 1982, may set an unreasonable barrier on when recovery should take place.

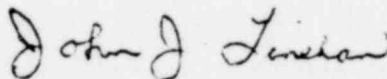
Response License Condition No. 47 of Source Material License No. SUA-1358 is as follows:

"The licensee shall recover through archeological excavation all "Eligible" archeological sites listed in Table A which are located in borrow areas, stockpile storage areas and construction areas. Recovery of all sites will be completed no later than December 31, 1982, with sites in the area of the first three tailings impoundment cells (the two evaporation cells and the first tailings cell) being recovered first."

As was noted in the response to item 1, above, the licensee is required to avoid eligible sites by project design where feasible. The requirement for the timing of the completion of this action can be modified by license amendment if found to be unreasonable.

I hope that this responds to your concerns adequately. If you have any further questions concerning this or any other matter, please feel free to contact me.

Sincerely,



for Ross A. Scarano, Chief
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