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January 17, 2020

Cinthya I. Roman-Cuevas, Chief
U.S. Nuclear Regulatory Commission
11555 Rockville Pike
Mail Stop: T-4B72
Rockville, MD 20852

RE: Consultation Pursuant to Section 106 of the National Historic Preservation Act
Regarding the Proposed License Amendment for the Prairie Island
Independent Spent Fuel Storage Installation (Docket No. 72-10)

Dear Ms. Roman-Cuevas:

In response to the letter dated December 19, 2019, from the U.S. Nuclear Regulatory Commission (NRC) in the above-reference matter, the Prairie Island Indian Community (PIIC or Community) offers the following comments.

For your information, the Prairie Island Indian Community is a federally recognized Indian tribe. The Community has lived in what is now Minnesota since long before European contact. Its existing Reservation is located on ancestral Dakota homeland on Prairie Island, which is formed at the confluence of the Vermillion and Mississippi Rivers in southeastern Minnesota (approximately 35 miles southeast of the Twin Cities of Minneapolis and St. Paul, Minnesota).

Immediately adjacent to our homeland is the Prairie Island Nuclear Generating Plant Units 1 and 2 (PINGP), which is owned and operated by Northern States Power Company d/b/a Xcel Energy (Xcel). The PINGP has been on-line since the early 1970s and will operate at least until 2034, as the plant received approval from the NRC in June 2011 to extend its operating licenses for an additional 20 years. Xcel has been storing spent nuclear fuel on-site at its Independent Spent Fuel Storage Installation (ISFSI) since 1995; a 40-year license renewal was granted in 2015. A few miles downstream of the PINGP and its ISFSI sits the Army Corps of Engineers' Lock and Dam No. 3, which facilitates the flow of Mississippi River water necessary for cooling PINGP's main condensers.

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The ISFSI (and its 44 dry casks) is approximately 600 yards from the nearest Community residences. There is no other community in the United States as close to a spent fuel storage facility as the Prairie Island Indian Community. As such, we take a very keen interest in all matters related to the ISFSI and the PINGP 1 and 2.

To that end, the PIIC was deeply involved with the 40-year license renewal application process for the ISFSI (initiated in 2012). We were designated a Cooperating Agency for the development of the Environmental Assessment (EA) in four areas – land use, socioeconomics, environmental justice, and historic and cultural resources. The PIIC also filed a Request for Hearing and Petition to Intervene challenging Xcel's license application, proffering seven contentions, including potential impacts to cultural resources. The ASLB subsequently granted the PIIC's Petition to Intervene and admitted three of the seven contentions, including cumulative impacts from the license renewal relative to other "past, current and reasonably foreseeable future actions," as required by the National Environmental Policy Act (NEPA).

To settle this contention, Xcel committed, among other things, to conduct a Phase I archaeological survey in the area where a potential future ISFSI expansion might occur (September 2014). That report determined that no archeological materials were present and that no additional archaeological investigations were warranted in the identified area of potential effects (APE). By letter dated November 7, 2019, Xcel further committed to coordination and collaboration with the Community on additional testing, ground-disturbing activity, and cultural resources management. Given the conclusions of the 2014 survey and Xcel's further commitments, we are in agreement with NRC's determination that the proposed PI ISFSI expansion does not have the potential to cause effects to historic or cultural properties in the immediate area of the proposed ISFSI expansion.

However, we wish to be clear that the Community opposes the continued storage of spent nuclear fuel adjacent to its Reservation and advocates emphatically for its removal, either to a national repository or interim storage site. While we understand the articulated need for expanding the ISFSI, we believe we must provide additional context on why the expansion is occurring and why an individualized solution for the Community is desperately needed.

Fundamentally, the ISFSI is being expanded to accommodate additional spent fuel because the federal government repeatedly has failed to follow the law and its trust responsibility to the Community. Constructed in 1938, Lock and Dam No. 3, which as noted provides Mississippi River water essential to the operation of the PINGP, has illegally caused the permanent inundation of land on the Community's Reservation. In issuing operating licenses for the plant in 1972, the Atomic Energy Commission never fully considered the potential impacts of the plant on our Reservation and our

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people; instead, it referred only to the plant's "peripheral" location to the Community. Because of delays on licensing a national repository at Yucca Mountain, as required by the Nuclear Waste Policy Act (NWPA), Xcel Energy (then Northern States Power) had no choice but to construct an on-site spent fuel storage installation, over the strong objections of the Community and the Bureau of Indian Affairs. In its comments on the plan, the Bureau stressed that the storage of nuclear waste would impose an "unreasonable burden" on the Community.¹ Despite these objections, the ISFSI is now in the process of its first major expansion – in close proximity to a church; homes; a daycare center; Tribal government; cultural, language and education offices; the Prairie Island Community Center; and the Community's main economic development engine – its Treasure Island Resort and Casino.

The Community will continue our efforts to advance the removal of spent nuclear fuel from Prairie Island and implement the NWPA as Congress originally intended. Unfortunately, Congress appears to be in no hurry to reach a comprehensive, nationwide solution to the spent nuclear fuel storage crisis, and so we believe it is incumbent on Congress to provide us with an individualized solution to the unreasonable burden that the federal government has imposed on the Community, its people, and its businesses.

We look forward to working with you on this important matter. Please feel free to contact Heather Westra at (651) 329-5796 with any further questions.

Respectfully submitted,



Shelley Buck
Tribal Council President

¹ Letter from Earl Barlow, Area Director, Bureau of Indian Affairs, to Robert Cupit, Minnesota Environmental Quality Board (Jan. 1991).