



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

December 16, 2020

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

SUBJECT: NATIONAL HISTORIC PRESERVATION ACT SECTION 106
CONSULTATION – DETERMINATION OF EFFECTS REGARDING INTERIM
STORAGE PARTNERS LLC’S PROPOSED CONSOLIDATED INTERIM
STORAGE FACILITY FOR SPENT NUCLEAR FUEL, IN ANDREWS COUNTY,
TEXAS (DOCKET NUMBER: 72-1050)

Dear Governor Silvas:

The U.S. Nuclear Regulatory Commission (NRC) received a revised license application from Interim Storage Partners LLC (ISP), on June 8, and July 19, 2018 (Agencywide Documents Access and Management System [ADAMS] Accession Package No. ML18221A397), to construct and operate a consolidated interim storage facility (CISF) for spent nuclear fuel, in Andrews County, Texas (the undertaking). In accordance with Title 36 of the *Code of Federal Regulations* (36 CFR) Section 800.8, “Coordination with the National Environmental Policy Act” (NEPA). 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 NRC staff published the draft environmental impact statement (EIS) (ADAMS Accession No. ML20122A220) for the proposed CISF on May 8, 2020.

The purpose of this letter is to provide the NRC staff’s determination of effects for the undertaking (i.e., the construction and operation of the proposed CISF). The details of this determination are documented in the enclosed letter from the NRC staff to Mr. Mark Wolfe, the State Historic Preservation Officer for the State of Texas. In sum, based on review of the 2015 and 2019 cultural resource survey reports, searches of Texas and New Mexico archaeological databases, and the information provided by the seven Federally-recognized tribes identified as having past religious or cultural ties to the project area, the NRC staff considers that there is a low potential for intact archaeological deposits within the area to be disturbed during excavation. Therefore, consistent with 36 CFR Section 800.4(d)(1), the NRC staff has determined that no historic properties are present and, therefore, no historic properties would be affected by the undertaking.

Previously, by letter dated February 1, 2017 (ADAMS Accession No. ML16344A076), the NRC staff notified Ysleta del Sur Pueblo of the initial license application and invited the Pueblo to be a consulting party under Section 106 of the NHPA. By the same letter, the NRC staff also invited the Pueblo to assist in identifying and evaluating historic properties that may be affected by the proposed action and in developing proposals to address adverse effects that may be identified during the evaluation process.

By letter dated March 13, 2017 (ADAMS Accession No. ML17075A228), Mr. Javier Loera, Ysleta Del Sur Pueblo Tribal Historic Preservation Officer, stated that the Tribe had no comments on the proposed CISF project. The Pueblo believed that the project would not adversely affect traditional, religious, or culturally significant sites of the Pueblo and had no opposition to the proposed project. However, the Pueblo requested consultation should any human remains, or artifacts unearthed during the project be determined to fall under the National American Graves Protection and Repatriation Act guidelines.

By letter dated May 7, 2019 (ADAMS Accession No. ML18345A102), the NRC staff renewed its invitation to the Ysleta del Sur Pueblo to participate as a consulting party, given ISP's revised license application. The NRC staff has not received a response to this letter.

The draft EIS and additional information on the ISP license application are available on the NRC's project webpage at <https://www.nrc.gov/waste/spent-fuel-storage/cis/waste-control-specialist.html>. Documents are also publicly available from the NRC's ADAMS, which can be accessed online at: <http://www.nrc.gov/reading-rm/adams.html>.

In accordance with Title 10 of the *Code of Federal Regulations* Section 2.390, "Public inspections, exemptions, requests for withholding," of the NRC's "Agency Rules of Practice and Procedure," a copy of this communication will be available electronically for public inspection in the NRC Public Document Room, or from the NRC's ADAMS.

If you have any questions or need any additional information, please contact the Environmental Project Manager, Mr. James Park, by telephone at 301-415-6954, or via email at James.Park@nrc.gov.

Sincerely,



Signed by Quintero, Jessie
on 12/16/20

Jessie M. Quintero, Chief
Environmental Review Materials Branch
Division of Rulemaking, Environmental Review
and Financial Support
Office of Nuclear Material Safety
and Safeguards

Docket No. 72-1050

Enclosure: As stated

cc: Javier Loera, NAGPRA Representative

Letter to E.M.Silvas, Ysleta del Sur Pueblo re: NHPA Section 106 Determination of Effects for Proposed ISP CISF DATE December 16, 2020

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