



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

September 26, 2022

Chuck Hoskin, Jr.
Principal Chief
Cherokee Nation
P.O. Box 948
Tahlequah, OK 74465

SUBJECT: SECTION 106 CONSULTATION AND NOTIFICATION OF THE ISSUANCE OF THE DRAFT ENVIRONMENTAL IMPACT STATEMENT FOR THE CONSTRUCTION PERMIT FOR THE KAIROS HERMES TEST REACTOR IN OAK RIDGE, TENNESSEE (DOCKET NUMBER: 50-7513)

Dear Principal Chief Hoskin:

The U.S. Nuclear Regulatory Commission (NRC) staff is conducting an environmental review for a construction permit (CP) application submitted by Kairos Power, LLC (Kairos) pursuant to title 10 of the *Code of Federal Regulations* (10 CFR) part 50, for a non-power reactor termed Hermes on a 185-acre site in Oak Ridge, Tennessee. As part of the review, the NRC staff has completed a draft environmental impact statement (EIS) as required by 10 CFR part 51 "Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions," the NRC's regulations that implement the National Environmental Policy Act (NEPA) of 1969, as amended. The draft EIS, NUREG-2263 "Environmental Impact Statement for the Construction Permit for the Kairos Hermes Test Reactor," is publicly available from the NRC's Agencywide Documents Access and Management System (ADAMS) as ML22259A126. ADAMS is accessible from the NRC website at <https://www.nrc.gov/reading-rm/adams.html>.

The draft EIS includes analyses of relevant environmental issues, including potential impacts and effects on historic properties. As discussed in chapter 5 of the draft EIS, the NRC staff's preliminary recommendation, unless safety issues mandate otherwise, is that the CP be issued as proposed. This recommendation is based on: (1) the analysis and findings of the staff's independent environmental review documented in the draft EIS; (2) consultation with Federal, State, Tribal, and local agencies; (3) the environmental report submitted by the applicant; and (4) the consideration of public comments. If a CP were granted, it would not authorize operation of the reactor. Should Kairos choose to proceed with its proposed project, they would need to apply for, and receive, a separate operating license from the NRC. This authorization would constitute a separate NRC undertaking and would require the NRC to prepare a supplement to the CP final EIS.

In a letter dated March 4, 2022 (ML22031A289), the NRC staff notified you that in accordance with title 36 *Code of Federal Regulations* (36 CFR) section 800, "Protection of Historic Properties" section 800.8(c), the NRC is using the NEPA process to comply with section 106 of the National Historic Preservation Act of 1966, as amended (NHPA), in lieu of the procedures set forth in 36 CFR 800.3 through 800.6. The purpose of this letter is to continue NRC's NHPA section 106 government-to-government consultation with the Cherokee

Nation, and to invite you to review and comment on the draft EIS. Chapter 3.5 of the draft EIS contains a discussion of historic and cultural resources and historic properties identified in the direct and indirect area of potential effects, discusses impacts to historic and cultural resources from construction and operation as well as the NRC staff's preliminary determination of no adverse effect to historic properties. It also addresses cumulative impacts to historic and cultural resources and provides a summary of the results of NRC's ongoing NHPA section 106 consultation process.

NRC staff would also like to thank you for the comments provided by Elizabeth Toombs, Tribal Historic Preservation Officer (of your staff), via teleconference with NRC staff on May 2, 2022, regarding a request for cultural resource reports associated with the Kairos site and the surrounding area. The NRC staff sent requested cultural resource reports on July 7 and 8, 2022 (ML22204A004).

Pursuant to 36 CFR 800.8(c), the NRC invites your office to submit any comments or concerns you feel are appropriate on the draft EIS during the 60-day comment period, which ends on December 6, 2022. Comments can be submitted: (1) by email to KairosHermes-CPEIS@nrc.gov; or (2) in person during the public meetings. After consideration of public comments received, as well as information received through consultation, the NRC will prepare a final EIS, which is scheduled to be published on or before September 2023. After consideration of public comments received, as well as information received through consultation, the NRC will prepare a final EIS, which is scheduled to be published on or before September 2023.

The NRC staff plans to hold a public meeting to discuss the analyses and results in the draft EIS on Wednesday, November 16, 2022, at Hilton DoubleTree, 215 S. Illinois Avenue in Oak Ridge, Tennessee. The meeting will convene at 7:00p.m. and will continue until 9:00p.m., as necessary, and should monitor the NRC's Public Meeting Schedule website at <https://www.nrc.gov/pmns/mtg> for access information. Meeting details will also be available by November 1, 2022, at <https://www.nrc.gov/reactors/non-power/kairos-hermes.html>. Additionally, the NRC staff will host an open house one hour before the start of the meeting.

If you have any questions concerning the NRC staff's environmental review of this CP application, please contact Peyton Doub via phone at (301) 415-6703 or via email at Peyton.Doub@nrc.gov or Tamsen Dozier via phone at (301) 415-2272 or via email at Tamsen.Dozier@nrc.gov

Sincerely,



Signed by Erwin, Kenneth
on 09/26/22

Kenneth Erwin, Chief
Environmental Review New Reactors Branch
Division of Rulemaking, Environment,
and Financial Support
Office of Nuclear Material Safety
and Safeguards

Docket No: 50-7513

cc: Elizabeth Toombs, THPO

SUBJECT: SECTION 106 CONSULTATION AND NOTIFICATION OF THE ISSUANCE OF THE DRAFT ENVIRONMENTAL IMPACT STATEMENT FOR THE CONSTRUCTION PERMIT FOR THE KAIROS HERMES TEST REACTOR IN OAK RIDGE, TENNESSEE (DOCKET NUMBER: 50-7513)

DATED: September 26, 2022

DISTRIBUTION:

- PUBLIC
- TDozier, NMSS
- NMSS_REFS_ENRB Distribution
- BBeasely, NRR
- CRegan, NMSS/REFS
- JMoses, NMSS/REFS
- WKennedy, NRR/DANU
- EHelvenston, NRR/DANU
- SCuadrado, NMSS/REFS
- MWright, OGC
- SBurnell, OPA
- RidsOgcMailCenter
- RidsOpaMail

ADAMS Accession No.: ML22243A149

***via email**

| | | |
|--------|------------|---------------|
| OFFICE | PM:REFS | LA:REFS |
| NAME | P. Doub | AWalker-Smith |
| DATE | 09/13/2022 | 09/13/2022 |
| OFFICE | OGC (NLO) | BC:REFS |
| NAME | MWright | KErwin |
| DATE | 09/22/2022 | 09/26/2022 |

OFFICIAL RECORD COPY