

January 11, 2013

Mr. Sam Cohen
Government and Legal Specialist
Santa Ynez Band of Chumash Indians
P.O. Box 517
Santa Ynez, CA 93460

Dear Mr. Cohen:

I am responding to your recent letter to Chairman Macfarlane and Commissioners Svinicki, Apostolakis, Magwood, and Ostendorff dated January 6, 2013. In your letter, you state that the Santa Ynez Band of Chumash Indians had no formal notice of the scoping process for an environmental impact statement (EIS) to consider updates to the Commission's Waste Confidence rule, and thus request additional time to participate in the scoping process.

The public scoping period for the Waste Confidence EIS closed on January 2, 2013. However, the NRC staff will consider comments submitted after January 2 as practicable. If you would like to submit scoping comments on the Waste Confidence EIS, please email them directly to Sarah Lopas at Sarah.Lopas@nrc.gov. If you have any questions regarding the Waste Confidence environmental review or submitting comments, please contact Ms. Lopas via email or phone at (301) 492-3425. The NRC staff will ensure you receive a copy of the scoping summary report when it is published, in early March 2013.

The NRC regrets you were not directly notified of the Waste Confidence scoping *Federal Register* notice, and as we move forward in the Waste Confidence environmental review, there will be additional opportunities for your participation. The NRC's Waste Confidence Directorate will notify you of these opportunities by email. In the near term, beginning on January 16, 2013, the NRC will be conducting monthly status calls on the third Wednesday of each month. The calls will be from 1:30 - 2:30 p.m. EST (10:30 - 11:30 a.m. PST) and the teleconference information is as follows: 1-800-857-2553 and passcode 3682386. See the NRC's meeting notice at <http://pbadupws.nrc.gov/docs/ML1236/ML12366A201.pdf> for additional information.

Additionally, the NRC staff is planning to publish the Waste Confidence draft EIS in September 2013. The NRC will be conducting regional public meetings to discuss the conclusions in the draft EIS, and will be asking for public comments on the draft EIS. The NRC staff will ensure you receive the draft EIS and are notified of any public meetings planned for your region of California.

We would note that the Waste Confidence rulemaking does not identify specific sites for NRC licensing actions that would trigger the tribal consultation process under Section 106 of the National Historic Preservation Act (NHPA). However, along with the above opportunities to participate in the Waste Confidence rulemaking, the NRC will continue to conduct consultation with Indian Tribes that attach religious and cultural significance to historic properties that may be affected by specific licensing actions. Site specific environmental review documents will also include a section on historic and cultural resources which can include consideration of Executive

Order 13007 "Indian Sacred Sites" and provide further opportunities for consultation and coordination with Indian Tribal Governments.

As an independent federal regulatory agency, the NRC fulfills its tribal trust responsibility in the context of its governing statutes (e.g. Atomic Energy Act) and implements any fiduciary responsibility through assuring tribal members receive the same protections under our implementing regulations that are available to other persons.

We also want to take this opportunity to inform you of an important opportunity for you to participate in another activity underway at the NRC. The NRC staff is soliciting comments on the development of an agency-wide tribal policy statement. The enclosed *Federal Register* notice (Attachment 1) provides detailed information on the Commission's current efforts, including how to submit comments or suggestions on the tribal policy statement. In addition to asking for feedback on the policy statement, the NRC staff is also soliciting comments on the *Draft Tribal Protocol Manual*, a guidance document for NRC staff engaging in interaction with tribal governments. The draft manual, along with additional background information, can be found online at <http://www.nrc.gov/about-nrc/state-tribal/tpm.html>. We have also included a copy of the draft manual with this letter for your convenience. This is an opportunity for tribal governments and organizations, as well as members of the public, to provide insights and suggestions on effective interactions with Native American tribes.

Thank you again for your comments.

Sincerely,

/RA/

Keith I. McConnell, Director
Waste Confidence Directorate
Office of Nuclear Material Safety
and Safeguards

Enclosures:

1. *Federal Register* Notice for
Draft Tribal Protocol Manual
2. NRC's *Draft Tribal Protocol Manual*

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