

PIEnvISFSIPEm Resource

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To: Trefethen, Jean
Subject: Prairie Island ISFSI EA issues summary
Attachments: Prairie Island Indian CommunityISFSIEA.docx

Hi Jean

Attached is a draft summary of issues for consideration in the EA.

We can discuss this after the holidays.

Heather
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Background Information—Prairie Island Indian Community

The Prairie Island Indian Community is a federally-recognized Indian Tribe organized under the Indian Reorganization Act (25 U.S.C. § 476). The Prairie Island Indian Community's land base, including reservation lands held in trust by the United States for the Tribe, has grown through various Congressional acts and direct purchases by the Tribal Council, and will total over 3,000 acres (both land and water) when the transfer of land known as Parcel D from the United States Army Corp of Engineers to the Bureau of Indian Affairs is completed. The population of the Tribe has grown substantially since the Prairie Island Nuclear Generating Plant (PINGP) first went on line in 1973. There are now more than 800 enrolled band members; approximately 250 of whom reside on tribal land within a 1-5 mile radius of the PINGP. There are 60 housing units on the original reservation core referred to as the Lower Island and 29 housing units on the Phase I residential development on subsequently acquired lands referred to as the Upper Island). A Phase II Upper Island residential development will commence with 26 housing units opening in 2013, with another 21 planned once the original 26 are filled. The Tribe has also filed an application with the Bureau of Indian Affairs to place an additional 260 acres of land approximately 5 miles away from the current reservation into trust for potential future residential expansion.

Members of the Prairie Island Indian Community are descendants of the Mdewakanton Band of Eastern Dakota, also known as the Mississippi or Minnesota Sioux, who were parties to various treaties with the United States from 1805 to 1863. The Mdewakanton, "those who were born of the waters," have lived on Prairie Island for countless generations. Archaeological evidence, including village sites and burial mounds, conclusively demonstrate that Prairie Island has been a place of historical and cultural significance for thousands of years. When French fur traders first discovered what is now Prairie Island it was occupied by Indians. In fact, Pierre Charles LeSeur established a trading post at Prairie Island in 1695. In more recent times, descendants of those earliest known inhabitants, the members of the Mdewakanton Dakota (Sioux), traditionally used Prairie Island as a summer encampment for fishing, hunting and raising crops.

The Prairie Island people are part of a larger group called the "Dwellers of the Spirit Lake," in the Dakota language the Mde wakan ed otunwahe. Over the years this name has been shortened to Mdewakantonwan or Mdewakanton (M'DAY-wah-kahn-tahn). The Mdewakanton are one of the seven sub-tribes who make up the alliance called Oceti Sakowin - the Seven Council Fires. Most of the world knows the alliance as the Sioux, which comes from an Ojibwe word nadowessi – "Little snakes." The French changed it to Nadowesioiux or simply Sioux. The members of the Oceti Sakowin call themselves Dakota, Lakota, or Nakota, a word that means "allies" or "friends" in all three dialects. The Dakota/Lakota/Nakota have reservations in the states of Minnesota, Nebraska, South Dakota, North Dakota, and Montana, and in the Canadian provinces of Manitoba and Saskatchewan.

The Prairie Island Independent Spent Fuel Storage Installation (PI ISFSI) and the PINGP Units 1 and 2 are located immediately south, south-east of the Prairie Island Indian Community Reservation. It is because the ISFSI and the PINGP are so close to tribal land that the Tribal Council asked to be a Cooperating Agency for purposes of developing certain sections of the Supplemental Environmental Impact Statement (SEIS) for the relicensing of the PINGP 1 and 2 and for developing the Environmental Assessment (EA) for the ISFSI license renewal.

Although the ISFSI and the PINGP are licensed separately under NRC regulations (parts 72 and 50, respectively), it is important to understand that most Tribal Members do not view these as separate installations. Without the PINGP there would be no need for the ISFSI. One tenet of Dakota culture is the belief that all things are related, “Mitakuye Oyasin,” and that one cannot separate one aspect of the environment from another. In other words, the ISFSI and the PINGP together, have an impact on the environment that cannot be evaluated separately. Mitakuye Oyasin, literally translated, means “to all my relations” or “we are all related.” Mitakuye Oyasin is a prayer, an acknowledgement that honors the sacredness of all people and of all life. The Community’s health and well-being and culture are dependent upon the health of the natural environment—the water, the fish, the birds, the air, the plants, cultural sites, that are all interrelated as part of an ecosystem that is Prairie Island.

Land

Most of the Prairie Island Indian Community’s lands are held in Trust, for the benefit of the Prairie Island Indian Community, by the United States Government. Trust status means that the land is protected from state or local jurisdiction, including taxation, can never be sold, and is forever available for the common benefit of the Tribe. Regulations governing the transfer of land into Trust can be found at 25 C.F.R. § 151.

Past Congressional actions (i.e., the General Allotment Act or the Dawes Act, in effect from 1887 until 1934), resulted in the loss of Indian lands to non-Indians because of foreclosure due to the inability to pay property taxes on land allotted to individual Indians. During the 47 years that the Allotment Act was in effect, approximately 90,000,000 acres (36,400,000 hectares) of Treaty-protected land or about two-thirds of the 1887 national tribal land base was lost. The Indian Reorganization Act (or Wheeler-Howard Act), passed by Congress in 1934, slowed the practice of assigning tribal lands to individual tribal members and reduced the loss of Indian land holdings.

In addition to its Trust land, the Prairie Island Indian Community also owns approximately 686 acres (280 hectares) of land that are not in Trust and are therefore subject to state and local jurisdiction. The Mount Frontenac Golf Course (426 acres [170 hectares]) is not in trust and the Tribe does not plan to request that the US government, through the Bureau of Indian Affairs, take the land into Trust. The Tribal Council has filed a Fee-to-Trust application for the remaining 260 acres (105 hectares) of land, in order to develop additional home sites.

As mentioned previously, the lands of the Prairie Island Indian Community (with the exception of the 686 acres not in Trust) are not subject to state or local jurisdiction. The

Tribe is therefore free to develop its own land-use management policies and plans for Trust lands.

Each enrolled adult member is eligible for a one-acre land assignment. It costs the tribe approximately \$35,000 to develop the infrastructure for each land assignment (roads, water and sewer). The assignee is granted lifetime use of the land, and for new land assignments has one year to make improvements (i.e., construct or place a home on the assignment).

Socioeconomics

In 1984, the tribe opened Island Bingo, which had seating for 1,400 in a 30,000 square-foot facility. After the US Supreme Court upheld the rights of tribes to conduct their own gaming operations free of state control, the tribe expanded Island Bingo into Treasure Island Resort and Casino in 1989. The name “Treasure Island” was chosen because members of the Prairie Island Indian Community viewed Prairie Island as a place to treasure, a place where everything they needed could be found. Today, the Treasure Island Resort and Casino includes: 120,000 square feet of gaming; 480 hotel rooms; dining facilities; a 30,000 square feet, 3,000-seat multi-use event center, a family fun center with a 24-lane bowling alley, meeting and convention space, a 137-slip marina, and a 95-slot RV Park. The Prairie Island Indian Community also owns and operates Mount Frontenac Golf Course, an 18-hole golf course located in Frontenac, MN, just 20 miles from the reservation. In addition to an 18-hole course, Mount Frontenac offers dining and banquet facilities.

Because of gaming, the Tribal Council has been able to increase the standard of living for all enrolled tribal members, regardless of whether they reside on the reservation. The Tribe established a centralized water and sewer system, a water treatment facility, a health care facility, a community and government center, a buffalo farm, and a police department. The Tribe also provides health insurance to each member, various services for community elders, education benefits and tuition assistance (elementary, secondary and post-secondary) to Tribal Members, and other social services and benefits. In addition, each enrolled Prairie Island Tribal member is eligible for a share in the revenue from the casino and other economic enterprises.

The Prairie Island Indian Community also shares its good fortune with other communities, community groups or individuals. Since 1994, the tribe has donated more than \$15 million to various organizations. Notable donations include \$1.5 million to support the ice arena in Red Wing, \$500,000 to the National Eagle Center in Wabasha, Minnesota, \$100,000 to the Miesville Fire Department to cover the cost of new fire truck, and \$100,000 to the Pine Ridge Indian Reservation to help the tribe recover from a devastating tornado.

Population

There are more than 800 enrolled members of the Prairie Island Indian Community. Approximately 250 members reside on tribal land. The United States government does

not determine who is or is not eligible to be enrolled in a federally-recognized tribe; it is up to the individual tribe to establish its own criteria for enrollment. Many tribes determine a blood quantum (or degree of full-blood, such as 25 percent) or will establish enrollment by lineal descendency from a common group of ancestors. In the case of Prairie Island, enrollment is determined by lineal descendency.

Housing

The housing units on the Reservation are all assigned by the Tribal Council. It is not possible to assign a median value to these housing units because the homes cannot be sold to non-tribal members. The land (which is typically a large percent of a home's value) can never be sold, as it is in Trust for the common benefit of the Prairie Island Indian Community.

Public school enrollment

There is no school on Prairie Island, children from the community can either attend Red Wing public schools or the Tribal Council will provide tuition for private elementary or secondary school.

The tribe has established the Prairie Island Learning Center, which offers tutoring services, Dakota language classes, summer school, GED preparation, and assistance with college applications.

The tribe provides 100 percent tuition assistance to any tribal member accepted into college.

Archaeological

Prairie Island is rich in archaeological resources. These archaeological resources are an important part of the Prairie Island Indian Community's history and culture. Over the years there have been many archaeological surveys documenting and recording hundreds of prehistoric archaeological sites over the entire length of Prairie Island. These sites include burial mounds, habitation sites, and lithic scatters.

In recent years there have been a number of archaeological surveys conducted within the boundaries of the PINGP. We remain concerned, however, that very little archaeological survey work was conducted prior to the construction of the ISFSI, in the immediate vicinity of the ISFSI. The archaeological survey work used in the 1992 NRC ISFSI licensing proceedings was conducted in 1967 and has been found to be an unreliable source of information. These concerns are especially relevant given the NRC's decision to evaluate the expected expansion of the ISFSI in the cumulative effects analysis.

The NRC's 1992 Environmental Assessment (EA) for the ISFSI license apparently referenced a 1967 archaeological survey (conducted prior to the construction of the

PINGP) that concluded, “nothing significant in the immediate area of the power plant or ISFSI was found.” The EA further states “no other areas of historical, archaeological and cultural significance are found within the site boundary.” No information was provided relative to the aerial extent of the 1967 archaeological survey. (ML090260415, July 1992)

Prior to the construction of the PINGP, NSP hired Dr. Eldon Johnson (then, the State Archaeologist) to conduct archaeological surveys of the area. We learned, through the PINGP relicensing process that Dr. Johnson was primarily interested in excavating the burial mounds, such as the Birch Lake Mound site that were located far from the PINGP construction site (and nowhere near the ISFSI site). In the vicinity of the PINGP, Dr. Johnson conducted some mechanical trenching operations (close to the Mississippi River) and possibly some other work (mapping) in the immediate vicinity of the PINGP in 1967.

An NSP-generated literature review and synthesis of all archaeological surveys and reports indicates that the 1967 work was not well documented and the “excavation units could not be re-located and no map or specific notes of the surveyed locations from that year are currently available.”

That was the extent of the archaeological survey work (or even a literature review) conducted prior to the construction of the ISFSI. There does not seem to be any evidence that any actual fieldwork took place in the vicinity of the ISFSI, prior to the construction of the ISFSI. We remain concerned that the basis of the original license documents (ER, EA) was the very limited and undocumented 1967 survey.

The NRC should consider all of this information when evaluating the cumulative impacts of relicensing and expanding the ISFSI.

Environmental Justice

As discussed above, the Tribe’s view is that the PINGP and ISFSI are NOT separate installations. One exists because of the other; they are both part of the same whole.

Most members of the Prairie Island Indian Community believe that the PINGP was built at its location because, at that time, the Tribe was in no position to fight it. In the late 1960s members of the tribe were quite poor and totally disenfranchised. The City of Red Wing fully supported the \$200 million project, as the city would benefit tremendously from it. The city annexed a large area of land that included the PINGP site (exclusive of the Prairie Island Indian Community, although its reservation boundaries are within the annexed area) so that the PINGP would become part of its tax base. Jobs were promised, but very few Tribal Members have ever worked at PINGP 1 and 2. Moreover, the ISFSI was developed in order to keep the PINGP 1 and 2 operation (and the jobs in Red Wing).

Most Tribal Members believe that the spent fuel from the PINGP will never leave Prairie Island. Each day the “temporary” waste storage at PINGP 1 and 2 becomes more

permanent. To fully understand the Tribe's view point one must go back to the early 1990s when NSP first requested approval for short-term, on-site storage.

During the initial on-site dry cask licensing process in the early 1990s, the Prairie Island Indian Community expressed its concerns regarding the long-term storage of spent fuel in dry casks and the possibility that the waste would never leave Prairie Island. We were told then that the ISFSI was to be an interim or temporary solution, to keep the PINGP operating (and thereby save jobs in the Red Wing area) until the national repository, Yucca Mountain, could begin accepting waste. The probability that the waste will leave during the lifetime of those Tribal members and leaders who fought against interim or temporary storage is close to zero.

Minnesota law requires approval from the Public Utilities Commission (PUC) and the State Legislature before a utility can use on-site dry cask storage. During the process to evaluate NSP's application for a Certificate of Need (CON) for the Prairie Island dry cask storage facility (by the PUC), hearings were held before Administrative Law Judge Allan Klein in November and December 1991. In April 1992, Judge Klein recommended that the PUC deny the CON, stating:

The likelihood that the dry cask storage would become permanent is so great that it is appropriate to require legislative authorization if the project must go forward immediately.

The Public Utilities Commission nevertheless rejected Judge Klein's recommendations and ruled that NSP could store the waste, though the MN Legislature reduced the number of casks allowed from 48 to 17 (NSP initially sought a CON for 48 dry casks). Subsequent Legislative Action in 2003 increased the cask limit to 29 casks limit. In 2010 the PUC approved NSP's CON for an additional 35 casks, increasing the limit to 64 casks. An additional 34 casks will be needed if the PINGP is decommissioned in 2034, which bring the total to 98 casks of spent nuclear fuel on Prairie Island.

The 1992 legislative hearings for the Prairie Island ISFSI were highly contentious and divisive. It is highly doubtful that NSP would have received state approval then if legislators believed that the waste would be on site indefinitely (as it should be considered in the absence of a National repository).

The Prairie Island ISFSI is located right next to the Prairie Island Reservation, a mere 600 yards away from the nearest homes, and less than 1 mile from various community buildings and the Tribe's gaming enterprise. Prairie Island is the PIIC's only homeland, the land promised to the Community by the US government. The PIIC cannot simply relocate to another place, somewhere away from the nuclear waste dump that has been established next door.

Although the ISFSI is located immediately adjacent to our Community (and we are the *de facto* host community), the PIIC receives a very limited financial benefit from these facilities. The City of Red Wing and Goodhue County receive millions of dollars annually from the PINGP and ISFSI via taxes. The ISFSI and its 29 current casks (and

98 future casks) -- and associated risk -- are right next to our homes, our government center, our church, our recreational areas, and our tribal gaming enterprise. Our community members bear the greatest risk, yet we receive virtually no benefit.

DRAFT