

From: [Park, James](#)
To: [Drew Sitters](#)
Subject: RE: RE: Request for further information regarding Texas Historical Commission guidelines concerning state-recognized tribes
Date: Tuesday, August 20, 2019 9:39:00 AM
Attachments: [image001.png](#)

Dear Mr. Sitters:

Thank you for the clarification regarding State Resolution No. 989 and the supporting discussion. I would like to set up a call with you to discuss this matter further.

Regards,
James

James Park, Project Manager
U.S. Nuclear Regulatory Commission

From: Drew Sitters <Drew.Sitters@thc.texas.gov>
Sent: Monday, August 19, 2019 10:07 AM
To: Park, James <James.Park@nrc.gov>
Subject: [External_Sender] RE: Request for further information regarding Texas Historical Commission guidelines concerning state-recognized tribes

Mr. Park,

Under Senate [Resolution No. 989](#), the Senate of the State of Texas recognized the Texas Band of Yaqui Indians. This recognition is simply honorary and affords no special status or rights. "While non-federally recognized tribes do not have a statutory right to be included in the Section 106 process, an agency may invite them to participate, as noted above, if they have a demonstrated interest in a project. The decision to invite a non-federally recognized tribe to participate in the Section 106 process is a discretionary decision by the federal agency. [In other words,] the ultimate decision about whether to invite non-federally recognized tribes to participate in the Section 106 process rests with the federal agency. Not granting consulting party status to parties that have a demonstrated interest in affected historic properties is legally allowable but may defeat the ultimate intent of Section 106. The process is intended to ensure federal agencies make informed decisions on undertakings that could affect historic properties and reasonably attempt to resolve adverse effects to them. Because non-federally recognized tribes may have information that assists the Section 106 process, consulting with them can enhance agencies' decision-making processes" ([ACHP 2018](#)). I'd be more than happy to set up a conference call if you need additional information or clarification.

Regards,
Drew

Drew Sitters
West Texas Regional Archeologist/Project Reviewer

Texas Historical Commission

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From: Park, James <James.Park@nrc.gov>

Sent: Friday, August 16, 2019 12:32 PM

To: Drew Sitters <Drew.Sitters@thc.texas.gov>

Subject: Request for further information regarding Texas Historical Commission guidelines concerning state-recognized tribes

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Dear Mr. Sitters:

By correspondence dated June 11, 2019, the Texas Band of Yaqui Indians indicated their interest in consulting with the U.S. Nuclear Regulatory Commission (NRC) on a license application before the NRC, submitted by Interim Storage Partners LLC (ISP), to construct and operate a consolidated interim storage facility for spent nuclear fuel in Andrews County, Texas. The Texas Band of Yaqui Indians were responding to a May 6, 2019 letter in which the NRC inquired of the Tribe's determined interest in the undertaking pursuant to 36 CFR Paragraph 800.2(c)(5).

In looking at the Texas Historical Commission's (THC's) website concerning project reviews and tribal consultation guidelines (<https://www.thc.texas.gov/project-review/tribal-consultation-guidelines>), the NRC staff found a link to a frequently asked question (FAQ) regarding consultation with Indian groups that are not federally recognized. In the answer to that particular FAQ, the website states, "There is no legal requirement to consult with Indian groups or tribes that are not recognized by the federal government; however, non-federally recognized tribal groups may comment on a project or undertaking as an "interested party."

It is the NRC's understanding that the Texas Band of Yaqui Indians is recognized by the State of Texas as a State Recognized Tribal Group under Resolution S.R. #989.

Therefore, I would like to set up with you a time to discuss the FAQ answer, and in particular, the meaning of "interested party" and the level of involvement the THC would foresee for State Recognized Tribal Groups. Please indicate dates and times that would be convenient for this call.

I can be reached by email at James.Park@nrc.gov or by phone at (301) 415-6954.

Sincerely,

James Park, Project Manager
U.S. Nuclear Regulatory Commission