

January 24, 2020

Cinthya I. Roman, Chief
Environmental Review Materials Branch
Division of Rulemaking, Environmental, and Financial Support
Office of Nuclear Material Safety and Safeguards
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

RE: NSP/Excel Energy Prairie Island Nuclear Generating Plant – Docket Number: 72-10
Proposed Materials License Amendment for the Prairie Island Independent Spent Fuel Storage
Installation
Welch, Goodhue County
SHPO Number: 2019-0741

Dear Ms. Roman:

Thank you for initiating consultation on the above federal undertaking. Information received in our office on December 24, 2019 has been reviewed pursuant to the responsibilities given the State Historic Preservation Officer under Section 106 of the National Historic Preservation Act of 1966, as amended, and implementing federal regulations at 36 CFR 800.

We have completed a review of your letter dated December 17, 2019 in which you discuss the proposed federal license amendment to increase storage capacity within the Prairie Island Independent Spent Fuel Storage Installation.

We understand by your December 17th letter that you are coordinating the Section 106 review of the federal undertaking with your agency's review and environmental assessment of the proposed federal action, the license amendment, under the National Environmental Policy Act.

Your letter further specifies that you are requesting our office's concurrence with the agency's determination that the proposed undertaking, the expansion of the fuel storage installation, "does not have the potential to cause effects to historic properties, assuming they were present." This is an unusual request and does not align with agency findings and determinations required under 36 CFR Part 800.

An agency determination that the undertaking has "no potential to cause effects" is one that our office equates with a determination made by a federal agency pursuant to 36 CFR 800.3(a)(1) that the federal undertaking is the *type of activity* that does not have the potential to cause effects on historic properties, if any were present. If this is how your agency has defined the federal undertaking, then the regulations indicate that "the agency official has no further obligations under section 106" and does not require concurrence from the State Historic Preservation Office.

We do not believe that your agency intended to define the undertaking in this way, as the December 17th letter contradicts this assumption in that it goes on further to explain that the expansion of the fuel storage installation does have the potential for ground disturbance and, as such, may be the type of activity which would affect not only intact archaeological sites, but also above-ground properties, if any were present.

Therefore, from our perspective, it does not appear that the undertaking meets the criteria as exempt from Section 106 review as specified under 36 CFR 800.3(a)(1).

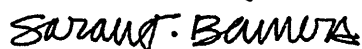
Unfortunately, your submittal dated December 17, 2019, does not provide sufficient information for our office to complete a review pursuant to Section 106. Although our office has had the opportunity to review previous archaeological surveys in this area and we have consulted with the federal licensee as a courtesy prior to federal agency initiation of the Section 106 process, reference to the licensee's finding in regards to the undertaking's potential effects to historic properties (which includes archaeological sites) indicates that your agency has not thoroughly reviewed the undertaking and completed consultation steps in accordance with the Section 106 procedures.

Please submit formal agency findings and determinations addressing the requirements of 36 CFR 800, including a clear definition of the federal undertaking subject to review, a defined and documented Area of Potential Effect (APE) for the federal undertaking, the results of efforts to identify historic properties within the APE, and a finding of effect. We request that your agency submit these findings and determinations with the appropriate level of documentation, depending on the agency finding of effect, as required under 36 CFR 800.11(d) or (e), to our office for review and comment.

As part of the Section 106 review, your agency also has a responsibility to engage the public and also identify and consult with other interested parties, including Native American tribes who may have an ancestral interest in this area of the state. Please provide our office with information regarding public participation and the status of consulting party engagement, including tribal consultation, as it pertains to the Section 106 review for this undertaking.

Please contact me at 651-201-3290 or sarah.beimers@state.mn.us if you have any questions regarding this comment letter.

Sincerely,

A handwritten signature in black ink that reads "Sarah J. Beimers". The signature is written in a cursive, slightly stylized font.

Sarah J. Beimers
Environmental Review Program Manager