

February 28, 2000

Ms. Gretchen Yarnall
Pennsylvania State Historic
Preservation Office
Bureau for Historic Preservation
P. O. Box 1026
Harrisburg, PA 17108-1026

Dear Ms. Yarnall:

This responds to your request to complete the Cultural Resource Mitigation Survey, which we received from you on January 31, 1999. Enclosed you will find the U.S. Nuclear Regulatory Commission's (NRC) completed survey.

Note that the NRC does not have Federal land management responsibilities and, therefore, does not engage in maintaining or restoring archeological or historic properties that may be identified during the environmental review process for issuing permits or licenses. However, NRC licensees are required to take the mitigative measures necessary to protect such properties. As a regulatory agency, NRC does not incur any direct costs associated with the protection or enhancement of archeological and historic resources.

Should you have any questions regarding our response, please do not hesitate to contact Rosetta Virgilio of my staff at 301-415-2307 or rov@nrc.gov.

Sincerely,

/RA/

Paul H. Lohaus, Director
Office of State Programs

Enclosure:
As stated

cc: Brenda Barrett

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NRC RESPONSE TO PA SHPO CULTURAL RESOURCE MITIGATION SURVEY

1. Have you or your agency ever prescribed or implemented Traditional Mitigation Measures, such as:

- Historic American Building Survey (HABS) or Historic Archeological Engineering Record (HAER) recordation for a historic resource to be demolished, or**
- Data recovery of archeological resources, or**
- Employing the Secretary of Interior's Standards for Rehabilitation, or**
- Developing a marketing plan for the transfer or reuse of historic properties?**

The Connecticut Yankee Atomic Power Company, the licensee for the site decommissioning for Haddam Neck Plant in Connecticut, performed a HAER of the plant in FY 1999 for the National Park Service. The licensee stated that the information gathered may be used by the State Historical Commission as an exhibit in a museum.

The Three Mile Island site in Pennsylvania is located near the former Native American town of Sasquesahanaugh, which was on the east side of the Susquehanna River and was inhabited by the Susquehannock Indian tribe. Their influence extended over a large area. The Pennsylvania Historic and Museum Commission conducted an excavation in 1967 that yielded over a thousand artifacts, including arrow heads, knives, drills, scrapers, and pieces of broken pottery. Some were estimated to be from as early as 4000 B.C. For this reason, there is a local interest by amateurs for surface hunting for artifacts. The surface hunters are primarily employees of GPU Nuclear Corporation. Two of the employees also assisted a group of local high school students on a surface hunt in July 1992.

2. Have you or your agency ever developed or implemented Public Benefit/Education Mitigation, such as:

- Preparing an educational curriculum within schools or the local community which incorporates public education about cultural resources; or**
- Authoring articles for popular publications, preparing brochures, interpretive signage or exhibits highlighting local history or the affected cultural environment?**

No.

3. Have you or your agency developed or implemented Innovative Mitigation, such as:

- Incorporating design modifications into physical project improvements (highway realignment; design of architecturally compatible new construction adjacent to historic properties; landscape design, etc.) to avoid or minimize impacts to cultural resources; or**
- Developing easements or covenants for the protection of cultural resources; or**
- Drafting historic preservation plans or ordinances; or**

-- Establishing a gift of goods or services for specific historic preservation purposes as mitigation for adverse impacts to cultural resources?

NRC licensees performed or supported the following activities related to design modifications into physical project improvements to avoid or minimize impacts to cultural resources:

In Fall 1991 through Spring 1992, Northern States Power, the licensee for Prairie Island in Minnesota, commissioned an archeologist to conduct an archeological survey. The area of the investigation is owned by Northern States Power and involved the entire right-of-way for a new access road. The archeologist's report was submitted to the State archeologist. The State found that Indian burial grounds existed and marked off the area. The land use planning for the road was modified to preserve the sensitive area.

The Old Pickens Presbyterian Church (and Cemetery) is the only historic property within the 1-mile radius of Oconee Nuclear Station. In recent years, a group of Oconee employees have worked with members of the Pickens Presbyterian Church, a local Garden Club, a Boy Scout troop, and U.S. Forest Service employees in a cooperative effort to improve the wildlife habitat aspects of the grounds surrounding this church. The church is undergoing renovation and the property has been listed on the National Register of Historic Places. The Oconee Nuclear Station is located in Seneca, South Carolina.

The Shootaring Canyon uranium mill facility is located in southeastern Utah, 50 miles south of Hanksville. The mill can be reached by taking a private site access road for approximately 2 miles west of Utah State Highway 276. Archeological studies conducted at the site by the licensee as part of the 1970's environmental report found only a small single lithic scatter. The site access road was routed to avoid most of the scatter area, and the State salvaged the artifacts in the area prior to its being disturbed. A historic survey was conducted as part of the initial application and no historical sites within five miles of the site were identified.

Hydro Resources, Inc. (HRI) contracted with the Museum of New Mexico, Office of Archeological Studies to identify cultural resources in the area of the proposed in-situ leach uranium mining project. The project is located in Crownpoint, New Mexico, on the HRI facility compound and is a planned, phased expansion of other surrounding HRI Crownpoint sites that were previously surveyed and consulted on in 1997-98. Based on the Office of Archeological Studies' findings, three archeological sites (eligible for the National Register) and two "localities" (potentially eligible for the National Register) were identified within the facility compound boundaries. The three archeological sites were previously identified and fenced as a result of an earlier survey conducted prior to construction in this area in 1980-81. No subsequent facility use or construction has impacted these archeological sites. In addition, no construction activities or use has occurred in the area of the two archeological localities. Thus, the condition of these resources is excellent, due to the protection provided by fencing around the archeological sites and around the entire HRI facility compound.

Pursuant to 36 CFR 800.5 and 800.9, the NRC staff considered the aforementioned resources and HRI's proposed undertaking. Based on its review, the NRC staff

determined that the proposed uranium processing plant improvements by HRI at this site would have “no effect” on the historic properties at this location. The NRC staff forwarded its findings to the New Mexico State Historical Preservation Office (NMSHPO) for review and concurrence. These results were also sent to the Navajo Nation Historic Preservation Department (NNHPD), affected Native American Indian groups, and the public for solicitation of comments. In a letter dated June 16, 1999, the NMSHPO concurred with the NRC staff in its finding of “no effect.”

The NRC staff received a letter from the NNHPD on June 7, 1999, objecting to NRC’s proposed determination of “no effect.” NNHPD claimed that the area of concern was within the general jurisdiction of the Navajo Nation (i.e., a “dependent Indian community”); thus, the Navajo Nation Cultural Resource Protection Act was the applicable statute governing the proposed action (vis-a-vis the National Historic Preservation Act Section 106 regulations). The NRC Office of General Counsel responded to NNHPD by stating that in 1998, the U.S. Supreme Court narrowly construed the term “dependent Indian community” (which is used in several Federal statutes, including the National Historic Preservation Act), rejecting a previously-used balancing test. Accordingly, the NRC determined, pursuant to the Supreme Court ruling, that the historic properties in question fell under the NMSHPO jurisdiction. Based on the NRC’s interpretation of the Supreme Court’s ruling and NMSHPO’s concurrence on this matter, the NRC staff concluded its Section 106 consultations in accordance with the National Historic Preservation Act for this phase of the project and notified HRI of its findings.

- 4. Have you or your agency developed or implemented more Structured Mitigation Processes or Formal Agreements, such as:**
- **Developing creative partnerships or joint development initiatives formed between public, private or non-profit organizations to achieve project mitigation; or**
 - **Contributing to local historic preservation efforts in the form of facility or staff sharing arrangements to accomplish specified preservation goals identified in a community; or**
 - **Developing an off-site mitigation?**

Please see the narratives above for Three Mile Island under question #1 and for Oconee Nuclear Station and HRI Crownpoint project under question #3 for examples of NRC licensee contributions in this area.

- 5. In light of the recently revised Section 106 regulations and the emphasis on public involvement, have you or your agency’s public involvement strategies implemented as part of the Section 106 process yielded creative mitigation results?**

Not at this time.

- 6. Do you feel that implementing creative cultural resource mitigation measures generally costs more than carrying out traditional mitigation?**

Not applicable.