

POLICY ISSUE

(Information)

May 22, 2006

SECY-06-0119

FOR: The Commissioners

FROM: Luis A. Reyes
Executive Director for Operations /RA/

SUBJECT: STATUS UPDATE ON THE REQUEST TO CONSIDER DEVELOPING
A FORMAL TRIBAL CONSULTATION PROTOCOL

PURPOSE:

To provide a status update on the progress of consultation with the appropriate Native American Tribal Governments who may be affected by the potential application for licensing of a nuclear reactor to be sited in Galena, Alaska.

BACKGROUND:

In SECY-05-0121, "Request to Consider Developing a Formal Tribal Consultation Protocol," dated July 7, 2005, staff provided an analysis of a request, submitted by the Yukon River Inter-Tribal Watershed Council (YRITWC), on behalf of Indigenous Tribes and First Nations along the Yukon River, to explore development of a formal Tribal consultation protocol. The Commission directed staff in the August 4, 2005 Staff Requirements Memorandum on SECY-05-0121 to (1) engage in consultation with the appropriate Native American Tribal Governments, (2) institute a Tribal Consultation Team (TCT), and (3) support the YRITWC Bi-Annual Summit.

DISCUSSION:

Staff instituted the TCT, which consists of representatives from the Offices of State and Tribal Programs (STP), the General Counsel (OGC), Nuclear Regulatory Research (RES), Nuclear Reactor Regulation (NRR), Nuclear Material Safety and Safeguards (NMSS), and Region IV.

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The Scope of Work for the TCT includes the following:

1. Obtain information and develop an understanding of the needs of the appropriate Native American Tribal Governments as they relate to consultation;
2. Identify prospective roles, responsibilities, and expectations of the Native American Tribal Governments and the NRC in consultation;
3. Establish and maintain effective communications with the appropriate Native American Tribal Governments;
4. Determine whether a written agreement memorializing the consultation process is needed;
5. Develop plans and resource requirements for development, implementation, and maintenance of consultation with the appropriate Native American Tribal Governments;
6. Identify whether and when funding for travel and per diem should be provided to Native American Tribal Government representatives to participate in the consultation process.

On August 10, 2005, two members of the TCT attended the YRITWC's Bi-Annual Summit at Moosehide Village in Dawson City, Yukon, Canada. The summary trip report for the Summit can be found in the Agencywide Documents Access and Management System (ADAMS) at Accession Number ML052590395. The objectives at the Summit were to (1) provide information to the Native American Tribal Governments on the Commission's responsibilities, and (2) listen to the concerns of the Native American Tribal Governments in regard to the potential licensing of a nuclear reactor to be sited in Galena, Alaska.

The leadership of the Indigenous Tribes and First Nations established a Consultation Protocol Working Group. The Working Group consists of 11 Tribal members from each region of the Yukon River Watershed, seven representatives from Canada, and four representatives from Alaska. The Working Group's initial meeting was held in January 2006. The Working Group is currently working on developing tribe-to-tribe, first nation-to-first nation, and tribe-to-first nation consultation protocols to govern when and how Indigenous Tribes and First Nations should be required to consult with each other regarding Tribal issues. Once the protocol is finalized, the Working Group plans to work with the TCT to further understand Tribal interests and consultation processes as related to the proposed reactor for Galena.

Galena, Alaska Update

The City of Galena has received \$500K from the State of Alaska to develop a series of seven white papers to explore various aspects of the feasibility of siting a reactor in Galena. Such aspects include a general overview, nuclear liability, physical security, emergency preparedness, decommissioning, seismic isolation, and containment. Four of the seven white papers are completed and have been distributed to the YRITWC and the local tribe in Galena, the Loudon Tribal Council, for review.

Galena representatives are working with Alaska State officials to determine the feasible applicant. Another possible applicant option is a Limited Liability Company, jointly formed by the State of Alaska and the City of Galena. However, this would require statutory changes at the State level.

The City Manager of Galena requested, by letter dated April 7, 2006 (ML061100198), to meet with NRC staff to discuss the white papers and other issues relating to the potential filing of an early site permit application for a Toshiba 4S reactor in Galena. NRC staff from STP, OGC, NRR, and RES met to discuss the meeting request, including scope and path forward. Staff agreed to approve the meeting request, however, subsequent meetings between NRC and the City of Galena would be fee-billable. STP will continue to serve as the lead office and point of contact for communication with Indigenous Tribes, First Nations, and Tribal organizations, such as the YRITWC. However, NRR will now serve as the lead office and point of contact with the City of Galena, as a potential applicant.

The City is also working on a redevelopment plan to recover its current electricity load as a result of the future closing of the U.S. Air Force's Galena Airport Forward Operation Location, as voted by the Base Realignment and Closure Commission. A boarding and vocational school currently uses some of the Air Force buildings for classroom and dormitory space. Some State and Federal agencies also occupy some of the buildings that are currently owned by the Air Force. Part of the City's redevelopment plan includes expanding the boarding and vocational school.

In 2005, the Small Power Reactor Association (SPRA) was formed, which consists of representatives from Galena, Alaska, and the engineering firms of Burns and Roe, and KBR. SPRA's mission is to promote the development and deployment of new reactor technologies, specifically small nuclear power reactors. In 2006, two other municipalities in Alaska, Billingham, also an electric cooperative, and Nome, joined the SPRA.

Potential Application for Licensing

The small power reactor envisioned for Galena is the new sodium-cooled Toshiba 4S design ("Super Safe, Small, and Simple," as referred to by the designer). In December 2005, Dr. Norihiko Handa, Toshiba Corporation, informed staff (ML0601306420) of Toshiba Corporation's plans to finalize a preliminary safety information document in spring 2006 and to begin the pre-application process soon after. Staff provided Dr. Handa a brief overview on how to request a pre-application review and the review process. Subsequent to the pre-application review, Toshiba intends to submit an application for design certification. To date, Toshiba has not requested a pre-application review.

Path Forward

Staff plans to provide a status report on the items included in the TCT's Scope of Work and related matters as discussed in this paper to the Commission in November 2006.

RESOURCES:

Staff estimates that approximately 0.4 FTE (0.12 FTE for STP, and 0.05 FTE for NRR, OGC, RES, NMSS, and Region IV) for FY 2006 and FY 2007 is required to continue to engage in consultation with the appropriate Native American Tribal Governments who may be affected by the potential application for licensing of a nuclear reactor to be sited in Galena, Alaska. The staff has sufficient FY 2006 and FY 2007 resources for these activities.

COORDINATION:

The Office of the General Counsel has reviewed this paper and has no legal objection. The Office of the Chief Financial Officer has reviewed this paper for resource implications and has no objections. This paper has also been coordinated with the Office of International Programs, which has no objections.

/RA/

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cc: SECY
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The Commissioners

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