

**Appendix A.**  
**Agency and Tribal Consultation**



***AGENCY CONSULTATION***



| ***Agency Consultation Letters and Responses***



**SWCA**  
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Austin Office  
4407 Monterey Oaks Boulevard,  
Bldg. 1, Suite 110  
Austin, TX 78749  
Tel 512.476.0891 Fax 512.476.0893  
www.swca.com

RECEIVED

SEP 10 2010

History Programs Division

September 3, 2010

Mr. Bill Martin  
Texas Historical Commission  
1511 Colorado  
Austin, Texas 78701

**RE: A CULTURAL RESOURCES SURVEY OF PORTIONS OF THE TEXAS  
CLEAN ENERGY PROJECT, CRANE, ECTOR, AND MIDLAND COUNTIES**

Mr. Martin:

The U.S. Department of Energy (DOE) is preparing an Environmental Impact Statement (EIS) for the proposed Texas Clean Energy Project (TCEP) located in Crane, Ector, and Midland Counties. SWCA, on behalf of the DOE, conducted an archaeological survey, historic structure viewshed analysis, and a limited reconnaissance survey within portions of the TCEP project area. As none of the project is located on public lands, an Antiquities Permit was not required for the survey efforts. However, the DOE would like documented consultation with your office regarding the results presented in the enclosed draft report as, well as any recommendations for further work. The draft cultural report will be included in the appendices of the draft EIS statement. Any recommendations for further work, and subsequent results of additional survey efforts will be incorporated into the final EIS statement. Your prompt attention and comments are appreciated.

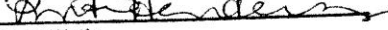
Please feel free to contact me by telephone or through email at [apeyton@swca.com](mailto:apeyton@swca.com).

Sincerely,



Abigail Peyton, MA, RPA  
SWCA Project Archaeologist  
512-476-0891

NO HISTORIC  
PROPERTIES AFFECTED  
PROJECT MAY PROCEED

by   
for Mark Wolfe  
State Historic Preservation Officer  
Date 14 October 2010







**NATIONAL ENERGY TECHNOLOGY LABORATORY**  
Albany, OR • Morgantown, WV • Pittsburgh, PA



21450-2010-I-0354

FS	
AFS	
ALL	
Pat	
Revised	22 Sept 2010
Revised	No Action
QAS	OK
FILED	
NO.	Sept
DATE	2010

September 16, 2010

Mr. Adam Zerrenner, Field Supervisor  
Austin Ecological Services Field Office  
U.S. Fish and Wildlife Service  
10711 Burnet Road, Suite 200  
Austin, Texas 78758-4460

<b>NO ACTION</b>	
Date:	9/27/10
Consultation #:	21450-2010-I-0354
Approved by:	[Signature]
Adam Zerrenner, Field Supervisor U.S. FISH & WILDLIFE SERVICE, AUSTIN, TEXAS	

Re: Request for Informal Consultation via Section 7 and supporting an Environmental Impact Statement for the Texas Clean Energy Project, Ector County, Texas

Dear Mr. Zerrenner:

The U.S. Department of Energy (DOE) is preparing an Environmental Impact Statement (EIS) for the proposed Texas Clean Energy Project (project) in Ector, Midland, and Crane counties, Texas. The project was selected as eligible to receive \$350 million in funding through a competitive process under the Clean Coal Power Initiative program. Because this federal funding is a major federal action as defined by NEPA, approval of funding is subject to NEPA analysis and disclosure through the EIS process. The Notice of Intent to prepare the EIS was published in the Federal Register (Vol. 75, No. 105/Wednesday June 2, 2010) and is enclosed for your review.

Summit Texas Clean Energy, LLC proposes to construct and operate a coal-fueled electric power and chemicals production plant integrated with carbon dioxide (CO<sub>2</sub>) capture and geologic sequestration located approximately 15 miles southwest of the City of Odessa in Penwell, Ector County, Texas. The linear facilities for the project include potential process water lines, transmission lines, natural gas pipelines, access roads, and a CO<sub>2</sub> pipeline that spans Ector, Midland, and Crane counties.

At this time we are requesting informal concurrence with the enclosed Federally-Listed Species Habitat Evaluation, including its determinations of *not likely to adversely affect* the following species and/or their critical habitat: bald eagle, black-capped vireo, and sand dune lizard. If your agency concurs with our evaluation, please complete the signature block provided below and return this letter to our office via fax at (304) 285-4403 or email at [Summit.EIS@NETL.DOE.GOV](mailto:Summit.EIS@NETL.DOE.GOV). DOE would appreciate your response by October 15, 2010. If you have any questions, please do not hesitate to call at (304) 285-4426.

Sincerely,

[Signature: Mark L. McKoy]

Mark L. McKoy  
Environmental Manager  
U.S. DOE

Enclosed:  
Notice of Intent  
Federally Listed Species Habitat Evaluation

3610 Collins Ferry Road, P.O. Box 880, Morgantown, WV 26507

31.798375 - 102.295499



RESPONSE REQUESTED:

- Yes, USFWS concurs with DOE's findings and does not wish to receive further information.
- No, USFWS does not concur with DOE findings and requests proceeding with the section 7 consultation process.

Signature: \_\_\_\_\_

Name (Please Print): \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**Note:** Based on prior experience with the USFWS Austin Ecological Services Field Office, the No Action response indicates USFWS has no conflict with the submitted report, which details DOE's findings that no adverse effects to federally listed species or their habitat are likely to occur as a result of the TCEP.

| **Agency Coordination Request Letter and Comments**

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*In response to public comments on the draft EIS, U.S. Department of Energy (DOE) has included the scoping invitation letter that was submitted in August 2010 to the federal and state agencies identified in Table A-1. An example of the submitted consultation letter, response request form, and map enclosure follow Table A-1. In addition to the formal agency consultation responses provided above (U.S. Fish and Wildlife Service and Texas Historical Commission), the remaining scoping comments from these agencies are provided below in the order in which they were received.*

**Table A-1. Federal and State Agency Contacts Provided Consultation Request for the TCEP Scoping Process**

<b>Agency</b>	<b>Contact</b>
<b>Federal</b>	
<i>U.S. Army Corps of Engineers, Fort Worth District</i>	<i>Mr. Stephen L. Brooks Regulatory Chief U.S. Army Corps of Engineers, Fort Worth District P.O. Box 17300 Fort Worth, Texas 76102</i>
<i>U.S. Environmental Protection Agency, Region 6, Regional Environmental Review Coordinator, Office of Planning and Coordination</i>	<i>Mr. Michael P. Jansky Regional Environmental Review Coordinator U.S. Environmental Protection Agency Office of Planning and Coordination 1445 Ross Avenue, MC-6EN-XP Dallas, Texas 75202-2733</i>
<i>U.S. Department of the Interior, Regional Environmental Office</i>	<i>Dr. Stephen R. Spencer Regional Environmental Officer U.S. Department of the Interior Office of Environmental Policy and Compliance 1001 Indian School Road, NW, Suite 348 Albuquerque, New Mexico 87104-2303</i>
<i>U.S. Fish and Wildlife Service, Austin Ecological Services Field Office</i>	<i>Mr. Adam Zerrenner Field Supervisor U.S. Fish and Wildlife Service Ecological Services Field Office 10711 Burnet Road, Suite 200 Austin, Texas 78758</i>
<i>U.S. Department of Transportation, Federal Highway Administration</i>	<i>Ms. Camille Mittelholtz Environmental Team Leader U.S. Department of Transportation Office of Transportation Policy (P-32) 1200 New Jersey Avenue, SE Washington, DC 20590-0001</i>
<b>State</b>	
<i>Railroad Commission of Texas</i>	<i>Commissioner Victor G. Carrillo Railroad Commission of Texas 1701 N. Congress Avenue Austin, Texas 78701</i>
<i>Texas Bureau of Economic Geology</i>	<i>Dr. Ian Duncan Program Director Texas Bureau of Economic Geology 10100 Burnet Road Austin, Texas 78758</i>

**Table A-1. Federal and State Agency Contacts Provided Consultation Request for the TCEP Scoping Process**

<b>Agency</b>	<b>Contact</b>
<b>Texas Commission on Environmental Quality, Region 7, Midland</b>	<b>Mr. Jeff Bertl Director, Region 7-Midland Texas Commission on Environmental Quality 3300 N. A Street, Building 4-107 Midland, Texas 78705-5406</b>
<b>Texas Department of Transportation, Office of Planning and Development</b>	<b>Mr. Mike C. McAnally District Engineer Texas Department of Transportation, Odessa District 3901 E U.S. Highway 80 Odessa, Texas 78761</b>
<b>Texas Parks and Wildlife Department, Wildlife Habitat Assessment Program</b>	<b>Julie C. Wicker Wildlife Habitat Assessment Program Wildlife Division Texas Parks and Wildlife Department 4200 Smith School Road Austin, Texas 78744</b>
<b>Texas State Historical Preservation Office, Texas Historical Commission</b>	<b>Mr. Mark Wolfe Executive Director/Historic Preservation Officer Texas Historical Commission P.O. Box 12276 Austin, Texas 78711</b>



**NATIONAL ENERGY TECHNOLOGY LABORATORY**  
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August 19, 2010

Name  
Title  
Organization  
Address  
City, State Zip

Dear Name:

The U. S. Department of Energy (DOE) is preparing an Environmental Impact Statement (EIS) for the proposed action of providing Federal funding for the proposed Texas Clean Energy Project (TCEP). The project would involve planning, design, construction, and operation, by Summit Texas Clean Energy, LLC, of a coal-fueled electric power and chemicals production plant integrated with carbon dioxide (CO<sub>2</sub>) capture and geologic sequestration. The TCEP will consist of a 600-acre power plant facility and approximately 85 miles of associated linear utility features located in Crane, Ector, and Midland Counties, Texas.

The DOE would like to solicit your input on the project to determine if your tribe has any concerns or issues about the project. In particular, we are interested in learning whether or not this project has the potential to impact any significant archaeological, religious, or cultural sites. DOE is requesting that you (or your designated representative) submit to my office any concerns or issues you may have or notify my office if you are aware of any significant archaeological, religious, or cultural sites within the areas of potential impact.

To assist in your review, the enclosed maps illustrate the potential areas where construction impacts may occur. Impacts to archaeological resources (if present) could occur as a result of site development and other land-disturbing activities from the project. Please also take into account any traditional properties in the vicinity that may be visually impacted by the proposed project.

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3610 Collins Ferry Road, P.O. Box 880, Morgantown, WV 26507



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Please contact me via telephone (800-432-8330, ext. 4426), fax (304-285-4403) or email ([Summit.EIS@netl.doe.gov](mailto:Summit.EIS@netl.doe.gov)) with any concerns. Thank you for your participation in this important project.

In addition, please sign the signature line below and return a signed copy to my attention if you (or your representative) want to continue to receive information about the project or if you wish to provide review comments on the Section 106 or NEPA documents.

Sincerely,

A handwritten signature in black ink that reads "Mark L. McKoy".

Mark L. McKoy  
Environmental Manager

Enclosure:  
Project location map





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RESPONSE REQUESTED:

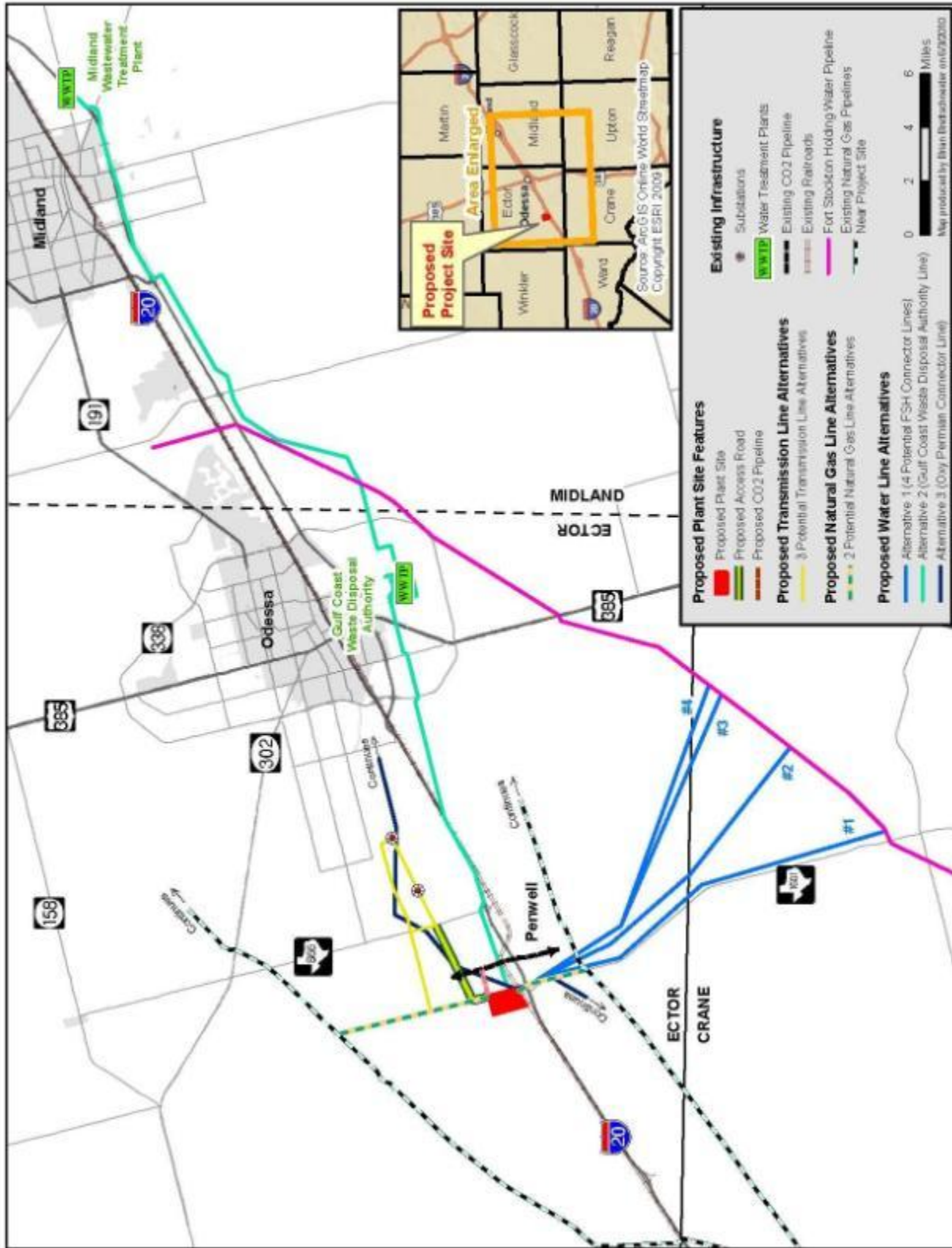
Yes, we wish to continue to receive information and participate in the consultation process.

No, we do not wish to continue to receive information or participate in the consultation process.

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_





*G-1A*  
**Texas Department of Transportation**

3901 EAST HIGHWAY 80 • ODESSA, TEXAS 79761-0501 • (432) 332-0501

June 28, 2010

Mr. Mark L. McKoy  
Environmental Manager  
National Energy Technology Laboratory  
3610 Collins Ferry Road  
P.O. Box 8800  
Morgantown, WV 26507

**Extension of FM 1601 to Summit Texas Clean Energy, LLC**

Dear Mr. McKoy,

The letter is in response to your Public Involvement announcement for the June 17, 2010 Public Meeting regarding the development of the project being proposed by Summit Texas Clean Energy, LLC north of the Community of Penwell, in Ector County, TX.

While the Odessa District of the Texas Department of Transportation supports the development of the project, at this time the District does not possess the needed funding to develop a project which would extend FM 1601 north from its present terminus over/under the UP Rail Line to the new facility. We will continue to assist Summit Texas Clean Energy, LLC in developing basic cost estimates of such a project.

Should you have questions, concerns or comments, please do not hesitate to contact me at (432) 498-4712.

Sincerely

Gary J. Law, P.E.  
Director of Transportation  
Planning & Development

|



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 6  
1445 ROSS AVENUE, SUITE 1200  
DALLAS, TX 75202-2733

July 1, 2010

Mr. Mark L. McKoy  
US Department of Energy  
National Energy Technology Laboratory  
3610 Collins Ferry Road  
P. O. Box 880  
Morgantown, WV 26507-0880

Dear Mr. McKoy:

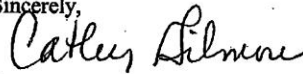
The Environmental Protection Agency (EPA) Region 6 has received your correspondence including the Federal Register Notice of Intent (NOI) to prepare an Environmental Impact Statement, dated June 2, 2010, regarding the proposed Texas Clean Energy Project near Odessa, Texas. In accordance with the National Environmental Policy Act and the Clean Air Act Section 309, our agency is providing the following comments to assist you in the preparation of your EIS:

- EPA agrees with the Department of Energy that the appropriate level of analysis is the preparation of an Environmental Impact Statement.
- Designated Critical Habitat exists less than 1 mile from the existing Fort Stockton Holding Water Pipeline for the Pecos Assimineia snail, Leon Springs Pupfish, and Pecos Sunflower. These data are publicly available from <http://criticalhabitat.fws.gov/>
- There may be rare, threatened, or endangered species near the proposed project or the existing infrastructure. You should contact your state wildlife agency or US Fish and Wildlife Service for more specific information.
- There are regulated facilities within 1000 meters of the proposed project and existing infrastructure. The existence of these facilities may affect which water line, transmission line, or proposed natural gas line alternatives are selected for construction.
- There may be hospitals or schools near the proposed project.
- Socioeconomic information should be evaluated for potential environmental justice impacts and used when communicating with local communities.
- There may be older homes near the proposed project in which lead-based paint issues may need to be addressed if they will be impacted by construction of the project.
- Direct impacts on ecological communities and land, air quality, and water quality should be analyzed. Indirect and cumulative impacts to the affected environment should be fully analyzed, including the potential impacts of oil and gas operations near the proposed project.

- Consider the recently-released draft NEPA guidance documents from the Council on Environmental Quality regarding 1) Mitigation and Monitoring, and 2) Consideration of the Effects of Climate Change and Greenhouse Gas Emissions.
- Indirect and cumulative impacts analysis should take into account the proposed plant features as well as existing infrastructure that the proposed plant may use.

Thank you for your coordination and don't hesitate to contact Dr. Sharon L. Osowski, of my staff, at 214-665-7506 or [osowski.sharon@epa.gov](mailto:osowski.sharon@epa.gov) should you have any questions regarding this letter.

Sincerely,



Cathy Gilmore, Chief  
Office of Planning and Coordination  
Compliance Assurance and Enforcement Division



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Chairman  
San Antonio

T. Dan Friedkin  
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Antonio Falcon, M.D.  
Rio Grande City

Karen J. Hixon  
San Antonio

Dan Allen Hughes, Jr.  
Beeville

Margaret Marlin  
Boerne

S. Reed Morlan  
Houston

Lee M. Bass  
Chairman-Emeritus  
Fort Worth

Carter P. Smith  
Executive Director

July 30, 2010

G-29

Mr. Mark L. McKoy  
U.S. Department of Energy  
National Energy Technology Laboratory  
P.O. Box 880  
Morgantown, WV 26507-0880

RE: Notice of Intent to Prepare an Environmental Impact Statement for the Texas Clean Energy Project (75 Federal Register 105 [2 June, 2010] pages 30800-30804); Ector, Crane, and Midland Counties, Texas

Dear Mr. McKoy:

Texas Parks and Wildlife Department (TPWD) has received the notice that the U.S. Department of Energy (DOE) intends to prepare an Environmental Impact Statement (EIS) for the proposed action of providing up to \$350 million in federal funding for the proposed Texas Clean Energy Project (TCEP). The DOE is currently accepting scoping comments. The following comments and recommendations are provided to assist in the preparation of that EIS.

Please be aware that a written response to a TPWD recommendation or informational comment received by a state governmental agency on or after September 1, 2009 may be required by state law. For further guidance, see the Texas Parks and Wildlife Code, Section 12.0011 which can be found online at <http://www.statutes.legis.state.tx.us/Docs/PW/htm/PW.12.htm#12.0011>. For tracking purposes, please refer to TPWD project number 15119 in any return correspondence regarding this project.

Project Description

The proposed project would involve the planning, design, construction, and operation of a new coal-fueled electric power and chemicals production plant integrated with carbon dioxide (CO<sub>2</sub>) capture and geologic sequestration by Summit Texas Clean Energy, LLC (Summit). During the three-year DOE demonstration phase, the project would permanently sequester approximately 90 percent of the carbon in the portion of its coal fuel supply used for power production. The CO<sub>2</sub> would be used in nearby Permian Basin oil fields for enhanced oil recovery. Following the demonstration phase, the project would continue commercial operations with continuing sales of power, chemical

4200 SMITH SCHOOL ROAD  
AUSTIN, TEXAS 78744-3291  
512.389.4800  
[www.tpwd.state.tx.us](http://www.tpwd.state.tx.us)

To manage and conserve the natural and cultural resources of Texas and to provide hunting, fishing and outdoor recreation opportunities for the use and enjoyment of present and future generations.

Mr. Mark L. McKoy  
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products, and captured CO<sub>2</sub> for 30 to 50 years. At full capacity, the plant would be expected to use about 1.9 to 2.0 million tons of coal per year.

The plant would require the construction of a railroad loop, coal unloading facilities, ash/slag handling facilities, access roads, administration buildings, water and wastewater treatment facilities, and a wastewater disposal well. An underpass may be constructed beneath the adjoining railroad. Linear facilities associated with the plant would include the electric transmission lines and pipelines that convey electricity and materials to and from the plant. An electrical substation would be constructed to facilitate the connection to the grid. The plant may deliver its CO<sub>2</sub> to the existing Central Basin CO<sub>2</sub> pipeline located less than two miles east of the proposed plant site. Alternatively, new pipelines could be constructed to either existing oil fields or to other existing pipelines.

**Recommendation:** TPWD recommends the EIS include a comprehensive description of the need for and potential impacts from the above-described infrastructure. The description should include potential impacts that would occur as a result of construction of the plant site as well as the associated transportation structures, pipelines, transmission lines, and other infrastructure.

TPWD recommends the EIS also address the long-term purpose of this project as well as the potential long-term impacts of the plant, after carbon sequestration activities cease (i.e., after the three-year demonstration phase).

It appears the carbon sequestration activities may or may not continue after the three-year demonstration phase. TPWD recommends the purpose and need section of the EIS for the project justify why carbon sequestration should not continue through the life of the project.

TPWD recommends the EIS include a thorough evaluation of expected long-term CO<sub>2</sub> emissions that would result from the operation of this plant, both with and without the offset of carbon sequestration.

#### Water Resources

According to the notice, the footprint of the proposed plant would not affect any wetlands or floodplains. Wetland and floodplain impacts, if any, from construction of pipelines and transmission lines would be identified and



Mr. Mark L. McKoy  
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described in the EIS. Process water would be obtained from local wastewater treatment facilities or from a recharging aquifer in the region. The water would be conveyed by one or more new pipelines over distances ranging between about 10 miles and 54 miles.

#### Ground Water

As stated above, process water may be obtained from a recharging aquifer in the region. As shown on the attached map, the plant and associated linear infrastructure could be located on the Pecos Valley, Ogallala, and Edwards-Trinity aquifers. Aquifers boundaries outlined on that map were digitized by the Texas Water Development Board.

**Recommendation:** TPWD recommends that the EIS include a thorough evaluation and accounting of water needs for the project, potential sources of reuse water, groundwater resources in the area, and groundwater availability.

#### Surface Water

As outlined in the attached map, Midland Draw, Monahans Draw, Johnson Draw, Landreth Draw, and several playa lakes may be located within the area impacted by the plant and associated linear infrastructure. Playa lakes shown on the attached map are based on data from the Texas Tech University (TTU) Playa Lakes Digital Database. Additional information regarding features displayed on that map can be obtained at <http://www.rw.ttu.edu/gstlab/playas.pdf>.

Playa lakes support a diversity of wildlife and waterfowl species, including large numbers of waterfowl and predator species. Although the regulation of isolated waters of the United States has been removed from the U.S. Army Corps of Engineers permitting process, isolated water resources such as playa lakes provide valuable habitat for wildlife, help protect water quality, and recharge groundwater. Playa lakes are important ecological elements as they provide habitat for thousands of migratory ducks and geese as well as vital stopover habitat for many avian species during migration. Other wildlife depend on the water and surrounding habitat the playas provide. These significant habitats are rapidly disappearing from the landscape.

**Recommendation:** TPWD recommends avoiding adverse impacts to the playa lakes in the project area. Unavoidable impacts to these sensitive areas should be mitigated by compensating for the loss of wetland habitat.

Mr. Mark L. McKoy  
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All water resources and associated floodplains, riparian corridors, and wetlands in the study area provide valuable wildlife habitat and should be protected to the maximum extent possible during project planning and construction. Disturbance to state-owned streambeds and removal of streambed materials may require a permit from TPWD under Chapter 86 of the Parks and Wildlife Code. Application forms and additional information can be obtained by contacting Tom Heger at the letterhead address or by phone at (512) 389-4583.

#### Rare and Protected Species

Based on a review of records in the Texas Natural Diversity Database (TXNDD) and available aerial photography, the following species, special features, and natural communities could potentially be impacted by project activities:

#### **Federal Candidate for Listing**

Sand dune lizard (*Sceloporus arenicolus*)

#### **State Listed Threatened**

Texas horned lizard (*Phrynosoma cornutum*)

#### **Species of Concern**

Ferruginous Hawk (*Buteo regalis*)

Western Burrowing Owl (*Athene cunicularia hypugaea*)

Black-tailed prairie dog (*Cynomys ludovicianus*)

Dune umbrella sedge (*Cyperus onerosus*)

Neglected sunflower (*Helianthus neglectus*)

#### **Special Features**

Prairie dog towns

#### **Natural Communities**

Havard Shin Oak (*Quercus havardii*) – Tallgrass Series

The attached map shows geographic representations of TXNDD records that account for the locational uncertainty associated with the data. The map is labeled using the Element Occurrence ID (EOID) number which is a unique identifier and corresponds to the EOID field on the Element Occurrence Record printouts attached to the map.

Mr. Mark L. McKoy  
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**Recommendation:** TPWD recommends the DOE survey for the Sand dune lizard in suitable habitat within the project area and avoid impacts to this species if found. Because the Sand dune lizard may burrow into the soil as a defense behavior when disturbed and during hibernation, direct impacts to individuals may occur during clearing and facility construction. Therefore, disturbance of sand shin-oak habitat should be avoided during project siting.

Vegetation consisting of grass, cactus, and scattered brush possibly found in the project area could potentially support the state-listed threatened Texas horned lizard (*Phrynosoma cornutum*). An additional indication of suitable habitat for this species would be the presence of its primary food source, the Harvester ant (*Pogonomyrmex* sp.). The Texas horned lizard is active during summer and early fall and hibernates in burrows approximately 3 to 6 inches deep from September or October until April or May. Additional information about the Texas horned lizard is attached for your reference.

**Recommendation:** TPWD recommends avoiding disturbance of the Texas horned lizard, its burrows, and colonies of the Harvester ant during clearing and construction. Please note that state-listed species such as the Texas horned lizard may only be handled by persons with a scientific collection permit obtained through TPWD. For more information on this permit, please contact the Wildlife Permits Office at (512) 389-4647.

Based on a review of aerial photography and limited ground surveys, prairie dog towns may be located in or adjacent to the project area. The Black-tailed prairie dog is a keystone species, which provides food and/or shelter for rare species tracked by TPWD such as the Ferruginous Hawk and the Western Burrowing Owl, as well as many other wildlife species.

**Recommendation:** TPWD recommends that the proposed project area be surveyed for prairie dog towns and the species that depend on them. Impacts to these species should be avoided during project planning and construction, and potential impacts should be addressed in the EIS. TPWD recommends the DOE survey the project area for the above-listed rare plants and avoid impacts to these species and their habitat during project siting and construction.

Please note that the absence of TXNDD information in an area does not imply that a species is absent from that area. This information cannot be substituted for on-the-ground surveys. Given the small proportion of public versus private land in Texas, the TXNDD does not include a representative inventory of rare resources in the state. Although it is based on the best data available to

Mr. Mark L. McKoy  
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July 30, 2010

TPWD regarding rare species, the data from the TXNDD do not provide a definitive statement as to the presence, absence or condition of special species, natural communities, or other significant features within your project area. These data are not inclusive and **cannot be used as presence/absence data**. They represent species that could potentially be in your project area. This information cannot be substituted for on-the-ground surveys. The TXNDD is updated continuously. As the project progresses and for future projects, please request the most current and accurate information at [txnidd@tpwd.state.tx.us](mailto:txnidd@tpwd.state.tx.us) or contact Dorinda Scott at (512) 389-8723.

**Recommendation:** Please review the attached TPWD Crane, Ector, and Midland county lists, as rare species in addition to those discussed above could be present depending upon habitat availability. These lists are now available online at [http://www.tpwd.state.tx.us/landwater/land/maps/gis/ris/endangered\\_species.phtml](http://www.tpwd.state.tx.us/landwater/land/maps/gis/ris/endangered_species.phtml). If during construction, the project area is found to contain rare species, natural plant communities, or special features, TPWD recommends that precautions be taken to avoid impacts to them. The U.S. Fish and Wildlife Service (USFWS) should be contacted for species occurrence data, guidance, permitting, survey protocols, and mitigation for federally-listed species. For the USFWS rare species lists by county, please visit <http://www.fws.gov/southwest/es/EndangeredSpecies/lists/>.

Determining the actual presence of a species in a given area depends on many variables including daily and seasonal activity cycles, environmental activity cues, preferred habitat, transiency and population density (both wildlife and human). The absence of a species can be demonstrated only with great difficulty and then only with repeated negative observations, taking into account all the variable factors contributing to the lack of detectable presence. If encountered during construction, measures should be taken to avoid impacting wildlife.

#### Managed Areas

As outlined on the attached map, Monahans Sandhills State Park is located approximately 14 miles west of the proposed plant site. Additional information about this park is attached for your reference.

**Recommendation:** TPWD recommends DOE include a thorough evaluation of potential impacts to Monahans Sandhills State Park during the demonstration period and throughout the life of the plant. TPWD

Mr. Mark L. McKoy  
Page Seven  
July 30, 2010

recommends evaluated impacts include potential impacts to natural resources as well as any factors that may affect visitation to the park such as noise, lighting, and visual intrusion.

I appreciate the opportunity to provide scoping comments on this project and look forward to reviewing the EIS. Please contact me at (512) 389-4579 or [julie.wicker@tpwd.state.tx.us](mailto:julie.wicker@tpwd.state.tx.us) if you have any questions.

Sincerely,



Julie C. Wicker  
Wildlife Habitat Assessment Program  
Wildlife Division

JCW:gg.15119

Attachments (4)



**TRIBAL CONSULTATION**





**Tribal Consultation Request Letter**



A tribal consultation request letter was submitted in August 2010 by the U.S. Department of Energy (DOE) to each of the individually addressed original contacts for the tribes listed in Table A-2. An example of the submitted consultation letter, response request form, and map enclosure are provided following Table A-2. During subsequent consultation attempts with the tribes, several of the tribal contacts were determined to have changed, and current contacts are identified in Table A-2. Additional and more detailed tribal consultation records, including activity logs and communication records, are included in the project administrative record.

**Table A-2.** Tribal Contacts for TCEP Tribal Consultation

Original Contact	Current Contact	Alternate Current Contact
Mr. Nathan Tselee NAGPRA Coordinator Apache Tribe of Oklahoma P.O. Box 1220 Anadarko, OK 73005 Phone: 405-247-9493 Fax: 405-247-3153	Mr. Louis Maynahonah, Sr. Tribal Chairman Apache Tribe of Oklahoma P.O. Box 1220 Anadarko, OK 73005 Email: apache_business_committee@yahoo.com Phone: 405-247-9493 Fax: 405-247-3153	
Mr. Wallace Coffey Comanche Nation P.O. Box 908 Lawton, OK 73502 Phone: 580-492-4988 Fax: 580-492-3796	Mr. Jimmy Arterberry Tribal Historic Preservation Officer Comanche Nation P.O. Box 908 Lawton, OK 73502 Email: jimmya@cne-mail.com Phone: (580) 595-9960 or (580) 595-9618 Fax: 580-595-9733	
Mr. Jeff Houser Fort Sill Apache Tribe of Oklahoma Route 2, Box 121 Apache, OK 73006 Phone: 580-588-2298 Fax: 580-588-3133	Mr. Jeff Houser Fort Sill Apache Tribe of Oklahoma Route 2, Box 121 Apache, OK 73006 Phone: 580-588-2298 Fax: 580-588-3133	
Mr. Billy E. Horse Kiowa Tribe of Oklahoma P.O. Box 369 Carnegie, OK 73015 Phone: 580-654-2300 Fax: 580-654-2188	Mrs. Jame Eskew Tribal Representative Kiowa Tribe of Oklahoma P.O. Box 369 Carnegie, OK 73015 Email: mrsekew@yahoo.com Phone: 580-654-2300 Fax: 580-654-2188	Mr. Ronald Daws-TwoHatchet Chairperson Kiowa Tribe of Oklahoma P.O. Box 369 Carnegie, OK 73015 Phone: 580-654-2300 Fax: 580-654-2188
Mr. Tom Castillo Lipan Apache Tribe P.O. Box 8888 Corpus Christi, TX 78468 Phone: 361-215-5121	Mr. Tom Castillo Homeland Administrator Lipan Apache Tribe P.O. Box 8888 Corpus Christi, TX 78468 Email: homeland@lipanapache.org Phone: 361-215-5121	

<b>Original Contact</b>	<b>Current Contact</b>	<b>Alternate Current Contact</b>
<p>Mr. Mark R. Chino President Mescalero Apache Tribal Government 108 Old Mescalero Blvd. Mescalero, NM 88340 Phone: 575-464-4494</p>	<p>Mr. Mark R. Chino President Mescalero Apache Tribal Government 108 Old Mescalero Blvd. Mescalero, NM 88340 Phone: 575-464-4494 and The Mescalero Apache Reservation of New Mexico P.O. Box 176 Mescalero, NM 88340 Phone: 505-455-4494</p>	<p>Mescalero Apache Tribal Government Tribe Administration 101 Central Mescalero Ave. Mescalero, NM 88340 Phone: 575-671-4494 Fax: 505-671-9191</p>
<p>Mr. Gary McAdams President Wichita and Affiliated Tribes Anadarko, OK 73005 Phone: 405-247-2425 Fax: 405-247-2430</p>	<p>Mr. Stratford Williams President Wichita and Affiliated Tribes P.O. Box 729 Anadarko, OK 73005 Phone: 405-247-2425 Fax: 405-247-2430</p>	
<p>Mr. Frank Paiz Governor Ysleta del Sur Pueblo Tribe P.O. Box 17579-Ysleta Station El Paso, TX 79917 Phone: 915-859-8053 Fax: 915-859-4252</p>	<p>Mr. Javier Loera War Captain/Tribal Historic Preservation Officer Ysleta del Sur Pueblo Tribe P.O. Box 17579-Ysleta Station El Paso, TX 79917 Email: jloera@ydsp-nsn.gov Phone: 915-859-8053 Fax: 915-859-4252</p>	<p>Mr. Frank Paiz Governor Ysleta del Sur Pueblo Tribe P.O. Box 17579-Ysleta Station El Paso, TX 79917 Phone: 915-859-8053 Fax: 915-859-4252</p>



**NATIONAL ENERGY TECHNOLOGY LABORATORY**

Albany, OR • Morgantown, WV • Pittsburgh, PA



August 19, 2010

Name  
Title  
Organization  
Address  
City, State Zip

Dear Name:

The U. S. Department of Energy (DOE) is preparing an Environmental Impact Statement (EIS) for the proposed action of providing Federal funding for the proposed Texas Clean Energy Project (TCEP). The project would involve planning, design, construction, and operation, by Summit Texas Clean Energy, LLC, of a coal-fueled electric power and chemicals production plant integrated with carbon dioxide (CO<sub>2</sub>) capture and geologic sequestration. The TCEP will consist of a 600-acre power plant facility and approximately 85 miles of associated linear utility features located in Crane, Ector, and Midland Counties, Texas.

The DOE would like to solicit your input on the project to determine if your tribe has any concerns or issues about the project. In particular, we are interested in learning whether or not this project has the potential to impact any significant archaeological, religious, or cultural sites. DOE is requesting that you (or your designated representative) submit to my office any concerns or issues you may have or notify my office if you are aware of any significant archaeological, religious, or cultural sites within the areas of potential impact.

To assist in your review, the enclosed maps illustrate the potential areas where construction impacts may occur. Impacts to archaeological resources (if present) could occur as a result of site development and other land-disturbing activities from the project. Please also take into account any traditional properties in the vicinity that may be visually impacted by the proposed project.

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3610 Collins Ferry Road, P.O. Box 880, Morgantown, WV 26507



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Please contact me via telephone (800-432-8330, ext. 4426), fax (304-285-4403) or email ([Summit.EIS@netl.doe.gov](mailto:Summit.EIS@netl.doe.gov)) with any concerns. Thank you for your participation in this important project.

In addition, please sign the signature line below and return a signed copy to my attention if you (or your representative) want to continue to receive information about the project or if you wish to provide review comments on the Section 106 or NEPA documents.

Sincerely,

A handwritten signature in black ink that reads "Mark L. McKoy". The signature is written in a cursive, slightly slanted style.

Mark L. McKoy  
Environmental Manager

Enclosure:  
Project location map



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RESPONSE REQUESTED:

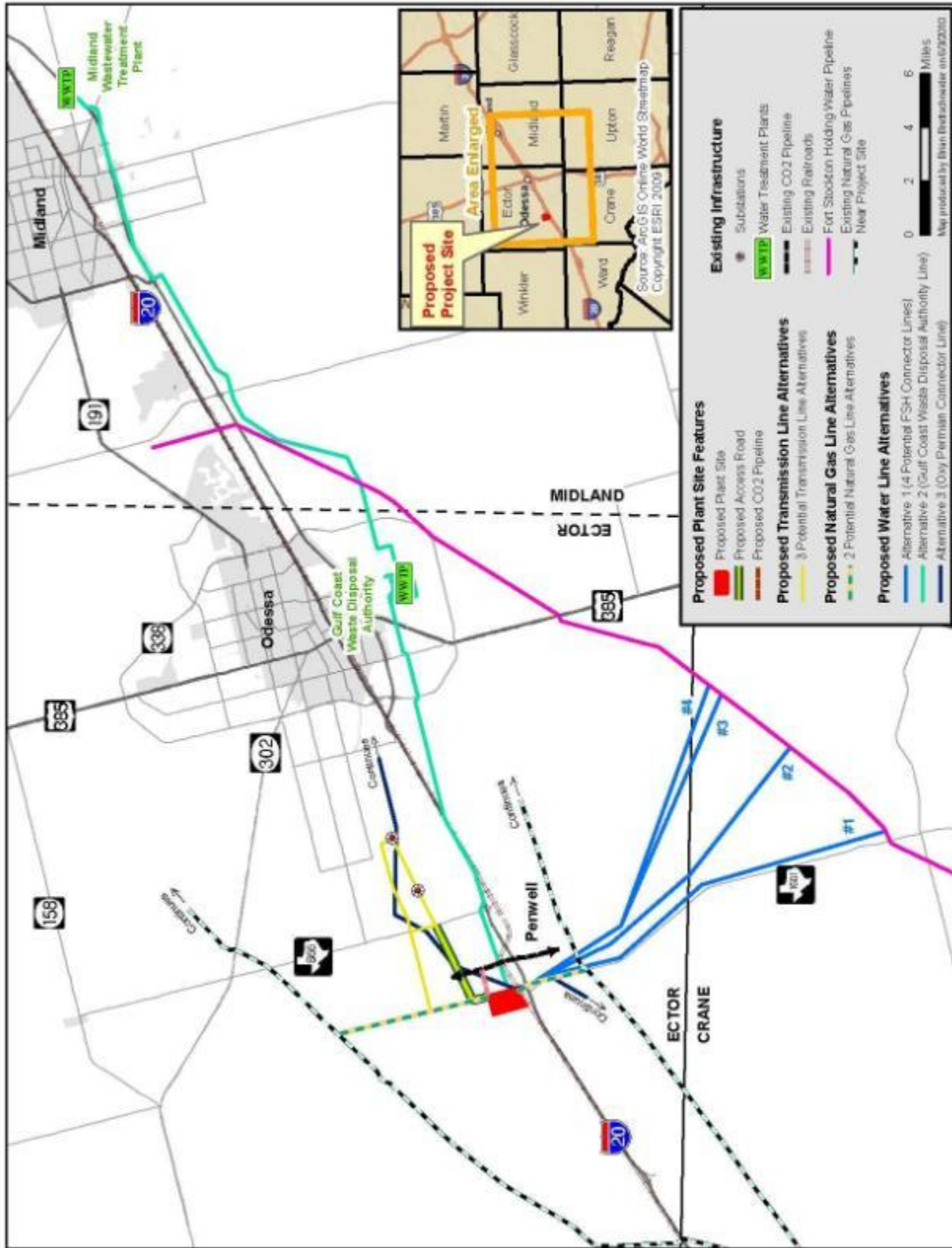
Yes, we wish to continue to receive information and participate in the consultation process.

No, we do not wish to continue to receive information or participate in the consultation process.

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_





## **Tribal Responses**





## Ysleta del Sur Pueblo

Tribal Council – Javier Loera – (War Captain/Tribal Historic and Preservation Officer)

117 South Old Pueblo Road \* P.O. Box 17579 \* El Paso, Texas 79917 \* (915) 859-8053 \* Fax: (915) 859-4252

August 31, 2010

Mr. Mark L. Mckoy  
Environmental Manager  
U.S. Department of Energy  
National Energy Technology Laboratory  
3610 Collins Ferry Road  
P.O. Box 880  
Morgantown, WV 26507

Dear Mr. Mckoy:

This letter is in response to the correspondence received in our office in which you provide the Ysleta del Sur Pueblo the opportunity to comment on the U.S. Department of Energy's (DOE) preparation of an Environmental Impact Statement (EIS) for the proposed action of providing Federal funding for the proposed Texas Clean Energy Project (TCEP) located in Crane, Hector, and Midland Counties, Texas.

While we do not have any comments on the proposed (EIS) and believe that this project will not adversely affect traditional, religious or culturally significant sites of our Pueblo and have no opposition to it; we would like consultation should any human remains or artifacts unearthed during this project be determined to fall under Native American Graves Protection and Repatriation Act (NAGPRA) guidelines. Copies of our Pueblo's Cultural Affiliation Position Paper and Consultation Policy are available upon request.

Thank you for allowing us the opportunity to comment on the proposed project.

Sincerely,

Javier Loera  
War Captain/Tribal Historic and Preservation Officer  
Ysleta del Sur Pueblo  
E-mail: [jloera@ydsp-nsn.gov](mailto:jloera@ydsp-nsn.gov)



August 20, 2010

Mr. Arturo Senclair  
Governor  
Ysleta del Sur Pueblo Tribe  
P.O. Box 17579-Ysleta Station  
El Paso, TX 79917

Dear Mr. Senclair:

The U. S. Department of Energy (DOE) is preparing an Environmental Impact Statement (EIS) for the proposed action of providing Federal funding for the proposed Texas Clean Energy Project (TCEP). The project would involve planning, design, construction, and operation, by Summit Texas Clean Energy, LLC, of a coal-fueled electric power and chemicals production plant integrated with carbon dioxide (CO<sub>2</sub>) capture and geologic sequestration. The TCEP will consist of a 600-acre power plant facility and approximately 85 miles of associated linear utility features located in Crane, Ector, and Midland Counties, Texas.

The DOE would like to solicit your input on the project to determine if your tribe has any concerns or issues about the project. In particular, we are interested in learning whether or not this project has the potential to impact any significant archaeological, religious, or cultural sites. DOE is requesting that you (or your designated representative) submit to my office any concerns or issues you may have or notify my office if you are aware of any significant archaeological, religious, or cultural sites within the areas of potential impact.

To assist in your review, the enclosed maps illustrate the potential areas where construction impacts may occur. Impacts to archaeological resources (if present) could occur as a result of site development and other land-disturbing activities from the project. Please also take into account any traditional properties in the vicinity that may be visually impacted by the proposed project.

**received**  
8-23-2010

original: gavier labra



RESPONSE REQUESTED:

Yes, we wish to continue to receive information and participate in the consultation process.

No, we do not wish to continue to receive information or participate in the consultation process. - *See Attached Letter*

By: *Javier Loera (JAVIER LOERA)*

Title: *THPO / WAR CAPTAIN of Tribe (NAGPRA Rep.)*

Date: *August 31, 2010*

