

January 31, 2012

Ms. Charlene Dwin Vaughn, AICP
Assistant Director
Federal Permitting, Licensing
and Assistance Section
Office of Federal Agency Programs
Advisory Council on Historic Preservation
1100 Pennsylvania Avenue, NW, Suite 803
Washington, DC 20004

SUBJECT: STATUS OF TRIBAL CONSULTATION FOR STRATA ENERGY, INC. ROSS
URANIUM *IN-SITU* RECOVERY PROJECT, OSHOTO, CROOK COUNTY,
WYOMING, DOCKET NO. 40-9091

Dear Ms. Vaughn:

The U.S. Nuclear Regulatory Commission (NRC) has received your letter dated December 12, 2011, forwarding concerns raised by the Standing Rock Tribal Historic Preservation Officer (THPO) and requesting the status of our consultation efforts with Native American Tribes (Tribes) for the Ross Uranium *In-Situ* Recovery (ISR) Project in Oshoto, Crook County, Wyoming (Ross Project). As indicated in our letters (Enclosure 1) to consulting parties, the NRC is conducting its National Historic Preservation Act Section 106 consultations in coordination with the National Environmental Policy Act (NEPA) in accordance with 36 CFR Part 800.8 in lieu of the procedures set forth in 36 CFR 800.3 through 800.6.

On January 4, 2011, Strata Energy, Inc. (Strata) submitted an application for a combined source and byproduct material license to construct and operate the proposed Ross Project. The NRC initiated the Section 106 process and identified 24 Tribes that have an affiliation with Devils Tower National Monument (DETO), which is located 11 miles due east of the proposed Ross site. On February 9, 2011, letters were sent to Tribal leaders with a formal invitation to be a Section 106 consulting party and a request for information relating to the identification of historic sites or cultural resources, including those that are of religious and cultural significance (Enclosure 1). While NRC received confirmation that Tribes had received the letters, no responses were received.

In April 2011, NRC staff began contacting each Tribe by telephone, discussed the proposed undertaking, and faxed copies of the February 9, 2011 letter to each THPO. During the telephone calls, Tribes were informed that a site walkover and consultation meeting would occur in mid-September. The Turtle Mountain Band of Chippewa and the Apache Tribe of Oklahoma, declined to participate in Section 106 consultation for the Ross Project. NRC staff continued attempting to contact Tribes into June 2011.

In August 2011, letters were sent to the THPOs (cc: to Tribal leaders) of the 22 remaining Tribes, informing them of a site walkover and consultation meeting scheduled for September 13 and 14, 2011 (Enclosure 2). The letters were also faxed, e-mailed, and followed up with a phone call. By mid-August, 10 of the 22 Tribes had indicated they would be attending on the September dates. NRC was notified by the Standing Rock Sioux Tribe that the September

dates conflicted with another consultation meeting scheduled for September 12 and 13, 2011. Many of the Sioux Tribes that had previously confirmed attendance requested that the NRC reschedule. Some of the proposals included: (1) moving the site walkover and consultation meeting to September 15 and 16, 2011; (2) moving it to the following week (September 20 and 21, 2011); and/or (3) moving it to October.

Since 10 tribes had committed to attend the September site walkover and consultation meeting, NRC decided to proceed with the September visit. Four of the 10 Tribes (Northern Arapaho, Northern Cheyenne, Fort Peck Assiniboine/Sioux, and Confederated Salish & Kootenai) participated in the site walkover, and three Tribes (Northern Arapaho, Northern Cheyenne, and Confederated Salish & Kootenai) attended the consultation meeting.

For Tribes that were unable to attend the September session, a second site walkover and consultation meeting was scheduled for October. NRC contacted the 18 tribes that did not participate in the first site visit (Enclosure 3). The dates for the second site walkover and consultation meeting were originally scheduled for October 26 and 27, 2011, but due to unavailability of NRC management, the date was moved to November 2 and 3, 2011. In early October, several of the Sioux Tribes (Standing Rock, Yankton, and Sisseton-Wahpeton) notified the NRC of another schedule conflict, and requested that the visit be postponed to the following week (November 8 and 9, 2011). Because of the NRC management schedule, the dates could not be moved. This was communicated to the Tribes, and by the end of October, 13 of the 18 Tribes indicated that they would attend on November 2 and 3, 2011, inclusive of all but three of the Sioux Tribes (Lower Brule, Oglala, and Spirit Lake).

With 13 Tribes confirmed to participate, including one non-DETO affiliated Tribe (Chippewa Cree), the NRC arranged the second walkover. Four Tribes (Fort Peck Assiniboine/Sioux, Santee Sioux Nation, Crow Creek Sioux, and Chippewa Cree) participated on the second site walkover, and three Tribes (Fort Peck Assiniboine/Sioux, Santee Sioux Nation, and Crow Creek Sioux) participated in the consultation meeting. Despite NRC staff's efforts to notify and confirm the attendance of each Tribe, most either did not participate, or the NRC did not receive notification that they would not be attending. Between the two site walkovers and consultation meetings, seven of the 22 DETO-affiliated Tribes participated in the site walkovers and six in the consultation meetings, even though the NRC provided two opportunities to participate and the staff received prior notification verifying attendance.

During both consultation meetings, the participating Tribes requested that a survey for properties of religious and cultural significance be conducted and agreed that a third site walkover and consultation meeting would not be necessary since that survey would be more detailed than a site walkover.

In response to the Tribes' request for a survey, the NRC sent a letter to Strata requesting information regarding the identification of properties within the proposed project area (Enclosure 4). In response, Strata is currently working on a plan, for a survey of properties with cultural and religious significance.

The survey could occur as early as spring of this year. A draft report of the results would follow, and would be distributed to all Tribes that expressed interest in consultation for review and comment. The report would then be finalized and summarized in the SEIS for the Ross ISR Project. NRC plans to issue the draft SEIS in December 2012. The final SEIS is scheduled to be issued in October 2013.

All of the consulting Tribes, whether or not they participated in the two site walkovers and consultation meetings, have received copies of the meeting transcripts. Copies of the *Class III Cultural Resource Inventory of Strata Energy's Proposed Ross ISR Uranium Project, Crook County, Wyoming* have also been forwarded to all of the consulting Tribes on the cc list.

The NRC attempts to coordinate consultation meetings with Tribes as far in advance as possible, and to select dates that will maximize Tribal participation. With 22 interested Tribes, it is challenging to find a date that is acceptable to all. Realizing this, we offered two opportunities for a site walkover and consultation. We did not reschedule these two consultations as requested by several Tribes, but felt that holding the meetings, as scheduled, would be beneficial. This was because 10 Tribes indicated that they would attend the September site walkover and consultation, and 13 Tribes indicated that they would attend the November site walkover and consultation. These site walkovers and consultations were conducted so Tribes could become familiar with the site and discuss with each other and the Federal agencies what the next steps (if any) should be. The NRC plans to conduct additional consultation meetings; November 3, 2011, was not the last opportunity for Tribes to consult on the Ross Project. In the future, the NRC plans to continue its practice of coordinating with Tribes and selecting dates that maximize Tribal participation and provide adequate lead time. We believe that we are conducting the Section 106 process for the Ross Project in an appropriate manner, and one that satisfies the requirements of the Advisory Council on Historic Preservation.

Should you have any questions concerning the Ross Project, please contact Ms. Johari Moore, the Project Manager for the Ross Project Environmental Review. She can be reached at 301-415-7694, or via email at johari.moore@nrc.gov. Mr. Alan Bjornsen is the Section 106 Tribal point of contact to support all the ongoing uranium recovery projects. He can be reached at 301-415-1195, or via e-mail at alan.bjornsen@nrc.gov.

Sincerely,

/RA/

Andrew Persinko, Deputy Director
Environmental Protection
and Performance Assessment Directorate
Division of Waste Management
and Environmental Protection
Office of Federal and State Materials
and Environmental Management Programs

Docket No.: 40-9091

Enclosures:

1. Invitation letter for Section 106 dated 02/09/11
2. Invitation letter for Site Walkover dated 08/11/11
3. Email Invitation dated 09/20/11 to 18 Tribes
4. M. James letter re: Survey of Properties

cc: See next page

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OFC	DWMEP	DWMEP	DWMEP	DWMEP	OGC	DWMEP	DWMEP
NAME	ABjornsen	JDavis	JMoore	AWalker-Smith	MBarkman-Marsh	KHsueh	APersinko
DATE	1/ 06 /12	1/17 /12	1/30/12	1/30/12	1/ 12 /12	1/30/12	1/31/12

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cc list:

R. Currit, WY SHPO
J. Eddins, ACHP
D. FireCloud, DETO NPS
R. Nation, BIA
J. Bashor, BLM
M. James, Strata
B. Schiffer, WWC
M. Butcher, PBC&SS
J. Murray, Blackfeet Tribe
L. Gray, Cheyenne and Arapaho Tribes of Oklahoma
S. Vance, Cheyenne River Lakota Tribe
A. Windy Boy, Chippewa Cree Tribe
F. Auld, Confederated Salish and Kootenai Tribes
W. Wells, Crow Creek Sioux Tribe
H. Two Leggings, Crow Tribe
J. Weston, Flandreau Santee Sioux Tribe
M. Belgarde, Fort Belknap Indian Community
D. Youpee, Fort Peck Assiniboine and Sioux Tribes
J. Eskew, Kiowa Tribe of Oklahoma
C. Green, Lower Brule Lakota Tribe
D. Conrad, Northern Arapaho Tribe
C. Fisher, Northern Cheyenne Tribe
W. Mesteth, Oglala Sioux Tribe
R. Eagle Bear, Rosebud Sioux Tribe
R. Thomas, Santee Sioux Nation
W. Ferris, Eastern Shoshone Tribe
D. Desrosiers, Sisseton-Wahpeton Oyate
M Alex, Spirit Lake Tribe
W. Young, Standing Rock Lakota Tribe
E. Crows Breast, Three Affiliated Tribes
L. Gravatt, Yankton Lakota Tribe

Enclosure 1:

**February 9, 2011 Letter Regarding Invitation for Formal Section 106
Consultation**

Enclosure 2:

**August 11, 2011 Letter Regarding Invitation for Site Walkover and
Consultation**

Enclosure 3:

**September 20, 2011 Email Inviting 18 Tribes That Did Not Participate
in the September 2011 Consultation**

Enclosure 4:

**December 6, 2011 Letter to Strata Requesting a Survey of Properties
with Cultural and Religious Significance**