

StrataRossLAPem Resource

From: Moore, Johari
Sent: Friday, January 17, 2014 6:05 PM
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Subject: Ross Project Draft Programmatic Agreement - FINAL DRAFT FOR COMMENT
Attachments: Ross Project Programmatic Agreement_FINAL DRAFT FOR COMMENT 1-17-14.docx; Ross Project PA Appendix A_FINAL DRAFT FOR COMMENT 1-17-14.docx; Ross Project PA Appendix B_FINAL DRAFT FOR COMMENT 1-17-14.docx
Importance: High

Good afternoon,

On 12/12/13, the NRC staff hosted a webinar to develop the Ross Project Programmatic Agreement (PA). During this webinar we discussed comments on the PA and the webinar participants agreed that the next steps for the development of the PA would be as follows:

- (1) The NRC staff would revise the PA to address the comments discussed during the 12/12/13 webinar.
- (2) The NRC staff would provide a Draft PA to the participants for formal comment.

Attached, please find the Draft PA for comment. **We request that you provide your organization's final comments on this Draft PA within 30 calendar days (Monday, February 17, 2014).**

The NRC staff will host another webinar on February 27, 2014 from 3:00 PM to 5:00 PM EST (1:00 PM to 3:00 PM MST) to review comments received and to finalize the PA. The NRC staff plans to send out a draft of the Final PA prior to this webinar and appreciates any feedback prior to that date. As requested, please provide your comments to the entire group.

For your information, the NRC has invited the following parties to participate in the webinars and the development of the PA:

BLM
WYSHPO
ACHP
Strata Energy, Inc.
Ross Project Consulting Tribes
Crook County Museum District
Alliance for Historic Wyoming
National Park Service (Devils Tower)

The following parties participated in the webinars on the dates shown:

Participant	10/24/13	10/31/13	11/7/13	11/14/13	11/21/13	12/12/13
NRC	X	X	X	X	X	X
BLM	X	X	X	X	X	X
WYSHPO	X	X	X	X	X	X
ACHP	X		X	X	X	X
Strata Energy, Inc.	X	X	X	X	X	X
Cheyenne and Arapaho Tribes of Oklahoma THPO			X	X	X	X
Chippewa Cree Tribe THPO			X			
Northern Cheyenne Tribe THPO			X			
Fort Peck Assiniboine and Sioux Tribes THPO			X			
Cheyenne River Sioux Tribe THPO						X
National Park Service (Devils Tower)				X		

Thank you,

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Subject: Ross Project Draft Programmatic Agreement - FINAL DRAFT FOR COMMENT
Sent Date: 1/17/2014 6:04:38 PM
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Options

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**PROGRAMMATIC AGREEMENT
AMONG
THE U.S. NUCLEAR REGULATORY COMMISSION,
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION,
THE WYOMING STATE HISTORIC PRESERVATION OFFICE,
THE BUREAU OF LAND MANAGEMENT–NEW CASTLE FIELD OFFICE,
AND
STRATA ENERGY, INC.,
REGARDING
THE ROSS IN SITU URANIUM RECOVERY PROJECT
IN CROOK COUNTY, WYOMING**

WHEREAS, this Programmatic Agreement (PA or “Agreement”) addresses the federal undertaking (Undertaking) regarding the issuance of a license for the Ross In Situ Uranium Recovery (ISR) Project (Ross Project) pursuant to the U.S. Nuclear Regulatory Commission’s (NRC) authority under the Atomic Energy Act of 1954 (AEA), 42 U.S.C. §§ 2011 *et. seq.* for purposes of NRC’s compliance with Section 106 of the National Historic Preservation Act (NHPA), 16 U.S.C. §§ 470 *et. seq.*; and

WHEREAS, on January 4, 2011, Strata Energy, Inc. (Strata) submitted to the NRC for review and approval a new source and byproduct materials license for an ISR project at the Ross Project site located in Crook County, Wyoming; and

WHEREAS, the U.S. Department of the Interior, Bureau of Land Management (BLM), Newcastle, Wyoming Field Office received from Strata on January 21, 2011, a Plan of Operations for the Ross Project for review and approval which requires compliance with Section 106 of NHPA for the Undertaking as defined at 36 CFR § 800.16(y) and pursuant to BLM’s authority under the Mining Law of 1872, 30 U.S.C. §§ 22-54 and the Federal Land Policy and Management Act of 1976, 43 U.S.C. §§ 1701-1784; and

WHEREAS, for the purposes of the Undertaking, the NRC is the lead Federal agency for compliance with Section 106 on behalf of the BLM Newcastle Field Office (36 CFR § 800.2(a)(2)) by letter dated November 21, 2011 and is the primary contact for all parties to this PA and Indian Tribes except as noted elsewhere in this document; and

WHEREAS, upon issuance of a license and approval of a mine plan, the Undertaking would use ISR technology to extract uranium and would process the extracted uranium into yellowcake at the Ross Project site, which consists of 1,721 acres (696 ha) located approximately 38 km (24 mi) north of Moorcroft on County Route 68 in Crook County, Wyoming (in portions of Sections 7, 17, 18, and 19, Township 53 North, Range 67 West and portions of Sections 12, 13, and 24, Township 53 North, Range 68 West), as shown in Appendix A; and

WHEREAS, the NRC, by letter dated August 19, 2011, initiated Section 106 consultation with the Wyoming State Historic Preservation Office (WYSHPO); and

WHEREAS, the NRC, in consultation with WYSHPO as provided in 36 CFR § 800.4(a) and 36 CFR § 800.16(d), established the area of potential effects (APE) for the Undertaking as the area

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at the Ross Project site and its immediate environs, which may be impacted by activities associated with the construction and operation of the proposed facility. The direct APE is comprised of the areas within the Ross Project boundary that may be directly affected by physical ground disturbance and construction of the Ross Project, and the indirect APE is comprised of the area within three miles of the Ross Project boundary wherein potential visual and audible effects to historic properties may occur, as described in Appendix A; and

WHEREAS, the Phase I area, shown in Figure 3 of Appendix A, encompasses all areas within the direct APE where Strata's physical ground disturbance and construction of the Ross Project is currently proposed to occur; and

WHEREAS, identification of cultural properties has been completed for the Undertaking, including background research of the existing records and Class III and Tribal field surveys within the APE, as described in Appendix B; and

WHEREAS, the NRC has made determinations of eligibility for the National Register of Historic Places (NRHP) for two historic properties within the APE (48CK1603 and 48CK2083) and WYSHPO has concurred with these findings; as described in Appendix B; and

WHEREAS, the NRC has yet to make determinations of eligibility for the NRHP for 32 unevaluated cultural properties within the APE as shown in Table 1-D and Table 3 of Appendix B; and

WHEREAS, effects on all historic properties within the APE cannot be fully determined prior to approval of the Undertaking (36 CFR § 800.14(b)(1)(ii)); and

WHEREAS, the NRC has determined that a phased process for compliance with Section 106 of NHPA is appropriate for the Undertaking, as specifically permitted under 36 CFR § 800.4(b)(2), such that completion of the evaluation of historic properties, determinations of effect on historic properties, and consultation concerning measures to avoid, minimize, or mitigate any adverse effects will be carried out in phases, as set forth in this PA; and

WHEREAS, by letter dated April 17, 2013, Strata has submitted an Additional Testing Plan to the NRC to test the two unevaluated sites (48CK2076 and 48CK2073) that are located within the Phase I area for NRHP eligibility and to test the two eligible sites (48CK1603 and 48CK2083) that are located within the Phase I area for effects; and

WHEREAS, the NRC is coordinating with the BLM to review Strata's Additional Testing Plan and, if accepted by the NRC in consultation with WYSHPO, the Additional Testing Plan will be implemented as necessary; and

WHEREAS, the NRC, by letter dated February 9, 2011, invited the following Indian Tribes to participate in Section 106 consultation for the Ross Project: The Apache Tribe of Oklahoma; The Blackfeet Tribe; The Cheyenne and Arapaho Tribes of Oklahoma; The Cheyenne River Sioux Tribe; The Confederated Salish and Kootenai Tribe; The Crow Tribe; The Crow Creek Sioux Tribe; The Eastern Shoshone Tribe; The Flandreau Santee Sioux Tribe; The Fort Belknap Community; The Fort Peck Assiniboine and Sioux Tribes; The Kiowa Indian Tribe of Oklahoma; The Lower Brule Sioux Tribe; The Northern Arapaho Tribe; The Northern Cheyenne Tribe; The Oglala Sioux Tribe; The Rosebud Sioux Tribe; The Santee Sioux Tribe of Nebraska; The

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Sisseton-Wahpeton Sioux Tribe; The Spirit Lake Tribe; The Standing Rock Sioux Tribe, The Three Affiliated Tribes; The Turtle Mountain Band of Chippewa Indians; and the Yankton Sioux Tribe; and

WHEREAS, the following twenty-one tribes are the Ross Project Consulting Tribes: The Blackfeet Tribe; The Cheyenne and Arapaho Tribes of Oklahoma; The Cheyenne River Sioux Tribe; The Confederated Salish and Kootenai Tribe; The Crow Tribe; The Crow Creek Sioux Tribe; The Eastern Shoshone Tribe; The Flandreau Santee Sioux Tribe; The Fort Belknap Community; The Fort Peck Assiniboine and Sioux Tribes; The Lower Brule Sioux Tribe; The Northern Arapaho Tribe; The Northern Cheyenne Tribe; The Oglala Sioux Tribe; The Rosebud Sioux Tribe; The Santee Sioux Tribe of Nebraska; The Sisseton-Wahpeton Sioux Tribe; The Standing Rock Sioux Tribe, The Three Affiliated Tribes; The Turtle Mountain Band of Chippewa Indians; and the Yankton Sioux Tribe; and

WHEREAS, the applicable requirements of NHPA, the American Indian Religious Freedom Act, 42 U.S.C. 1996 *et. seq.*, the Native American Graves Protection and Repatriation Act, 25 U.S.C. 3001 *et. seq.* and 43 CFR § 10 (NAGPRA), and the Archaeological Resources Protection Act, 16 U.S.C 1979 *et. seq.* (ARPA) have been considered in this Agreement and this Agreement does not waive the responsibilities of the Signatories and Invited Signatory under these Acts and regulations; and

WHEREAS, in accordance with 36 CFR § 800.6(a)(1)(i)(C), the NRC, by letter dated September 19, 2013, has invited the Advisory Council on Historic Preservation (ACHP or “Council”) to participate in Section 106 consultation and development of this PA and the Council, by letter dated October 28, 2013, accepted the invitation and is a Signatory; and

WHEREAS, the NRC, by letters dated September 19, 2013, invited each of the Ross Project Consulting Tribes to participate in the development of this PA and representatives from The Cheyenne and Arapaho Tribes of Oklahoma, The Cheyenne River Sioux Tribe, The Chippewa Cree Tribe, The Fort Peck Assiniboine and Sioux Tribes, and The Northern Cheyenne Tribe, participated; and

WHEREAS, each of the Ross Project Consulting Tribes will be invited to sign the PA as a Concurring Party; and

WHEREAS, the NRC, by letter dated September 19, 2013, invited the Crook County Museum District and the Alliance for Historic Wyoming, to participate in the development of this PA, and no response was received; and

WHEREAS, by email dated November 8, 2013, the National Park Service—Devils Tower National Monument informed the NRC that it would like to be involved with the development of the PA and subsequently participated in the development of this PA; and

WHEREAS, Strata has participated in the development of this PA, shall implement the Undertaking in accordance with this PA, and will be invited to sign the PA as an Invited Signatory; and

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WHEREAS, the NRC, WYSHPO, ACHP, BLM, and Strata are collectively hereafter called “Signatories;” and

WHEREAS, the Signatories, Invited Signatory, and Concurring Parties are collectively referred to as the “Parties;” and

WHEREAS, the refusal of any Invited Signatory or Invited Concurring Party to sign this PA does not invalidate the PA;

NOW, THEREFORE, the NRC, WYSHPO, ACHP, and BLM agree that the Undertaking shall be implemented in accordance with the following stipulations in order to take into account the effects of the Undertaking on historic properties.

STIPULATIONS

A. GENERAL STIPULATIONS

1. The NRC will require as a condition of any license issued to Strata, and the BLM will require as a condition of approval of Strata’s Plan of Operations, that Strata complies with all stipulations and other provisions in this PA.
2. Strata shall fund all required fieldwork, analysis, reporting, curation, and mitigation necessary to comply with this PA.
3. The NRC will ensure that all work undertaken to satisfy the terms of this PA, including all cultural resource inventory reports and documentation, meets the Secretary of the Interior’s Standards for Archaeology and Historic Preservation (48 FR 44716-42), WYSHPO standards, and ACHP guidance on archaeology found at www.achp.gov/archguide.
4. Strata shall have a qualified archaeologist, as defined in the Secretary of Interior’s Professional Qualifications and Standards (48 FR 22716), conduct recordation and testing, prepare testing reports, conduct data recovery, and prepare data recovery reports whenever these activities are required.
5. Strata shall direct all of its employees, contractors, subcontractors, inspectors, monitors, and any authorized additional parties involved in the Ross Project not to search for, retrieve, deface, or impact historic and prehistoric materials (e.g., archaeological materials such as, arrowheads, pottery sherds, petroglyphs) and ensure that they receive training regarding the sensitivity of all historic and cultural resources, both Native American and non-Native American. Strata shall cooperate with the NRC, BLM and the WYSHPO to ensure compliance with ARPA of 1979 as amended (16 U.S.C 470) and NAGPRA (25 U.S.C. 3001) on public lands, and with Wyoming Statute § 36-1-115 on state lands.
6. The NRC will continue to consult with the representatives of the Ross Project Consulting Tribes throughout the implementation of the PA. The Ross Project Consulting Tribes will be invited to participate in the determinations of eligibility for the unevaluated properties, the determination of effect to historic properties, and the development of any plans to avoid, minimize, or mitigate adverse effects to historic properties. Any information

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provided by the Ross Project Consulting Tribes on sites of traditional religious and cultural importance will remain confidential to the greatest extent permitted by law.

7. For each Ross Project Phase, all cultural resources that may be affected by that stage of the Undertaking will be evaluated by the NRC in consultation with the Parties and Ross Project Consulting Tribes pursuant to 36 CFR § 800.4(c)(1) if not previously evaluated.
8. Strata shall provide to the BLM Newcastle Field Office point of contact copies of all reports required to be provided to the NRC pursuant to the PA. The BLM shall review all reports concurrently with the NRC. The NRC will develop schedules and coordinate with the BLM when fulfilling the NRC's PA responsibilities. The NRC may designate the BLM staff as the local point of contact to address unanticipated discoveries or other tasks as needed.

B. CONTINUING DETERMINATIONS OF ELIGIBILITY

1. Testing Phase I Area Properties for NRHP Eligibility
 - a. Strata shall complete recordation and evaluation of 48CK2087, 48CK2229, 48CK2230, and 48CK2231 (see Table 1-A of Appendix B) and prepare a report on this inventory. If any of these sites are located within the Phase I area of the Ross Project, then Strata shall submit a Supplement to the Additional Testing Plan to the NRC to include those sites.
 - b. Upon receipt of Strata's Supplement to the Additional Testing Plan, the NRC and BLM will review the plan and request any corrections or modifications from Strata within 30 days of receipt. If no Supplement to the Additional Testing Plan is necessary, the NRC in coordination with BLM will review the existing plan and request any corrections or modifications from Strata within 30 days following notification that a Supplement is not required. During review of the testing plan, the NRC will consult with Strata concerning whether any sites or portions of sites may be avoided. If avoidance is possible, the testing plan shall be revised to include a map and documentation to support this avoidance.
 - c. The NRC will then distribute the Additional Testing Plan to the Parties (excluding WYSHPO) and Ross Project Consulting Tribes for a 30 day review and comment period. The NRC will consider any comments received in writing from the Parties or the Ross Project Consulting Tribes within the specified review period.
 - d. The NRC will then submit the final Additional Testing Plan to the WYSHPO for a 30 day review and concurrence. Copies of this correspondence will be sent to the other Parties and Ross Project Consulting Tribes.
 - e. If the WYSHPO concurs with the NRC's final Additional Testing Plan or fails to respond within 30 days, the NRC will notify Strata in writing that it may proceed with the final Additional Testing Plan.
 - f. The NRC will consult to resolve any comments or objections regarding the final Additional Testing Plan received in writing from the WYSHPO within the 30 day review period. If a dispute arises, it will be resolved in accordance with Stipulation I (Dispute Resolution).

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2. Testing New Phase Area Unevaluated Properties for NRHP Eligibility

- a. Strata shall not conduct ground disturbance activities beyond the boundaries of the Phase I area (see Appendix A, Figure 3) without first notifying the NRC and fulfilling the relevant requirements set forth in this Agreement.
- b. If ground disturbance activities will occur beyond the boundaries of the Phase I area, then, consistent with the phased process for Section 106 compliance under this PA, Strata shall submit a Notice of Intent (NOI) to the NRC. The NOI shall state Strata's intent to prepare a plan for testing the eligibility of any unevaluated properties within the New Phase area or the NOI shall demonstrate that all the previously identified properties within the New Phase area will be avoided by Strata. The NOI shall be submitted at least three months prior to the testing plan's proposed submission date so that the NRC and BLM can appropriately allocate staff resources to the extent possible, acknowledging that additional time may be necessary in the event that NRC and BLM staff resources are limited due to conditions beyond the staff's control. If the NOI demonstrates that all the previously identified properties within the New Phase area will be avoided by Strata and the NRC staff, in coordination with BLM, agree, the NRC will notify Strata within 120 days of receipt of the NOI that it may proceed with its proposed activities.
- c. Strata's NOI shall include a description of the area of ground disturbance activities for the New Phase. Strata shall delineate the New Phase area with township/section/range, GPS data points, GIS map, or other land survey techniques such that the New Phase area can be reproducibly defined and illustrated with appropriate graphic materials and sufficient documentation to enable any reviewer to readily understand its scope and basis.
- d. Upon receipt of Strata's testing plan, the NRC in coordination with the BLM will review the plan and request any corrections or modifications from Strata within 30 days of receipt.
- e. Prior to accepting Strata's testing plan, the NRC will consult with Strata to determine if the unevaluated properties can be avoided in the proposed project phase. If any properties in the original testing plan can be avoided, Strata shall submit a revised testing plan, including a map and sufficient documentation to support this avoidance determination.
- f. The NRC will distribute the revised testing plan to the Parties (excluding WYSHPO) and Ross Project Consulting Tribes for a 30 day review and comment period. The NRC will consider any comments received in writing within the specified review period.
- g. The NRC will then submit the final testing plan to the WYSHPO for a 30 day review and concurrence, copying the other Parties and Ross Project Consulting Tribes on this correspondence.
- h. If the WYSHPO concurs with the NRC's final testing plan or fails to respond within 30 days, the NRC will notify Strata in writing that it may proceed with the testing plan.
- i. The NRC will consult to resolve any comments or objections received in writing from WYSHPO within the 30 day review period regarding the final testing plan. If a

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dispute arises, it will be resolved in accordance with Stipulation I (Dispute Resolution).

3. Determination of Eligibility

- a. In accordance with an approved final testing plan from Sections B.1 or B.2, Strata shall evaluate and make NRHP eligibility recommendations for unevaluated properties.
- b. Upon receipt of Strata's eligibility recommendations, the NRC in coordination with BLM will review the recommendations and request any corrections or modifications from Strata within 30 days of receipt.
- c. The NRC will then distribute revised eligibility determinations to the Parties (excluding WYSHPO) and Ross Project Consulting Tribes for a 30 day review period. The NRC will consider any comments received in writing from the Parties and the Ross Project Consulting Tribes within the specified review period.
- d. The NRC will then provide its eligibility determinations to the WYSHPO for a 30 day review and concurrence, copying the other Parties and Ross Project Consulting Tribes on this correspondence. The NRC will consult to resolve any objections regarding eligibility determinations received from the WYSHPO or the Council in writing within the specified review period.
- e. If the WYSHPO concurs with the NRC's eligibility determinations, or if no written objections are received within the 30 day review period, the NRC's eligibility determinations are final.
- f. If the WYSHPO and NRC agree that a cultural resource is not eligible for the NRHP, no further review or consideration under this PA will be required for the cultural resource. If, after appropriate consultation, the WYSHPO and NRC agree that the property is eligible, then a determination of effect will be made in accordance with Stipulation C.
- g. In accordance with 36 CFR § 800.4(c)(2), if there is disagreement regarding eligibility between the NRC and the WYSHPO, and that disagreement cannot be resolved after further consultation, or if the ACHP so requests, the NRC will refer the property(ies) in question to the Keeper of the National Register and request a formal determination of eligibility. The Keeper's decision is final.

4. Sites of Traditional and Cultural Importance

- a. The NRC, in consultation with the WYSHPO, will make NRHP eligibility determinations and effects determinations for the 18 properties identified during the Tribal field survey (see Table 3 of Appendix B).
- b. The NRC will prepare a report documenting its eligibility determinations for the 18 properties and submit it to the WYSHPO for a 30 day review and concurrence, copying other Parties and the Ross Project Consulting Tribes on this correspondence.
- c. If the WYSHPO concurs with the NRC's eligibility determinations, or if the WYSHPO or Council do not object to the NRC's eligibility determinations within the 30 day review period, the NRC's eligibility determinations are final.

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- d. The NRC will consult to resolve any written objections from the WYSHPO or the Council received during the 30 day review period regarding eligibility determinations.
- e. For any unevaluated cultural resources that are of concern to the Ross Project Consulting Tribes, the NRC will conduct further consultation with Ross Project Consulting Tribes, and, if needed, schedule additional site visits in order to complete eligibility assessments.
- f. If the WYSHPO and NRC agree that a cultural resource is not eligible for the NRHP, no further review or consideration under this PA will be required for the cultural resource. If the WYSHPO and NRC agree that the property is eligible, then a determination of effect will be made in accordance with Stipulation C.
- g. In accordance with 36 CFR § 800.4(c)(2), if there is disagreement regarding eligibility between the NRC and the WYSHPO, and that disagreement cannot be resolved after further consultation, or if the ACHP so requests, the NRC will refer the property(ies) in question to the Keeper of the National Register and request a formal determination of eligibility. The Keeper's decision is final.

C. CONTINUING ASSESSMENT OF EFFECTS

- 1. The NRC, in consultation with the Parties and Ross Project Consulting Tribes will make determinations of the effects of the proposed Undertaking on the viewshed of historic properties within the three-mile indirect APE.
- 2. The NRC, in consultation with the Parties and Ross Project Consulting Tribes will make determinations of the visual and audible adverse effects of the proposed Undertaking of historic properties within the three-mile indirect APE of the Undertaking.
- 3. Testing Historic Properties for Direct Adverse Effects
 - a. Following eligibility determinations, if additional testing is needed to assess the effects of the proposed Project Phase on a historic property, Strata shall submit to the NRC a testing plan to determine the direct (i.e., physical disturbance) adverse effects to historic properties that cannot be avoided.
 - b. Upon receipt of Strata's testing plan, the NRC in coordination with the BLM will review the plan and request any corrections or modifications from Strata within 30 days of receipt.
 - c. Prior to accepting Strata's testing plan, the NRC will consult with Strata to determine if the historic properties can be avoided. If any historic properties in the testing plan can be avoided, Strata shall submit a revised testing plan, including a map and sufficient documentation to support this avoidance determination.
 - d. The NRC will distribute the revised testing plan to the Parties (excluding WYSHPO) and the Ross Project Consulting Tribes for a 30 day review period. The NRC will consider any comments received in writing within the specified review period.
 - e. The NRC will then distribute the final testing plan to the WYSHPO for a 30 day review and comment period, copying the other Parties and the Ross Project Consulting Tribes on this correspondence.

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- f. If the WYSHPO concurs with the NRC's final testing plan or fails to respond within 30 days, the NRC will notify Strata that it may proceed with the testing plan, and Strata shall submit the results of the testing to the NRC.
 - g. The NRC will consult to resolve any comments or objections received in writing from the WYSHPO within the 30 day review period regarding the testing plan. If a dispute arises, it will be resolved in accordance with Stipulation I (Dispute Resolution).
- 4. Assessment of Effects
 - a. Strata shall have a qualified archaeologist conduct the testing in accordance with the approved adverse effects testing plan from Stipulation C.3 and shall submit a report to the NRC that documents Strata's evaluation and recommendations, which the NRC may use in making determinations of effect on identified historic properties within the area of ground disturbance activities for each Ross Project phase.
 - b. Upon receipt of Strata's recommended determinations of effect, the NRC in coordination with the BLM will review those determinations and request any corrections or modifications from Strata within 30 days of receipt.
 - c. The NRC will then distribute its determinations of effect and the associated documentation [pursuant to 36 CFR §§ 800.5 and 800.6(a)(3)] to the Parties (excluding WYSHPO) and the Ross Project Consulting Tribes for a 30 day review period. The NRC will consider any comments received in writing within the specified review period.
 - d. The NRC will then distribute the determinations of effect to the WYSHPO for a 30 day review period, copying the other Parties and the Ross Project Consulting Tribes on this correspondence.
 - e. If the WYSHPO concurs with NRC's determinations of effect, or if no written objections are received from the Parties or the Ross Project Consulting Tribes within the 30 day review period, the effects determinations are final.
 - f. The NRC will consult to resolve any written objections received from the Parties or the Ross Project Consulting Tribes regarding determinations of effect. If a dispute arises, it will be resolved in accordance with 36 CFR § 800.5(c)(2) or Stipulation I (Dispute Resolution).
 - g. If any eligible properties will be adversely affected, plans to avoid, minimize, or mitigate the adverse effects will be developed in accordance with the Stipulation D of this PA.

D. AVOIDANCE, MINIMIZATION and MITIGATION of ADVERSE EFFECTS

1. Avoidance of Adverse Effects:

Once the assessment of adverse effects to a historic property has been finalized per Stipulation C, Strata shall notify the NRC within 30 days if it can avoid the historic property that would be adversely affected within the area of ground disturbance activities for each Ross Project Phase, including properties of traditional religious and cultural significance to the Tribes. Potential avoidance measures include, but are not limited to, relocating pipelines, roads, facilities, monitoring wells, and other disturbances.

2. Development of Plan for the Minimization and Mitigation of Adverse Effects

- a. If the NRC determines adverse effects to historic properties within the area of ground disturbance activities for any Ross Project Phase cannot be avoided, for each Phase of the Undertaking, the NRC will consult with the Parties and Ross Project Consulting Tribes to identify those measures to be implemented by Strata to minimize and/or mitigate adverse effects to affected historic properties. A wide range of options to minimize and/or mitigate adverse effects shall be considered, including but not limited to the following:
 - i. For historic properties that are archaeological in nature and significant for their research data potential (Eligibility Criterion D, National Register of Historic Places), the treatment measures may follow standard mitigation through data recovery. Mitigation plan(s) for data recovery shall include, at a minimum, a research design with provisions for data recovery and recordation, analysis, reporting, and curation of resulting collection and records, and shall be consistent with the *Secretary of Interior's Standards and Guidelines* (48 FR 44734-44737). Mitigation plan(s) must be consistent with easement and permit requirements of other agencies, when applicable. To the extent possible, mitigation plan(s) should group related sites or areas, so that treatment of related resources can be considered in context, and to minimize the burden of review and approval by agencies.
 - ii. Mitigation plan(s) for those resources relating to properties eligible under Criteria A, B and C, or that are significant for values other than their potential research value, if warranted, shall specify approaches for treatment or mitigation of the property in accordance with the principles, standards, and guidelines appropriate to the resource. This may include, but not be limited to, use of such approaches as relocating the historic property, re-landscaping to reduce effects, public interpretation, ethnographic recordation, oral history, archival research, or prescribing use of a component or activity of this Undertaking in such a way as to minimize effects to historic properties or to those concerned about the effects of that component or activity. Methods of recordation and documentation described in the mitigation plan(s) shall conform with the *Secretary of the Interior's Standards for Architectural and Engineering Documentation* (48 FR 44730-44734) or other standards specified by NRC.
 - iii. In lieu of standard mitigation approaches described above, mitigation plan(s) may adopt other alternative approaches to avoid, minimize or mitigate effects to historic properties, including, but not limited to, assisting in the development of Tribal historic preservation plans, developing detailed historic contexts for the region, developing educational materials, purchasing properties containing historic resources, or developing historic property management plans.
- b. The NRC shall consult with the Ross Project Consulting Tribes regarding minimization and/or mitigation of indirect effects to historic properties of traditional religious and cultural importance.

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- c. Meetings and conference calls shall be scheduled as needed to develop mitigation measures for the Undertaking. Meetings and telephone conferences shall involve all or part of the Parties and Ross Project Consulting Tribes, as appropriate.
 - d. Following the development of measures to minimize and/or mitigate adverse effects, Strata shall prepare a Mitigation Plan. The Mitigation Plan shall identify minimization and/or mitigation measures to address the adverse effects of the Undertaking on each individual historic property.
 - i. The Mitigation Plan shall contain a map of all proposed effects for that Project Phase, a description of the effects on each historic property, and a description of the proposed treatment for each historic property.
 - ii. If monitoring by a qualified archaeologist and/or by Tribal monitors is part of the strategy for identifying and resolving adverse effects, the Mitigation Plan shall include a Monitoring Plan. The objective of monitoring is to protect extant sites from construction impacts, identify at the time of discovery any archaeological materials exposed during ground disturbance, and protect such resources from damage until the procedures for Discoveries per Stipulation E are implemented.
 - iii. If data recovery is part of the strategy for resolving adverse effects, the Mitigation Plan shall specify all details of the research design, field and laboratory work methodology (including mapping, geomorphological studies, controlled scientific excavation methods, analyses of data recovered, and photographic documentation), and report preparation.
 - e. The NRC in coordination with the BLM will review the Mitigation Plan developed by Strata and request any corrections or modifications within 30 days of receipt.
 - f. The NRC will distribute the Mitigation Plan to the Parties (excluding WYSHPO) and the Ross Project Consulting Tribes. The NRC will consider any comments received in writing from the Parties (excluding WYSHPO) and the Ross Project Consulting Tribes within the specified review period.
 - g. The NRC will then distribute the final Mitigation Plan to the WYSHPO for a 30 day review period, copying the other Parties, the Ross Project Consulting Tribes on this correspondence.
 - h. Upon final concurrence by the WYSHPO, or if WYSHPO fails to respond in writing within 30 days, and no other objections from the Parties or the Ross Project Consulting Tribes are received, the final Mitigation Plan will be appended to this PA.
 - i. The NRC will consult to resolve any written comments or objections received from the Parties and the Ross Project Consulting Tribes regarding the final Mitigation Plan within the WYSHPO's 30 day review period. If a dispute arises, it will be resolved in accordance with 36 CFR § 800.7 or Stipulation I (Dispute Resolution).
 - j. The NRC will notify the Parties and the Ross Project Consulting Tribes of the approval of any Mitigation Plan.
3. Implementation of Mitigation Plan
- a. For any data recovery on BLM-administered lands, the archaeologist shall have a BLM Cultural Resource Use permit for Excavation and/or Removal.

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- b. For data recovery on State lands, the archaeologist shall have an Authorization for Archaeological Investigations on State Lands.
- c. Upon completion of data recovery fieldwork, Strata shall submit a data recovery report documenting implementation and results.
- d. The NRC in coordination with the BLM will review the data recovery report developed by Strata and request any corrections or modifications within 30 days of receipt, allowing additional time if NRC/BLM fieldwork inspection is needed and is not feasible within the 30 day review period.
- e. The NRC will then distribute the data recovery report or revised report to the Parties (excluding WYSHPO) and Ross Project Consulting Tribes for a 30 day review and comment period. The NRC will consider any written comments received from the Parties and the Ross Project Consulting Tribes.
- f. The NRC will submit the final data recovery report to WYSHPO for a 30 day review and concurrence, copying the other Parties and Ross Project Consulting Tribes on this correspondence.
- g. If the WYSHPO concurs with NRC's data recovery report or fails to respond within 30 days, the NRC shall notify Strata that the data recovery report is final. After such notification, Strata may proceed with implementation of that Phase of the Undertaking.
- h. The NRC will consult to resolve any comments received in writing from the WYSHPO during the WYSHPO's 30 day review period. If a dispute arises, it will be resolved in accordance with Stipulation I (Dispute Resolution).
- i. For other mitigation measures specified in the Mitigation Plan that result in a product or process that requires review and acceptance, the process of review and acceptance shall be specified in the Mitigation Plan. Strata shall not proceed with implementation of ground disturbance activities outside of the Project Phase area prior to completion of such review and acceptance.

E. Curation

- a. BLM will ensure that curation of all records and other archaeological items resulting from identification and data recovery efforts on public (BLM) and State land is completed in accordance with 36 CFR § 79 and the provisions of 43 CFR § 10 (NAGPRA). All archaeological materials recovered from Federal and State land shall be curated at the University of Wyoming Archaeological Repository. Strata shall provide documentation of the curation of the materials to the NRC, BLM, and WYSHPO within 60 days of acceptance of the final cultural resource inventory report and/or data recovery report.
- b. BLM will encourage private landowners to curate archaeological materials recovered from their lands in accordance with Federal curation policies. If private landowners agree to curate archaeological materials recovered from their lands, the curation shall be done in accordance with Federal curation policies. Materials from private lands to be returned to private landowners shall be maintained in accordance with 36 CFR § 79 until all necessary analysis has been completed. Strata shall provide

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documentation of the disposition of private collections to the NRC, BLM, and WYSHPO.

F. DISCOVERIES

1. Inadvertent Discoveries of Historic and Cultural Resources

- a. If previously unknown cultural resources, including archaeological, are discovered during implementation of the Ross Project, or previously known properties will be affected in an unanticipated manner, all construction activities will cease within 150 feet of the area of discovery to avoid or minimize harm to the resource, and Strata shall immediately notify the NRC and the WYSHPO. Activity in the area will cease until NRC, in consultation with the Parties and Ross Project Consulting Tribes, can evaluate and, if necessary, authorize steps to mitigate impacts to the new discovery. Strata shall have any discovered materials evaluated for NRHP eligibility by a professional cultural resource specialist meeting the Secretary of Interior's Standards for Archaeology and History. Documentation of the discovery and evaluation will be promptly provided to the NRC in order for the NRC, in consultation with the WYSHPO, ACHP, BLM, and the Ross Project Consulting Tribes, to make a determination of eligibility and effect. Inadvertent discoveries may include artifacts, bone, features, or concentrations of these materials outside previously identified sites or in and adjacent to previously identified eligible and not eligible sites. Discoveries may also include stones and groups of stones that are out of place in their sedimentary contexts and may be parts of stone features. Discoveries may also include changes in soil color, texture, or content suspected to be of anthropic origin, such as burned soil, ash, or charcoal fragments.
- b. If a cultural resource monitor or Tribal monitor is present, the monitor shall have the authority to temporarily halt construction operations within 150 feet of the find or exposed resource and shall flag or otherwise mark the area of avoidance. If a monitor is not present, Strata shall halt work and mark the location for avoidance.
- c. Strata shall have a qualified archaeologist and, if needed, a Tribal monitor, inspect the area for additional resources, document the discovery, make recommendations concerning eligibility, and submit the findings to the NRC. The Parties and Ross Project Consulting Tribes shall consult to determine what data recovery or other mitigation may be needed.
- d. Work may continue in other areas of the site; however, construction shall not resume in the area of discovery unless the NRC has issued a written Notice to Proceed.
- e. Evaluation and mitigation will be carried out by NRC in consultation with the WYSHPO, Ross Project Consulting Tribes, BLM, ACHP, and Strata as expeditiously as possible in accordance with 36 CFR § 800.13(b).

2. Inadvertent Discoveries of Human Remains

- a. In the event human remains are discovered on private land during implementation of the Ross Project, all work within 300 feet of the discovery will cease, the area will be secured, and Strata shall immediately contact NRC, who will notify the Crook County Sheriff's Office and Coroner's Office of the discovery per W.S. 7-4-104.

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- b. Native American human remains, funerary objects, sacred objects, or items of cultural patrimony found on Federal land will be handled according to Section 3 of NAGPRA and its implementing regulations (43 CFR § 10). In the event that human remains are discovered on Federal land during implementation of the Ross Project, all work within 300 feet of the discovery will cease, the area will be secured, and BLM shall be contacted immediately. BLM will be responsible for compliance with the provisions of NAGPRA on Federal land. Native American human remains, funerary objects, sacred objects, or items of cultural patrimony found on state or private land will be handled in accordance with procedures agreed upon by the NRC and WYSHPO for State and private land. If non-Native American human remains are found on Federal land, Strata shall immediately notify the NRC and BLM and BLM will treat such remains in accordance with applicable law. The NRC, BLM, and Strata recognize that any human remains, funerary objects, sacred objects, or items of cultural patrimony encountered during construction should be treated with dignity and respect.

G. CONFIDENTIALITY OF CULTURAL RESOURCE DATA

Cultural resource data, including data concerning the location and nature of historic properties and properties of religious and cultural significance, will be treated as confidential by all Parties and any additional parties involved in the Ross Project, including but not limited to employees, contractors, and subcontractors of Strata. These data shall be protected from public disclosure to the greatest extent permitted by law, including conformance with Section 304 of the NHPA, as amended, Section 9 of the ARPA, and Executive Order No. 13007 on Indian Sacred Sites (Federal Register, Vol. 61 No. 104, May 24, 1996). Confidentiality concerns for properties that have traditional religious and cultural importance to the Ross Project Consulting Tribes will be respected and will remain confidential to the greatest extent permitted by law. Duplication or distribution of cultural resource data from BLM-managed lands by any Party requires written authorization from the BLM Newcastle Field Manager.

H. ANNUAL REPORT AND EVALUATION

1. On or before January 1 of each year, beginning in 2015, unless the Parties agree in writing that the terms of this PA have been fulfilled, Strata shall prepare and provide a letter report to the NRC detailing how the applicable terms of the PA are being implemented. Upon acceptance, Strata shall provide this annual report to the Parties and Ross Project Consulting Tribes. The Parties may provide comments on the report to Strata within 30 days of receipt, and Strata shall distribute all comments to the Parties.
2. Strata shall coordinate a meeting or conference call of the Parties and Ross Project Consulting Tribes, in coordination with the NRC, within 60 days after providing the annual report for the first five (5) years, and (if the PA is still in effect) every third year after that, unless the Parties agree to another timeframe. As appropriate, Parties may request a separate meeting to discuss the annual report. The purpose is to review implementation and achieved outcomes of the terms of this PA and to discuss the annual report, as needed.

I. DISPUTE RESOLUTION

1. Any Signatory to this PA who objects to an action under this PA, or the implementation of the measures stipulated to in this PA, shall provide written notice to the NRC within 30 days of becoming aware of an action. The NRC will consult with the objecting Signatory to this PA to resolve the objection, unless otherwise specified in this document. If the NRC determines that the objection cannot be resolved, the NRC will forward all documentation relevant to the dispute to the ACHP as well as the other Parties and Ross Project Consulting Tribes, including NRC's proposed response to the objection. The objecting Signatory must provide reasons for, and a justification of, its objection at the time it initially submits its objection to the NRC. Within 30 days after receipt of all pertinent documentation, the ACHP shall either:
 - a. Advise the NRC that the ACHP concurs with the NRC's proposed final decision, whereupon the NRC will respond accordingly;
 - b. Provide the NRC with recommendations, which the NRC will take into account in reaching a final decision regarding the dispute; or
 - c. Notify the NRC that it will comment within an additional 30 days, in accordance with 36 CFR § 800.7(c)(4). Any ACHP comment provided in the response to such a request will be taken into account, and responded to, by the NRC in accordance with 36 CFR § 800.7(c)(4) with reference to the subject of the dispute.
 - d. Should the ACHP not exercise one of the above options within forty-five (45) days after receipt of all pertinent documentation, the NRC may proceed with its proposed response to the objection.
2. Any recommendation or comment provided by the ACHP will be understood to pertain only to the subject of the dispute. The responsibility to carry out all actions under this PA that are not the subject of the dispute shall remain unchanged.

J. AMENDMENT

Any Signatory to this PA may request that it be amended, whereupon the Signatories will consult to reach agreement. Such amendment shall be effective upon the signature of all Signatories to this PA, and the amendment shall be appended to the PA as an Appendix.

K. TERMINATION

1. Any Signatory to this PA may initiate termination by providing written notice to the other Signatories of their intent. After notification by the initiating Signatory, the remaining Signatories shall have 60 business days to consult to seek agreement on amendments or any other actions that would address the issues and avoid termination. If such consultation fails, the termination will go into effect at the end of the 60-day period, unless all the Signatories agree to a longer period.
2. In the event of termination, the Signatories will comply with any applicable requirements of 36 CFR §§ 800.4 through 800.6 with regard to the original Undertaking covered by this PA.

L. DURATION OF AGREEMENT

This PA shall remain in effect for 20 years from its date of execution by the Signatories (last date of signature), or until completion of the work stipulated, whichever comes first, unless extended by agreement among the Signatories.

M. ANTI DEFICIENCY ACT

The stipulations of this Agreement are subject to the provisions of the Anti-Deficiency Act (31 U.S.C. §1341). If compliance with the Anti-Deficiency Act alters or impairs the NRC's ability to implement the stipulations of this Agreement, the NRC will consult in accordance with the amendment and termination procedures found in this Agreement.

N. GENERAL PROVISIONS

1. **Entirety of Agreement.** This PA, consisting of twenty (20) pages, represents the entire and integrated agreement between the parties and supersedes all prior negotiations, representations and agreements, whether written or oral, regarding compliance with Section 106 of NHPA.
2. **Prior Approval.** This PA shall not be binding upon any party unless this PA has been reduced to writing before performance begins as described under the terms of this PA, and unless the PA is approved as to form by the Wyoming Attorney General or his representative.
3. **Severability.** Should any portion of this PA be judicially determined to be illegal or unenforceable, the remainder of the PA shall continue in full force and effect, and any party may renegotiate the terms affected by the severance.
4. **Sovereign Immunity.** The State of Wyoming, the WYSHPO, the NRC, the BLM, the ACHP, and Ross Project Consulting Tribes do not waive their sovereign or governmental immunity by entering into this PA and each fully retains all immunities and defenses provided by law with respect to any action based on or occurring as a result of the PA.
5. **Indemnification.** Each Signatory to this PA shall assume the risk of any liability arising from its own conduct. Each Signatory agrees they are not obligated to insure, defend or indemnify the other Signatories to this PA.

Execution of this PA by the NRC, BLM, ACHP, WYSHPO, Strata, Ross Project Consulting Tribes, the submission of documentation and filing of this PA with the ACHP pursuant to 36 CFR § 800.6(b)(1)(iv) prior to the Signatories' approval of the Undertaking, and implementation of its terms, are evidence that the NRC has taken into account the effects of this Undertaking on historic properties and afforded the ACHP an opportunity to comment.

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SIGNATURES: In witness thereof, the Signatories to this PA through their duly authorized representatives have executed this PA on the days and dates set out below, and certify that they have read, understood, and agreed to the terms and conditions of this PA as set forth herein.

The effective date of this PA is the date of the last signature affixed to this page.

Federal Agencies

The U.S. Nuclear Regulatory Commission

NRC Official Date

The U.S. Department of the Interior, Bureau of Land Management, Newcastle Field Office

BLM Official Date

Wyoming State Historic Preservation Officer

Mary Hopkins, SHPO Date

Advisory Council on Historic Preservation

John M. Fowler, Executive Director Date

Strata Energy, Inc.

Name and title Date

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**Approval as to Form:
Wyoming Attorney General's Office**

S. Jane Caton,
Senior Assistant Attorney General

Date

Concurring Parties:

Blackfeet Tribe

Name and title

Date

Cheyenne and Arapaho Tribes

Name and title

Date

Cheyenne River Sioux Tribe

Name and title

Date

Confederated Salish and Kootenai Tribe

Name and title

Date

Apsaalooke (Crow) Nation

Name and title

Date

Crow Creek Sioux Tribe

Name and title

Date

Eastern Shoshone Tribe

Name and title

Date

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Flandreau-Santee Sioux Tribe

Name and title	Date
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Fort Belknap Community

Name and title	Date
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Fort Peck Assiniboine/Sioux

Name and title	Date
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Lower Brule Sioux Tribe

Name and title	Date
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Northern Arapaho Tribe

Name and title	Date
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Northern Cheyenne Tribe

Name and title	Date
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Oglala Sioux Tribe

Name and title	Date
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Rosebud Sioux Tribe

Name and title	Date
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Santee Sioux Tribe of Nebraska

Name and title	Date
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Sisseton-Wahpeton Oyate Tribes

Name and title	Date
----------------	------

Standing Rock Sioux Tribe

Name and title	Date
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**Mandan, Hidatsa & Arikara Nation
Three Affiliated Tribes**

Name and title	Date
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Turtle Mountain Band of Chippewa

Name and title	Date
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Yankton Sioux Tribe

Name and title	Date
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Appendix A

Description of Undertaking and Area of Potential Effects

Undertaking

On January 4, 2011, Strata Energy, Inc. (Strata or the Applicant) submitted to the U.S. Nuclear Regulatory Commission (NRC) a license application to construct and operate the Ross Project, which is a proposed uranium in situ recovery (ISR) facility located in Oshoto, Crook County, Wyoming.

The Atomic Energy Act of 1954, as amended, authorizes the NRC to issue licenses, either as a general or specific license, to qualified applicants for the receipt, possession and use of byproduct and source materials resulting from the removal of uranium ore from its place of deposit in nature. An NRC specific license is issued to a commercial uranium or thorium ISR facility pursuant to NRC implementing regulations listed in Title 10 of the Code of Federal Regulations (10 CFR) Part 40.

On January 21, 2011, Strata submitted to the U.S. Department of the Interior, Bureau of Land Management (BLM), Newcastle, Wyoming Field Office a Plan of Operations for the Ross Project for review and approval.

The Mining Law of 1872, 30 U.S.C. §§ 22-54 authorizes the BLM to review and approve mining plans for use of Federal minerals and the Federal Land Policy and Management Act of 1976, 43 U.S.C. §§ 1701-1784 requires the BLM to manage all BLM-administered lands and minerals for multiple uses.

Ross Project Location and Proposed Activities

The proposed activities consist of constructing and operating an ISR facility at the Ross Project site located in Oshoto, Crook County, Wyoming. Strata is a U.S.-based corporation registered in Wyoming and a wholly owned subsidiary of Peninsula Energy Limited, an Australian registered company. Peninsula Energy is a publicly traded corporation on the Australian Securities Exchange. For this Undertaking, Strata is the Applicant.

As shown in Figure 1, Crook County is located in the northeastern corner of Wyoming, abutted by Montana to the north, South Dakota to the east, Weston County, Wyoming, to the south, and Campbell County, Wyoming to the west. The total area encompassed by Crook County is 2871 square miles. The nearest town to the project is Moorcroft, which is located approximately 22 miles south of the Ross Project. The closest community is Oshoto, which includes 11 residences located within 2 miles (mi) [3.2 kilometers (km)] of the project area. In addition to Moorcroft, the other nearest major urban centers include Sundance, Hulett, and Pine Haven, all of which are located in Wyoming. The largest population in those nearby urban centers is in Sundance with a 2010 population of 2602 persons (Strata, 2011).

As shown in Figure 2, the Ross Project comprises approximately 696 hectares (ha) [1,721 acres (ac)]. Surface ownership of land located within the Ross Project is as follows: private entities,

APPENDIX A TO THE PROGRAMMATIC AGREEMENT AMONG THE U.S. NUCLEAR REGULATORY COMMISSION, THE
ADVISORY COUNCIL ON HISTORIC PRESERVATION, THE WYOMING STATE HISTORIC PRESERVATION OFFICE,
THE BUREAU OF LAND MANAGEMENT-NEWCASTLE FIELD OFFICE AND
STRATA ENERGY, INC. REGARDING
THE ROSS IN-SITU URANIUM RECOVERY PROJECT IN CROOK COUNTY, WYOMING

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553 ha [1367.2 ac]; State of Wyoming, 127 ha [314.1 ac]; and the Federal Government as administered by the BLM, 16 ha [40.0 ac]. Mineral rights are owned by the same entities as the surface rights; however, the distribution differs slightly from that of the surface ownership in that federal mineral rights ownership occurs in several quarter/quarter sections for which surface land is owned by private entities. The Ross Project includes parts of the following sections of the Public Land Survey System:

<u>Section</u>	<u>Township</u>	<u>Range</u>
7, 17, 18 & 19	53 North	67 West
12, 13 & 24	53 North	68 West

The proposed activities for the Ross Project include the construction of wellfields and a central processing plant (CPP) with ancillary equipment. The ancillary equipment includes underground piping from the wellfield to the CPP and from the CPP to the deep disposal wells, two to three dozen header houses, an administrative and warehouse/maintenance building, a chemical and equipment storage area, lined retention ponds, and deep disposal wells. Except for the wellfields, header houses, deep disposal wells and piping, most of the development is limited to a 50-acre area referred to as the “CPP area” within the project.

The Applicant proposes in situ recovery processes for this project. The ISR process involves extracting uranium from underground ore bodies without bringing the ore bodies to the surface by injecting a leaching solution through wells into underground ore bodies to dissolve the uranium. The leaching solution is recovered from the subsurface through the extraction wells and piped to the CPP through a system of underground piping. At the CPP, two generic processes produce the final product, which is referred to as yellowcake.

From the initial construction to final decommissioning, the Applicant-proposed timeline for the Ross Project is approximately 10 years; however, the Applicant also requests processing of uranium-rich resins derived from other ISR operations (either a future Strata facility or a facility operated by another licensee) or other entity (e.g., water treatment resins). The Applicant states that processing of resins outside sources could extend the life of the CPP to 20 years.

The Applicant proposes restoration of the production aquifer and stability monitoring. Restoration of portions of wellfields may occur simultaneously with operations (recovery of uranium) at other wellfields. After restoration is completed and approved by NRC staff, the wellfields will undergo decommissioning and reclamation by removing the piping and other ancillary equipment. Upon completion of operations, all surface facilities that were installed for the Ross Project will be decommissioned to allow unrestricted future use of the property. All equipment not fully decontaminated for unrestricted use will be disposed of at an NRC-licensed facility.

Ross Project Area of Potential Effects

As indicated in the NRC’s letters to the Wyoming State Historic Preservation Office and the Advisory Council on Historic Preservation, dated August 19, 2011, the Area of Potential Effects (APE) is the area at the Ross Project site and its immediate environs, which may be impacted by activities associated with the construction and operation of the proposed facility. The direct APE is comprised of the areas within the Ross Project boundary that may be directly affected by physical ground disturbance and construction of the Ross Project, including the Phase I area

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THE BUREAU OF LAND MANAGEMENT-NEWCASTLE FIELD OFFICE AND
STRATA ENERGY, INC. REGARDING
THE ROSS IN-SITU URANIUM RECOVERY PROJECT IN CROOK COUNTY, WYOMING

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shown in Figure 3, and the indirect APE is comprised of the area within three (3) miles of the Ross Project boundary wherein potential visual and audible effects to historic properties may occur.

By letter dated August 27, 2012, Strata provided to the NRC the results of its analysis to identify and assess the potential visual effects to properties located within 3 miles of the Ross Project boundary. The NRC staff's initial review of this analysis will be incorporated into the NRC's *Tribal Field Survey and NRC's Eligibility Determination Report for the Ross In Situ Uranium Recovery Project*.

Reference:

Strata, 2011. Ross ISR Project USNRC License Application, Crook County, Wyoming, prepared by Strata Energy, Inc., Docket No. 040-09091. ADAMS Accession No. ML110120063, January 2011.

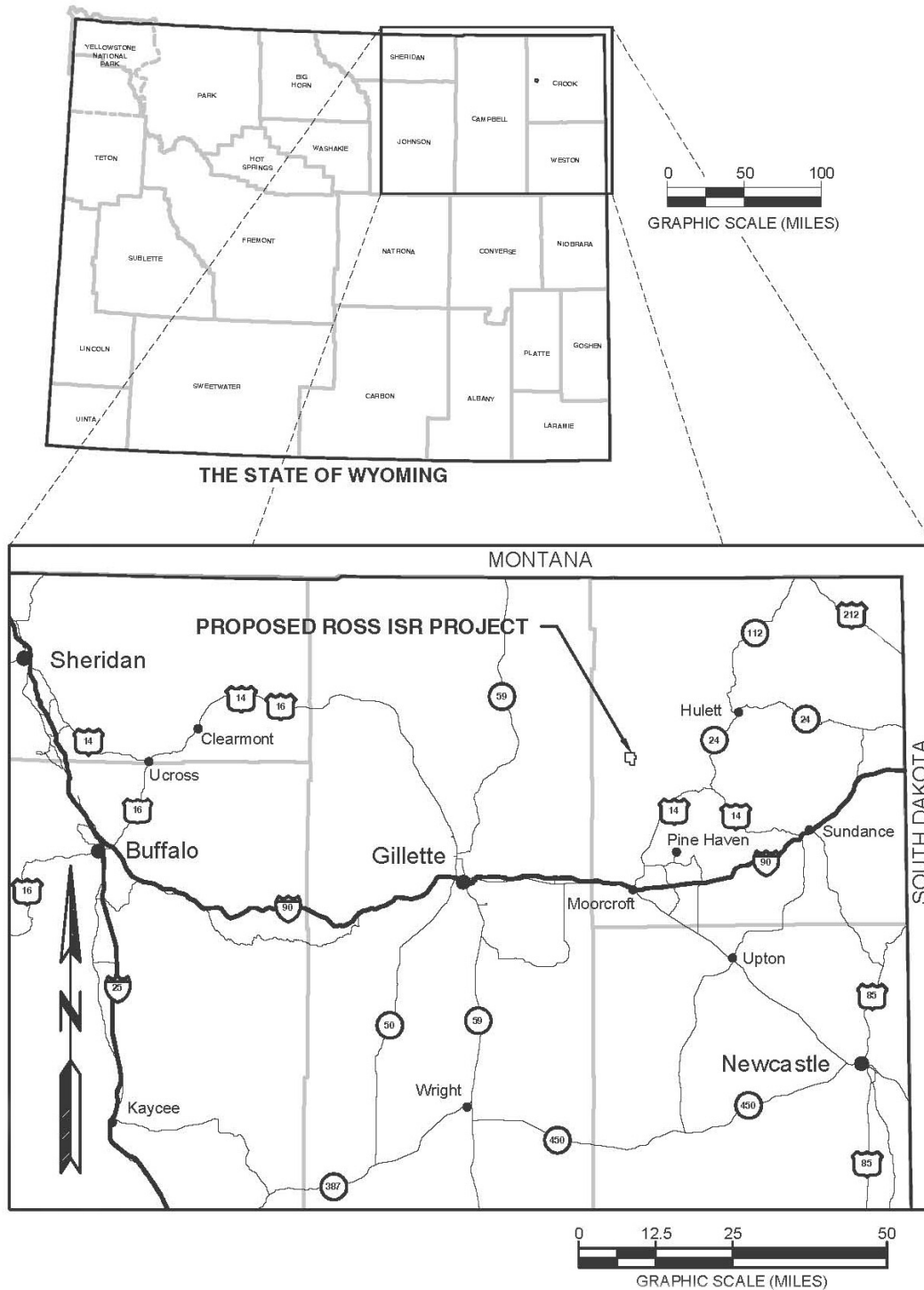


Figure 1 Ross Project Location Map

Source: Figure 1.4-1 of the Ross ISR Project USNRC License Application, Technical Report, Crook County, Wyoming, prepared by Strata Energy, Inc., Docket No. 040-09091. ADAMS Accession No. ML110120063, January 2011.

APPENDIX A TO THE PROGRAMMATIC AGREEMENT AMONG THE U.S. NUCLEAR REGULATORY COMMISSION, THE ADVISORY COUNCIL ON HISTORIC PRESERVATION, THE WYOMING STATE HISTORIC PRESERVATION OFFICE, THE BUREAU OF LAND MANAGEMENT-NEWCASTLE FIELD OFFICE AND STRATA ENERGY, INC. REGARDING THE ROSS IN-SITU URANIUM RECOVERY PROJECT IN CROOK COUNTY, WYOMING

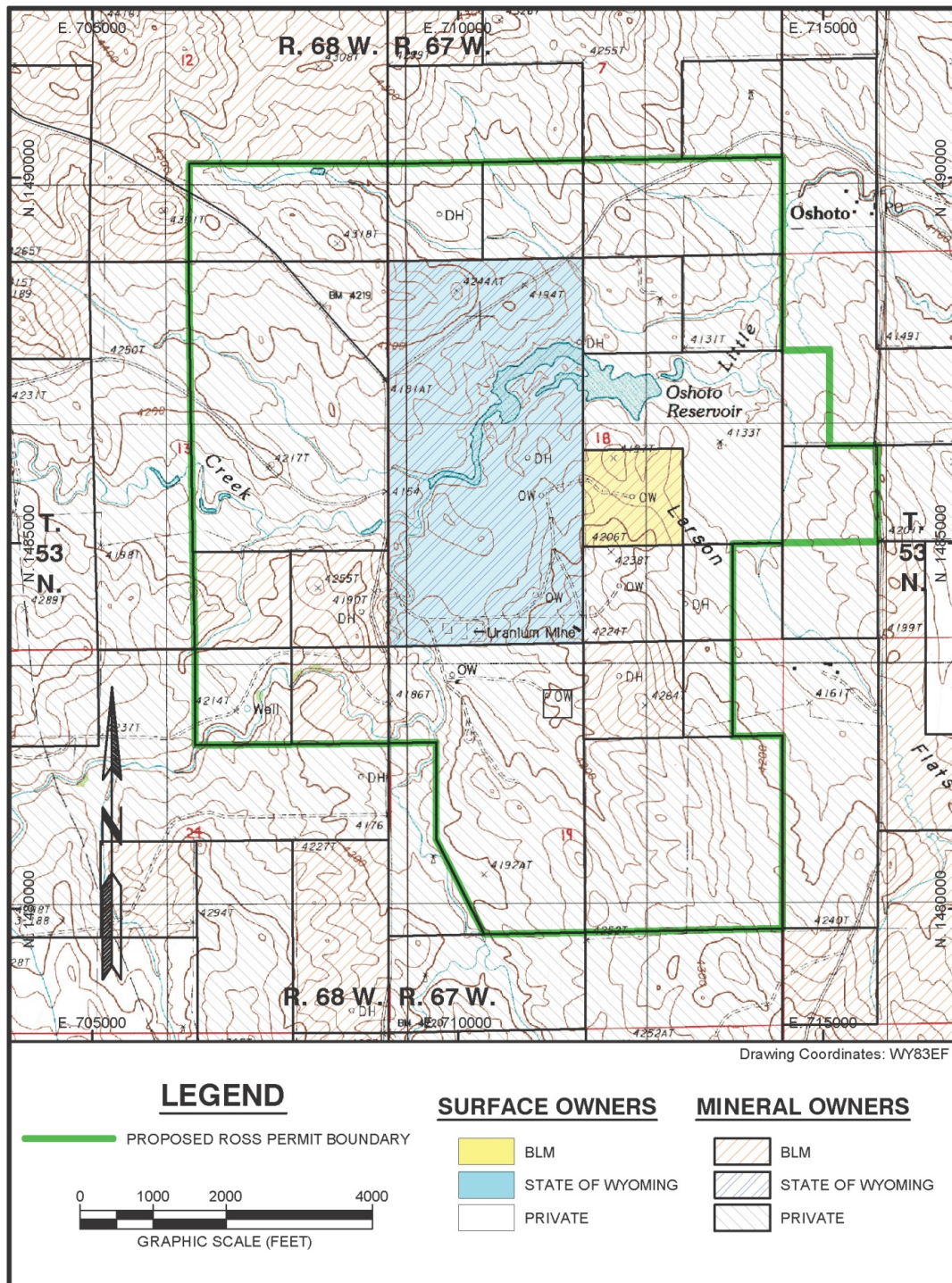


Figure 2 Ross Project License Boundary and Distribution of Land Ownership

Source: Figure 2.1-1 of the Ross ISR Project USNRC License Application, Technical Report, Crook County, Wyoming, prepared by Strata Energy, Inc., Docket No. 040-09091. ADAMS Accession No. ML110120063, January 2011.

APPENDIX A TO THE PROGRAMMATIC AGREEMENT AMONG THE U.S. NUCLEAR REGULATORY COMMISSION, THE ADVISORY COUNCIL ON HISTORIC PRESERVATION, THE WYOMING STATE HISTORIC PRESERVATION OFFICE, THE BUREAU OF LAND MANAGEMENT-NEWCASTLE FIELD OFFICE AND STRATA ENERGY, INC. REGARDING THE ROSS IN-SITU URANIUM RECOVERY PROJECT IN CROOK COUNTY, WYOMING

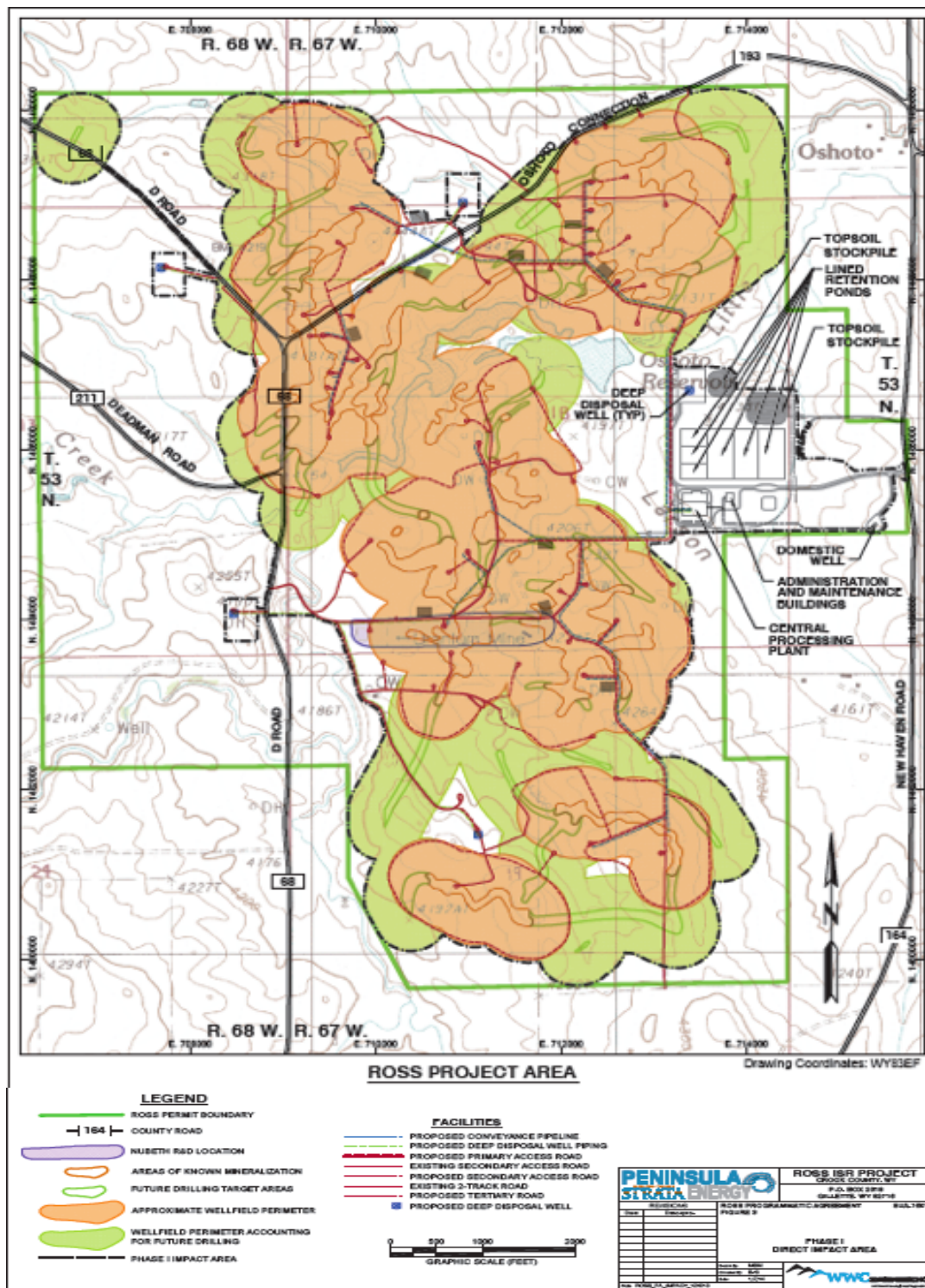


Figure 3 Ross Project Phase I Area

Source: Email to Johari Moore (NRC) from Ben Schiffer [WWC (Strata)]. Re: Request for Additional Information to Develop Draft Programmatic Agreement. Docket No. 040-09091. January 7, 2014.

APPENDIX A TO THE PROGRAMMATIC AGREEMENT AMONG THE U.S. NUCLEAR REGULATORY COMMISSION, THE ADVISORY COUNCIL ON HISTORIC PRESERVATION, THE WYOMING STATE HISTORIC PRESERVATION OFFICE, THE BUREAU OF LAND MANAGEMENT-NEWCASTLE FIELD OFFICE AND STRATA ENERGY, INC. REGARDING THE ROSS IN-SITU URANIUM RECOVERY PROJECT IN CROOK COUNTY, WYOMING

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Appendix B

Ross Project Cultural Resource Inventories

Cultural Resource Inventory

A Class III Cultural Resource Inventory (Class III Inventory) was conducted in support of the Ross Project in April 2010 and July 2010. The Inventory included a pedestrian survey in transects of 30-m [102-ft] intervals throughout the Ross Project area. Subsurface exposures such as cut banks, anthills, rodent burrows, roads ruts, and cow tracks were examined. Shovel probes were placed at the discretion of the surveyors, primarily in locations where artifacts or features were located or where soil had accumulated. The Inventory focused on landforms where intact sites might be expected, such as intact, stable terraces and their margins, as well as areas of exposure. Site evaluations were not completed for all sites during this Inventory and sites were not assessed for project effect.

In November 2011, additional site evaluation field work was accomplished: A geophysical magnetometer survey was conducted at several sites, but it was found to be ineffective because of the nature of the soils. During the fieldwork 6 back-hoe trenches, approximately 27 test pits measuring 0.5 m x 0.5 m [1.6 ft x 1.6 ft], and approximately 44 test pits measuring 1.0 m x 1.0 m [3.3 ft x 3.3 ft] were excavated to further evaluate sites near areas where road construction and other impacts would be expected. The testing report for this fieldwork was submitted in 2012.

In preparation for the Class III Inventory, a records search was conducted for the Ross Project area in 2010; this search included the records of the Wyoming Cultural Records Office (WYCRO), the WYCRO online data base, and the BLM's Newcastle Field Office. The records search showed that, prior to the 2010 Class III Inventory, no substantial block inventory had been conducted in the Project area. Small-scale investigations, including two associated with power lines and buried telephone cables as well as a drilling-pad and access-road survey, had been conducted in the Ross Project area. One survey, an inventory for a linear buried telephone cable in Section 13, identified one prehistoric campsite, 48CK1603. This site was re-recorded during the 2011 fieldwork and determined to be eligible for the National Register of Historic Places despite damage from a county road that bisects the site.

Buildings and Structures

No buildings or structures eligible for the National Register of Historic Places (NRHP) or Wyoming State Register were identified within the Ross Project area. An earthen structure in the Ross Project area, the Oshoto Dam, did not meet the criteria for eligibility for listing in the NRHP (48 CFR Part 2157). The original dam has been rebuilt numerous times because of flood damage, most recently in 2005, and is considered to be essentially a reconstruction rather than the original dam.

Archaeological Sites

During the Applicant's initial Class III Inventory for the Ross Project, 24 new sites and 21 isolated finds were recorded. Twenty-three of the recorded sites are prehistoric camps, and one

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is a historic-period homestead. A number of sites produced projectile points that represent Middle Archaic, Late Archaic, and Late Prehistoric occupations. Twenty-one isolates were also recorded during the Inventory. All but two of these are prehistoric artifacts; the two historic isolates are trash scatters. In addition to the sites identified during the Class III Inventory, the potential exists for deeply buried sites to be found within the Ross Project area because of its propitious location near the headwaters of the Little Missouri River and the percentage of the Ross Project area that consists of deep alluvium.

As described in the Tribal Consultation section below, a Class III Inventory in the Ross Project area designed to identify and evaluate the NRHP significance of properties of religious and cultural significance to Tribes was performed by representatives of ten Tribes during May and June 2013. During the June Tribal field survey, additional archaeological content including bone and lithic artifacts was found at 48CK2087, a site identified in the cultural resource inventory as consisting only of a hill-top cairn. The new cultural finds at 48CK2087 extend the boundary of 48CK2087. Additionally, three new archaeological sites were found within the Ross Project Area: 48CK2229, 48CK2230, and 48CK2231.

The 27 sites along with previously identified 48CK1603 are listed in Table 1-A, Table 1-B, Table 1-C, and Table 1-D. Consultations on the eligibility determinations for these sites are documented in the following letters between the NRC and the Wyoming State Historic Preservation Office (WYSHPO): NRC letter to WYSHPO, dated March 8, 2013; WYSHPO letter to NRC, dated March 28, 2013; NRC letter to WYSHPO, dated September 20, 2013; WYSHPO letter to NRC, dated October 22, 2013.

Table 1-A. Summary of Ross Project Cultural Properties

Site Number	NRHP Eligibility
48CK1603	Eligible
48CK2070	Unevaluated
48CK2071	Not Eligible
48CK2072	Not Eligible
48CK2073	Unevaluated
48CK2074	Not Eligible
48CK2075	Unevaluated
48CK2076	Unevaluated
48CK2077	Not Eligible
48CK2078	Unevaluated
48CK2079	Unevaluated
48CK2080	Unevaluated
48CK2081	Unevaluated
48CK2082	Unevaluated
48CK2083	Eligible
48CK2084	Not Eligible
48CK2085	Unevaluated
48CK2086	Not Eligible
48CK2087	Unevaluated
48CK2088	Not Eligible
48CK2089	Unevaluated

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Site Number	NRHP Eligibility
48CK2090	Unevaluated
48CK2091	Unevaluated
48CK2092	Unevaluated
48CK2093	Not Eligible
48CK2229	Unevaluated
48CK2230	Unevaluated
48CK2231	Unevaluated

Table 1-B. Summary of NRHP Eligible Ross Project Cultural Properties

Site Number	NRHP Eligibility
48CK1603	Eligible
48CK2083	Eligible

Table 1-C. Summary of NRHP Not Eligible Ross Project Cultural Properties

Site Number	NRHP Eligibility
48CK2071	Not Eligible
48CK2072	Not Eligible
48CK2074	Not Eligible
48CK2077	Not Eligible
48CK2084	Not Eligible
48CK2086	Not Eligible
48CK2088	Not Eligible
48CK2093	Not Eligible

Table 1-D. Summary of Unevaluated Ross Project Cultural Properties

Site Number	NRHP Eligibility
48CK2070	Unevaluated
48CK2073	Unevaluated
48CK2075	Unevaluated
48CK2076	Unevaluated
48CK2078	Unevaluated
48CK2079	Unevaluated
48CK2080	Unevaluated
48CK2081	Unevaluated
48CK2082	Unevaluated
48CK2085	Unevaluated
48CK2087	Unevaluated
48CK2089	Unevaluated
48CK2090	Unevaluated

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Site Number	NRHP Eligibility
48CK2091	Unevaluated
48CK2092	Unevaluated
48CK2229	Unevaluated
48CK2230	Unevaluated
48CK2231	Unevaluated

Tribal Consultation

According to Executive Order (EO) No. 13175, *Consultation and Coordination with Indian Tribal Governments*, the NRC is encouraged to “promote government-to-government consultation and coordination with Federally-recognized Tribes that have a known or potential interest in existing licensed uranium-recovery facilities or applications for new facilities.” The BLM is required to comply with this Order. Although the NRC, as an independent regulatory agency, is explicitly exempt from the Order, NRC remains committed to its spirit. The agency has demonstrated a commitment to achieving the Order’s objectives by implementing a case-by-case approach to interactions with Native American Tribes. The NRC’s case-by-case approach allows both the NRC and the Tribes to initiate outreach and communication with one another.

As part of its obligations under Section 106 of the NHPA and the regulations at 36 CFR 800.2(c)(2)(ii)(A), the NRC must provide Native American Tribes “a reasonable opportunity to identify its concerns about historic properties, advise on the identification and evaluation of historic properties and evaluation of historic properties, including those of religious and cultural importance, articulate its views on the undertaking’s effects on such properties, and participate in the resolution of adverse effects.” Tribes that have been identified as potentially having concerns about actions near Devils Tower were formally invited by the NRC staff, by letter dated February 9, 2011, to participate in the Section 106 consultation process for the proposed Ross Project (see Table 2). The NRC staff invited the Tribes to participate as consulting parties in the NHPA Section 106 process and sought their assistance in identifying Tribal historic sites and cultural resources that may be affected by the Undertaking.

Table 2. Tribes Invited to Participate in Section 106 Consultation for the Ross Project

1	Apache Tribe of Oklahoma ^a
2	Blackfeet
3	Cheyenne and Arapaho Tribes of Oklahoma
4	Cheyenne River Sioux
5	Chippewa Cree
6	Confederated Salish & Kootenai Tribes
7	Crow Tribe
8	Crow Creek Sioux Tribe
9	Eastern Shoshone Tribe
10	Flandreau Santee Sioux Tribe
11	Fort Belknap Community
12	Fort Peck Assiniboine and Sioux Tribes
13	Kiowa Tribe of Oklahoma ^b
14	Lower Brule Sioux Tribe

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15	Northern Arapaho Tribe
16	Northern Cheyenne Tribe
17	Oglala Sioux Tribe
18	Rosebud Sioux Tribe
19	Santee Sioux Tribe of Nebraska
20	Sisseton-Wahpeton Sioux Tribe
21	Spirit Lake Tribe ^b
22	Standing Rock Sioux Tribe
23	Three Affiliated Tribes
24	Turtle Mountain Band of Chippewa Indians
25	Yankton Sioux Tribe

^aThe Apache Tribe of Oklahoma notified the NRC by email dated August 19, 2011 that it did not wish to participate in consultation on the Ross Project.

^bNo response was received from the Kiowa Tribe of Oklahoma or the Spirit Lake Tribe.

Culturally Significant Locations

No Native American heritage, special interest, or sacred sites were previously formally identified or recorded to date that are in the Ross Project APE. The geographic position of the Project area between mountains considered sacred by various Native American cultures (the Big Horn Mountains to the west and the Black Hills including nearby Devils Tower to the east), however, creates the possibility that the Project area could have sites and locations of special religious or sacred significance to Native American groups.

Properties of Religious and Cultural Significance to Tribes

As required by Section 106 of the NHPA, the NRC requested information about places of cultural, religious, and traditional significance that could be affected by the Ross Project from various interested Tribes in order to complete government-to-government consultation efforts. Places of cultural, religious, and traditional significance that meet the NRHP criteria are included in the definition of Historic Property under 36 CFR Part 800.16(l)(1).

The NRC invited the Tribes listed in Table 2 (excluding The Apache Tribe of Oklahoma) to participate in a field survey of the Ross Project area under an “Open-Site approach” and a “Tribal Working Group” approach. A detailed description of the NRC’s efforts to provide an opportunity for Consulting Tribes to conduct a field survey of the Ross Project site is provided in the NRC’s letter to the Advisory Council on Historic Preservation (ACHP), dated August 14, 2013. A Class III Inventory in the Ross Project area designed to identify and evaluate the NRHP significance of properties of religious and cultural significance to Tribes was performed by representatives of six Tribes on May 13 – 16, 2013. The six Tribes participating in the May Tribal field survey included:

- Santee Sioux Tribe of Nebraska (Niobrara, Nebraska)
- Crow Creek Sioux Tribe (Fort Thompson, South Dakota)
- Rosebud Sioux Tribe (Rosebud, South Dakota)
- Yankton Sioux Tribe (Wagner, South Dakota)
- Northern Cheyenne Tribe (Lame Deer, Montana)

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- Turtle Mountain Band of Chippewa Indians (Belcourt, North Dakota)

A second Tribal field survey was performed by representatives of four Tribes on June 3 – 6, 2013. The four Tribes participating in the May Tribal field survey included:

- Cheyenne and Arapaho Tribes of Oklahoma (Concho, Oklahoma)
- Northern Arapaho Tribe (Fort Washakie, Wyoming)
- Fort Belknap Indian Community (Harlem, Montana)
- Eastern Shoshone Tribe (Fort Washakie, Wyoming)

The entire 696.46 [1,721-ac] Ross Project area was inventoried using current Class III-inventory methods during both Tribal field surveys. Crew members performed the surveys using transects spaced no greater than 30 meters (m) [100 ft]. Skirmish-line transects were walked across the Ross Project area, guided by GPS bearings in addition to natural and cultural features, and the transects were adjusted in direction when major obstacles, such as Oshoto Reservoir, were met. Because of the large numbers of personnel involved in the two surveys, radio communications were provided by Strata to Tribal leaders to facilitate survey communications and coordination. In most instances, a limited time was spent at previously recorded archaeological sites. To facilitate relocation and recording, newly discovered archaeological sites were located by a single GPS datum and briefly noted as to the site's general content and setting. Newly discovered prehistoric individual finds were also mapped and recorded during both surveys.

When properties of religious and cultural significance to Tribes were noted during the May Tribal field survey, the pedestrian survey was brought to a halt, and the find was recorded by the NRC archaeological consultant supporting the survey in consultation with leaders of the May Tribal crew. Properties of religious and cultural significance to Tribes noted during the June Tribal field survey were briefly identified as properties of religious and cultural significance to Tribes by the Tribal crew and plotted by GPS location. The survey then resumed. Once the walkover was completed, the June crew returned to the mapped properties and recorded them.

As a result of the May and June Tribal field surveys, 18 properties of religious and cultural significance to Tribes were located, recorded, and evaluated for NRHP eligibility in the Ross Project area (see Table 3). A *Tribal Field Survey Report* documenting these findings, based on the recommendations provided by the Northern Arapaho Tribe, the Cheyenne and Arapaho Tribes of Oklahoma, and the NRC archaeological consultants that supported the survey will be submitted to the Wyoming SHPO for review and comment. By letter dated August 27, 2012, Strata provided to the NRC the results of its analysis to identify and assess the potential visual effects to properties located within 3 miles of the Ross Project boundary. The NRC in coordination with the BLM will utilize this analysis and additional records search information to analyze indirect effects and will incorporate this analysis into the *Tribal Field Survey Report*.

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Table 3. Summary of Ross Project Properties of Religious and Cultural Significance to Tribes

Site Number	NRHP Eligibility
48CK2070	Unevaluated
48CK2080	Unevaluated
48CK2087	Unevaluated
48CK2089	Unevaluated
48CK2214	Unevaluated
48CK2215	Unevaluated
48CK2216	Unevaluated
48CK2217	Unevaluated
48CK2218	Unevaluated
48CK2219	Unevaluated
48CK2220	Unevaluated
48CK2221	Unevaluated
48CK2222	Unevaluated
48CK2223	Unevaluated
48CK2224	Unevaluated
48CK2225	Unevaluated
48CK2226	Unevaluated
48CK2227	Unevaluated