

Preserving America's Heritage

May 5, 2016

Ms. Jean Trefethen
U.S. Nuclear Regulatory Commission
11545 Rockville Pike
Two White Flint North, Mail Stop 8 F5
Rockville, MD 20852-2738

Ref: *Advisory Council on Historic Preservation's Comments on the Draft Amendment to the Programmatic Agreement for the Ross In Situ Uranium Recovery Project
Crook County, Wyoming*

Dear Ms. Trefethen:

The Advisory Council on Historic Preservation (ACHP) has completed its review of the *Draft Amendment 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*, submitted to ACHP via email on April 29, 2016. We have developed comments that highlight two issues that the U.S. Nuclear Regulatory Commission (NRC) will need to consider as it drafts the next version of the amendment to the Programmatic Agreement (PA). We recommend that you consider our comments, as well as those submitted by other consulting parties participating in this Section 106 consultation process.

Whereas Clauses

BLM Section 106 Responsibilities and Invited Signatory Status:

Two new Whereas clauses should be added to clarify whether the Bureau of Land Management (BLM) has any remaining Section 106 responsibilities for this undertaking, and what its role will be given the formal withdrawal of the Plan of Operations. Assuming BLM has no Section 106 responsibilities for this undertaking, they would be a consulting party and sign as an invited signatory or concurring party. Due to BLM's cultural resources technical expertise and its past participation in the implementation of the Ross PA, we recommend that the NRC invite BLM to be a signatory to this amended PA. Further, if Stipulations B, C, D, and E of the original PA remain unchanged, BLM will continue to have responsibilities specified in the PA and would need to be an invited signatory rather than a concurring party (36 CFR § 800.6 (c)(2)(iii)). The NRC also should invite BLM to sign the amendment to the PA in accordance with 36 CFR § 800.6 (c)(7).

ADVISORY COUNCIL ON HISTORIC PRESERVATION

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The new Whereas Clauses should include the following text:

WHEREAS, the BLM Newcastle Field Office no longer has Section 106 responsibilities for the undertaking due to the formal withdrawal of the Plan of Operations.

WHEREAS, due to the BLM Newcastle Field Office's cultural resources technical expertise, their past participation in the implementation of the original PA, and specific responsibilities in the amended PA, the BLM Newcastle Filed Office will be invited to sign the amendment to the PA as an Invited Signatory.

Now, Therefore Clause

Please refer to the template MOA/Project PA amendment or insert the text provided below.

NOW, THEREFORE, in accordance with Stipulation K of the PA, 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. agree to amend the Agreement as follows:

We understand NRC's desire to move forward with this amendment. The amendment to the PA, therefore, should adhere to our regulations and be comprehensive so as to avoid the potential for misinterpretation. Accordingly, we urge NRC to consider our comments when revising the amendment to the PA and address any other comments provided by consulting parties. If you have any questions, please contact Sarah Stokely who can be reached at (202) 517-0224 or via e-mail at sstokely@achp.gov.

Sincerely,



Charlene Dwin Vaughn, AICP
Assistant Director
Federal Permitting, Licensing, and Assistance Section
Office of Federal Agency Programs

Enclosure

Model MOA/Project PA Template Amendment:

AMENDMENT TO
[INSERT FULL NAME OF THE AGREEMENT]
(AGREEMENT)

WHEREAS, the Agreement was executed on [insert month and year of execution];

WHEREAS, [insert a concise explanation of the reasons for the amendment];

WHEREAS, [insert the name of the federal agency] will send a copy of this executed amendment to the ACHP [Only use this whereas clause if the ACHP is not a signatory to the Agreement];

NOW, THEREFORE, in accordance with Stipulation [insert the number of the amendment stipulation] of the Agreement, [insert the Signatories of the Agreement] agree to amend the Agreement as follows:

1. Amend Stipulation [insert the number of the stipulation to be amended] so it reads as follows:

[insert the amended text of the stipulation]

[AND/OR, if the amendment involves adding a new stipulation to the Agreement]

2. Add new Stipulation [insert the number of the new stipulation]:

[insert the text of the new stipulation]

[AND/OR, if the amendment involves deleting a stipulation of the Agreement]

3. Delete Stipulation [insert the number of the stipulation to be deleted].

[Repeat #1, 2, and 3 as necessary]

[OR, if the amendments are so pervasive that it is easier to cut/paste a copy of the entire, amended Agreement]

1. Amend the Agreement so it reads as follows:

[attach the text of the entire, amended agreement]

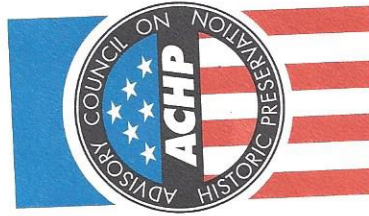
[Insert signature and date lines for all Signatories. If the amendments add duties to a party that did not sign the Agreement, add a signature line for that party.]

Advisory Council on Historic Preservation

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