



May 23, 2016

Ms. Lydia W. Chang, Chief  
Environmental Review Branch  
Division of Fuel Cycle Safety, Safeguards  
and Environmental Review  
U.S. Nuclear Regulatory Commission  
11545 Rockville Pike  
Two White Flint North, Mail Stop 8 F5  
Rockville, MD 20852-2738

Re: Strata Energy's Comments on the NRC's Draft Amendment to the Programmatic Agreement  
for the Ross In Situ Uranium Recovery Project in Crook County, WY

Dear Ms. Chang:

Submitted with this letter is a redline of the NRC's Draft Amendment to the Programmatic Agreement for the Ross In Situ Uranium Recovery Project in Crook County, Wyoming (PA), reflecting changes to the Draft proposed by Strata Energy, Inc. We understand that the NRC decided that an amendment is required as a result of the fact that Strata Energy, Inc., withdrew the Plan of Operations (POO), and the BLM formally acknowledged the withdrawal, in September 2015.

Upon withdrawal of the POO, Strata Energy, Inc.'s mine plan no longer includes federally administered land; the BLM is no longer required to review or approve Strata's mining activities with regard to the Ross Project; and, therefore, BLM no longer has an "undertaking" for purposes of Section 106 of the National Historic Preservation Act (NHPA). We understand that although the BLM does not have a NHPA undertaking, the NRC and the ACHP wish to have BLM available for providing technical advice to the NRC as this matter proceeds. Our proposed modifications to the NRC's Draft Amendment in the attached redline are crafted to reflect these changes in circumstances and the future role of BLM in providing NRC with technical advice as may be requested by the NRC.

We are also enclosing an "Explanation of Changes to Draft Amendment to PA" to aid in your review of the redline draft.

In reviewing the proposed changes, Strata noted that Table 1-D of Appendix B does not match the table contained in the original PA. No changes are marked in the version that we received. If changes are proposed for this table, please provide those changes and the basis for review by the Parties.



Please feel free to contact me if you have any questions about our proposed changes to the NRC's Draft Amendment.

Sincerely,  
Strata Energy, Inc.

A handwritten signature in blue ink, appearing to read "Mike Griffin", is positioned below the typed name.

Mike Griffin  
Vice President of Permitting, Regulatory and Environmental Compliance

Enclosures: Explanation of Changes  
Revised Draft Amendment to PA

cc: Jean Trefethen, Project Manager, NRC Office of Nuclear Safety and Safeguards  
(w/encls.)



### Explanation of Changes

#### Changes and additions to the “Whereas” clauses on page 1 the Draft Amendment.

1. The new *WHEREAS* clause on page 1 of the Draft Amendment is added to reflect the fact that it was the requirement that BLM review and approve the POO that created a section 106 “undertaking” for the BLM.
2. The *WHEREAS* clause following the new *WHEREAS* clause on page 1 of the Draft Amendment is amended by (1) striking the language pertaining to Strata accessing “Federally-administered land” because there is no current request or intent to access such land or any other land outside of its mine plan, and (2) by noting that there is no longer a plan of operations for BLM to review and approve, which is a significant change of circumstances in the Project. See ACHP Guidance on Section 106 Agreement Documents at page 26: amendments are appropriate when a federal agency may “need to change the scope, direction, or components of a proposed undertaking.” That is exactly what has happened with respect to the Ross PA.
3. The amendment to the last *WHEREAS* clause on page 1 is added for clarification.

#### Changes and additions to the “Stipulations” section beginning on page 2 of the Draft Amendment

1. The first sentence in the section entitled “STIPULATIONS” on page 4 of the PA is amended by striking “or the BLM” for the reason that the POO was withdrawn and BLM is no longer required to assure that the “following measures are carried out.”
2. Stipulation A.1. is amended to strike the phrase “and the BLM will require as a condition of approval of Strata’s Plan of Operations” because the POO has been withdrawn.
3. Stipulation A.8. is stricken because the POO has been withdrawn and the BLM no longer has these responsibilities.
4. The agency name “BLM” and/or the phrase “in coordination with the BLM” are stricken from the third *WHEREAS* clause on Page 4 of the PA and from Stipulations B.1.c., B.2.b., B.2.d., B.3.b., C.2.b., C.3.a., D.1.b., and D.2.d., because the BLM no longer has these responsibilities in light of the withdrawal of the POO and the agency no longer having an section 106 undertaking.
5. Stipulation D.3.a. is stricken because the mine plan no longer includes “BLM-administered lands,” which are the only lands that Stipulation D.3.a. pertains to.





6. Stipulations D.3.c., D.3.d., D.3.e., E.1., E.2., F.1.a., and F.2.a. are all amended by striking the references to BLM in light of the withdrawal of the POO and the agency no longer having an section 106 undertaking.
7. Stipulation F.2.b. is removed in its entirety because the mine plan no longer includes “BLM-administered lands,” which are the only lands that Stipulation F.2.b. pertains to.
8. Stipulation F.2.c. is amended to remove “BLM” for the reasons given in paragraphs 2 and 5 above.
9. Stipulation G. is amended by striking the last sentence because the mine plan no longer includes BLM-managed lands.
10. Stipulation O.4. of the PA, which sets forth a merger or integration clause, is amended to clarify that it applies to the PA *as amended* by the matters set forth in Appendix C. Having a single merger clause would seem more logical than having two separate, differently worded merger clauses, one in the original PA and another in an Appendix to the PA.
11. Appendix A is amended in the first section (“Undertaking”) on page 1 by adding a sentence to the effect that subsequent to the execution of the PA, the POO was withdrawn so that no operations will occur on Federally-administered land.

#### Changes to section II, “Agreement in Full Force and Effect,” on page 6 of the Draft Amendment

Consistent with the amendment to Stipulation O.4. described above, section II, “Agreement in Full Force and Effect” on page 5 of the Draft Amendment, which is partially a merger clause, is amended to delete the merger clause. However, the language stating that the provisions of the PA not explicitly changed in the amendment remain “in full force and effect” is retained.

#### Addition of a new section III on page 6 of the Draft Amendment

A new section III is added to the draft amendment, stating that BLM will no longer be a signatory party to the PA but will be a “concurring party” providing technical assistance to NRC as it carries out its functions under the PA.



#### "Signatures" Section

The section entitled "Signatures," now section IV on page 6 of the Draft Amendment, would strike the term "Signatory" from the provision because the only parties signing the amendment are "Signatories." Further, a signature block is added for BLM to sign the amendment in the capacity of a concurring party.

## Appendix C

**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**

**WHEREAS**, the Nuclear Regulatory Commission (NRC), the Advisory Council on Historic Preservation (ACHP), the Wyoming State Historic Preservation Office (WYSHPO), the Bureau of Land Management (BLM) Newcastle, Wyoming Field Office, and Strata Energy, Inc. (Strata) executed a Programmatic Agreement (PA) on April 24, 2014 for purposes of NRC's and BLM's compliance with Section 106 of the National Historic Preservation Act (NHPA), 16 U.S.C. §§ 470 *et seq.*, relating to the licensing, development, and operation of an *in-situ* leach uranium recovery (ISR) project at the Ross site located in Crook County, Wyoming (the Ross Project); and

**WHEREAS**, at the time the PA was executed, Strata had submitted a Plan of Operations (~~PeOPOO~~) for the Ross Project to the BLM Newcastle Field Office for review and approval in accordance with 43 CFR Subpart 3809; and

**WHEREAS**, subsequent to the execution of the PA, Strata amended its mine plan for the Ross Project such that no operations will occur on Federally-administered land and, by letter dated July 29, 2015, withdrew the ~~PeO-POO~~ from the BLM Newcastle Field Office; and

**WHEREAS**, the BLM Newcastle Field Office acknowledged Strata's withdrawal of the Ross Project ~~PeOPOO~~ by letter received by Strata on September 18, 2015; and

**WHEREAS**, as noted in the fifth Whereas clause on page 1 of the PA, the requirement that BLM review and approve the POO made the Project an "Undertaking" requiring BLM compliance with section 106 of the NHPA; and

**WHEREAS**, as a result of Strata's withdrawal of the ~~PeOPOO~~, Strata may only access Federally-administered land adjacent to the Ross Project for casual use activities, as defined in 43 CFR §§ 3809.5 and 3809.10, or for Notice-level exploration activities there is no longer a plan of operations subject to BLM review and approval under 43 CFR 3809.31(d); and

**WHEREAS**, the ongoing implementation of the PA has resulted in changes to the status of historical and cultural sites reflected in Tables 1-B, 1-C and 1-D in Appendix B to the PA;

**WHEREAS**, all parties have agreed that an amendment to the PA should be executed to reflect Strata's withdrawal of the ~~PeO-POO~~ and BLM's acknowledgement of Strata's withdrawal of the POO, and to update the status of the historic and cultural sites involved;

AMENDMENT 1 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



**NOW, THEREFORE**, in accordance with Stipulation K of the PA, all parties agree that the PA sections referenced below are superseded by the new stipulations in this Amendment.

**I. STIPULATIONS**

1. The fourth and fifth WHEREAS clauses on page 1 of the PA, describing BLM's review and approval of Strata's ~~PeOPOO~~, are removed in their entirety.
2. The third WHEREAS clause on page 4 of the PA is amended by striking "BLM,".
3. The first sentence in the section entitled "STIPULATIONS" on page 4 of the PA is amended by striking "or the BLM".
4. Stipulation A.1. is amended by striking ", and the BLM will require as a condition of approval of Strata's Plan of Operations,".
5. Stipulation A.8. is removed in its entirety.
6. Stipulations B.1.c. and B.2.b. are amended by striking "and BLM" wherever that phrase appears.
7. Stipulations B.2.d., B.3.b., B.4.a., C.2.b., C.3.a., D.1.b., and D.2.d. are amended by striking "in coordination with the BLM" or "in coordination with BLM" wherever those phrases appear.
8. Stipulation D.3.a. is removed in its entirety.
9. Stipulation D.3.c. is amended by striking "BLM,".
10. Stipulation D.3.d. is amended by striking "in coordination with the BLM" and by striking "NRC/BLM" and inserting in its place "NRC".
11. Stipulation D.3.e. is amended by striking "and BLM".
12. Stipulations E.1. and E.2. are amended (1) in their first sentences by striking "BLM" and inserting in its place "NRC" and (2) in their last sentences by striking "BLM,".
13. Stipulations F.1.a. in the last sentence and F.1.e. are amended by striking "BLM,".
14. Stipulation F.2.a. is amended by (1) striking "the BLM Field Office Authorized Officer, the BLM Ranger," and (2) after "Sheriff's Office" inserting "NRC".
15. Amend Stipulation F.2.b., Inadvertent Discoveries of Human Remains, to read as follows: is removed in its entirety.

~~In the event that human remains are discovered on Federally administered land from casual use or exploration activities or as a result of implementation of the Undertaking on adjacent land, all activities within 300 feet of the discovery will cease, the area will be secured, and Strata shall immediately notify the BLM Field Office Authorized Officer and the BLM Ranger, who will notify the Crook County Sheriff's Office, the County Coroner, and the WYSHPO. In the event that Strata cannot reach a BLM contact, Strata should proceed with notifying the Sheriff's Office. 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). BLM will be responsible for compliance with the provisions of NAGPRA on~~

- ~~Federal land. If non-Native American human remains are found on Federal land, BLM will treat such remains in accordance with applicable law.~~
16. Stipulation F.2.c. is amended by striking “BLM.”.
17. Stipulation G is amended by striking the last sentence of that Stipulation.
18. Stipulation O.1. is amended to read as follows:

1. **Entirety of Agreement.** This PA, as amended by the amendments set forth in Appendix C, 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.

19. Stipulation O.4. is amended by striking “the BLM.”.
20. Appendix A is amended on page 1 by inserting at the end of the section entitled “Undertaking,” a new paragraph that reads as follows:

“Subsequent to the execution of the Programmatic Agreement of which this Appendix A is a part, Strata amended its mine plan for the Ross Project and withdrew its Plan of Operations from the BLM’s Newcastle Field Office, such that no operations will occur on Federally-administered land.”

21. Replace Appendix B, Tables 1-A, 1-B, 1-C, 1-D, and 3 with the following updated tables:

**Table 1-A. Summary of Ross Project Cultural Properties**

Site Number	NRHP Eligibility
48CK1603	Eligible
48CK2070	Eligible Criterion A
48CK2071	Not Eligible
48CK2072	Not Eligible
48CK2073	Unevaluated
48CK2074	Not Eligible
48CK2075	Unevaluated
48CK2076	Eligible Criterion A
48CK2077	Not Eligible
48CK2078	Unevaluated
48CK2079	Unevaluated
48CK2080	Eligible Criterion A
48CK2081	Unevaluated
48CK2082	Unevaluated
48CK2083	Eligible
48CK2084	Not Eligible
48CK2085	Unevaluated
48CK2086	Not Eligible
48CK2087	Eligible Criterion A
48CK2088	Not Eligible
48CK2089	Eligible Criterion A
48CK2090	Unevaluated
48CK2091	Unevaluated



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

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

Site Number	NRHP Eligibility
48CK1603	Eligible
48CK2070	Eligible Criterion A
48CK2076	Eligible Criterion A
48CK2080	Eligible Criterion A
48CK2083	Eligible
48CK2087	Eligible Criterion A
48CK2089	Eligible Criterion A

**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
48CK2231	Not Eligible

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

Site Number	NRHP Eligibility
48CK2073	Unevaluated
48CK2075	Unevaluated
48CK2078	Unevaluated
48CK2079	Unevaluated
48CK2081	Unevaluated
48CK2082	Unevaluated
48CK2085	Unevaluated
48CK2090	Unevaluated
48CK2091	Unevaluated
48CK2092	Unevaluated
48CK2229	Unevaluated
48CK2230	Unevaluated

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

Site Number	NRHP Eligibility
48CK2070	Eligible Criterion A
48CK2076	Eligible Criterion A
48CK2080	Eligible Criterion A
48CK2087	Eligible Criterion A
48CK2089	Eligible Criterion A
48CK2214	Eligible Criterion A
48CK2215	Eligible Criterion A
48CK2216	Unevaluated
48CK2217	Unevaluated
48CK2218	Eligible Criterion A
48CK2219	Eligible Criterion A
48CK2220	Eligible Criterion A
48CK2221	Not Eligible
48CK2222	Eligible Criterion A
48CK2223	Unevaluated
48CK2224	Unevaluated
48CK2225	Not Eligible
48CK2226	Not Eligible
48CK2227	Eligible Criterion A

## II. AGREEMENT IN FULL FORCE AND EFFECT

~~This Amendment (Appendix C), consisting of (5) pages; the original PA, consisting of (22) pages; Appendix A, consisting of (6) pages; and Appendix B, consisting of (7) pages, represent the entire and integrated agreement (PA) between the parties.~~ With the exception of items explicitly delineated in this Amendment, all terms and conditions of the original PA, including Appendices A and B, shall remain unchanged and in full force and effect.

## III. CONCURRING PARTY

As of the effective date of this Amendment, the BLM is no longer a signatory party but shall be considered a concurring party for the purpose of providing, at the request of NRC, advice and technical assistance to the NRC in the course of NRC's carrying out its responsibilities under the PA. The BLM may acknowledge its status as a concurring party by signing under "Concurring Party" below.

## IV. SIGNATURES

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

The effective date of this Amendment is the date of the last ~~Signatory~~ signature affixed to ~~these the~~ pages: below.



**The U.S. Nuclear Regulatory Commission**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Title: \_\_\_\_\_

**Wyoming State Historic Preservation Officer**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Title: Mary Hopkins, SHPO

**Advisory Council on Historic Preservation**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Title: John M. Fowler, Executive Director

**Strata Energy, Inc.**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Title: Ralph Knode, CEO

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

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Title: \_\_\_\_\_

**Approval as to Form:**

**Wyoming Attorney General's Office**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Title: S. Jane Caton,  
Senior Assistant Attorney General

Concurring Party:

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

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Title: \_\_\_\_\_

Enerq  
Vest V  
Box 2318  
e, WY 82717-2318

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Nuclear Regulatory Commission  
Ms. Lydia W. Chang, Chief  
Environmental Review Branch  
Two White Flint North, Mail Stop 8 F5  
11545 Rockville Pike  
Rockville MD 20852-2746

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