

**MEMORANDUM OF AGREEMENT
AMONG
THE BUREAU OF LAND MANAGEMENT
THE WYOMING STATE HISTORIC PRESERVATION OFFICER
AND LANCE OIL AND GAS/ANADARKO PETROLEUM CORPORATION
REGARDING MITIGATION OF ADVERSE EFFECTS TO THE PUMPKIN BUTTES TRADITIONAL
CULTURAL PROPERTY AND ASSOCIATED HISTORIC PROPERTIES
FROM THE SAVAGETON 3 & SAVAGETON 4 – SEGMENT 2 COALBED METHANE NATURAL GAS
PLANS OF DEVELOPMENT
CAMPBELL COUNTY, WYOMING**

WHEREAS, Lance Oil and Gas/Anadarko Petroleum Corporation has submitted an application for permit to drill 24 coalbed methane natural gas wells and construct infrastructure corridors, access roads and associated facilities on federally owned subsurface minerals overlain by private surface lands in T. 44 N., R. 75 W., Sec. 7, 8, 16, 17, 18, 20, 21, 28, 33, 34 and 35; and

WHEREAS, the BLM has determined that the development of 24 wells, infrastructure corridors, access roads and associated facilities will have an adverse effect to the contributing integrity of setting, feeling and association for the Pumpkin Buttes Traditional Cultural Property determined eligible for listing in the National Register of Historic Places under Criteria a, b and c; and

WHEREAS, this Memorandum of Agreement (MOA) will also provide procedure for the treatment of inadvertent impacts to cultural resources identified during the development and production of the Savageton 3 and Savageton 4 – Segment 2 Plans of Development (POD); and

WHEREAS, the BLM has consulted with the Wyoming State Historic Preservation Officer (SHPO) pursuant to the State Protocol between the Wyoming BLM State Director and the Wyoming State Historic Preservation Officer; and

Whereas, this undertaking does not meet thresholds for review by the Advisory Council on Historic Preservation identified in the *Programmatic Agreement Among the Bureau of Land Management, the Advisory Council on Historic Preservation, and the National Conference of State Historic Preservation Officers Regarding the Manner in which BLM Will Meet its Responsibilities Under the National Historic Preservation Act* (1997); and

WHEREAS, the BLM has established the area of potential effect (APE), as defined in 36 CFR § 800.16(d) to include areas within T. 43 N., R. 75 W., Sec. 3, 4, and 5; T. 44 N., R. 75 W., Sec. 7, 8, 16, 17, 18, 20, 21, 28, 31, 32, 33, 34 and 35; T. 44 N., R. 76 W., Sec. 1, 2, 11, 12, 13, 14, 23, and 24; and

WHEREAS, the BLM has invited Lance Oil and Gas/Anadarko Petroleum Corporation to participate in consultation and to be a Signatory to this MOA and Lance Oil and Gas/Anadarko Petroleum has accepted; and

WHEREAS, the BLM invited the Blackfeet, Cheyenne River Sioux, Crow, Eastern Shoshone, Fort Peck, Mandan, Hidatsa and Arikara Nation, Northern Arapaho, Northern Cheyenne and Oglala to participate in consultation and to be consulting parties for the resolution of adverse effects to the Pumpkin Buttes; and the Northern Cheyenne participated in the process and were invited to sign this MOA pursuant to 36 CFR 800.6 (c)(3) as a Concurring Party and declined to sign; and

WHEREAS, the “Programmatic Agreement Among the Bureau of Land Management, the Advisory Council on Historic Preservation, and the National Conference of State Historic Preservation Officers Regarding the Manner in Which BLM Will Meet Its Responsibilities Under the National Historic Preservation Act, STATE PROTOCOL Between the Wyoming BLM State Director and the Wyoming State Historic Preservation Officer”(hereinafter “State Protocol”), executed on March 8, 2006, is incorporated herein by reference; and

WHEREAS, the State of Wyoming and the SHPO do not waive their sovereign immunity by entering into this MOA, and each fully retains all immunities and defenses provided by law with respect to any action based on or occurring as a result of this MOA;

NOW, THEREFORE, BLM, SHPO, and Lance Oil and Gas/Anadarko Petroleum Corporation, agree that construction of the Savageton 3 and Savageton 4 – Segment 2 Coalbed Methane Natural Gas Plans of Development shall be implemented in accordance with the following stipulations in order to take into account the effects this project will have on the Pumpkin Buttes Traditional Cultural property and all associated sites within the project areas.

STIPULATIONS

The BLM shall ensure that the following mitigation measures are implemented:

I. Discoveries

A. If any cultural materials are discovered during construction, work in the area shall halt immediately, the BLM must be contacted, and the materials evaluated by a BLM-permitted archaeologist. Work may not resume until authorized by the BLM.

B. If Native American human remains, funerary objects, sacred objects, or objects of cultural patrimony are encountered as a result of a BLM undertaking, the BLM will comply with Section 3 of the Native American Graves Protection and Repatriation ACT (NAGPRA) and its implementing regulations at 43 CFR Part 10, subpart B. These situations will also be treated as an archaeological discovery and appropriate discovery procedures, as defined in the BLM Handbook or other guidance developed jointly between the BLM and the SHPO, will be followed.

II. Inadvertent Effects

A. Lance Oil and Gas/Anadarko Petroleum will instruct all employees, contractors, subcontractors and any additional parties involved with on the ground operations of the Savageton 3 and Savageton 4 – Segment 2 Plans of Development to completely avoid all historic properties identified within the POD boundaries.

III. Site Specific Mitigation

A. No development will occur on the tops or side of the buttes. The Pumpkin Buttes' tops and bases are defined as follows, based on 1:24,000 USGS Topographic Quadrangles for the area:

North Butte:	top = 6,020 foot contour line, base = 5,280
North Middle Butte:	top = 6,000 foot contour line, base = 5,500
South Middle and Indian Buttes:	top = 5,920 foot contour line, base = 5,500
South Butte:	top = 5,960 foot contour line, base = 5,580

B. For all activities associated with any future federal undertaking, the operator must obtain authorization from the BLM before ground disturbance can take place. The operator and the BLM will implement measures to reduce the visual contrast for any changes to the Savageton 3 and Savageton 4 – Segment 2 Plans of Development.

- C. Prior to the BLM authorization of additional construction activities, the operator will:
 - 1. Perform cultural resource, biological, and/or other surveys, as required;
 - 2. Survey facility locations, roads and pipeline corridors;
 - 3. Submit detailed construction plans including site-specific applications (as in a Plan of Development); and
 - 4. Participate in an on-site evaluation.
- D. Management practices for the operator will adhere to all conditions included with the leases in addition to all federal and state laws and regulations. According to BLM IM No. 2004-194, best management practices shall be considered in nearly all circumstances. Mitigation measures incorporating standard measures to reduce visual contrast are included in the appendices.
- E. Detailed mitigation measures pertaining to specific components of the project are located in the Appendices portion of this document.

IV. Dispute Resolution

- A. If there is an objection by any Signatory to the manner in which the terms of this MOA are implemented, the objecting Signatory will notify the Field Manager in writing of the objection. The Field Manager will notify all other Signatories of the objection. All Signatories will consult to resolve the objection.
- B. Resolution of the objection will be documented in a written amendment to this MOA to be signed by all Signatories. If a Signatory fails to respond within 30 days of receipt of the written amendment, concurrence with the amendment will be assumed by other Signatories and the amendment will go into effect. If resolution of the objection does not require amendment to the MOA, this decision will be documented in writing and provided to all Signatories.
- C. If the objection cannot be resolved among the Signatories, the matter shall be referred to the BLM State Director. The BLM State Director may consult with the BLM Preservation Board on the matter. The BLM State Director will notify all Signatories and Concurring Parties of the recommendations of the BLM Preservation Board. Within 15 days of notification, any Signatory may request consultation among all Signatories regarding the recommendations of the BLM Preservation Board. The final decision for resolution of the objection by any Signatory shall be made by the BLM State Director.
- D. The BLM Field Manager shall consider non-signatory objections to the manner in which the terms of the MOA are implemented. If the objection cannot be resolved to the satisfaction of the BLM and the objecting party, the BLM Field Manager shall request the Signatories to provide their opinion on the matter. Prior to making a final decision on the matter, the BLM Field Manager shall take into account all the Signatory opinions received within 15 days of the request.
- F. Nothing in this Section shall be construed or interpreted as a waiver of any judicial remedy that would be available to any party to this MOA.

V. Amendment

Any Signatory to this agreement may request that the other Signatories consider amending it if circumstances change over time and/or warrant revision of this MOA. Except in the case of amendments addressing resolution of disputes pursuant to Section IV of this MOA, amendments shall be executed in writing and shall be signed by all signatories in the same manner as the original MOA.

VI. Annual Report and Review

- A. On or before October 1 of each year until the Buffalo Field Office, the Wyoming State Historic Preservation Officer and Lance Oil and Gas/Anadarko Petroleum agree in writing that the terms of this MOA have been fulfilled, Lance Oil and Gas/Anadarko shall prepare and provide an annual report to the Buffalo Field Office detailing how the applicable terms of the MOA are being implemented.
- B. The Buffalo Field Office shall provide that the annual report be made available to all signatories to the MOA. The Buffalo Field Office will also provide to all signatories the opportunity to provide comment on the annual report.

VII. Termination

- A. Any Signatory to this MOA may initiate termination by providing 30 business days' notice to the other parties of their intent. After notification by the initiating Signatory, the remaining Signatories shall have 60 business days to consult to seek agreement on actions that would address the issues and avoid termination.
- B. In the event of termination, the BLM shall refer to the Wyoming State Protocol to address any remaining adverse effects to historic properties treated under this agreement.

VIII. Sunset Terms

- A. This MOA will remain in effect until all requirements have been completed.
- B. If Lance Oil and Gas/Anadarko Petroleum Corporation has not completed the agreed upon stipulations in accordance with the conditions defined in the Lance Oil and Gas/Anadarko Petroleum Company: Savageton 3 and Savageton 4 – Segment 2 Plans of Development, the BLM shall ensure that the MOA will be reevaluated, revised if necessary to accommodate any changes to the terms, and renewed for another year. All Signatories will be consulted in the reevaluation of the stipulations.
- C. The BLM will ensure the MOA will be reevaluated every two years by all Signatories, or until the Agreement has been terminated or fully complied with.

General Provisions

- A. **Entirety of Agreement.** This MOA, consisting of Five (5) pages and including appendices A through F represents the entire and integrated agreement between the parties and supersedes all prior negotiations, representations and agreements, whether written or oral.
- B. **Prior Approval.** This MOA shall not be binding upon any party unless this MOA has been reduced to writing and signed by all Signatories before performance begins as described under the terms of this MOA.
- C. **Severability.** Should any portion of this MOA be judicially determined to be illegal or unenforceable, the remainder of the MOA shall continue in full force and effect, and any party may renegotiate the terms affected by the severance.

Execution of this Memorandum of Agreement and implementation of its terms is evidence that the BLM has taken into account the effects of The Savageton 3 and Savageton 4 – Segment 2 Coalbed Methane Plans of Development on historic properties.

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

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

SIGNATORIES

Bureau of Land Management, Buffalo, Wyoming Field Office

_____ Date _____
Chris Hanson, Field Manager

Bureau of Land Management, Wyoming State Office

_____ Date _____
Jane D. Darnell, Deputy State Director, Resource Policy and Management

Wyoming State Historic Preservation Office

_____ Date _____
Mary Hopkins, Interim State Historic Preservation Officer

Lance Oil and Gas/Anadarko Petroleum Corporation

_____ Date _____
T. Reed Scott, General Manager - Business Services

Wyoming Attorney General's Office, Approval as to Form

_____ Date _____
Donald Gerstein, Senior Assistant Attorney General