

August 9, 2010

Mr. Richard L. Currit
Senior Archaeologist
Wyoming State Historic
Preservation Office
2301 Central Avenue
Barrett Building, Third Floor
Cheyenne, WY 82002

SUBJECT: URANERZ ENERGY CORPORATION, NICHOLS RANCH IN-SITU URANIUM
RECOVERY PROJECT – SECTION 106 CONSULTATION – STATE HISTORIC
PRESERVATION OFFICE FILE #0708RLC009

Dear Mr. Currit:

With this letter, the U.S. Nuclear Regulatory Commission (NRC) is submitting its final determination of the effects of the proposed Nichols Ranch *In-Situ* Recovery (ISR) Project (the undertaking) on historic properties required by Section 106 of the National Historic Preservation Act (NHPA). In accordance with the provisions in Title 10 of the *Code of Federal Regulations* (CFR) Part 51, NRC's regulations that implement the National Environmental Policy Act of 1969, as amended (NEPA), and 36 CFR 800.8(c), implementing Section 106 of the National Historic Preservation Act (NHPA), the NRC is using the process and documentation required for the preparation of an Environmental Impact Statement (EIS) to comply with Section 106, and has notified in advance the Wyoming State Historic Preservation Office (WY SHPO) by letter dated July 1, 2008¹ and August 26, 2009², nine Native American tribes by letter dated December 24, 2008³, and the Advisory Council on Historic Preservation (ACHP) by letter dated August 24, 2009 of this intention⁴. By e-mail dated February 12, 2009, Conrad Fisher, the Tribal Historical Preservation Officer of the Northern Cheyenne Tribe, responded to the December 24, 2008 letter and noted that the Pumpkin Buttes are considered spiritual and ceremonial areas and that contaminants related to uranium extraction, traffic, noise, and dust pollution may affect the overall condition of the area.⁴

¹ NRC. 2008. Letter to M. Hopkins, State Historic Preservation Officer from G. Suber, Branch Chief, Office of Federal and State Materials and Environmental Management Programs. Subject: Initiation of Section 106 Process for Uranerz Energy Corporation's Nichols Ranch Uranium Recovery Project License Request (Docket No. 040-09067). July 1, 2008. ADAMS No. ML081760693.

² NRC. 2009. Letter to R. Currit, State Historic Preservation Office from A. Kock, Branch Chief, Office of Federal and State Materials and Environmental Management Programs. Subject: Uranerz Energy Corporation, Nichols Ranch *In-Situ* Uranium Recovery Project – Section 106 Consultation – State Historic Preservation Office File #0708RLC009. August 26, 2009. ADAMS No. ML092320627.

³ NRC. 2008. Letter to I. Posey, Shoshone Business Council, from G. Suber, Branch Chief, Office of Federal and State Materials and Environmental Management Programs. Subject: Request for Information Regarding Tribal Historic and Cultural Resources Potentially Affected by the Proposed License Application for Uranerz Energy Corporation's Nichols Ranch Uranium Recovery Project in Campbell and Johnson Counties, Wyoming. December 24, 2008. ADAMS No. ML083260467.

⁴ NC THPO. 2009. E-mail from C. Fisher, Northern Cheyenne Tribal Historic Preservation Office to I. Wu, Project Manager, Office of Federal and State Materials and Environmental Management Programs. Subject: Nichols Ranch ISR Project. February 12, 2009. ADAMS No. ML090440030.

The WY SHPO and nine Native American tribes received copies of the draft Supplemental Environmental Impact Statement (SEIS) (NUREG-1910, Supplement 2) for the proposed Nichols Ranch ISR Project when it was published in December 2009. The WY SHPO submitted comments on the draft SEIS by letter dated January 25, 2010.⁵ No comments were received from any Native American tribes.

By letters dated July 8, 2010⁶ and July 19, 2010⁷, the WY SHPO provided its concurrence with NRC's determination that 28 sites⁸ near the referenced project are not eligible for listing the *National Register of Historic Places* (NRHP), and that no further work or protective measures are necessary. The WY SHPO further concurred with NRC's determination that 3 sites are eligible for the NRHP, but will not be affected by the project as planned. The WY SHPO provided comments and stipulations on the remaining 7 sites, which are eligible or potentially eligible for listing on the NRHP. All 7 of these sites are located in the Hank Unit. The following table summarizes the NRHP findings and comments/stipulations to date.

**Nichols Ranch ISR Project NRHP Eligible and
Potentially Eligible Archaeological Sites**

Site ID	Site Type	NRHP Finding and Comments/Stipulations
48CA268	Prehistoric/Historic: Traditional Cultural Property	Eligible – mitigation of adverse effect to setting through MOA
48CA6148	Prehistoric: lithic scatter with stone circles	Unevaluated for NRHP eligibility pending Native American consultations – site will not be affected by the project as planned (fencing and avoidance)
48CA6475	Prehistoric: open camp	Unevaluated for NRHP eligibility pending evaluative testing – site will not be affected by project as planned (fencing and avoidance)
48CA6748	Prehistoric: lithic scatter with FCR and activity areas	Unevaluated for NRHP eligibility pending evaluative testing and Native American consultations – site will not be affected by project as planned (fencing and avoidance)

⁵ WY SHPO. 2010. Letter to Chief, Rulemaking and Directives Branch, from R. Currit, Wyoming State Historic Preservation Office. Subject: Environmental Impact Statement for the Nichols Ranch ISR Project in Campbell and Johnson Counties, Wyoming. Draft Report for Comment (SHPO File#0708RLC009). January 25, 2010. ADAMS No. ML100341217.

⁶ WY SHPO. 2010. Letter to K. Hsueh, Chief, U.S. Nuclear Regulatory Commission, from R. Currit, Wyoming State Historic Preservation Office. Subject: Uranerz Energy Corporation, Nichols Ranch In-Situ Uranium Recovery Project (SHPO File#0708RLC009). July 8, 2010. ADAMS No. ML102000147.

⁷ WY SHPO. 2010. Letter to K. Hsueh, Chief, U.S. Nuclear Regulatory Commission, from R. Currit, Wyoming State Historic Preservation Office. Subject: Uranerz Energy Corporation, Nichols Ranch In-Situ Uranium Recovery Project, Letter Correction (SHPO File#0708RLC009). July 19, 2010. ADAMS No. ML102020089.

⁸ The WY SHPO identified Sites 48CA6146 and 48CA6417 separately in their letter. The Draft SEIS combined these two sites under Site ID 48CA6146/48CA6417.

Site ID	Site Type	NRHP Finding and Comments/Stipulations
48CA6751	Prehistoric: lithic scatter with activity areas and possible stone circle feature	Unevaluated for NRHP eligibility pending evaluative testing and Native American consultations – site will not be affected by project as planned (fencing and avoidance)
48CA6753	Prehistoric: lithic and FCR scatter	Unevaluated for NRHP eligibility pending evaluative testing and Native American consultations – site will not be affected by project as planned (fencing and avoidance)
48CA6754	Prehistoric: lithic and FCR scatter with FCR concentration	Unevaluated for NRHP eligibility pending justification – site will not be affected by project (fencing and avoidance)

The NRC contacted interested Native American tribes in a letter dated April 23, 2010,⁹ and in subsequent in telephone calls to request information regarding historic, cultural, and archaeological resources potentially affected by the proposed undertaking and to invite the tribes to become signatories to the MOA being developed to mitigate the adverse effects to the Pumpkin Buttes TCP. Eight tribes indicated that they were potentially interested in becoming signatories to an MOA. These tribes are: Eastern Shoshone Tribe, Northern Arapaho Tribe, Northern Cheyenne Tribe, Blackfeet Tribe, Ft. Peck Assiniboine/Sioux Tribe, Oglala Sioux Tribe, Crow Tribe, and Cheyenne River Sioux Tribe. During these phone calls, two tribes, the Northern Cheyenne Tribe and Ft. Peck Assiniboine/Sioux Tribe, requested to visit the proposed site. On July 7, 2010, Uranerz hosted a site visit for the following members of the two tribes: Conrad Fisher, the Tribal Historical Preservation Officer of the Northern Cheyenne Tribe, Darrell “Curley” Youpee, the Tribal Cultural Resources Director of the Ft. Peck Assiniboine/Sioux Tribe, and Eugene Hart of the Northern Cheyenne Tribe. No issues were identified during the site visit regarding the Pumpkin Buttes TCP.

The NRC will forward to you the site visit notes once they are received from Uranerz. A follow-up site visit is scheduled with representatives from the Northern Cheyenne Tribe and the Ft. Peck Assiniboine/Sioux Tribe for July 30, 2010, to specifically look at Sites 48CA6146/48CA6147, 48CA6148, 48CA6748, 486751, and 486753. The WY SHPO has already concurred with NRC’s determination that Site 48CA6146/48CA6147 is not eligible for listing in the NRHP, and that no further work or protective measures are necessary. The NRC will forward any issues identified by the tribes to the WY SHPO regarding Sites 48CA6148, 48CA6748, 48CA6751, and 48CA6753 after the follow-up site visit.

Of the 7 sites which are eligible or potentially eligible for listing on the NRHP, 6 sites remain unevaluated for listing on the NRHP; however, they will not be affected by this undertaking as Uranerz has committed to limiting construction around these sites and the installation of protective fencing, as noted in its application to NRC. Site 48CA268 (Pumpkin Buttes TCP) is

⁹ NRC. 2010. Letter to Tribes from K. Hsueh, Branch Chief, Office of Federal and State Materials and Environmental Management Programs. Subject: Request for Information Regarding Historic, Cultural, and Archaeological Resources Potentially Affected by the Proposed Nichols Ranch ISR Project in Campbell and Johnson Counties, Wyoming (Docket No. 040-09067) and Invitation to Become a Signatory to Associated Memorandum of Agreement. April 23, 2010. ADAMS No. ML100880084.

eligible for listing on the NRHP. The Pumpkin Buttes TCP is located outside any proposed physical disturbance areas and will be completely avoided by the project. The proposed project will have no effect on the physical remains of the Pumpkin Buttes TCP. However, the undertaking would have an adverse effect on the viewshed of the Pumpkin Buttes TCP. The mitigation of adverse effects to the Pumpkin Buttes TCP will be addressed in a Memorandum of Agreement (MOA) between the WY SHPO, the BLM, the NRC, Uranerz, and interested Indian Tribes. A draft MOA was sent out to interested parties by letter dated July 22, 2010, for review and comment.

NRC staff requests your comments on the draft Memorandum of Agreement within 30 days of receipt of this letter, and your continued cooperation in finalizing this agreement. If you have any questions or require additional information, please contact the Environmental Project Manager, Mrs. Irene Wu at (301) 415-1951, or at Irene.Wu@nrc.gov.

Sincerely,

/RA/

Kevin Hsueh, Chief
Environmental Review Branch B
Environmental Protection
and Performance Assessment Directorate
Division of Waste Management
and Environmental Protection
Office of Federal and State Materials

cc: D. McKenzie, DEQ, Cheyenne
G. Mooney, DEQ, Sheridan
C. Crago, BLM, Buffalo
D. Spencer, BLM, Buffalo
M. Thomas, Uranerz

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OFC	EPPAD/ERB-A	EPPAD/ERB-B	EPPAD/ERB-B	OGC	EPPAD/ERB-B
NAME	IWu	JDavis	AWalker-Smith	AGendelman via email	KHsueh
DATE	07/28/10	07/28/10	07/29/10	08/05/10	08/9/10

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