

Wu, Irene

From: Mike Thomas [mthomas@uranerz.com]
Sent: Monday, March 22, 2010 12:58 PM
To: Davis (FSME), Jennifer
Cc: Balsam, Briana
Subject: Draft MOA
Attachments: Uranerz draft MOA - SHPO NRC 18Mar10.doc

Jennifer,

Attached is a draft MOA for your use on the Nichols Ranch ISR Project for the Pumpkin Buttes TCP. If you have any questions, please give me a call.

Mike

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**MEMORANDUM OF AGREEMENT BETWEEN THE NUCLEAR REGULATORY
COMMISSION, THE WYOMING STATE HISTORIC PRESERVATION OFFICER,
AND URANERZ ENERGY CORPORATION REGARDING MITIGATION OF
ADVERSE EFFECTS TO THE PUMPKIN BUTTES TRADITIONAL CULTURAL
PROPERTY FROM THE NICHOLS RANCH ISR PROJECT IN CAMPBELL AND
JOHNSON COUNTIES, WYOMING**

NOW, THEREFORE, Nuclear Regulatory Commission (NRC), Wyoming State Historic Preservation Office (SHPO), and Uranerz Energy Corporation (Uranerz) agree that the portion of the construction of the Nichols Ranch ISR Project, Hank Unit, is within two miles of the Pumpkin Buttes Traditional Cultural Property (TCP) and this Memorandum of Agreement (MOA) shall be implemented in accordance with the following stipulations in order to take into account the effects the project will have on the Pumpkin Buttes TCP.

The following stipulations and mitigation measures have been adopted from the approved 2009 Programmatic Agreement between the Bureau of Land Management (BLM) and SHPO for the Pumpkin Buttes TCP for identical development projects. These stipulations and mitigation measures pertain to project-related activities within two miles of the base elevation of the Pumpkin Buttes TCP.

I. Discoveries

A. If cultural resources are discovered during operations, Uranerz will immediately stop ground-disturbing activities in the area of the discovery and will immediately notify the NRC and the SHPO. Within two (2) working days of notification, the NRC and the SHPO will evaluate or have evaluated any discovered cultural resources and will determine if any action may be required to protect or preserve such discoveries.

B. If Native American human remains, funerary objects, or objects of cultural patrimony are encountered on United States government surface, Uranerz will stop all work in the immediate area and will immediately notify NRC and the NRC will comply with Section 3 of the Native American Graves Protection and Repatriation ACT and its implementing regulations at 43 CFR Part 10. If Native American human remains, funerary objects, or objects of cultural patrimony are encountered on private surface, the remains will be evaluated as a historic property and procedures relating to identification and effect will be determined in consultation with the NRC and SHPO. Existing state and local laws will be followed pertaining to discovery of Native American human remains, funerary objects, or objects of cultural patrimony on private surface.

II. Inadvertent Effects

Uranerz will instruct all employees, contractors, subcontractors and any additional parties involved with operations of the project to avoid the Pumpkin Buttes TCP.

III. Exclusion Areas

No ground disturbing activities will occur on the tops and sides of Pumpkin Buttes. The tops and bases of the relevant buttes are defined as follows, based on 1:24,000 USGS topographic quadrangles for the area:

North Middle Butte: Top = 6,000-ft contour line; Base = 5,500-ft contour line
South Middle Butte: Top = 5,920-ft contour line; Base = 5,500-ft contour line

III. Site Specific Mitigation Measures

Mitigation measures that must be adhered under this MOA are located in Appendix A of this document. If the project cannot adhere to these mitigation measures, additional consultation between the NRC and SHPO will be necessary.

IV. Project Modifications

A. For all activities associated with any future project modification, Uranerz will obtain authorization from the NRC and SHPO before conducting ground disturbing activities. Uranerz and NRC will implement measures to reduce the visual contrast for any changes to the project.

B. Prior to the NRC authorization of additional construction activities, Uranerz will:

1. Perform a Class III cultural resource inventory, biological, and/or other inventories as required;
2. Submit construction plans; and
3. Participate in an on-site evaluation (if necessary).

V. 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 NRC in writing of the objection. The NRC 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. The NRC 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

NRC and the objecting party, the NRC shall request the Signatories to provide their opinion on the matter. Prior to making a final decision on the matter, the NRC shall take into account all the Signatory opinions received within 15 days of the request.

D. 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.

VI. 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 V of this MOA, amendments shall be executed in writing and shall be signed by all signatories in the same manner as the original MOA.

VII. Termination

A. Any Signatory to this MOA may initiate termination by providing written 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 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.

VIII. Sunset Terms

This MOA will remain in effect for the life of the project or until the Agreement has been terminated.

General Provisions

A. **Entirety of Agreement.** This MOA, consisting of [REDACTED] including Appendix A 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 MOA and implementation of its terms is evidence that the NRC has taken into account the effects of future federal minerals related development on the setting of the Pumpkin Buttes TCP.

APPENDIX A:

SITE SPECIFIC MITIGATION MEASURES TO ADDRESS CONSTRUCTION LOCATION, SURFACE RECLAMATION, ACCESS ROADS, GATHERING PIPELINES, WELL LOCATIONS, POWER LINES, AND OTHER FACILITIES

The following mitigation measures apply to all project specific activities that may occur within two miles of the base elevation of the Pumpkin Buttes TCP.

I. Surface Reclamation

All disturbed lands associated with the project, including access roads, pipelines, well locations, power lines, management facilities, etc. will be expediently reclaimed and reseeded in accordance with the project-specific reclamation plan provided in the NRC license application. The visual contrast of reclaimed lands will be minimized.

II. Access Roads

Wherever possible, existing roads will be utilized. In order to minimize visual contrast, roads will be placed outside areas containing dense patches of sagebrush and follow natural contours wherever practicable. The gravel surface of new roads will be a color that does not create a visual contrast to the surrounding topography.

III. Pipelines

All pipelines will be coridored next to or within roads, wherever possible. Pipeline corridors will use existing disturbance areas and will be placed outside areas containing dense patches of sagebrush where practicable.

IV. Well Locations

Wherever practicable, areas of existing disturbance will be used. To minimize visual contrast, well locations will not be placed in areas of dense sagebrush or other vegetation unless absolutely necessary. Brush hogging or other vegetation removal on drilling locations within areas of dense sagebrush or other vegetation will be feathered to reduce visual contrast and limited to 30 feet in diameter from each well. All above ground infrastructure related to well production will be painted in a color that best blends in with the surrounding topography. These colors are typically Covert Green (PANTONE for Architecture Color Guide 18-0617 TPX) or Carlsbad Canyon (Munsell Soil Color 2.5Y 6/2). It may be determined that different colors are required on a site specific determination based on visual assessment. The gravel surfaces surrounding the well locations, if any, will be a color that does not create a visual contrast to the surrounding topography.

V. Power Lines

Wherever practicable, power lines servicing wells will be buried and buried power lines will be placed inside or within five feet of the trench utilized for pipelines when possible. Construction of over head power lines within two miles from the base elevation of the Pumpkin Buttes will be designed to reduce visual contrast. Any power line should use areas of existing disturbance whenever possible.

VI. Other Facilities

All permanent above-ground structures (e.g., production equipment, tanks, etc.) not subject to safety requirements will be painted to blend with the natural color of the landscape. The color will simulate the standard environmental colors established by the BLM for visual resource management. These colors are typically Covert Green (PANTONE for Architecture Color Guide 18-0617 TPX) or Carlsbad Canyon (Munsell Soil Color 2.5Y 6/2). It may be determined that different colors are required on a site specific determination based on visual assessment. The gravel surfaces surrounding all permanent above-ground structures will be a color that does not create a visual contrast to the surrounding topography.