

NRC Responses to Strata's Requests for Clarification and Additional Questions

Requests for Clarification:

- 1. What is the current status of Section 106 compliance? Based upon our understanding of the process, it appears that we are still in step two: "Identification of Historic Properties."**

The National Historic Preservation Act Section 106 process for the proposed Ross *In-Situ* Recovery Project (Ross Project) is being conducted by the U.S. Nuclear Regulatory Commission (NRC) staff using the following four steps:

Step 1: Initiation of the Section 106 Process

Step 2: Identification of Historic Properties

Step 3: Assessment of Adverse Effects

Step 4: Resolution of Adverse Effects

As indicated in letters to the Wyoming State Historic Preservation Office (WSHPO) and to the Advisory Council on Historic Preservation (ACHP), dated August 19, 2011, the NRC is conducting the process required by Section 106 of the National Historic Preservation Act through its National Environmental Policy Act review. Currently, for the Ross Project, the NRC is engaged in Step 2: Identification of Historic Properties.

- 2. Have evaluations for potentially eligible sites of traditional cultural significance been submitted to WSHPO? If so, has WSHPO concurred with those evaluations?**

During the NRC's Section 106 consultation meetings held with representatives from interested Native American tribes (Tribes) on September 14, 2011, and November 3, 2011, several Tribes indicated that a survey of the Ross Project site should be conducted by the Tribes in order to identify potentially eligible sites of religious and cultural significance to Tribes. This survey has been referred to as a "Traditional Cultural Properties (TCP) survey." The NRC also identified the need, as stressed by Strata Energy, Inc. (Strata), for an ethnographic study to provide context for a TCP survey.

As indicated above, the NRC is engaged in the identification phase of the Section 106 process, which includes identifying potentially eligible sites of religious and cultural significance to Tribes. These sites have not yet been identified. Evaluations of adverse effects to potentially eligible sites cannot be prepared for WSHPO concurrence until the sites are identified. Therefore, evaluations for potentially eligible sites of religious and cultural significance to Tribes have not yet been submitted to WSHPO for concurrence.

- 3. Is the cultural resources/ethnographic assessment data associated with eligible sites of traditional cultural significance the only outstanding item for completion of the Section 106 package?**

In order to complete Step 2 of the Section 106 process, the NRC plans to do the following:

- a. Complete an ethnographic study in order to provide context for and to inform the scope of a TCP survey.

- b. Offer interested Tribes an opportunity to conduct a TCP survey of the Ross Project site to identify sites of religious and cultural significance.
- c. Conduct an acceptance review of Strata's final Cultural and Paleontological Resource Survey report. RAI Cultural-1 of the NRC's Requests for Additional Information (RAIs), which were submitted to Strata in a letter dated January 25, 2012, lays out the additional information that the NRC needs with respect to Strata's Baseline Cultural and Paleontological Resource Survey. Strata indicated, during the NRC's public meeting on April 12, 2012 and during subsequent project-manager-to-project-manager teleconferences, that the response to this RAI is still being developed.

The Section 106 process is complete once Steps 1 through 4 of the NHPA Section 106 review process have been completed.

4. Will the NRC's Environmental Impact Statement (EIS) contractor complete the cultural resources/ethnographic study work?

The NRC has enlisted a contractor to assist in the preparation of a Supplemental Environmental Impact Statement (SEIS) to assess the environmental impacts of the proposed Ross Project. The NRC is using this contractor to conduct an ethnographic study and to coordinate and participate with Tribes as part of the NRC's effort to conduct a TCP survey of the Ross Project site. The NRC does not intend to use its contractor to conduct the cultural resources work that Strata has indicated that it is currently conducting in order to respond to RAI Cultural-1.

During the NRC's September 2011 and November 2011 Section 106 consultation meetings with Tribal representatives, several Tribes indicated that a TCP survey of the Ross Project site should be conducted. During the November 2011 site visit, Strata indicated that it would be willing to support a TCP survey. Therefore, by letter dated December 6, 2011, the NRC requested that Strata provide a written proposal to the NRC for acquiring information on TCPs. Via this letter, the NRC was seeking to receive a Scope of Work (SOW) from Strata for the TCP survey that would be shared with the Tribes for use as a starting point in the negotiation of a final SOW that the NRC, Strata, and the Tribes could agree to use. In an email dated December 8, 2011, the NRC shared a SOW with Strata that was developed for the Ross Project by a consulting Tribe and offered it as an example to help facilitate Strata's preparation of a SOW. However, Strata has not provided a written proposal for acquiring information on TCPs or a SOW for the TCP survey to the NRC.

Strata indicated during project-manager-to-project-manager teleconferences that it would need to solicit support from an outside consultant to develop a SOW for a TCP survey and that an ethnographic study should first be conducted in order to help determine the scope of the TCP survey. Therefore, Strata responded to the NRC's December 6, 2011, letter by providing the NRC with a draft and then later a final request for proposals (RFP) that Strata intended to issue in order to solicit support to conduct a cultural resources assessment at the Ross Project site. The RFP indicated that Strata's consultant would participate in activities such as interviewing Tribes as part of the ethnographic study, developing a Tribal outreach plan, and participating in the TCP survey. While Strata's effort to obtain expert support for engaging with the Tribes was commendable, the NRC has been informed repeatedly, during Section 106 consultation with Tribes regarding this project and other proposed uranium recovery projects, that Tribes are reluctant to work with a third party consultant employed by an applicant. This information was communicated to Strata by the NRC during project-manager-to-project-manager telephone calls. Tribal representatives also communicated to the NRC that the Tribes would not be able to

work together amicably if one of the Tribes were to respond to the RFP and be hired by the applicant. This information was also communicated to Strata by the NRC during project-manager-to-project-manager telephone calls.

Because the NRC staff would like to be responsive to both Strata's and the Tribes' concerns and to continue to have an effective Section 106 consultation, the NRC staff determined that it would use its own contractor to work with the Tribes and to support the Section 106 activities for the Ross Project. This information was communicated to Strata by the NRC during project-manager-to-project-manager telephone calls. Subsequently, the NRC was working on modifying the contract between the NRC and its contractor to expand the scope of Section 106 support activities to be performed by the contractor. This information was communicated with Strata during project-manager-to-project-manager telephone calls, as well as during the NRC's April 12, 2012, public meeting.

The contract modification (expanding the scope of the NRC's contract to include the Section 106 work) was finalized on May 29, 2012. The NRC sent Strata information about the finalized contract modification in an email dated May 31, 2012. The NRC's contractor is currently finalizing an ethnographic study of the Ross Project area and consulting with the Tribes to determine their information needs and their availability to conduct a TCP survey during the summer 2012. This information has been communicated with Strata during project-manager-to-project-manager telephone calls.

5. If the EIS contractor will complete the cultural resources/ethnographic study work:

a. What is the scope of said work?

The scope of the work is to conduct an ethnographic study and to support a TCP survey. The specific task descriptions were provided to Strata by the NRC in an email dated May 31, 2012.

b. Will Strata have the opportunity to review the scope prior to the award for said work?

Strata indicated to the NRC during project-manager-to-project-manager telephone calls, as well as during the April 12, 2012, public meeting, that it would like to review the scope and cost of the cultural resources/ethnographic study work that will be completed by the NRC contractor. The NRC indicated during these calls that the NRC can share with Strata the scope and total cost of the additional work once the contract modification is completed. The contract modification was completed on May 29, 2012. The NRC sent Strata, in an email dated May 31, 2012, a description of the scope and total cost of the Section 106 work to be completed by the NRC contractor.

c. What is the schedule, including specific dates and milestones, for completion of said work? How does that schedule intersect with the overall schedule for issuance of the draft SEIS?

The schedule, including milestones, was provided to Strata by the NRC in an email dated May 31, 2012. The NRC currently plans to gather enough information from the Section 106 process in order to be able to include a description of impacts to cultural resources within the Draft SEIS, which is scheduled to be issued in January 2013.

d. What is the total estimated number of hours required to complete said work?

The total estimated number of hours was provided to Strata by the NRC in an email dated May 31, 2012.

e. What bounding conditions will be placed on site activities in conjunction with completion of said work?

The bounding conditions to be placed on site activities conducted during the TCP survey (i.e., the scope of the TCP survey) will be developed by the NRC (with support from the NRC contractor) in consultation with the Tribes and Strata. The NRC requested, in its letter to Strata dated December 6, 2011, that Strata provide a proposal for acquiring information on TCPs. The NRC indicated to Strata, during subsequent project-manager-to-project-manager telephone calls, that this proposal should include any bounding conditions that Strata might wish to have placed on the TCP survey so that the NRC could negotiate these bounding conditions with the Tribes. To date, the NRC has not received a SOW or a list of bounding conditions from Strata. The NRC looks forward to working with Strata and the Tribes in the near future to define the scope of the TCP survey.

6. It was suggested by NRC staff in March 14, 2012, that an update on the status of the Section 106 process be sent to all consulting parties on a monthly basis. When will this practice be initiated?

The NRC staff plans to issue this update on the status of the Section 106 process on a periodic basis instead of on a monthly basis. The first status update was issued on May 23, 2012.

Additional Questions:

1. Will the NRC be present should the consultant and consulting parties elect to include a site visit(s) in the assessment? Has a date been circulated among the consulting parties on when any site visits might occur?

As indicated in the October 18, 2011, public meeting, the NRC plans to have NRC staff present during the survey of the Ross Project site to identify sites of religious and cultural significance to Tribes (i.e., the TCP survey). As indicated in the May 23, 2012, status report and as communicated via telephone with Strata and other consulting parties, the target timeframe for the TCP survey to be completed is the summer of 2012.

2. Strata requests that the NRC issue a formal map and description of the area of potential effect (APE) as determined by consultation between NRC and WSHPO (per 36 CFR 800.4(a)), in order to define the boundaries within which ethnographic and field survey work will be conducted.

As indicated in the letters to WSHPO and ACHP, dated August 19, 2011, the current APE for this review is the area at the Ross Project site and its immediate environs, which may be impacted by activities associated with the construction and operation of the proposed facility. It is the NRC's understanding that Strata is reinvestigating its viewshed analysis in order to support the NRC's determination as to whether and to what extent the APE might be expanded

in order to account for adverse visual effects to eligible sites. The NRC staff will work with staff from the Bureau of Land Management and WSHPO to respond to this request after we receive the viewshed analysis from Strata.