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August 31, 2012

Kevin Hsueh, Branch Chief
Environmental Review Branch-B
Environmental Protection and Performance Assessment Directorate
Division of Waste Management and Environmental Protection
Office of Federal and State Materials and Environmental Management Programs
United States Nuclear Regulatory Commission
Washington, DC 20555-0001

Sent via email

Re: United States Nuclear Regulatory Commission (NRC) National Historic Preservation Act (NHPA) Section 106 Tribal Consultation Process and Scope of Work (SOW) for Historic and Cultural Resource Identification

Dear Mr. Hsueh:

I am writing to you today regarding the ongoing Section 106 Tribal consultation process related to Strata's December 2010 application for a combined source and 11e. (2) byproduct material license for its Ross in-situ uranium recovery project (Ross Project) near Oshoto, Wyoming.

It is my understanding that you will be meeting with the interested tribes on September 4 to discuss and negotiate the scope of work (SOW) for assessment of properties of religious and cultural significance on the Ross Project and other projects in the area. While I understand this meeting to be government-to-government in nature, I ask that you indulge me by carrying this message to the tribes via your contractor, Dr. Cheryl Chapman with RESPEC:

While we understand and respect that Ms. Chapman and the NRC must take the lead in this government-to-government process, I want to personally invite you to visit the Ross Project. During tribal visits held in 2011, we many times heard from tribal members about the need for increased respect, transparency and trust in processes such as Section 106. Those are values we hold very high here at Strata, and it is in the spirit of fostering an ongoing relationship in accordance with those values that I reach out to you today.

While some of you may have visited this area on the west side of the Black Hills on previous occasions, perhaps even on a previous Section 106 site walkover, we urge you to seize this opportunity for a more in-depth look at the area in the context of sharing your tribal history and recording and protecting it for future generations.

The Ross Project lies near Wakpa Chan Shoka, or Hehaka Ta Wakpa (Little Missouri River) and west of the Bears Lodge, or as it is known to most non-natives, Devils Tower. The Project encompasses 1,721 acres – a relatively small area compared to other projects, but one that is full of wildlife and other resources. While Strata is working to develop the resources in the ground, it is also our intent to maintain the land for those who come after us and respect the legacy left by those who came before. In order for us to do that most effectively, it is important that we learn everything we can about the role these lands played in your histories. The ethnographic work being conducted by NRC will be helpful in that regard, but we believe that direct insight from tribal members will ensure the most comprehensive assessment.

Included with this letter is our proposed scope of work for assessment of properties of religious and cultural significance on the Ross Project. We consider the scope a final document however, it could still be modified to accommodate the reasonable wishes and requests of those who would like to perform the assessment, but it is important that this work be conducted soon as winter is approaching. Unfortunately, the drought has left the land with little grass as we move into the fall, but as a consequence the visibility is currently excellent for identification of sites that may be significant to native peoples.

We understand that your time is both limited and valuable, and the proposed scope of work therefore includes compensation to reimburse participating tribal members for time spent conducting the assessment, traveling to and from the site as well as completing the necessary reporting. We believe you will find that this scope of work represents fair compensation and a unique opportunity for tribal members to access and perform an in-depth assessment of lands that might otherwise remain inaccessible.

As the public record clearly shows, Strata has repeatedly gone above and beyond to support the Section 106 process and to see that the interests of the tribes were fully considered. It is our hope that you will accept the enclosed proposed scope of work as the good faith effort it is intended to be, and that we may quickly resolve any questions or concerns you may have so that your assessment may commence. Thank you for your

consideration. I look forward to greeting you personally in the very near future when you visit the Ross Project site.

Mr. Hsueh, as you are aware, Strata has not yet received a mutually agreeable SOW that can be put into effect to complete the assessment of properties of religious and cultural significance on the Ross Project. As a result, Strata cannot conclude that the resource identification process will produce any tangible results within this calendar year.

Over the past several months, Strata has been monitoring Section 106 processes engaged in by other industry members and NRC Staff and has seen that reasonable SOWs have been developed within which all potentially disturbed areas of those project sites can be evaluated in a manner that satisfies the "reasonable and good faith effort" standard for Tribal consultation. Given that these processes and their product constitute significant precedent by which NRC Staff can model its approach to defining appropriate procedures and parameters for resource identification, Strata has completed development of a Ross site-specific SOW, enclosed here for NRC Staff consideration.

Strata asks that NRC Staff strongly consider making this SOW a benchmark for its best and final effort to obtain concurrence from the Tribal consulting parties, as it represents a reasonable and good faith approach to resource identification. Given that one of NRC Staff's goals for resource identification is to complete that process prior to issuance of its draft supplemental environmental impact statement (SEIS), Strata believes that its proffered SOW can serve as a conduit for achieving that goal.

Strata's goal for this process remains as it has been since commencement of the proposed Ross project: to ensure that any place of historic and/or cultural significance that could potentially be impacted by its proposed Ross project be identified and protected to the maximum extent practicable. To that end, Strata stands ready to support NRC Staff's efforts to accomplish this goal by providing funding as outlined in the SOW for Tribal representatives to engage in and report upon the identification of any historic and cultural properties as agreed upon in consultation among participating agencies and tribes. This offer is contingent upon a SOW being agreed upon and all fieldwork being completed by November 2, 2012. Strata will make its Ross Project site available to Tribal and agency representatives as necessary to complete all fieldwork by this date.

Strata appreciates the opportunity to submit this SOW and strongly urges NRC Staff to move forward with the resource identification process to ensure that all potentially affected historic and cultural resources are adequately identified and protected. In the event that NRC Staff chooses to move forward using the enclosed SOW, Strata is prepared to immediately engage in discussion with all consulting parties to develop a process and schedule for commencing assessment activities.

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I appreciate the opportunity to bring this request before the NRC in the interest of ensuring the best possible outcome in the Section 106 process. Please do not hesitate to contact me if you have any questions or require additional information.

Best regards,

A handwritten signature in black ink that reads "Ralph Knode". The signature is written in a cursive style with a large initial "R".

Ralph Knode
Chief Executive Officer

Enclosure: As noted

CC: Johari Moore, NRC
Ashley Waldren, NRC
John Saxton, NRC
Dr. Alice Tretabas, BLM-NFO