



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

March 11, 2013

Dear Tribal Historic Preservation Officer:

SUBJECT: COORDINATION OF A FIELD SURVEY TO IDENTIFY HISTORIC PROPERTIES FOR THE PROPOSED ROSS IN SITU URANIUM RECOVERY PROJECT (ROSS PROJECT), CROOK COUNTY, WYOMING

The U.S. Nuclear Regulatory Commission (NRC) staff is currently reviewing a license application from Strata Energy, Inc. (Strata) to construct and operate the proposed Ross Project to be located in Crook County, Wyoming. As part of its review of Strata's license application, the NRC staff is conducting National Historic Preservation Act (NHPA) Section 106 consultation with Native American tribes (Tribes) to identify historic properties of cultural and religious significance to Tribes (or traditional cultural properties [TCPs]). The U.S. Bureau of Land Management (BLM) is a cooperating agency with the NRC for this Section 106 consultation. During Section 106 consultation meetings and via written correspondence, the NRC staff has received requests from Tribal Historic Preservation Officers (THPOs) consulting on the Ross Project to conduct a field survey to identify TCPs within the Ross Project area (a TCP survey).

This correspondence provides an update on the status of the coordination efforts for the field survey and presents an alternative approach for the survey.

Update on Status of Coordination Efforts for Field Survey

The NRC staff has worked with interested Tribes to develop an approach to conduct the field survey of the Ross Project area. The following approach was developed by the NRC staff in consultation with the Tribes and Strata: (1) the NRC staff and the Tribes would develop a Scope of Work (SOW) for the field survey; (2) the Tribes would identify a contractor to conduct the survey; (3) the NRC staff would provide the SOW to the contractor; (4) the contractor would provide a cost proposal to Strata for the field survey based on the SOW; (5) Strata and the contractor would negotiate and agree on the proposal; and (6) the contractor would conduct the survey, along with a field crew made up of Tribal representatives and monitors from the consulting Tribes, and provide the results to the NRC and the Tribes.

On November 14, 2012, the NRC staff participated in a conference call with several THPOs to discuss the draft field survey SOW that had been developed by the NRC staff, its third-party consultant, and a representative from the Standing Rock Sioux Tribe. The NRC staff also shared the draft SOW with Strata on November 14, 2012, and requested comments. After receiving no suggestions for revisions to the draft SOW, the NRC staff finalized the SOW and provided it to the THPOs by email dated November 30, 2012. The NRC staff received several emails from THPOs naming Makoche Wowapi as the preferred contractor to conduct the survey. Therefore, by email dated December 4, 2012, the NRC staff provided the final SOW to Mr. Tim Mentz, Sr. of Makoche Wowapi and asked that he submit a cost proposal for the field survey. On December 6, 2012, Makoche Wowapi provided a cost proposal for the field survey.

to Strata. By email dated February 7, 2013, the NRC staff requested an update from Strata on the status of its negotiations with Makoche Wowapi on the cost proposal. Strata notified the NRC staff, by email dated February 15, 2013, that its negotiations with Makoche Wowapi had come to an end and an agreement had not been reached.

Alternative Approach for Field Survey

The NRC staff would like to continue to work with interested Tribes to conduct the field survey of the Ross Project area. The NRC staff has discussed site access and compensation with Strata and Strata has agreed to the following arrangements:

Methodology

1. Strata will open the Ross Project site to Tribal representatives to conduct a field survey for a period of time (estimated by the NRC staff to be about 1-2 weeks) to be selected during the period of April 29, 2013 through May 31, 2013.
2. Each Tribe may send up to four representatives to participate in the field survey.
3. Lodging and per diem: Strata will provide \$132.00 per day for lodging and expenses for each representative from each Tribe.

Mileage: Strata will pay mileage at \$0.565 per mile for one round trip from each of the Tribal representatives' point of origin to Moorcroft or Sundance, Wyoming and back, as well as mileage for daily round-trips from Moorcroft or Sundance to the Ross Project area and back.

Per diem and mileage reimbursement will be provided to each Tribal representative upon arrival to the Ross Project area on the first day of the survey. An expense reimbursement form and W-9 will be provided to each Tribal representative requesting participation in the survey.

4. Strata will provide a \$10,000 contribution to each Tribe that participates in the survey to defray other costs that the Tribe might incur in order to participate. Payment of the \$10,000 to each Tribe would be contingent on participation of Tribal representatives from that Tribe in the survey.
5. Each Tribal representative visiting the site will be provided with a safety briefing and will be asked to sign a release of liability.
6. Strata representatives will escort Tribal representatives to any area within the entire 1,721-acre Ross Project area and will remain in the vicinity, but will not directly accompany the Tribal representatives during their examination of the areas that they choose to survey.
7. Tribal representatives who encounter potentially sensitive sites or features during the survey may, if they wish, ask the Strata representative to use a GPS unit to record the general boundaries of any sites or features identified. Strata will sign a confidentiality

agreement limiting use of this information to appropriate company personnel involved in project design or operation and to facilitate land management.

8. Tribal representatives will provide a written report to the NRC within 30 days following the survey. This report will include the following:
 - a) an identifying label for the TCP sites (for example, TCP-1, TCP-2, etc.);
 - b) a discussion of the fieldwork completed, including the methodology and areas examined;
 - c) a brief description of each individual property recorded;
 - d) a National Register of Historic Places (NRHP) evaluation of each individual property recorded;
 - e) recommendations concerning the potential NRHP eligibility for each property recorded, including previously identified archaeological sites within the Ross Project license area; and
 - f) recommendations for possible appropriate avoidance buffers or possible mitigation measures should any of the properties recommended as eligible be adversely affected by the project.

Beyond the items listed in (1) through (8) above, **the NRC will not require a specific methodology that the Tribal representatives must follow when conducting the field survey.** However, the Tribal representatives may wish to coordinate and agree to a specific methodology and code of conduct that the survey participants must follow.

An NRC representative, a BLM representative, and/or a representative from the NRC's third-party consultant plan to be present during each day of the field survey.

Confidentiality

The NRC would not require that property descriptions in the report include interpretive information that Tribes may consider confidential. Information concerning the location of any identified properties of religious and cultural significance may be reported separately and directly to NRC as a confidential appendix to the survey report so that this information will not be disclosed to the public. **Site location information provided by Tribes as part of this confidential appendix will be protected from public disclosure consistent with Section 304 of NHPA to the extent allowed and by other applicable laws.**

Determination of Adverse Effects

After the field survey report is provided to the NRC by the Tribal representatives, the NRC in consultation with Wyoming SHPO will make the determination of adverse effects if eligible properties are identified. If the determination is "adverse effects," the NRC will consult with Tribes and other consulting parties to seek ways to avoid, minimize, or mitigate the adverse

effects. The NRC will consult with Tribes on a Memorandum of Agreement (MOA), if necessary to capture the mitigation or treatment plans.

Response Requested

The NRC requests a response to this letter indicating your interest in participating in the survey and/or your comments by **no later than March 29, 2013**. Following this letter, the NRC staff and/or its third-party consultant plan to contact each THPO via phone to determine interest. If Tribes are interested in conducting the survey according to the proposal described in this letter, the NRC staff will work with the Tribes to determine availability, to select specific start and end dates, and to discuss other logistics for the survey.

The NRC staff is hopeful that we can work with Tribal representatives to select a specific period in May during which Tribal representatives can conduct the survey together as a group. However, if one or more Tribes are unavailable or if survey days are lost due to rain or snow, Tribal representatives will be able to survey the Project area on alternative days during this period. The NRC staff is also hopeful that representatives from the consulting Tribes can coordinate and prepare and submit the survey report.

If you have feedback or questions, please contact Ms. Johari Moore, NRC Project Manager, at 301-415-7694 or Johari.Moore@nrc.gov.

Sincerely,



Kevin Hsueh, Chief
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