

August 29, 2013

U.S. Nuclear Regulatory Commission
Attn: Ms. Johari A. Moore, Project Manager– Mail Stop T-8F05
FSME/DWMEP/Environmental Review Branch B
11545 Rockville Pike, Two White Flint North
Rockville, MD 20852-2738

RE: Ross ISR Project, Docket #040-09091, Response to Request to Provide a Description of the Ross Project's Potential Adverse Effects on Seventeen (17) Properties Identified During Tribal Surveys

Dear Johari:

On behalf of Strata Energy, Inc. (Strata), WWC Engineering (WWC) hereby submits the following analysis of potential adverse effects for seventeen (17) sites identified through tribal surveys as requested in your August 22, 2013 email (included as Attachment 1). Based on subsequent questions, Strata is providing this letter describing our analysis, a tabulation sorted by identified site that describes potential impacts along with a map depicting the relationships between the sites and proposed infrastructure in triplicate. The following text describes the assumptions utilized for the analysis and results including descriptions of potential types of disturbances within the vicinity of the sites. The tabulation included as part of this letter and Exhibit 1 included in Attachment 2 contain sensitive information that is confidential per 10 CFR 2.390. An affidavit from Ralph Knode demonstrating the need to withhold these materials from the public is included with this letter.

ASSUMPTIONS

Assumptions used in this analysis are provided in the following bullets and are considered crucial to establishing the bounding conditions for how Strata approached potential adverse effects:

- Direct disturbance through construction of the central processing plant (CPP) and associated wellfields was evaluated using elements of ER Figure 1.2-6 along with current wellfield planning efforts. Exhibit 1 provided in Attachment 2 provides these types of disturbance along with the sites identified by the tribes and includes the suggested avoidance boundaries for each site.
- Indirect effects including visual and auditory elements were not evaluated for these sites at the direction of the NRC although Strata notes that the Environmental Report, sections 3.9 and 4.9 analyzed baseline visual qualities and potential impacts to the viewshed from the proposed action. ArcGIS files indicating where the facility would and would not be visible were transmitted to the NRC on April 25, 2012.
- The Area of Potential Effect (APE) used in this analysis is based on the description provided in the Draft Supplemental Environmental Impact Statement (DSEIS),

page 3-81 as follows, "*The APE for the Ross Project area would include all lands where construction, operation, aquifer restoration, and decommissioning activities are proposed. This would include associated staging areas and new access roads in addition to the actual footprint of ground disturbance.*" The APE used in this analysis does not take into account 'buffer area', 'immediate environs' or 'additional areas' as discussed on pages 3-75, 3-81 and 5-40 of the DSEIS.

- For the purpose of this analysis all seventeen (17) sites were considered eligible for the National Register of Historic Places (NRHP). However, based on the limited site descriptions provided to us by NRC, Strata believes that fundamental aspects of integrity that are crucial for traditional properties may be lacking. Specifically, integrity of relationship seems difficult to establish since the majority of sites (15 of 17) are located on private land and have not been in use in the recent history of the area and were therefore unknown to the tribes. Moreover, Strata interviewed the private landowners in February 2012 in order to develop the response to ER RAI EJ-1. Without exception, activities such as gathering of traditional plants, subsistence hunting and the like have not occurred during their lengthy experience in the area. Similarly, Strata questions whether integrity of condition has been sustained for these sites. The presence of public roads with high vehicle traffic (see ER Section 3.2), significant oil production facilities and conveyance infrastructure, uranium exploration, livestock grazing, and cropland hay production have significantly altered the setting and environment of the Ross Project area. **At this time, we do not consider any of these sites Traditional Cultural Properties based on Department of the Interior regulation and guidance.**

RESULTS

Evaluation of direct disturbance to the sites and within the avoidance boundaries is summarized in Table 1. Only one (1) site, #7, appears to be directly impacted by the proposed construction and operation of the Ross ISR Project. Site #7 in part overlies identified mineralization proposed for development in MU1. Specifically, the eastern portion of the site and southwestern 'leg' would be disturbed during wellfield construction including roads, delineation drilling, well installation and burial of conveyance pipelines and power to the wells. It is notable that site #7 has been previously disturbed by exploration drilling for uranium and hydrocarbons and is located on privately owned lands. In addition, site #7 at its closest point lies only 25 feet (7.6 meters) from Crook County Road #193 (Oshoto Connection) with the majority of the site less than 450 feet (137.2 meters) from this heavily used public road. None of the proposed disturbances are expected to remain following decommissioning.

Potential disturbance to areas within avoidance boundaries is also summarized on Table 1. Beyond site #7 discussed previously, an additional five (5) sites identified as #2, #3, #5, #6, and #9 have potential disturbance within the avoidance boundaries provided by the NRC. The proposed disturbance within 150 feet at sites #6 and #9 could include delineation drilling, well installation, conveyance pipelines, buried power

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and associated roads as known mineralization has been located in these areas. The avoidance areas associated with sites #2, #3, and #5 include potential perimeter monitor wells and tertiary access roads. Surface ownership is comprised of private lands at sites #2, #3, #5, and #9 while the State of Wyoming owns the land at site #6. Exploration for uranium has occurred previously within the sites and avoidance boundaries at sites #2, #6, and #9. Site #3 is bordered by the buried Belle Fourche Pipeline, a 6" steel oil transmission line, on the east side. None of the proposed disturbances associated with the Ross Project are expected to remain following decommissioning.

Adverse effects through direct disturbance are not proposed at this time for the sites #1, #4, #8, #10, #11, #12, #13, #14, #15, #16, or #17. Similarly, the avoidance boundaries lie outside of the proposed disturbance limits for these sites.

Based on the locations provided by the NRC on August 22, 2013, three (3) sites lie outside of the APE. These sites are #4, #8, and #15, which all fall on privately owned lands outside of the license boundary. Site #13 lies within 60 feet or 18 meters of the eastern boundary but is mapped on a currently cultivated field where active plowing and planting of crops has occurred on private lands, so we question its physical and relationship integrity.

Please note that one (1) copy of this letter and attachments as well as a compact disc were provided to the document control desk at:

ATTN: U.S. Nuclear Regulatory Commission
Document Control Desk
Director, Office of Federal and State Materials and Environmental Management Programs
11555 Rockville Pike,
Rockville, MD 20852-2739

If you have any questions or comments, please do not hesitate to contact Mr. Mike Griffin with Strata or myself.

Respectfully Submitted,



Benjamin J. Schiffer, P.G.
WWC Project Manager

Attachments: as noted

cc: Mike Griffin, Strata Energy
Richard Currit, WSHPO
Leslie Wildesen, ETCI
Alice Tretabas, BLM-NFO
WWC - File

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STRATA ENERGY, INC.

Docket #040-09091

AFFIDAVIT OF RALPH KNODE, CHIEF EXECUTIVE OFFICER, STRATA ENERGY, INC.

1. My name is Ralph Knode and I am the Chief Executive Officer (CEO) of Strata Energy, Inc. (Strata). I am authorized to execute this affidavit on behalf of Strata and may bind Strata to the statements contained herein;
2. This affidavit is attached to Strata's submission of an application to the United States Nuclear Regulatory Commission (NRC) for a combined source and 11e.(2) byproduct material license for its proposed in situ leach uranium recovery (ISR) project to be located near Oshoto in the State of Wyoming, NRC Docket #040-09091;
3. As part of its license application, Strata submitted a Technical Report (TR) and an Environmental Report (ER) that include data, information, and other items that qualify for withholding pursuant to 10 CFR § 2.390;
4. Portions of the license application submitted by Strata include cultural resources information that could be misused by unscrupulous artifact collectors to disturb archaeological or other historic and cultural sites and that should be subject to protection from public disclosure pursuant to 10 CFR § 2.390(a)(3);
5. By email dated August 22, 2013 the NRC staff requested that Strata provide an analysis of potential adverse effects for seventeen (17) sites identified through tribal surveys. Strata hereby requests that the following analysis be withheld from public disclosure:

ROSS ISR PROJECT, DOCKET #040-09091, RESPONSE TO REQUEST TO PROVIDE A DESCRIPTION OF THE ROSS PROJECT'S POTENTIAL ADVERSE EFFECTS ON SEVENTEEN (17) PROPERTIES IDENTIFIED DURING TRIBAL SURVEYS

6. For the following reasons, Strata asserts that the aforementioned testing plan and evaluation regarding historic and cultural resources should be withheld from public disclosure as privileged and confidential information:
- i. The data and information contained in the above-mentioned testing plan are customarily held in confidence by businesses and other organizations seeking to protect information related to certain historic and cultural resources or confidential and/or proprietary business information;
 - ii. The data and information regarding historic and cultural resources or confidential and/or proprietary business information listed in Strata's license application are not available in any public sources;
 - iii. Release of the data and information contained in the above-mentioned testing plan may cause substantial harm to cultural resources on private and public property or Strata as a corporate entity for the following reasons:
 - a) Certain individuals may use the information to unlawfully collect cultural artifacts for personal use; and
 - b) The Wyoming State Historic Preservation Office is responsible for the study and protection of cultural sites and artifacts and will be issued a full report detailing the location(s) and artifact(s) discovered;
 - iv. If it were to become publicly available, the historic and cultural resource information would provide no tangible benefit to members of the public since artifacts cannot be legally collected. Therefore, withholding the data and information designated by Strata for protection from public disclosure will not harm members of the public. However, as stated above, releasing the location of historic and cultural resource sites could result in the theft or destruction of potentially significant cultural artifacts; and
 - v. Strata fully understands that withholding the designated data and information does not deprive any independent party from inspecting the confidential information under the terms of an appropriate protective order in the context of an NRC licensing hearing or other administrative proceeding.



Ralph Knode, CEO Strata Energy, Inc.

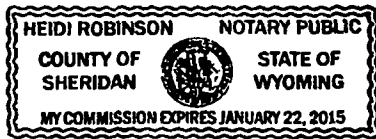
State of Wyoming)

)

County of Campbell)

The foregoing Affidavit was affirmed and acknowledged before me this 28 day of August, 2013, by Mr. Ralph Knode, CEO of Strata Energy, Inc., a Wyoming corporation.

Witness my hand and official seal.



A handwritten signature in black ink, appearing to read "Heidi Robinson", written over a horizontal line.

Notary Public

My commission expires: 1/22/2015

ATTACHMENT 1

**AUGUST 22, 2013 EMAIL AND RESPONSES TO FOLLOW-UP
QUESTIONS**

Subject: RE: Request Description of Adverse Effects on Ross Project Sites Identified by Tribes as TCPs
From: "Moore, Johari" <Johari.Moore@nrc.gov>
Date: 8/26/2013 3:05 PM
To: 'Ben Schiffer' <bschiffer@wwcengineering.com>
CC: "Saxton, John" <John.Saxton@nrc.gov>, StrataRossLA Resource <StrataRossLA.Resource@nrc.gov>, Mike Griffin <MGriffin@stratawyo.com>

Ben,

Please see my responses to your questions below and let me know if you need any further clarifications.

Thank you,

Johari A. Moore
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FSME/DWMEP/Environmental Review Branch
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johari.moore@nrc.gov

From: Ben Schiffer [mailto:bschiffer@wwcengineering.com]
Sent: Monday, August 26, 2013 9:41 AM
To: Moore, Johari
Cc: Saxton, John; StrataRossLA Resource; Mike Griffin
Subject: Re: Request Description of Adverse Effects on Ross Project Sites Identified by Tribes as TCPs

Johari--

Thanks for your time this morning. As we discussed please see the questions that we have developed regarding this request.

1. We would propose to provide the response to the request via a letter with a tabulation of the sites and perhaps a figure or two. Please confirm that this is what the NRC is looking for in terms of the administrative record.
Confirmed. We are looking for descriptions of the activities that are planned to take place within the vicinities of the 17 sites. We are also looking for the specific locations where these activities would occur and maps would be helpful.
2. Please provide the descriptions and narratives associated with the 17 sites that we have been requested to analyze for adverse effects. In order to effectively determine effects, we need more information on the properties and in particular the setting associated with these sites. As you well know, avoidance is our highest priority, however, without sufficient information regarding a property's visual, auditory and atmospheric setting, particularly those that contribute to its significance our analysis will be severely limited and potentially compromised.
We are not looking for Strata to conduct or provide the results of an adverse effects analysis. The NRC staff will conduct this analysis based on the information (types and locations of activities that are planned to occur within the vicinities of the 17 sites) that we have requested. The description and the narrative associated with each site are currently being prepared as the NRC staff finalizes its report. The 17 sites primarily consist of stone alignments or stone cairns that are considered traditional sites or ceremonial sites. Auditory effects are not a concern with these sites. With respect to the visual effects analysis, at this point, your providing a description of the activities that will take place within the buffer areas, if any, will be sufficient. It would also be helpful to know if any structures or fixtures would remain within any buffer areas after decommissioning.
3. Similarly, we would hope that some information can be provided supporting the avoidance boundaries. Perhaps as part of the site descriptions or narratives. Fundamentally, there seems to be a change from what the Cheyenne and Arapaho of Oklahoma proposed and we hope that there isn't anything arbitrary about the seemingly significant distances. Moreover,

how much flexibility is inherent regarding the avoidance boundaries? We may be capable of easily avoiding the sites as provided by the NRC but could adversely impact portions of the avoidance boundaries, would this be considered an impact? Should we be differentiating adverse impacts to sites and adverse impacts to avoidance boundaries?

The NRC staff has received a survey report from both The Cheyenne and Arapaho Tribes of Oklahoma and The Northern Arapaho tribe. The 150 ft and 450 ft avoidance boundaries take into account the input provided by both tribes. The 150 ft avoidance boundary takes into account the seen and unseen components of the site that contribute to its Criterion A significance. The 450 ft avoidance area takes into account the ceremonial area associated with those sites. Any flexibility regarding the avoidance boundaries or flexibility regarding Strata's project design will be discussed once we have determined that the current project design would impact the current proposed avoidance boundaries of any eligible sites (i.e. during the mitigation discussion). In your response, you do not need to discuss the impacts or effects to any sites. You need only provide a description of the types and locations of activities that are proposed within the vicinities of the sites. The NRC staff will use this information to evaluate the effects.

4. We understand that eligibility determinations for these sites may be forwarded to WYSHPO in the near future, is this analysis integral to the eligibility determination that will go to WYSHPO? If so, what is the schedule for this determination as we'll need to allocate sufficient resources to provide the analysis in a timely manner. Fundamentally, we want to focus our efforts on protecting eligible sites. Does the NRC believe all 17 of these sites are eligible for the National Register under the specific TCP criteria listed in Bulletin 38 and elsewhere, and will NRC therefore propose eligibility for all these sites to SHPO? The request would assume that all are eligible for protection however, based on the information provided in the Cheyenne and Arapaho Report, we would vigorously disagree with this determination for at least some of the sites as described by those tribes.

The NRC staff is currently finalizing its National Register of Historic Places eligibility determinations for these sites and preparing a report for WYSHPO. We anticipate that these determinations will be completed in a day or so. As requested by WYSHPO, our report will also include a discussion of adverse effects. Therefore, your response is necessary in order to allow the NRC staff to complete its report for WYSHPO. The eligibility determinations will not be final until we have WYSHPO concurrence. However, when requesting WYSHPO concurrence, we also need to provide adverse effects information. Therefore, we are asking at this time that you provide a description of the proposed activities that could affect any of the 17 sites even though the NRC and WYSHPO could find that some of these sites are not eligible.

Give me a call if you would like to discuss in more detail. Take care.

Ben

On 8/22/2013 3:13 PM, Moore, Johari wrote:

Ben,

Attached, please find a map and shape files depicting the locations of the seventeen sites identified as Traditional Cultural Properties (TCPs) by the tribes that participated in the field survey of the Ross Project area. The NRC staff is currently finalizing its National Register of Historic Places eligibility determinations for these sites. However, in order to move the Section 106 process forward and to support the NRC staff's development of a TCP survey report for the Wyoming State Historic Preservation Office, we would like to gather adverse effects information about these sites at this time.

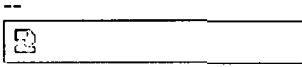
Therefore, I am requesting that you provide a description of the Ross Project's potential adverse effects on each of the seventeen sites. This description should include the types and locations of activities that would occur in the vicinity of these sites. Please indicate whether any of the sites can be avoided and to what extent. As indicated by the color of the sites shown on the attached map, the tribes that submitted survey reports are recommending that the sites be avoided by a buffer area of either 150 feet or 450 feet.

Please contact me if you have any questions regarding this request and please be aware that the attached files contain sensitive information that is confidential per 10 CFR 2.390 and 36 CFR 800.11(c).

Thank you,

Johari A. Moore
Project Manager
U.S. Nuclear Regulatory Commission
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ATTACHMENT 2

EXHIBIT 1—MODIFIED AND UPDATED ENLARGED FIGURE 72