



February 10, 2015

Ms. Lydia Chang
Branch Chief, NMSS/FCSE/ERB
U.S. Nuclear Regulatory Commission
Mail Stop: T-8F5
Washington, DC 20555-0001

Via email

**RE: Strata Energy Inc. Ross ISR Project
License Number SUA-1601, Docket #40-9091
Request for Amended Tribal Field Survey Report**

Dear Ms. Chang:

On January 26, 2015 Strata Energy, Inc. (Strata) received an email from Ms. Johari Moore, who was the NRC Project Manager for the Ross ISR Project Programmatic Agreement (PA)¹. The email was in response to a request by Strata to receive a copy of the NRC's revised Tribal Field Survey Report, including the site forms. In the response NRC denied Strata's request and referenced Stipulation G of the PA as a basis for this rejection. Strata fully understands Stipulation G of the Ross PA and the need for it. Strata and our cultural resources consultants have always maintained strict confidentiality on the location and nature of archaeological properties. Section 304 of the National Historic Preservation Act states that information on the location and nature of archaeological and traditional cultural properties (TCPs) is considered confidential when any one or all of the following conditions could occur if information was released to the general public:

- (1) cause a significant invasion of privacy;
- (2) risk harm to the historic resources; or
- (3) impede the use of a traditional religious site by practitioners.

Strata requests that NRC explain how NRC staff determined that release of the full revised tribal report to Strata and our cultural resource consultants would meet any or all of these conditions. Stipulation G of the PA does not commit the NRC to secure the permission of the tribes to release of the full report. It states in part (emphasis added): "*Cultural resource data, including data concerning the location and nature of historic properties and properties of religious and cultural significance, will be treated as confidential by all Parties and any additional parties involved in the Ross Project, including but not limited to employees, contractors, and subcontractors of Strata. These data shall be protected from public disclosure*". Thus, the Stipulation clearly suggests that Strata and its consultants are required to

¹ At a public meeting held with NRC staff on February 3, 2015 Strata was informed that Ms. Moore was transferring within the agency and would no longer be responsible for administering the PA effective February 6, 2015. A new Project Manager for the Programmatic Agreement has not been named at this time.

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keep information on "properties of religious and cultural significance" confidential and withhold it from any public disclosure. The Stipulation does not state that Strata and our consultants are not allowed to have the information on the location and nature of such properties. The nature of such properties includes the information specific to how a property was determined to be a TCP. Strata believes that as the licensee responsible by License Condition with complying with the PA, Strata and our cultural resources consultants can and should receive the full tribal report.

In addition Strata is puzzled by the NRC statement: *"Duplication or distribution of cultural resource data from BLM-managed lands by any Party requires written authorization from the BLM Newcastle Field Manager."* It is our understanding from the information we have been provided that none of the properties considered by NRC to be potential TCPs are located on BLM-administered public lands and that, in fact, no historic properties of any kind are located on those lands. Thus, we are equally puzzled by the statement that NRC cannot share the full report with Strata and its cultural resource consultants because: *"the NRC would need to obtain written authorization from BLM to share certain portions of the revised Report with Strata. BLM has indicated that certain portions of the revised Report should not be shared with Strata and has asked that this information be redacted from any version of the revised Report that is to be shared with Strata."* Strata requests that NRC identify what specific sections the BLM has identified that they believe should be redacted, why Stipulation G does not apply to this information, and why that is appropriate since none of the properties in question are located on BLM-administered public lands.

On a related subject we understand that the WYSHPO has stated to NRC staff that documentation for a number of the properties considered by NRC to be potential TCPs should be submitted to the Keeper of the National Register for a final determination of eligibility. To our knowledge that would require taking the information in-hand and completing the appropriate NRHP Form 10-900 and any supplemental forms necessary for submission to the Keeper. Strata requests that NRC identify when the agency plans to begin that process. Strata further requests that NRC estimate whether there are any additional costs related to compliance with this request by WYSHPO. By letter dated June 12, 2014 to Mr. Aby Mohseni of NRC staff Strata expressed our concerns over the appropriateness of incurring further charges to address the flaws in the original report, noting the time and expense that had been incurred on Strata's behalf up to that time. By email dated July 4, 2014, Mr. Kevin Hsueh responded that NRC staff had "...been successful in gathering additional information" and that he anticipated concluding "...this outreach effort sometime later this month" (i.e., July 2014). Based on the expectation of an apparently quick resolution, Mr. Hsueh dismissed Strata's request for a plan and a budget. Strata now finds that the revision of the tribal report required much more staff and contractor effort than Mr. Hsueh's response inferred: the revised report was not submitted until December 2014 and based on NRC invoices through December 2014 Strata has been billed over \$59,000 for NRC staff time and almost \$31,000 by NRC contractors for a total of nearly \$90,000 for "PA activities" related to the revised tribal report. Strata does not believe that any further costs should be incurred on Strata's behalf other than those costs required to submit the existing data in the format required.

Further to the goal of minimizing costs and schedule delays that are currently affecting Mine Unit 1 development we request that NRC consider authorizing Strata to contract directly to have those forms completed by a consultant familiar with the evaluation of potential TCPs (NRHP Bulletin 38 and others) and the completion of NRHP forms. The products of that process would then be submitted directly to

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NRC by the consultant with copies to the WYSHPO, Strata and our cultural resource consultants. BLM would have no need for the information, since none of the potential TCPs are located on BLM-administered public lands. We believe this could add significant efficiency in moving these potential TCPs to the Keeper for final resolution under Stipulation B.4.f. of the PA and reduce the overall number of steps needed to complete the evaluations. The NRC, WYSHPO and Strata and our cultural resource consultants could get the forms all at the same time, since the decision of the Keeper is final in these matters.

If you have any questions regarding this request please do not hesitate to contact me at (307) 686-4066 or by email at mgriffin@stratawyo.com.

Sincerely,

Strata Energy, Inc.

A handwritten signature in black ink, appearing to read 'M. Griffin', with a large loop at the bottom.

Michael Griffin
Vice President, Permitting, Regulatory and Environmental Compliance

Cc: Mr. John Saxton, NRC Uranium Recovery PM – via email
Mr. Rick Miller, BLM-NFO
Ms. Mary Hopkins, WSHPO
Mr. John Eddins, ACHP