

## **Appendix C**

## Appendix C

**FIRST AMENDMENT TO THE  
PROGRAMMATIC AGREEMENT  
AMONG  
THE U.S. NUCLEAR REGULATORY COMMISSION,  
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION,  
THE WYOMING STATE HISTORIC PRESERVATION OFFICE,  
THE BUREAU OF LAND MANAGEMENT–NEWCASTLE FIELD OFFICE,  
AND  
STRATA ENERGY, INC.,  
REGARDING  
THE ROSS IN SITU URANIUM RECOVERY PROJECT  
IN CROOK COUNTY, WYOMING**

**WHEREAS**, the Nuclear Regulatory Commission (NRC), the Advisory Council on Historic Preservation (ACHP), the Wyoming State Historic Preservation Office (WYSHPO), the Bureau of Land Management (BLM) Newcastle, Wyoming Field Office, and Strata Energy, Inc. (Strata) executed a Programmatic Agreement (PA) on April 24, 2014 for purposes of NRC’s and BLM’s compliance with Section 106 of the National Historic Preservation Act (NHPA), relating to the licensing, development, and operation of an *in-situ* leach uranium recovery (ISR) project at the Ross site located in Crook County, Wyoming (the Ross Project); and

**WHEREAS**, at the time the PA was executed, Strata had submitted a Plan of Operations (POO) for the Ross Project to the BLM Newcastle Field Office for review and approval in accordance with 43 CFR Subpart 3809; and

**WHEREAS**, the requirement that BLM review and approve the POO made the Project an “undertaking” for purposes of BLM’s compliance with Section 106 of the NHPA; and

**WHEREAS**, subsequent to the execution of the PA, Strata amended its mine plan for the Ross Project such that no operations will occur on Federally-administered land and, by letter dated July 29, 2015, withdrew the POO from the BLM Newcastle Field Office; and

**WHEREAS**, the BLM Newcastle Field Office acknowledged Strata’s withdrawal of the Ross Project POO by letter received by Strata on September 18, 2015; and

**WHEREAS**, as a result of Strata’s withdrawal of the POO, there is no longer a plan of operations subject to BLM review and approval under 43 CFR 3809.31(d); and

**WHEREAS**, the BLM Newcastle Field Office no longer has any Section 106 responsibility for the Ross Project due to the formal withdrawal of Strata’s POO and BLM’s acknowledgement of the withdrawal; and

**WHEREAS**, BLM has 40 acres still within the indirect APE for the Ross Project; and

**WHEREAS**, due to the BLM Newcastle Field Office’s cultural resources technical expertise, their past participation in the development and implementation of the PA, and the inclusion of 40 acres of BLM-managed federal land in the indirect APE outlined in the PA, the BLM Newcastle Field Office has been invited to sign this Amendment as a concurring party; and

**WHEREAS**, the State of Wyoming has submitted to the NRC an Agreement State application to assume regulatory authority over ISR facilities, including the Ross Project, and whereas the State's application is currently under review by the Commission; and

**WHEREAS**, if the Agreement State application is approved, Strata's license will transfer to the State of Wyoming, and the NRC will no longer have any approval or regulatory authority over the Ross Project, and the NRC will no longer have an ongoing responsibility to comply with Section 106 for the undertaking; and

**WHEREAS**, all of the activities listed in Stipulation A of the PA have been completed for all phases of the project; and

**WHEREAS**, in accordance with Stipulation B, all determinations of eligibility have been completed for all phases of the project; and

**WHEREAS**, in accordance with Stipulation C, all assessment of effects have been completed for all phases of the project; and

**WHEREAS**, in accordance with Stipulation D, all adverse effects to historic properties have been assessed and resolved for all phases of the project; and

**WHEREAS**, the implementation of the PA resulted in changes to the eligibility status of certain properties, which are reflected in Stipulation 10 of this amendment/Appendix C; and

**WHEREAS**, in accordance with Stipulation D.2.g of the PA, the WYSHPO has concurred on a final Minimization and Mitigation Plan (MMP); and

**WHEREAS**, in accordance with Stipulation D.2.g, the MMP is appended to the PA;

**WHEREAS**, the Signatories and concurring party have agreed that an amendment to the PA should be executed to reflect Strata's withdrawal of the POO and BLM's acknowledgement thereof, to reflect the completion of activities under Stipulations A through D of the PA and update the status of the historic and cultural sites involved, and to reflect the potential transfer of regulatory authority of this project from the NRC to the State of Wyoming;

**NOW, THEREFORE**, in accordance with Stipulation K of the PA, the NRC, ACHP, the WYSHPO, BLM, and Strata agree to amend the Agreement as follows:

The NRC within its regulatory authority shall ensure that the following measures are carried out:

**I. STIPULATIONS**

1. Except as otherwise noted herein, and within the scope of its regulatory authority, the NRC assumes the roles and responsibilities originally ascribed to BLM under the PA.
  - a. Stipulation D.3.d. is amended by striking "in coordination with the BLM" and by striking "NRC/BLM" and inserting in its place "NRC".

- b. Stipulations E.1. and E.2. are amended in their first sentences, first word by striking “BLM” and inserting in its place “Strata”.
  - c. Stipulation F.2.a. is amended by (1) striking “the BLM Field Office Authorized Officer, the BLM Ranger,” and (2) after “Sheriff’s Office” inserting “NRC”.
  - d. Stipulation F.2.b. is amended by striking it in its entirety.
2. Stipulation M.1, Duration of Agreement, is amended in its entirety to read as follows:

This PA will remain in effect for 20 years from its date of execution by the Signatories (April 24, 2014), unless either (1) Wyoming attains NRC Agreement State status, at which time this PA will expire; or (2) NRC determines that all the activities listed under Stipulations A-D, including implementation of the MMP minimization measures (installation of neutral colored well covers) and mitigation measures (erection of an interpretive sign near the entrance to the mine and creation of a website dedicated to the pre-settlement history of the project area), are completed, at which time this PA will expire; whichever occurs first. NRC shall provide written notification to the other Signatories and Ross Project Consulting Tribes of this PA’s expiration, including the circumstances warranting such expiration. Prior to expiration of the PA, the NRC may consult with the other Signatories to reconsider the terms of the PA and amend it in accordance with Stipulation K; however, the expiration of the PA as a result of Wyoming attaining NRC Agreement State status will occur immediately notwithstanding any consultation or amendment in progress.

3. Stipulation O.1. is amended to read as follows:

1. **Entirety of Agreement.** This PA, consisting of (22) pages, Appendix A, “Description of Undertaking and Area of Potential Effects,” consisting of six (6) pages, Appendix B “Ross Project Cultural Resource Inventories,” consisting of seven (7) pages, as amended by the amendment set forth in Appendix C, “Amendment One to the Programmatic Agreement,” consisting of six (11) pages, and Appendix D, “Minimization and Mitigation Plan,” represents the entire and integrated agreement between the parties and supersedes all prior negotiations, representations and agreements, whether written or oral, regarding NRC’s compliance with Section 106 of NHPA for this undertaking and for purposes of Strata’s compliance with Condition 9.8 of its NRC license.

4. Appendix A is amended on page 1 by inserting at the end of the section entitled “Undertaking,” a new paragraph that reads as follows:

“Subsequent to the execution of the Programmatic Agreement of which this Appendix A is a part, Strata amended its mine plan for the Ross Project and withdrew its Plan of Operations from the BLM’s Newcastle Field Office, such that no operations will occur on federally-administered land.”

5. Appendix B, Tables 1-A, 1-B, 1-C, 1-D, and 3, are replaced with the following updated table:

**Table C - 1 Summary Table of NRC Determinations of Eligibility**

<b>Site Number</b>	<b>Criterion A</b>	<b>Criterion B</b>	<b>Criterion C</b>	<b>Criterion D</b>
48CK1603	Not Eligible	Not Eligible	Not Eligible	Eligible (1995**)
48CK2070	Eligible (2015*)	Not Eligible	Not Eligible	Not Eligible
48CK2071	Not Eligible	Not Eligible	Not Eligible	Not Eligible
48CK2072	Not Eligible	Not Eligible	Not Eligible	Not Eligible
48CK2073	Not Eligible	Not Eligible	Not Eligible	Not Eligible
48CK2074	Not Eligible	Not Eligible	Not Eligible	Not Eligible
48CK2075	Not Eligible	Not Eligible	Not Eligible	Not Eligible
48CK2076	Eligible (2015*)	Not Eligible	Not Eligible	Not Eligible
48CK2077	Not Eligible	Not Eligible	Not Eligible	Not Eligible
48CK2078	Not Eligible	Not Eligible	Not Eligible	Eligible***
48CK2079	Not Eligible	Not Eligible	Not Eligible	Not Eligible
48CK2080	Eligible (2015*)	Not Eligible	Not Eligible	Not Eligible
48CK2081	Not Eligible	Not Eligible	Not Eligible	Eligible
48CK2082	Not Eligible	Not Eligible	Not Eligible	Eligible
48CK2083	Not Eligible	Not Eligible	Not Eligible	Eligible (2013**)
48CK2084	Not Eligible	Not Eligible	Not Eligible	Not Eligible
48CK2085	Not Eligible	Not Eligible	Not Eligible	Not Eligible
48CK2086	Not Eligible	Not Eligible	Not Eligible	Not Eligible
48CK2087	Eligible (2015*)	Not Eligible	Not Eligible	Not Eligible
48CK2088	Not Eligible	Not Eligible	Not Eligible	Not Eligible
48CK2089	Eligible (2015*)	Not Eligible	Not Eligible	Not Eligible
48CK2090	Not Eligible	Not Eligible	Not Eligible	Not Eligible
48CK2091	Not Eligible	Not Eligible	Not Eligible	Not Eligible
48CK2092	Not Eligible	Not Eligible	Not Eligible	Not Eligible
48CK2093	Not Eligible	Not Eligible	Not Eligible	Not Eligible
48CK2214	Eligible (2015*)	Not Eligible	Not Eligible	Not Eligible
48CK2215	Eligible (2015*)	Not Eligible	Not Eligible	Not Eligible
48CK2216	Not Eligible	Not Eligible	Not Eligible	Not Eligible
48CK2217	Not Eligible	Not Eligible	Not Eligible	Not Eligible
48CK2218	Eligible (2015*)	Not Eligible	Not Eligible	Not Eligible
48CK2219	Eligible (2015*)	Not Eligible	Not Eligible	Not Eligible
48CK2220	Eligible (2015*)	Not Eligible	Not Eligible	Not Eligible
48CK2221	Not Eligible	Not Eligible	Not Eligible	Not Eligible
48CK2222	Eligible (2015*)	Not Eligible	Not Eligible	Not Eligible
48CK2223	Not Eligible	Not Eligible	Not Eligible	Not Eligible
48CK2224	Not Eligible	Not Eligible	Not Eligible	Not Eligible
48CK2225	Not Eligible	Not Eligible	Not Eligible	Not Eligible

48CK2226	Not Eligible	Not Eligible	Not Eligible	Not Eligible
48CK2227	Eligible (2015*)	Not Eligible	Not Eligible	Not Eligible
48CK2229	Not Eligible	Not Eligible	Not Eligible	Not Eligible
48CK2230	Not Eligible	Not Eligible	Not Eligible	Not Eligible
48CK2031	Not Eligible	Not Eligible	Not Eligible	Not Eligible

\* Eligibility Determination made by the Keeper of the NRHP May 2015

\*\* Concurred on previously by the Wyoming SHPO via letter

\*\*\* Submitted as part of the Strata Kendrick project Section 106 consultation documentation

## II. AGREEMENT IN FULL FORCE AND EFFECT

With the exception of items explicitly delineated in this Amendment, all other terms and stipulations of the original PA, including Appendices A and B, shall remain unchanged and in full force and effect.

## III. CONCURRING PARTY

As of the effective date of this Amendment, the BLM is no longer a signatory party but shall be considered a concurring party for the purposes of providing, at the request of NRC, advice and technical assistance to the NRC in the course of NRC's carrying out its responsibilities under the PA. The BLM may acknowledge its status as a concurring party by signing under "Concurring Party" below.

## IV. SIGNATURES

In witness whereof, the parties to this Amendment through their duly authorized representatives have executed this Amendment on the dates set out below, and certify that they have read, understood, and agreed to the terms and conditions of this Amendment as set forth herein.

The effective date of this Amendment is the date of the last signature affixed to the pages below.

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IN CROOK COUNTY, WYOMING**

**The U.S. Nuclear Regulatory Commission**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Title: Craig G. Erlanger, Director, Division of Fuel Cycle Safety, Safeguards,  
and Environmental Review

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**Wyoming State Historic Preservation Officer**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Title: Mary Hopkins, SHPO



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**Advisory Council on Historic Preservation**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Title: John M. Fowler, Executive Director

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**Strata Energy, Inc.**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Title: Ralph Knode, CEO

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**Approval as to Form:**

**Wyoming Attorney General's Office**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Title: Tyler M. Renner, Assistant Attorney General

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Concurring Party:

**U.S. Department of the Interior, Bureau of Land Management, Newcastle Field Office**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Title: Rick Miller, Field Manager