

**Second Amendment  
to the  
Programmatic Agreement Among the  
Wyoming State Historic Preservation Officer,  
U.S. Nuclear Regulatory Commission,  
U.S. Department of the Interior, Bureau of Land Management,  
Lander Field Office, and Wyoming State Office  
And  
Power Resources, Inc.  
Regarding the Gas Hills Uranium Recovery Project**

WHEREAS, this Second Amendment to the Programmatic Agreement (the Second Amendment) is entered into by and among the Wyoming State Historic Preservation Officer (SHPO), the Nuclear Regulatory Commission (NRC), the Bureau of Land Management (BLM), and Power Resources Inc. (PRI) d/b/a Cameco Resources (Cameco); and

WHEREAS, on December 16, 2003, the NRC, BLM, SHPO, and PRI executed a Programmatic Agreement (PA) pursuant to NRC's authority under the Atomic Energy Act of 1954, as amended (AEA), 42 U.S.C. §§ 2011 et. seq. and BLM's authority under the Mining Law of 1872, 30 U.S.C §§ 22-54, and the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. §§ 1701-1784 for the purposes of NRC's and BLM's compliance with Section 106 of the National Historic Preservation Act (NHPA) (16 U.S.C. §§ 470) for the development and operation of an in-situ leach uranium recovery (ISR) project (the Project) at the Gas Hills Project site, located in Fremont and Natrona Counties, Wyoming, as described in PRI's materials license application to the NRC dated June 24, 1998 with modifications submitted March 17, 2011; and

WHEREAS, Cameco Corporation purchased PRI in 1996; and

WHEREAS, the PA was executed on December 16, 2003, with the term of the agreement identified as ten (10) years from the date of execution; and

WHEREAS, the First Amendment, in effect May 25, 2012, extended the duration of the PA to ten (10) years from its original termination date (extension to December 16, 2023), identified BLM as the lead federal agency for the Project and responsible for fulfilling all lead agency responsibilities in the PA originally assigned to the NRC, and identified Cameco as the project proponent and responsible for fulfilling all responsibilities in the PA originally assigned to PRI, it being understood that Cameco is the business name for PRI and they are same legal entity; and

WHEREAS, The stipulations of the First Amendment are subject to the provisions of the Anti-Deficiency Act (31 U.S.C § 1341); and

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WHEREAS, pursuant to Section 274b. of the AEA, the State of Wyoming, in September 2018, assumed regulatory authority from the NRC over byproduct material as defined in Section 11e.(2) of the AEA, and a subcategory of source material or ores involved in extraction and concentration of uranium or thorium milling in Wyoming; and

WHEREAS, when the State of Wyoming assumed these regulatory authorities from the NRC in 2018, the materials license (NRC License Number SUA-1548) was transferred from the NRC to the State of Wyoming, and the NRC no longer had regulatory authority over the activity or material authorized by the license, and thus the NRC no longer had an obligation to comply with Section 106 of the NHPA for this Project; and

WHEREAS, the SHPO, NRC, BLM, and Cameco agree that a Second Amendment of the PA should be executed to reflect the transfer of regulatory authority of the activity and material authorized by this license from the NRC to the State of Wyoming,

WHEREAS, the SHPO, BLM, and Cameco (the Parties) agree to extend the duration of the PA; and

NOW THEREFORE in accordance with the Amendment Stipulation of the PA (PA Stipulation N), the SHPO, NRC, BLM, and Cameco agree to amend the PA as follows:

- I. In accordance with the Duration Stipulation of the PA (PA Stipulation O.2), the Parties agree the PA shall be extended for ten (10) years from the date this Second Amendment is fully executed by all the parties, or the completion of all requirements, whichever comes first.
- II. Because NRC has relinquished its regulatory authority over the materials license at issue, on execution of this Amendment, the NRC will be removed as a Party from this PA and will no longer hold any Section 106 responsibilities for this Project. Upon execution of this Amendment, no provisions in the Second Amendment to the Programmatic Agreement (Attachment 1) will be applicable to the NRC.
- III. Attachment 1 contains the original Stipulations of the PA but has been modified to (a) replace or remove references to NRC and replace them with BLM as appropriate, and (b) replace references to PRI with Cameco to reflect the business name of PRI, being Cameco. No other terms of the PA have changed.
- IV. The stipulations of this Second Amendment are subject to the provisions of the Anti-Deficiency Act (31 U.S.C § 1341).

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V. General Provisions

- A. **Entirety of Agreement.** This Second Amendment, consisting of nine (9) pages, the First Amendment, consisting of four (4) pages, plus the amended PA (Attachment 1), consisting of eight (8) pages, and the original PA consisting of fourteen pages (14), represent the entire and integrated agreement (PA) between the Parties and supersedes all prior negotiations, representations, and agreements, whether written or oral, regarding compliance with Section 106 of the National Historic Preservation Act.
- B. **Prior Approval.** This Second Amendment shall not be binding upon a party unless the Amendment has been reduced in writing before performance begins as described under the terms of this Second Amendment, and unless the Second Amendment is approved as to form by the Attorney General or his representative.
- C. **Severability.** Should any portion of this Second Amendment be judicially determined to be illegal or unenforceable, the remainder of the PA shall continue in full force and effect, and any party may renegotiate the terms affected by the severance.
- D. **Sovereign Immunity.** The BLM, State of Wyoming, and SHPO do not waive their sovereign or governmental immunity by entering into this Second Amendment and each fully retains all immunities and defenses provided by law with respect to any action based on or occurring as a result of this Second Amendment.
- E. **Indemnification.** Each Signatory to this Second Amendment shall assume the risk of any liability arising from its own conduct. Each Signatory agrees they are not obligated to insure, defend, or indemnify the other Signatories to this Second Amendment.

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

The effective date of this Second Amendment is the date of the last Signatory affixed to these pages.

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**Signatories:**

**U.S. Nuclear Regulatory Commission**

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Patricia Holahan, Ph.D., *Director of the Division of Decommissioning, Uranium Recovery, and Waste Programs, from the Office of Nuclear Material Safety and Safeguards*

Date

**Bureau of Land Management, Lander Field Office**

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John R. Elliott Jr., *Field Manager*

Date

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**Bureau of Land Management, Wyoming State Office**

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Lori Armstrong, *Deputy State Director Resources, Policy, and Management*

Date

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**Wyoming State Historic Preservation Office**

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Mary Hopkins, *State Historic Preservation Officer*

Date

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**Cameco Resources**

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Doug Pavlick, *General Manager of US operations*

Date

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**ATTORNEY GENERAL'S OFFICE: APPROVAL AS TO FORM**

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TYLER M. RENNER, *Assistant Attorney General*

Date

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## Second Amendment to the Programmatic Agreement

### Attachment 1

The Bureau of Land Management (BLM) has a statutory obligation as the lead Federal Agency to fulfill the requirements of Section 106 (36 CFR Part 800); therefore, the BLM shall ensure that the measures in the following parts are carried out:

#### A. Survey Plan

The Gas Hills Project site includes 5 distinct areas or mine units for well-field development and uranium recovery. Mine Unit 1 has been surveyed to a Class III level and approved for mining/construction by BLM and SHPO (See attached letter dated August 8, 2000, from E.Womack, BLM to, W.Bredehoft, SHPO). The remaining mine units have mostly been surveyed to a Class III level, but additional areas may require survey to encompass proposed areas of mining/construction. In addition, some cultural resource sites within these units have not been fully evaluated (See attached letter dated August 8, 2020, from E.Womack, BLM, to W.Bredehoft, SHPO, and attached letter dated August 23, 2000, from R.Currit, SHPO, to J.Kelly, BLM.). Any new areas to be surveyed will be determined through consultation with BLM, SHPO, Cameco, and appropriate Tribal Representatives. If requested by SHPO, this consultation will include a meeting with SHPO to further discuss survey issues. Any unresolved objections that result from these consultations shall be addressed in accordance with Stipulation M (Dispute Resolution).

##### **A.1. Construction Areas with no Historic Properties** (Phased Approval)

If, after review by BLM and SHPO, a proposed mine unit area has been determined by BLM to have been fully surveyed to a Class III level for cultural resources and to be negative of historic properties, and the survey report(s) have been accepted by BLM and SHPO then construction of the project facilities in these areas may be allowed by BLM upon concurrence with SHPO, subject to Cameco obtaining permits or approvals as required.<sup>1</sup>

##### **A.2. Construction Areas with Unevaluated Historic Properties**

If, after review by the BLM and SHPO, a proposed mine unit area has been determined by BLM to have been fully surveyed to a Class III level, but contains cultural resources that have not yet been fully evaluated, then the evaluation must be completed prior to

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<sup>1</sup> Historic Properties may include sites, buildings, structures, bridges and other objects that are eligible for inclusion in the National Register of Historic Places.

approval of mining/construction. If any of the resources are determined to be historic properties, Cameco shall develop a treatment plan in accordance with Stipulation B (Treatment Plans for Historic Properties).

## **B. Treatment Plans for Historic Properties**

### **B.1. Format**

Upon completion of survey of mining/construction areas and evaluation of identified cultural resources, and as early as reasonable during project development, Cameco will develop a Treatment Plan for each property found to be eligible for NRHP nomination.

Each Treatment Plan will be developed in consultation with the Parties. If requested by the SHPO, this consultation will include a meeting with the SHPO to further review the framework for how Treatment Plans will be developed, and to review opportunities and alternatives that could avoid or minimize adverse effects to a historic property. Any unresolved objections that result from these consultations shall be addressed in accordance with Stipulation M (Dispute Resolution).

Each Treatment Plan will address the historic property adversely affected and set forth means to mitigate the undertaking's effects where the Parties determine it is not feasible or prudent to relocate the project to avoid effects. The Treatment Plans will confirm to the principles of the Council's *Treatment of Archaeological Properties: A Handbook, Parts I and II, the "Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation"* (Federal Register, Vol. 48 No. 190, September 19, 1983, pp 44716-44742) and appropriate SHPO guidelines.

### **B.2. Content**

The Treatment Plans for the undertaking will address historic properties and portions of historic properties as follows:

#### **a. Historic Properties**

Specification of all historic properties to be affected by the project, including a description of the nature of the effects.

#### **b. Treatment**

A detailed description of the treatments proposed for historic properties or portions of historic properties eligible for the NRHP under 36 CFR Part 60.4 criteria (a), (b), (c) and/or (d), with an explanation or rationale provided for the choice of the proposed treatments. These treatments will take into account the

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setting, including, but not limited to, visual, auditory, and atmospheric elements, as appropriate, and be responsive to the qualities that contribute to the significance of the affected properties.

### **c. Research Design**

An archaeological research design for adversely affected properties eligible for the NRHP under 36 CFR Part 60.4 criteria (d) will be developed. The research design will specify and explain the following:

- Where data recovery is determined by the BLM, through consultation with other Parties, to be appropriate mitigation response. Research questions to be explored through the data recovery efforts (taking into consideration that data recovery is an adverse effect).
- Justification of the appropriateness of the chosen research questions.
- Data needed to explore the questions posed.
- Properties and portions of those properties to be further investigated.
- Methods used to collect data needed to explore the research questions posed, where the adverse effect of data recovery is deemed the appropriate treatment.
- Laboratory methods used in the examination of the physical material that is recovered.
- Proposed disposition of the recovered materials and records.
- The timing for the preparation and distribution of reports.

### **d. Human Remains**

The procedures for consulting about the treatments and disposition of Native American human remains and associated grave goods, if encountered, shall be in accordance with Stipulations H (Discovery) and J (Human Remains).

### **e. Monitoring**

A description and rationale for selection of the areas proposed for construction monitoring (a qualified archaeologist, as defined in the *Secretary of the Interior's Professional Qualifications and Standards*, 48 FR 22716, September 1983, present to observe ground surfaces exposed during the actual construction activities) and construction inspection conducted by a qualified archaeologist of areas of ground disturbance after specific phases of construction are completed. Should the archaeological monitor identify a previously undiscovered archaeological property, procedures in accordance with Stipulation H (Discovery) shall be followed.

## **C. Treatment Plans – Review**

### **C.1. Development and Review**

Cameco will develop, in cooperation with the other Parties, each Treatment Plan to ensure that it addresses their concerns, in accordance with Stipulation B.2(b) (Treatment).

Cameco shall provide the Treatment Plan(s) to the BLM for concurrent reviews. The BLM will have a 30-day review and comment period. At the conclusion of this comment period, the BLM will forward any comments resulting from their reviews to the SHPO who will then have a 30-day review and comment period. If any appropriate reviewing party to this Agreement fails to comment within their specified review period, Cameco shall assume that reviewing party's concurrence. Based upon comments received, Cameco will revise the Treatment Plan(s) for submittal to, and review by, the other Parties.

### **C.2. Revised Treatment Plan(s) Review**

The resultant revised Treatment Plan(s) will be submitted by Cameco to the other Parties for a final 30-day comment period. If any reviewing party has an objection to the final Treatment Plan(s), they shall notify Cameco within the 30-day comment period. Disputes will be resolved in accordance with Stipulation M (Dispute Resolution).

## **D. Treatment Plans – Implementation**

### **D.1. Construction Plan**

Upon concurrence by the reviewing parties, each Treatment Plan will be incorporated by Cameco into their Operations Plan, and the BLM and/or appropriate Federal or State Agency shall provide authorization to proceed with the implementation of the Treatment Plan on lands under their jurisdiction. Cameco or its authorized representative will obtain Archaeological Resource Protection Act (ARPA) excavation and removal permits for Federal land and/or required State permits. Termination of the project after initiation of the Treatment Plan(s) will require completion of any work in progress and amendment of each Treatment Plan as described below.

### **D.2. Amendments**

Amendments to the Treatment Plan will be incorporated by written agreement among the Parties. Amendments to the appropriate ARPA permits will be submitted as part of the approval of the amendments.

### **D.3. Progress Reports**

Cameco or its authorized representative shall prepare a progress report(s) to the other Parties every two weeks, documenting progress in the implementation of each Treatment Plan. These progress reports will include:

- Dates of Mitigation work included in the progress reporting period
- Historic Properties where treatment was conducted
- Type and amount of treatment performed
- Brief summary of the treatment results during the period covered by the report
- Concerns or comments of the principal investigator for plan implementation

### **E. Changes in Ancillary Areas or Mining/Construction Areas**

Cameco will notify the other Parties of changes in the size or location of ancillary areas or mining/construction areas that may become necessary during actual construction. If any changes result in the use of unsurveyed areas, BLM will ensure that these areas are subject to Class III survey in order to locate any potentially significant cultural resources and that those resources are evaluated for NRHP eligibility. The Reports addressing these areas will be reviewed in accordance with Stipulation A and Treatment Plans will be developed in accordance with Stipulations B and C and implemented for those sites, structures, buildings, bridges and other objects determined to be Historic Properties.

### **F. Mining/Construction Areas With Historic Properties**

In those areas where historic properties are present, Cameco will implement the Treatment Plan and will provide the results of the completed Treatment Plan to the Parties when implementation of the Treatment Plan is completed. Within 45 days of this notification of Treatment Plan completion, the other Parties will be invited to inspect the site of the historic property to concur the Treatment Plan implementation is complete. Upon concurrence of complete Treatment Plan implementation, BLM may authorize construction along that portion of the project addressed by the completed Treatment Plan. If concurrence of complete Treatment Plan cannot be reached, the dispute will be resolved in accordance with Stipulation M (Dispute Resolution).

### **G. Documentation of Treatment**

Within 90 days of completion of the field work on the eligible sites pursuant to the Treatment Plan, Cameco will prepare a report documenting the implementation and results of the Treatment Plan(s). This report will be the Draft Final Cultural Resource Report for the project. The report will contain a detailed account of the information gained during implementation of the Treatment

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Plan(s), and the effectiveness of the work measures implemented to mitigate the adverse effects of mining/construction. A review copy of the report will be distributed to the other Parties. There will be a 30-day period to review and comment on the report. The Final Cultural Resource Report will be prepared within 120 days of receipt of the comments from the other Parties. The Final Cultural Resource Report will be provided to the other Parties for a 30-day review period.

## **H. Discovery**

If a previously undiscovered archaeological, historical, or cultural property is encountered during mining/construction, or previously-known properties will be affected in an unanticipated manner, all activity will cease within 300 feet of the property to avoid or minimize harm to the property until BLM in consultation with SHPO, and if appropriate any affected Tribe(s), can evaluate and if necessary, authorize steps to mitigate impacts to the new discovery. Evaluation and mitigation will be carried out by BLM in consultation with SHPO, affected Tribe(s), and Cameco as expeditiously as possible in accordance with 36 CFR 800.13(b).

## **I. Confidentiality**

All Parties shall ensure that shared data, including data concerning the precise location and nature of historic properties and properties of religious and cultural significance are protected from public disclosure to the greatest extent permitted by law, including conformance to Section 304 of the NHPA as amended and Section 9 of ARPA and Executive Order 13007 on Indian Sacred Sites (Federal Register, Vol 61 No. 104, May 24, 1996).

## **J. Human Remains**

### **J.1. Notification and Treatment**

If human remains are encountered on Federal lands, Cameco will inform BLM and BLM will notify the appropriate Federal land management agency, other consulting agencies if requested, SHPO, and designated NAGPRA contact(s). Treatment and disposition of remains and associated grave goods will be consistent with measures outlined in Stipulation H and applicable Federal and State laws.

If human remains are encountered on state or private lands, Cameco will inform BLM and BLM will notify the appropriate Federal land management agency, other consulting agencies if requested, SHPO, and designated NAGPRA contact(s). Treatment and disposition of remains and associated grave goods will be consistent with measures outlined in Stipulation H and applicable Federal and State laws.

## **J.2. Re-internment**

BLM will ensure that every effort is taken to avoid disturbing known burial sites. Where avoidance is not possible, and in consultation with appropriate Tribal representative(s), burials will be removed prior to construction and re-interred in accordance with reburial procedures outlined in any applicable Federal and State laws. The consultations with the Tribal representative(s) shall include consideration of any interest in, and provisions for, further analysis of the remains prior to re-internment. In accordance with BLM policy, burials found on BLM land may remain there if not removed or substantially disturbed, however, burials removed may not be re-interred on BLM land.

## **J.3. Discovery**

If human remains are inadvertently discovered during mining/construction activities, Cameco will notify the BLM and cease all construction within 300 feet in all directions of the human remains. BLM will immediately notify the appropriate parties in accordance with Stipulation J.1. Human remains and grave goods found on Federal lands will be treated in accordance with applicable NAGPRA regulations and guidelines.

## **K. Curation**

### **K.1. Federal lands**

BLM shall ensure that curation of all records and other archaeological items resulting from identification and data recovery efforts completed in accordance with 36 CFR Part 79, and the provisions of 43 CFR Part 10 (NAGPRA). BLM shall ensure that documentation of the curation of these materials is prepared and provided to the appropriate Parties to this Agreement within 10 days of receiving it. All archaeological materials recovered from federal land shall be curated in accordance with the appropriate agency's policies and regulations.

### **K.2. Private Lands**

Private landowners will be encouraged to curate archaeological materials recovered from their lands in accordance with Federal curation policies. Private landowners will also be encouraged to coordinate with appropriate Tribes for disposition of any human remains or funerary objects discovered on their lands. Materials from private lands to be returned to the private landowners shall be maintained in accordance with 36 CFR Part 79 until all necessary analysis has been completed. BLM shall document the return of materials to private landowners and submit copies of this documentation to the appropriate Parties to this Agreement.



### **K.3. State Lands**

BLM will ensure that all cultural materials discovered on state lands will be curated in accordance with federal curation policies.

### **L. Authorities**

Compliance with the provisions of the Agreement does not relieve the BLM or other federal agencies of their responsibilities to comply with other legal requirements, including those imposed by NAGPRA (25 U.S.C Section 3001 and 43 CFR Part 10), ARPA (16 U.S.C Section 470 aa-47011), and NEPA (42 U.S.C Section 4321-4347), and applicable Executive Orders.

### **M. Dispute Resolution**

Should any Party to this Agreement object within 30 days to any action proposed or any document provided for review pursuant to this Agreement, the BLM shall consult with the objecting Party to resolve the objection unless otherwise specified in this document. If the BLM determines that the objection cannot be resolved, the BLM shall forward all documentation relevant to the dispute to the Council. Within 30 days after receipt of all the pertinent documentation, the Council shall either: provide BLM with recommendations, which the BLM shall take into account in reaching a final decision regarding the dispute; or notify BLM that it will comment in accordance with 36 CFR Part 800.7(c). Any Council comment provided in response to such a request will be taken into account by the BLM in accordance with 36 CFR Part 800.7(c)(4) with reference to the subject of the dispute.

Any recommendation or comment provided by the Council will be understood to pertain only to the subject of the dispute; BLM's responsibility to carry out all actions under this Agreement that is not subject to dispute and will remain unchanged.

### **N. Amendment**

If any Parties to this Agreement determine that an amendment of this Agreement is needed, that party shall notify the BLM and request an amendment, whereupon the Parties will consult in accordance with 36 CFR 800.14 to consider such an amendment.

### **O. Termination**

#### **O.1. Agreement**

Any Party may terminate this Agreement by providing 30 days written notice to the other Parties; the Parties shall consult during the 30-day notice period prior to the termination to seek agreement on amendments or other actions that would avoid termination. If any Party individually terminates its participation in the Agreement, the Agreement is

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terminated in its entirety. In the event of termination, the Parties will comply with 36 CFR 800 Subpart B.

## **O.2. Term and Annual Report**

The term of this agreement shall be ten (10) years from the date of execution unless otherwise terminated, in accordance with Stipulation O.1, or amended by the Parties. By December 31 of each year that the Agreement is in effect, Cameco shall provide an annual report to the other Parties which summarizes all actions or accomplishments resulting from the terms of this agreement.

## **P. Failure to Carry Out the Terms of the Agreement**

In the event that the terms of this Agreement are not carried out, the BLM and all other appropriate Parties shall comply with 36 CFR Part 800 Subpart B with regard to the individual actions covered by this Agreement.

## **Q. Execution and Implementation**

The Programmatic Agreement shall take effect when executed by the Parties. Execution and implementation of this agreement evidences that the Parties have satisfied their NHPA Section 106 responsibilities for all individual actions of Cameco's Gas Hills Project.

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