

**MEMORANDUM OF AGREEMENT  
AMONG THE BUREAU OF LAND MANAGEMENT, THE ADVISORY COUNCIL ON  
HISTORIC PRESERVATION, THE WYOMING STATE HISTORIC PRESERVATION  
OFFICER AND URANERZ ENERGY CORPORATION  
REGARDING MITIGATION OF ADVERSE EFFECTS TO HISTORIC PROPERTIES  
FROM THE HANK UNIT OF THE NICHOLS RANCH IN-SITU RECOVERY  
PROJECT IN CAMPBELL COUNTY, WYOMING**

**WHEREAS** the Bureau of Land Management Buffalo Field Office (BLM) plans to permit a Plan of Operations (POO) associated with the Uranerz Energy Corporation's (Uranerz) Hank Unit of the Nichols Ranch In Situ Recovery (ISR) Project pursuant to the 43 Code of Federal Regulations (CFR) 3809 mining claims under the General Mining Law of 1872 for the portion of the POO that is on BLM surface; and

**WHEREAS**, the United States Nuclear Regulatory Commission (NRC) issued a Source Materials and Byproduct License (SUA-1597) for the Nichols Ranch In Situ Recovery Project which includes the Hank Unit on 7/19/11 after complying with Section 106 of the National Historic Preservation Act (NHPA) by signing a Memorandum of Agreement (hereafter referred to as the NRC MOA) (dated 7/8/11) that resolved adverse effects to the Pumpkin Buttes traditional cultural property (TCP) with Uranerz, the Wyoming State Historic Preservation Officer (SHPO), the Advisory Council on Historic Preservation (ACHP) (as Signatories) and the Eastern Shoshone and Northern Arapaho Tribes (as Invited Signatories); and

**WHEREAS**, BLM did not sign the NRC MOA; and

**WHEREAS**, no lead federal agency was designated as per 36 CFR 800.2(a)(2) and BLM is individually responsible for compliance of the portion of the POO that is on BLM surface; and

**WHEREAS**, the BLM has determined that this Project is an Undertaking as defined under 36 CFR 800.16(y) that has the potential to affect historic properties; and

**WHEREAS**, the BLM, in consultation with the Wyoming State Historic Preservation Officer (SHPO) and other Consulting Parties, has defined the Area of Potential Effects (APE) for the Undertaking based on direct, indirect, and cumulative effects to historic properties and their associated settings as applicable, as defined at 36 CFR 800.16(d), to include the areas identified in Appendix A; and

**WHEREAS**, a portion of the Pumpkin Buttes TCP (48CA268) is located on BLM-

administered lands and the boundary of Pumpkin Buttes TCP encompasses sites 48CA6148, 48CA6748, 48CA6751, and 48CA6753; and

**WHEREAS** BLM has determined, with SHPO concurrence, that the undertaking will have an adverse effect on the setting of the following historic properties: the Pumpkin Buttes TCP (48CA268), 48CA6148, 48CA6748, 48CA6751, and 48CA6753; and

**WHEREAS**, the regulations at 36 CFR Part 800.6(c)(1-3) recognize three types of signatories to this agreement: Signatories, Invited Signatories and Concurring Parties, which are referred to collectively as the Parties. Signatories and Invited Signatories may include any party that assumes responsibilities under this agreement. Concurring Parties have a demonstrated interest in the undertaking or its effects on historic properties, but do not assume responsibilities under the agreement. Concurring Parties may participate in development of the document and may concur with this agreement. The refusal of any Invited Signatory or Concurring Party to sign does not invalidate this Memorandum of Agreement (MOA). Concurring Parties cannot amend or terminate this agreement; and

**WHEREAS** BLM has consulted with the Cheyenne River Sioux Tribe, Crow Nation, Eastern Shoshone Tribe, Fort Peck Assiniboine and Sioux Tribe, Northern Arapaho Tribe, Northern Cheyenne Tribe, Yankton Sioux Tribe, Crow Creek Sioux Tribe, Lower Brule Sioux Tribe, Standing Rock Sioux Tribe, Rosebud Sioux Tribe, Oglala Sioux Tribe and Sisseton Wahpeton Oyate Tribe (Tribes), for which the Pumpkin Buttes TCP has religious and cultural significance, and has invited each of the Tribes to participate in the development of this MOA; and

**WHEREAS**, pursuant to Section 5.b(3) of the *Programmatic Agreement among the BLM, the Advisory Council on Historic Preservation and the National Conference of State Historic Preservation Officers Regarding the Manner in Which BLM Will Meet Its Responsibilities Under the National Historic Preservation Act* (executed on February 9, 2012 and amended February 7, 2014) (nPA), BLM notified the Advisory Council on Historic Preservation (ACHP) of the adverse effect finding by providing the documentation specified in 36 C.F.R. 800.11(e), and the ACHP chose to participate, and is a Signatory; and

**WHEREAS**, BLM has consulted with Uranerz regarding the effects of the undertaking on historic properties and has invited them to sign this MOA as an Invited Signatory and;

**NOW, THEREFORE**, BLM, ACHP, SHPO, and Uranerz agree that the undertaking shall be implemented in accordance with the following stipulations in order to take into account

the effect of the undertaking on historic properties.

## STIPULATIONS

BLM shall ensure that the following mitigation measures are carried out and shall require as a condition of approval that Uranerz complies with all stipulations and other provisions in this MOA.

### I. GENERAL MITIGATION MEASURES

The following operator committed mitigation measures are to be applied by Uranerz consistently across the entire project, including those portions that are on private surface:

A. Uranerz will provide for one qualified Tribal Monitor representing all Tribes to be present during the construction activities at the Hank Unit. Construction activities include: ground clearing and excavation activities for the Hank Unit satellite plant site, initial trunk line installation, and header house placement. Notification of the commencement of construction activities at the Hank Unit will be communicated to the Tribes at least one month prior to the start of construction.

B. The Tribes shall decide how they would like to select the representative of all Tribes who will serve as the Tribal Monitor. The position can be rotated through each of the Tribes, but not shorter than a two week period for each Tribal Monitor.

C. The Tribal Monitor will be compensated at the prevailing rate of a comparable job for the State of Wyoming during periods of active construction only. In the event of a suspension of construction activities Uranerz will be relieved of its obligation to compensate the Tribal Monitor until construction resumes.

D. The qualified Tribal Monitor will be considered a Contractor to Uranerz Energy Corporation and must comply with the Uranerz Energy Corporation Contractor/Guest Environmental, Safety and Health Guidelines and Site Requirements, OSHA, NRC, and any other State regulations. The Tribal Monitor must also agree to any NRC/State requirements imposed via license or permit. The Tribal Monitor will be expected to comply with the reasonable requests and instructions of Uranerz' Construction Manager. The Tribal Monitor will be permitted to observe construction, assist in cases of unanticipated discoveries, and to ask questions relating to construction activities and receive responses thereto, but he or she shall not participate in the construction activities

and shall not impede or hinder construction activities in any way. In the event of any non-compliance by the Tribal Monitor with this paragraph the Tribal Monitor shall be required to leave the construction site and Uranerz shall be relieved of any further obligation to permit or compensate the attendance of that particular Tribal Monitor thereafter.

E. Uranerz will instruct all employees, contractors, subcontractors, and any additional parties involved in the project not to search for, retrieve, deface, or impact archaeological materials (e.g., arrowhead hunting), and that it is a violation of the federal Archaeological Resources Protection Act (16 U.S.C 470aa-mm) to do so on federal or tribal lands.

Mitigation measures F and G apply only to the portions of the undertaking on BLM surface:

F. BLM will not permit permanent fencing to be constructed around any portions of sites 48CA268, 48CA6148, 48CA6748, 48CA6751, and 48CA6753. However, during ground disturbing activities within 200 feet of these sites, Uranerz will place a temporary barrier 50 feet from the boundary of each site to prevent physical impacts. Once ground disturbing activities are completed the temporary buffer barrier(s) will be removed.

G. If any additional new surface disturbance associated with the Hank Unit project that is not allowed for in the POO is proposed on BLM surface, Uranerz will consult with BLM.

## **II. DISCOVERIES DURING CONSTRUCTION OR OPERATION**

The following operator committed mitigation measures are to be applied by Uranerz consistently across the entire project, including those portions that are on private surface:

A. Depending on the location of the discovery, cultural resource(s) will remain under the ownership of the private landowner or the U.S. Government. Applicable federal, state or local laws will apply to the discovered cultural resources.

B. If human remains are encountered on private land, work will immediately stop in the vicinity of the discovery, the area will be secured, and Uranerz will immediately contact local law enforcement and the county coroner per W.S. 7-4-104. If the remains are not associated with a crime, then Uranerz will contact the NRC, SHPO, Invited Signatories and the landowner to further consult on the treatment of the remains. Uranerz will assure compliance with applicable federal, state and local regulations relating to burial discoveries through inadvertent, construction-related disturbance of graves.

C. If Native American human remains and associated funerary objects as defined in the Native American Graves Protection and Repatriation Act (NAGPRA) (25 U.S.C. 3001), are encountered on federally administrated land, Uranerz will immediately stop all work in the area and notify NRC, BLM, and SHPO. BLM will be responsible for compliance with the provisions of NAGPRA on Federal land.

Mitigation measure D applies only to the portions of the undertaking on BLM surface:

D. If previously unknown cultural resources are discovered on BLM surface, Uranerz will immediately stop the ground-disturbing activities in the area of the discovery and will immediately notify the BLM. Uranerz will have any discovered cultural materials evaluated for NRHP eligibility by a professional meeting the Secretary of Interior's Standard for Archaeology and History. Documentation of the discovery and evaluation will be promptly provided to the BLM. The BLM will then consult with the SHPO on the determinations of eligibility and effect. Work may continue in other areas of the POO; however work in the area of discovery may not resume until such time as any necessary additional actions are completed or deemed unnecessary and Uranerz receives written notification to proceed by the BLM authorized officer.

### **III. EXCLUSION AREAS**

No ground disturbing activities associated with the undertaking will occur within the boundary of 48CA268 (Pumpkin Buttes TCP) 48CA6148, 48CA6748, 48CA6751, and 48CA6753.

### **IV. DURATION**

This MOA will expire if its terms are not carried out within twenty (20) years from the date of its execution. Prior to such time, any signatories may consult with the other signatories to reconsider the terms of the MOA and amend it in accordance with Stipulation VIII below.

### **V. MONITORING AND REPORTING**

Each year following the execution of this MOA until it expires or is terminated, Uranerz shall provide all Parties to this MOA a summary report detailing work undertaken pursuant to its terms. Such report shall include any scheduling changes proposed, any problems encountered,

and any disputes and objections received in the efforts to carry out the terms of this MOA.

## **VII. DISPUTE RESOLUTION**

Should any Signatory or Invited Signatory to this MOA object at any time to any actions proposed or the manner in which the terms of this MOA are implemented, BLM shall consult with such party to resolve the objection. If BLM determines that such objection cannot be resolved, BLM will:

A. Forward all documentation relevant to the dispute, including the BLM's proposed resolution, to the ACHP. The ACHP shall provide BLM with its advice on the resolution of the objection within forty-five (45) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, BLM shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP, Signatories and Invited Signatories, and provide them with a copy of this written response. BLM will then proceed according to its final decision.

B. If the ACHP does not provide its advice regarding the dispute within the forty-five (45) day time period, BLM may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, BLM shall prepare a written response that takes into account any timely comments regarding the dispute from the Signatories and Invited Signatories to the MOA, and provide them and the ACHP with a copy of such written response.

C. BLM's responsibility to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged.

## **VIII. AMENDMENTS**

A Signatory or Invited Signatory may recommend this MOA be amended. This MOA may be amended after a 30 day review and consultation among the Signatories, Invited Signatories and Concurring Parties to this agreement, if the amendment is agreed to in writing by all Signatories and Invited Signatories who have signed the MOA. The amendment will be effective on the date a copy signed by all Signatories and Invited Signatories is filed by the BLM with the ACHP.

## **IX. TERMINATION**

- A. Any of the Signatories and Invited Signatories who have signed this MOA may terminate it.
- B. The termination process starts when a Signatory or Invited Signatory who has signed the MOA provides written notice to the other Signatories and Invited Signatories of its intent to terminate. Termination shall take effect no less than 30 days after this notification, during which time the Signatories, Invited Signatories and Concurring Parties shall consult to seek agreement on amendments or any other actions that would address the issues to avoid termination. The MOA will be terminated at the end of the 30 day period unless the Signatories and Invited Signatories agree to a longer period of consultation or the party proposing termination retracts its proposal.

## X. GENERAL PROVISIONS

A. Entirety of Agreement. This MOA, consisting of number (12) pages, represents the entire and integrated agreement 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 MOA shall not be binding upon any party unless this MOA has been reduced to writing before performance begins as described under the terms of this MOA, and unless the MOA is approved as to form by the Attorney General or his representative.

C. Severability. Should any portion of this MOA be judicially determined to be illegal or unenforceable, the remainder of the MOA shall continue in full force and effect, and any party may renegotiate the terms affected by the severance.

D. Sovereign Immunity. The State of Wyoming, the SHPO and the Tribes do not waive their sovereign or governmental immunity by entering into this MOA and each fully retains all immunities and defenses provided by law with respect to any action based on or occurring as a result of the MOA.

E. Indemnification. Each Signatory to this MOA 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 MOA.

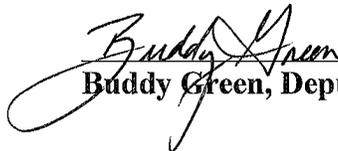
Execution of this MOA by the BLM, ACHP, SHPO, and Uranerz and implementation of its terms evidence that BLM has taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

**SIGNATORIES:**

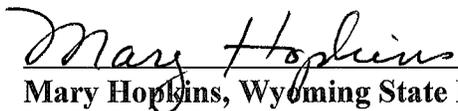
**Bureau of Land Management, Buffalo Field Office**

 Date 6/22/2015  
Duane W Spencer, Field Manager

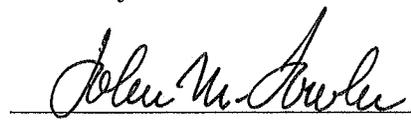
**Bureau of Land Management, Wyoming State Office**

 Date 6/24/2015  
Buddy Green, Deputy State Director Resource Policy and Management

**Wyoming State Historic Preservation Officer**

 Date 6/26/15  
Mary Hopkins, Wyoming State Historic Preservation Officer

**Advisory Council on Historic Preservation**

 Date 7/14/15  
John M. Fowler, Executive Director

**INVITED SIGNATORIES:**

**Uranerz Energy Corporation**



Date 22 June 2015

**Michael P. Thomas, Vice President Regulatory and Public Affairs**

**CONCURRING PARTIES:**

**Cheyenne River Sioux Tribe**

\_\_\_\_\_ Date \_\_\_\_\_

**Kevin Keckler, Sr., Tribal Chairman**

**Crow Nation**

\_\_\_\_\_ Date \_\_\_\_\_

**Darrin Old Coyote, Chairman**

**Eastern Shoshone Tribe**

\_\_\_\_\_ Date \_\_\_\_\_

**Darwin St.Clair Jr., Chairman**

**Fort Peck Assiniboine and Sioux Tribe**

\_\_\_\_\_ Date \_\_\_\_\_  
**Rusty Stafne, Chairman**

**Northern Arapaho Tribe**

\_\_\_\_\_ Date \_\_\_\_\_  
**Dean Goggles, Chairman**

**Northern Cheyenne Tribe**

\_\_\_\_\_ Date \_\_\_\_\_  
**Llevando Fisher, President**

**Yankton Sioux Tribe**

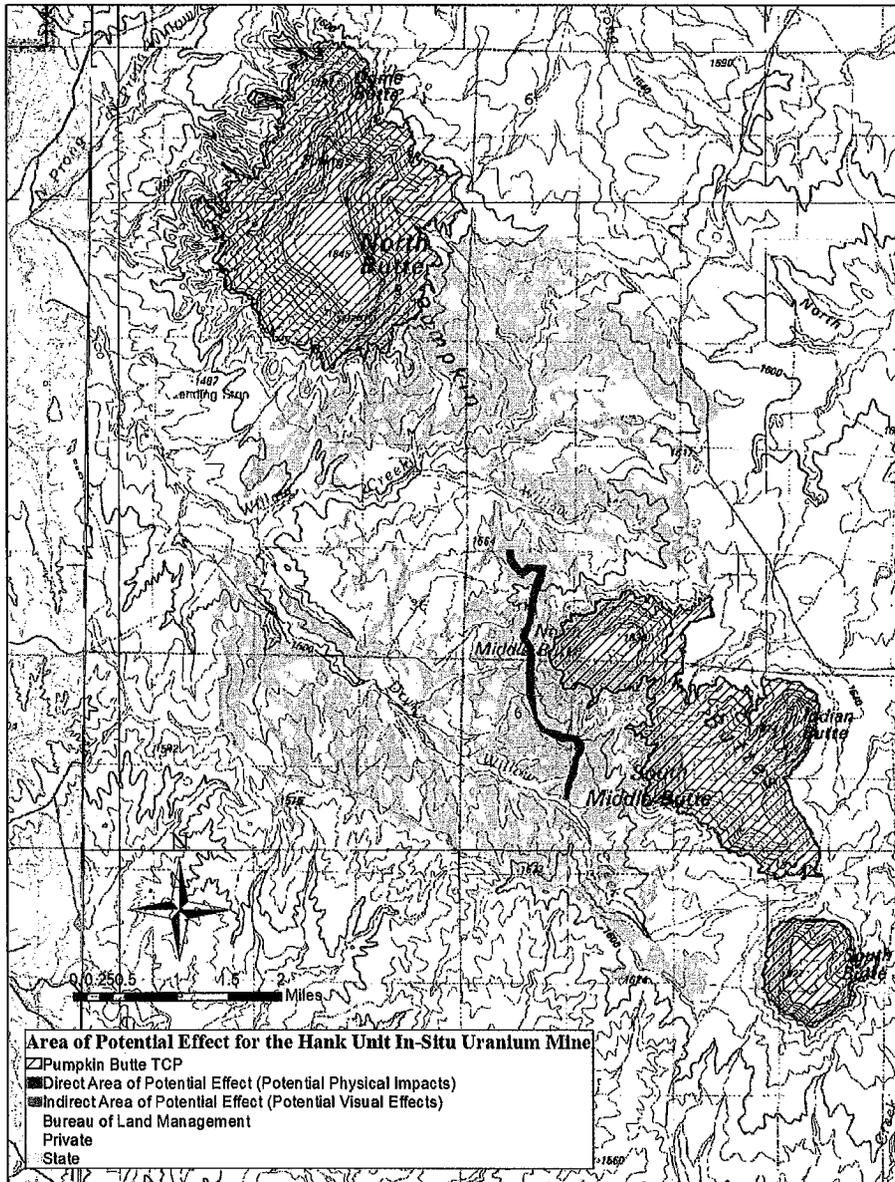
\_\_\_\_\_ Date \_\_\_\_\_  
**Robert Flying Hawk, Chairman**

**Crow Creek Sioux Tribe**

\_\_\_\_\_ Date \_\_\_\_\_  
**Roxanne Sazue, Chairman**



## Appendix A



Map of the APE for the Hank Unit In-Situ Uranium Mine. The direct APE represents areas that may be physically impacted by construction activities. The indirect APE represents areas where the project will be visible, and may create a visual contrast.