APPENDIX H

Programmatic Agreement Shell/Ultra

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Programmatic Agreement

Among the Bureau of Land Management, the Wyoming State Historic Preservation Officer, the Advisory Council on Historic Preservation, Shell Exploration and Production Company and Ultra Resources, Inc., regarding the effects of the Pinedale Anticline Oil and Gas Exploration and Development in Sublette County, Wyoming, on the Lander Road Variant of the California National Historic Trail

WHEREAS, the Bureau of Land Management (BLM) proposes to approve 36 well pads for over 100 Applications for a Permit to Drill (APD) for Shell Exploration and Production Company (Shell) and Ultra Resources, Inc. (Ultra) in the Pinedale Anticline, Sublette County, Wyoming; and

WHEREAS, the BLM's approval of the APD, quality control, reclamation and rehabilitation will be implemented in accord with the Record of Decision for the Environmental Impact Statement for the Pinedale Anticline Oil and Gas Exploration and Development Project as ratified in July, 2000; and

WHEREAS, the development of well pads, drilling wells, and construction and use of access roads will have an adverse effect on the integrity of setting of the Lander Road Variant of the California National Historic Trail (Lander Road), designated by Congress as a National Historic Trail and determined eligible for listing on the National Register of Historic Places under Criteria A and C; and

WHEREAS, the BLM has established the area of potential effect (APE), as defined at 36 CFR § 800.16(d), to include the surface area within Township 31 North, Range 108 West, Sections 19, 20, 29, 30, 31, 32, 33, Township 31 North, Range 109 West, Sections 23, 24, 25 26, and the Lander Road between Township 30 North, Range 105 West, Section 22 and Township 31 North, Range110 West, Section 35; and

WHEREAS, a quarter-mile surface protection zone has been established on either side of the Lander Road to comprise a total zone for no surface disturbance of a half-mile; and

WHEREAS, the BLM has a Nationwide Programmatic Agreement and a Wyoming State Protocol Agreement that governs this undertaking with regard to any of its effects on the Lander Road Variant other than those to its integrity of setting, and all other undertakings and effects to historic properties that may occur within the APE; and

WHEREAS, the BLM has consulted with the Wyoming State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP) pursuant to Section 106 of the National Historic Preservation Act (16 U.S.C. § 470f) and 36 CFR § 800.14(b); and

WHEREAS, the BLM has invited Shell and Ultra to participate in consultation and sign this Programmatic Agreement (PA); and

WHEREAS, the BLM has consulted with the Oregon-California Trails Association (OCTA) and the National Historic Trails Administrator, National Park Service (NPS) and both parties may concur with this PA; and

WHEREAS, the BLM has consulted with the Northern Ute and Eastern Shoshone Tribes on the Lander Road and the PA and they did not express any concerns; and

WHEREAS, the State of Wyoming and the SHPO do not waive their sovereign immunity by entering into this PA, 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 PA; and

WHEREAS, this PA represents the entire and integrated agreement between the parties and supercedes all prior negotiations, representations and agreements, whether written or oral regarding Section 106 review of the effects of Pinedale Anticline Oil and Gas Exploration and Development Project on the integrity of setting of the Lander Road Variant of the California National Historic Trail.

NOW, THEREFORE, the BLM, SHPO, ACHP, Shell and Ultra agree that the undertaking shall be implemented in accordance with the following stipulations in order to take into account the effects of the undertaking on the integrity of setting for the Lander Road.

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STIPULATIONS

The BLM shall ensure that the following stipulations are implemented.

I. Avoidance

A. Segments of the Lander Road within the APE will be avoided completely within the half-mile surface protection zone. BLM will identify the area to be avoided on the ground.

B. Shell and Ultra Project Managers will instruct all employees, contractors, subcontractors and any additional parties involved in the well pad construction and drilling to keep equipment, trucks and any other gear outside of the surface protection zone.

II. Mitigation

A. Surface ground disturbance and visual intrusions will be minimized by only constructing 36 well pads. Each well pad will average 6.5 acres. The wells will conform to the Wyoming Oil and Gas Commission's Standards for the Pinedale Anticline field development.

B. Shell and Ultra will jointly plan the construction and use of access and transportation roads and pipeline corridors. Both companies will utilize the same roads and pipeline corridors whenever possible which will limit the

number of roads and minimize visual impacts. Placing pipelines adjacent to roads will also limit ground disturbance.

C. Shell and Ultra will use low profile tanks, approximately 10 feet in height. The tanks will be painted to be visually integrated into the landscape by color (e.g. Carlsbad Canyon {2.5Y 6/2} or Shale Green {5Y 4/2}.

D. Visual simulations may be required for problematic well locations. The BLM will decide at the on-site for the well permit if a visual simulation is necessary. The SHPO, ACHP and OCTA will be provided with the data after a visual simulation is completed for review and comment.

E. Ultra will plug and abandon the Pinedale Federal #2 well location, located in Township 31 North, Range 108 West, Section 29. Ultra will remove all surface facilities and subsequently reclaim the site. Plugging, facility removal and reclamation will be completed by July 1, 2005.

F. Shell and Ultra will fund the replacement of a windmill in Township 30, Range 106 West, Section 12. The windmill will be replaced with a submersible pump. If replacement is not feasible, the windmill will be painted with non-reflective and appropriate environmental colors.

III. Reports and Educational Products

A. An Advisory Committee (Committee) is established with this PA to develop educational materials including interpretation of the historic significance of the Lander Road for the public. Representatives from the BLM, SHPO, Ultra, Shell, OCTA and the NPS will comprise the membership. The BLM Pinedale Field Manager will have final approval authority over any educational products.

B. The Committee will meet within three months of the execution of this PA to develop an Interpretive Plan with specific projects and a schedule for completion.

1. Specific educational products to be produced may include, but will not be limited to, an illustrated popular report, augmentation of the existing Trails website, interpretive signs, kiosks, brochures, trail markers, posters, and a traveling exhibit for communities within Wyoming.
2. Photographic documentation may include, but will not be limited to large format black-and-white landscape and specific segments of the Lander Road, black-and-white and color aerial photos, narrated video documentation of the affected segments of the Lander Road and copies of any archival historic photos that may exist in collections.

3. Educational interpretive products may be developed for the segment of the Lander Road between Buckskin Crossing and the Green River.

C. Shell and Ultra will jointly fund the educational products identified in the final Interpretive Plan for a total amount not to exceed $60,000.

D. Implementation of the Interpretive Plan will commence within one year of the execution of this PA.

E. The BLM will prepare an annual report as a specific requirement of this PA. The report will include the number of APD's approved for the calendar year, status of the Interpretive Plan and its' implementation, status of reclamation efforts, and a summary of any mitigation that may have been taken place during construction of the well pad, access roads or an individual APD. The report will be distributed to all signatories by March 31 of each year the PA is in effect.

IV. Dispute Resolution

A. The BLM shall consult with any signatory to this PA if there is an objection by a signatory to the manner in which the terms of this agreement are implemented.
B. If the objection cannot be resolved between the BLM Field Manager and the objecting signatory, the matter shall be referred to the BLM Deputy Preservation Officer (DPO) for resolution.
C. If the objection cannot be resolved with the BLM DPO, then all signatories should consult to resolve the matter.
D. If the objection cannot be resolved among the signatories, the matter shall be referred to the BLM State Director. The matter may be referred to the BLM Preservation Board which will provide recommendations for resolution to the State Director. The final decision for resolution of the objection by any signatory shall be made by the BLM State Director.
E. The BLM Field Manager shall consider non-signatory objections to the manner in which the terms of the agreement are implemented. If the objection cannot be resolved to the satisfaction of BLM and the objecting party, the BLM Field Manager shall request the signatories to provide their opinion on the matter. Prior to making a final decision on the matter, the BLM Field Manager shall take into account all the signatory opinions received within 15 days of the request.

V. Amendment

Any signatory to this PA may request that the other signatories consider amending it if circumstances change over time and warrant revision of the stipulations. Amendments will be executed in the same manner as the original PA.

VI. Termination

A. Any signatory to this PA may initiate consultation for termination by providing 30 business days notice to the other parties of their intent. After notification by the initiating signatory, the remaining signatories will have 60 business days to consult to seek agreement on amendments or any other actions that would address the issues and avoid termination.

B. In the event of termination, the BLM will refer to Wyoming State Protocol Agreement to address any remaining adverse effects to the Lander Road.

VII. Sunset Terms

A. This PA will remain in effect for ten years from the date of execution.

B. If Shell and Ultra have not completed the development of their leaseholds in ten years, the BLM will insure the PA will be reevaluated, revised if necessary to accommodate any changes to the terms, and renewed for another ten years. All signatories will be consulted in the reevaluation of the stipulations.

C. The BLM will ensure the PA will be reevaluated every ten years by all signatories, or until all the wells have been reclaimed and rehabilitated as specified in the BLM Pinedale Field Office Record of Decision for the Environmental Impact Statement for the Pinedale Anticline Oil and Gas Exploration and Development Project, Sublette County, Wyoming as ratified in July 2000.

Execution of the Programmatic Agreement and implementation of its terms evidence that BLM has afforded the ACHP an opportunity to comment on the undertakings that will adversely effect the integrity of the setting of the Lander Road.