

U.S. NUCLEAR REGULATORY COMMISSION
URANIUM RECOVERY LESSONS LEARNED
WORKSHOP:
AN INDUSTRY PERSPECTIVE

Presented by the National Mining Association

U.S. Nuclear Regulatory Commission Headquarters
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INTRODUCTION

- **After the Imminent Issuance of the Fourth (Powertech) and Fifth (Strata) New Uranium Recovery (All In Situ Leach Uranium Recovery (ISR)) Operating Licenses, the Nuclear Regulatory Commission (NRC) and the National Mining Association (NMA) Must Look Backward and Learn From the Past in Order to Look Forward;**
- **License and License Amendment Applications Are Still Pending and Still Await Submittal;**
- **Regulators Already Are Imposing *Changes* to License Application Reviews That Are In-Process;**
- **Substantial Discussion of Many of Issues With Near-Term and/or Long-Term Impacts on A Variety of Issues is Critical:**
 - **License Application Preparation;**
 - **Applicant/Regulatory Relationship;**
 - **In-Process Application Review;**
 - **Post-License Issuance Interactions & License Maintenance**

RECOMMENDED PLAN MOVING FORWARD

- **NMA Believes The Dialogue on “Lessons Learned” Must Be Continuous and Constantly Reinforced:**
 - **Step 1: “Lessons Learned” Workshop;**
 - **Step 2: “Follow-Up” Session at NMA/NRC Conference (Denver, Colorado-June 20-21, 2014);**
 - **Step 3: Semi-Annual Discussions and Updates (Public Meetings)**

ISSUES FOR DISCUSSION

- **While Not Exhaustive, NMA Has Identified Several Critical Issues Worthy of Detailed Discussion at This Workshop:**
 - **Status and Scope of 40 CFR Part 192 Conforming Rulemaking;**
 - **Section 106 Tribal Consultation & Guidance;**
 - **License Application Preparation & Supplemental Environmental Impact Statement (SEIS) Structure;**
 - **Post-License Issuance Interactions;**
 - **Decommissioning Issues;**
 - **New Issues from Powertech Dewey-Burdock & Strata Ross FSEISs**

ISSUE #1: 40 CFR PART 192

CONFORMING RULEMAKING

- **Upon Completion of the Anticipated Environmental Protection Agency's (EPA) Rule on 40 CFR Part 192, the Commission is Mandated Under UMTRCA to Initiate a "Conforming" Rulemaking;**
- **However, UMTRCA Does Not Limit the Scope of This Rulemaking; But Rather, It Merely Requires That Conforming Regulations to EPA's Rule Are Promulgated;**
- **Due to the Current State of Uranium Recovery Regulation, the Commission Would Be Wise to Enlarge the Scope of Such a Rulemaking to Correct Issues With the Current Regulatory Program, Including the Following Recommendations**

ISSUE #1: 40 CFR PART 192

CONFORMING RULEMAKING

- **Several Items Can Be Addressed in a “Conforming” Rulemaking:**
 - **10 CFR Part 40.4 Definitions:**
 - “Ore” & Alternate Feed Guidance;
 - “Class of Use;”
 - “Alternative;”
 - “Equivalent Feed;”
 - “Tailings”
 - “Commission-Approved Background” v. “Pre-Operational Baseline”
 - **10 CFR Part 40.32(e) Construction Rule:**
 - Unclear & Inconsistent Interpretations;
 - Recent, Unannounced Application to Environmental Report & SEIS Preparation

ISSUE #1: 40 CFR PART 192

CONFORMING RULEMAKING

- **Additional Suggestions:**
 - **10 CFR Part 40.42 Timeliness in Decommissioning;**
 - **Addition of Equivalent 10 CFR Part 50.59 Performance-Based Licensing Language;**
 - **10 CFR Part 40.65 Radon Monitoring:**
 - Link with Part 20
 - **10 CFR Part 40, Appendix A Revisions:**
 - Link Preamble to ISR
 - Criterion 5(B)(5) ISR Tailoring;
 - Criterion 6(6) Radium Benchmark Dose Applications to Buildings;
 - Criterion 9 Recommendations

ISSUE #2: SECTION 106 TRIBAL CONSULTATION

- **Section 106 Tribal Consultation Issues Focus on a Lack of Consistency of Process:**
 - **Need Guidance That Sets Forth Policies NRC Staff Will Follow During the Process;**
 - **License Applicant/Licensee is a “Consulting Party,” Not to Be Excluded From the Process;**
 - **Federal Agencies That Are Consulting Parties Must Be Informed of NRC Staff Policies as the “Lead Agency;”**
 - **Jurisdictional Issues Associated with the “Undertaking:”**
 - **NRC Staff Uses TAC Numbers to Bill Applicants Prior to Application Submission; Use This to Start Process Early; NRC Will Not Lose Fees With TAC Number Issued;**
 - **Section 106 Was the “Long Pole in the Tent” for at Least Three (3) of the First Five (5) New Operating License Applications**

ISSUE #3: LICENSE APPLICATION PREPARATION & SEIS STRUCTURE

- **Several New Issues Have Been Recently Raised That Directly & Significantly Affect License Application Preparation:**
 - Risk-Informed Regulations (Overall Problem);
 - **SEIS Impact Analysis Structure:**
 - “Third” Alternative;
 - Separate Analyses for Pre-Construction & Construction Activities;
 - Groundwater Data at ISRs Pre & Post-License Issuance (NUREG-1569, Chapter 2 v. Chapter 5)
 - Timing of Informing Industry

ISSUE #4: POST-LICENSE ISSUANCE

INTERACTIONS

- **Several Issues Have Arisen Recently With Post-License Issuance Issues:**
 - **Complete Understanding of License Condition Language:**
 - Needs to Be Done During Initial Negotiations and Not Just After License Issuance on Licensee's Initiative;
 - "You Propose, We Dispose" Goes Away After NRC Attaches Regulatory Jurisdiction (No Jurisdiction Present Prior to License Issuance)
 - **NRC Staff Needs to Be Clear on License Language and Their Requirements:**
 - "Review" Requirements;
 - Process & Timing Needs to Be Discussed;
 - NRC Staff Requirements Needs to Be Discussed Up Front and Not Be Applied Retroactively to License Applicants Post-SEIS Issuance or Post-License Issuance

ISSUE #5: DECOMMISSIONING ISSUES

- **For All Uranium Recovery Facilities, Decommissioning Plays a Significant Role; It is Imperative Licensees Understand NRC Staff's Policies and Their Legal Bases:**
 - Interpretation of “Decommissioning” Under 10 CFR Part 40.42 (Conflicting Views);
 - Application of Decommissioning Planning Rule to Uranium Recovery Facilities;
 - Restoration Action Plans (RAP) for ISRs (NRC Staff Position);
 - HRI Decision on ISR Financial Assurance & Potential Future Litigation Issues

ISSUE #6: LESSONS LEARNED FROM RECENT FINAL SEIS RESPONSE TO COMMENTS

- **Recent Powertech & Strata Final SEISs Contain Significant Responses to Comments:**
 - **Criterion 5(B)(5) Groundwater Data Collection Pre-License Application Submission;**
 - **“Hard Look” Requirement Under NEPA (“Significant” Aspects of “Probable” Environmental Consequences);**
 - **Alternate Concentration Limits (ACL) For ISRs and When Assessed;**
 - **Scope of Cumulative Impacts (INSERT WYOMING CASE)**