



UPDATE ON REGULATORY ISSUES

DEDICATED TO ANTHONY J. THOMPSON

PRESENTED BY THOMPSON & PUGSLEY,
PLLC

INTRODUCTION

- ▶ As the Uranium Market Returns, Many Issues Continue to Exist That Should Be Addressed:
 - ▶ ISR Rulemaking;
 - ▶ Powertech Litigation;
 - ▶ Fee Recovery;
 - ▶ Wyoming Agreement State Expansion;

ISR RULEMAKING

- ▶ NRC and the Commission Have Agreed That the Proposed ISR Rulemaking Should Reflect NMA Comments That It Codify and Clarify Existing License Conditions:
 - ▶ Focus on Transparency;
 - ▶ Eliminate Regulation by License Condition;
 - ▶ Clarify Requirements for Specific Items:
 - ▶ Groundwater Quality Pre and Post License Issuance;
 - ▶ SEIS Requirements;
 - ▶ Restoration Action Plans (RAP) for Financial Assurance

ISR RULEMAKING

- ▶ Rule Was Due Out in February and is Still Pending:
 - ▶ Comment Period for the Rule is Unknown;
 - ▶ Various Other Items Should be Considered:
 - ▶ Exemption for Laboratories Conducting Tests on Byproduct Material;
 - ▶ Re-Definition of Uranium Milling to Exclude Kinetic Separation;
 - ▶ Repeal of Part 40.65 on Radon and Part 40.42 on Alternate Schedules for ISR Sites for Restoration:
 - ▶ ISR Sites Restore and Then Decommission, They Should be Separate as Wellfields are Sequential

POWERTECH LITIGATION

- ▶ Powertech Project in South Dakota (Owned by Azarga Which is Now Owned by enCore) Has Been in Litigation for Well Over a Decade;
- ▶ In 2021, The Commission Found That NRC Staff Satisfied Its National Environmental Policy Act Requirements for Historic and Cultural Resources:
 - ▶ Commission Determined Before the Licensing Board Found in NRC Staff's Favor That the Standard for This Contention is Using "Best Efforts";
 - ▶ Continued Negotiations with the Oglala Sioux Tribe Resulted in No Site Assessment;
 - ▶ The Tribe Then Appealed to the DC Circuit;
 - ▶ Oral Argument Held November 4, 2021: Decision is Pending

FEE RECOVERY

- ▶ NRC Has Proposed Its Fee Recovery Requirements:
 - ▶ Hourly Fees Rise to \$291 Per Hour (\$3 Increase);
 - ▶ ISR Facilities Decrease in Annual Fees;
 - ▶ Only a Handful of Licensees Exist Outside of Agreement State, Including Title II Sites:
 - ▶ Nebraska;
 - ▶ South Dakota;
 - ▶ New Mexico;
 - ▶ Washington

WYOMING FEASIBILITY STUDY

- ▶ Wyoming Has Appropriated Funds and Directed Thompson & Pugsley, With the Help of ERG, to Write a Feasibility Study on Expanding Its Agreement Jurisdiction:
 - ▶ Want to Expand Into Source Material Realm;
 - ▶ Strictly Limited to Facilities recover Source Material Via Side-Stream Recovery;
 - ▶ Laboratories and Other Entities Would Remain Under NRC Jurisdiction;

WYOMING FEASIBILITY STUDY

- ▶ Wyoming Proposed Schedule:
 - ▶ Draft of Feasibility Study-August, 2022;
 - ▶ Comments From Wyoming-August/September, 2022;
 - ▶ Final Version of Feasibility Study-September, 2022;
 - ▶ Testimony Before Legislature-September/October, 2022

WYOMING FEASIBILITY STUDY

▶ Process With NRC:

- ▶ Application from Wyoming Governor;
- ▶ Wyoming Statutory Amendments;
- ▶ NRC Staff Review of Proposal;
- ▶ SECY Paper to the Commission;
- ▶ Commission Vote;
- ▶ Assuming Support, Agreement Between Governor and Commission;
- ▶ State Rulemaking

Minerals Policy

DIVERSE VIEWS ON MINERALS MINING

SEC. OF ENERGY GRANHOLM on work to streamline permitting for new sources of EV minerals

"It takes forever to get a new permit. How crazy is that?"

EPA ADMINISTRATOR REGAN

"But it can't take place in the ways that it has in the past, which skirted some of the environmental laws and disproportionately impact communities of color and tribal communities"

FROM EPA DRAFT STRATEGIC PLAN 2022-26:

"There also are potential emerging risks to water and water quality from increased domestic mining for critical and rare earth elements needed to produce electric vehicles, motors, wind turbines, and other technologies that will be important to decarbonize the economy and reduce CO₂ emissions."

DIRECTOR OF THE NATIONAL ECONOMIC COUNCIL BRIAN DEESE

"As we transition to a clean energy economy, demand for these minerals is set to skyrocket by up to 6,000%. We're reliant on foreign sources for the mining and processing of many of these critical minerals, and they're often produced in ways that don't comport with our values."



Minerals Policy

INTERAGENCY WORKING GROUP ON MINING REFORM

PURPOSE

To evaluate potential reforms to hardrock mining laws and regulations, including financial assurance and permitting policies



TOPICS

- Alternatives to the locatable claim system
- Adoption of international best practices/standards
- Imposition and allocation of royalties
- Changes to financial assurance requirements
- Reclamation of AML sites
- Tribal and local community engagement
- Timeliness in the permitting process
- Definition of critical minerals

COMMENT OPPORTUNITIES

- Comments initially due in July but deadline recently extended to Aug. 30
- Roundtables/field hearings to be held to gather feedback
- SBA Small Business Roundtable July 21 at 2:30pm ET

TIMING

- Recommended changes to Mining Law by Nov.
- Proposed regulations by end of 2022



MEMORIUM



▶ THIS PRESENTATION IS DEDICATED TO THE MEMORY OF ANTHONY J. THOMPSON, ESQ.

▶ REST IN PEACE MY DEAR FRIEND, YOU CERTAINLY HAVE EARNED IT

▶ CHRISTOPHER S. PUGSLEY, ESQ