

OMB/OIRA and WWC Teleconference Regarding 40 CFR Part 192 Proposed Rules

Talking Points/Agenda

- 1. Introductions—WWC President Mike Evers, WWC Sheridan Branch Manager Chad Reed, WWC Sheridan Branch Energy/Environmental Department Manager Ben Schiffer, WWC Senior Environmental Engineer/Project Manager Jack Fritz**
 - a. Overview of what we would like to discuss with OMB/OIRA**
- 2. WWC Background—**
 - a. Private engineering consulting firm with 36 yrs in Rocky Mtn Region**
 - b. Employee owned, Small Business with those on call comprising 4 of 18 shareholders**
 - c. 5 branches with 69 employees composed of engineers, geologists, surveyors, biologists and other scientists & support staff**
- 3. WWC and ISR Industry--**
 - a. Assisting uranium ISR industry since early 1980s in engineering, feasibility, permitting and regulatory compliance**
 - b. We have also worked for ISR industry internationally which provides critical perspective**
 - i. Other countries typically have less burdensome regulation.**
 - ii. Australia's regulations are similar to current NRC regulations but much less burdensome than proposed Part 192 rules.**
 - c. Current ISR clients: Cameco, Ur-Energy, Uranium One Americas, Powertech and Strata Energy**
 - d. Non-current ISR clients: Cogema/Areva, Uranium Resources, Uranerz/EF, Black Range Minerals, Stakeholder Energy, Sumitomo Corporation and others**
 - e. From 2008 to present: Completed/on-going work including 60 separate jobs/projects.**
 - i. 18% of Corporate Revenue over past 7 years!**
 - ii. Includes largest revenue generating project in company history and largest client by revenue in company history!**
 - iii. 95% of work focused on developing new properties and Projects.**
 - f. With this familiarity WWC provided technical comments to EPA on proposed rules in May 2015; however, based on our extensive experience, IF IMPLEMENTED, THESE RULES WOULD ABSOLUTELY KILL ANY ONGOING OR NEW ISR DEVELOPMENT IN THIS COUNTRY. Justification for this statement includes the following:**
 - i. ISR mining companies would be forced to baseline each wellfield for 1 year, significantly delaying the schedule of bringing new wellfields into production. Current NRC regulations and license conditions require site-wide baseline characterization for 1 year to verify no seasonality in groundwater quality, then at least 4 samples spaced 2 weeks apart to characterize each wellfield. Based on typical depths**

of several hundred feet and confined aquifer conditions, no seasonality is typically observed.

- ii. ISR mining companies would be forced to carry a bond for much of the facility for 30+ additional years.
- iii. Land use (typically ranching in Wyoming) would not be returned to the landowner for 30+ additional years.
- iv. The economic analysis in the proposed rule overestimates the current U.S. uranium production by approximately a factor of two (9.5 million pounds is about twice current U.S. mining production). This leads to underestimating potential impacts by a factor of 2 just on this basis.

4. Impacts to WWC if Rules are implemented—

- a. Significant reduction in revenue, minimum of 18% but could be much higher as we have a strong reputation for providing quality permit documents.
 - i. Immediate cease work on 3 projects with \$300K in backlog.
- b. Many younger staff have been working exclusively on ISR projects and would need retraining at best to stay with company.
- c. Senior staff have been working and marketing intensively to ISR Industry and would need to be refocused in order to support company.
- d. Many ongoing permitting projects use multiple contractors which would all be impacted by cessation of work on ISR development projects.
- e. Small consulting firms like WWC thrive through serving diverse market sectors; implementation of these regulations would decrease our economic diversity.
- f. ISR uranium projects are generally challenging, interesting and enjoyable work and staff like these types of projects.
- g. ISR uranium projects make us better at other projects.

5. WWC Atomic Safety and Licensing Board (ASLB) Experiences—

- a. WWC provided technical support as part of two litigations against source material license NEPA reviews
 - i. Powertech's Dewey-Burdock Project
 - 1. Included two groundwater contentions related to proposed rules; litigated August 2014.
 - 2. Contention 2 dealt with adequacy of procedures to characterize baseline water quality.
 - 3. Contention 3 dealt with ability to contain fluid migration and assess potential impacts to groundwater.
 - 4. In initial decision LBP-15-16, the ASLB determined that the current NRC regulations and performance-based license conditions were adequately protective of public health and the environment.
 - ii. Strata's Ross Project

1. Included groundwater contentions which go to crux of proposed rules
 2. Failure to adequately baseline groundwater quality
 3. Failure to demonstrate restoration
 4. Failure to demonstrate hydraulic control during mining
 - iii. Strata's Ross litigation included Natural Resources Defense Council (NRDC) as an intervenor and specifically litigated groundwater restoration standards
 - iv. All groundwater contentions were summarily dismissed in initial decisions by ASLBs
 - v. Strata's Ross decision was confirmed on appeal by full NRC Commission
 - b. Key Point—from our experience and as demonstrated by two separate ASLB hearing decisions, the current regulatory framework was shown to be robust and adequate to protect human health and the environment from ISR uranium impacts. Suggest that these planned regulatory actions “conflict with...action taken or planned by another agency” [NRC] per Section 4 of EO 12866.
 - i. This is consistent with the findings of NRC, TCEQ and others (as cited in our comments) indicating that there has never been a case of impacts to a water supply well outside of a permit boundary.
 - ii. Proposed Rule also misstates duration of groundwater restoration as typically 6 months. Our experience has been that current performance-based license conditions require at least 5 quarterly samples and often many more until NRC concurs that restoration standards have been achieved and groundwater is stable. This is generally a multi-year process.
6. Other Points for OMB/OIRA
- a. Use of NRDC references and draft, unpublished technical documents by EPA is contrary to directive in EO 12866 and 13563 scientific integrity and objectivity was compromised in development of these regulations.
 - b. Lack of consultation with Wyoming DEQ during development of the proposed rules, as stated in Wyoming DEQ's May 27, 2015 comment letter to EPA, is contrary to EO 12866 Section 1(b)(9).
7. Conclusions & recommendations—
- a. WWC would be adversely affected by implementation of the proposed rules.
 - b. The proposed rules are unnecessary and burdensome as the current regulatory framework is adequate and protective.
 - c. Suggest that OIRA return the regulations to EPA for further consideration in light of our and others' testimony per Section 6 of EO 12866.