

~~Azarga licensing case. The good news is that the Strata decision sets a precedent, making it pretty certain that both contentions in the Dewey-Burdock proceeding will likewise be thrown out by the licensing panel.~~

But here's where it (1) gets interesting, because (2) the evil Environmental Protection Agency on Monday issued **a draft rulemaking** that if finalized would require U.S. ISR miners to spend hundreds of millions of dollars to hold groundwater by the hand for the rest of all time, bankrupting the domestic uranium industry in the process.

Coincidence? I don't think so. In fact, if you check out the proposed rule you'll quickly note that footnote 53 refers to a 2012 article written by the Natural Resources Defense Council, "Nuclear Fuel's Dirty Beginnings: Environmental Damage and Public Health Risks from Uranium Mining in the American West."

Out of all 100 or so cited sources, the NRDC's is the only non-technical/academic/government one in the whole draft. Aha!

Now, if you google NRDC and uranium, you'll get a hit on a Jan. 26 press release called "NRDC Welcomes Long-Sought Uranium Mining Safeguards, Calls for Improvements."

In it, NRDC senior attorney Geoffrey Fettus crows about how the proposal protects groundwater "from the hazards of uranium mining."

And while it's "a good start...more needs to be done" to "protect western ground water from the dangerous pollution associated with uranium mining," Fettus says.

Smoking gun? You betcha. In fact, according to Paul Goranson, one of the leading ISR experts in the history of ISR mining (another being Harry Anthony), the game-changing proposal originated in EPA Region 6, the very same office that tried to block a state of Texas approval of Uranium Energy Co.'s Goliad ISR operation and lost.

Obviously, I'll be writing more about this in a future Buzz. In the meantime, check out the related article below. Ciao. ●

EPA Proposal Would Increase ISR Opex to \$1.50 Per Pound

By Andrea Jenetta, Publisher

Companies that use ISR mining methods plan to mount an aggressive campaign to stop a new U.S. Environmental Protection Agency proposal that could increase individual uranium project costs by as much as \$423 million and require 30 years of post-closure groundwater monitoring.

The EPA published a draft rulemaking on Jan. 26 that would add a new subpart F to 40 CFR 192 "to explicitly address" groundwater protection, restoration and stability at uranium ISR operations.

New provisions would set restoration goals for at least 13 specific constituents—within an exempted aquifer of an ISR wellfield—to align with Safe Drinking Water Act and Resource Conservation and Recovery Act concentration limits (*see related sidebar, p. 4*).

The constituent list includes arsenic, barium, cadmium, chromium, lead, mercury, selenium, silver, nitrate (as N), molybdenum, combined radium-226 and radium-228, uranium (total)

and gross alpha-particle activity (excluding radon and uranium).

Under current practice the Nuclear Regulatory Commission, which would need to conduct its own process to amend commission regulations to conform to any final EPA rule, sets monitoring requirements on a case-by-case basis, usually for three years, in conditions spelled out in ISR licenses.

The EPA proposal would also require specific monitoring programs for an ISR project's preoperational, operational, restoration, stability and long-term stability phases.

Originally promulgated in 1983, 40 CFR 192 set standards for both operational conventional mills and the scores of abandoned and inactive uranium processing sites throughout the western United States.

There is a secondary driver for the proposal. While acknowledging that aquifers near ISR operations typically don't meet drinking water standards, the EPA nevertheless asserted that "groundwater is a valuable resource, and is becoming more valuable as groundwater use increases....it is necessary to take a longer view of groundwater protection than taken in the past."

'Rife' with Errors

Industry reaction was swift.

"The proposal raises major issues that are going to be litigated," said Chris Pugsley, a partner at Thompson and Pugsley, the go-to law firm for the U.S. uranium industry.

"It is rife with technical, legal and factual errors. We are going to use very novel legal arguments to stop it," he vowed.

The Uranium Producers of America, meanwhile, may take advantage of a Congress controlled by the GOP, whose dislike of EPA is a political fact of life in Washington.

"This is like red meat to Republicans, trying to change something that doesn't need to be fixed," UPA president Scott Melbye told *FCW*.

"And the reaction from Democrats is along the lines of, 'Wait a minute. Didn't we just decide nuclear is the answer to climate change?'"

Compliance costs, too, will likely be a major point of contention in future debates over the rulemaking, particularly given uranium's depressed price outlook.

Uranium president and COO Paul Goranson, for example, took issue with EPA's estimate.

"A lot of companies are not financed to do this. The mine plan doesn't accommodate it. And it's retroactive. It's going to cost a lot more than \$12 million to \$14 million a year."

Unsurprisingly, EPA concluded that the amount of money it will take to meet the new Subpart F requirements is, at 0.6% to 1.7% of estimated 2015 revenues for three small firms that own ISR operations, insignificant.

That translated into an increase in the average cost of uranium production at ISR facilities of about \$1.50 per pound of uranium, assuming production of 9.5 million pounds in 2015.

Annual costs incurred by individual projects would vary from \$304,000 to \$9.5 million, depending on output, the agency found.

UIC Vs. UMTRCA

By *Andrea Jenetta*

With the draft rulemaking, the Environmental Protection Agency is hoping to clear up confusion surrounding the applicability of Uranium Mill Tailings Radiation Control Act standards, as established in 40 CFR 192, to aquifer exemptions under the Safe Drinking Water Act's (SDWA) underground injection control (UIC) requirements.

The aquifer exemption provides relief from certain UIC requirements under the SDWA, as a result allowing injection into aquifers that would otherwise meet the definition of an underground source of drinking water.

But while there are limited UIC requirements relating to restoration of an exempted portion of the aquifer, that aquifer exemption does not eliminate the need to comply with the requirements of UMTRCA.

EPA's bottom line? "An aquifer exemption under the SDWA does not relieve the licensee of the obligation to remediate environmental contamination resulting from activities regulated under UMTRCA."

The proposed revisions would apply to the seven ISR mines currently in operation: Alta Mesa (TX), Crow Butte (NE), Hobson-La Palangana (TX), Lost Creek (WY), Nichols Ranch (WY), Smith Ranch-Highland (WY) and Willow Creek (WY).

The draft noted that 11 other ISR projects are at some stage of licensing or permitting, or are undergoing restoration: Antelope-Jab (WY), Church Rock (NM), Crownpoint (NM), Dewey-Burdock (SD), Goliad (TX), Kingsville Dome (TX), Moore Ranch (WY), Reno Creek (WY), Rosita (TX), Ross (WY) and Vasquez (TX).

EPA said that the incremental total annual cost of the proposed rule would be approximately \$13.5 million nationally. Discounted at 7%, the estimated present value of the stream of national costs would be approximately \$181 million.

Discounted at 3%, the estimated present value of national costs would be approximately \$290 million. ●