

THE CRITICAL PATH TO URANIUM PRODUCTION: A MODEL APPROACH

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INTRODUCTION

- Uranium Recovery Licensing is a Unique Blend of Activities, Each of Which Has a Profound Effect on Licensing and Investment Opportunities:
 - Critical Path to License Application Submission:
 - Items Related to Preparation of License Applications
 - Agency-Related Mechanisms to Further Develop License Applications
 - Milestones Post-License Application Submission(s)

LICENSE APPLICATION PREPARATION: A PATH FORWARD

- Uranium Recovery License Applications Are Defined as a “Critical Path:”
 - 10 CFR Part 40, Appendix A & Related Guidance Define the “Critical Path” Timeframe:
 - Twelve (12) Months of Pre-Operational/Background Data & Analyses of Same Required;
 - NRC Lack of Resources Narrow Permissible Range of “Missing” Data Allowed to Satisfy Acceptance Review Criteria;
 - License Applicants Should Use This Timeframe as a Model for Application Preparation

LICENSE APPLICATION PREPARATION: A PATH FORWARD

- “Critical Path” Should Not Be Seen as a Rigid Frame of Reference:
 - Use of the 12 Month Timeframe as a Model Allows License Applicants the Utmost Flexibility, But the First Decision is the Most Important One:
 - » Start Your License Application Preparation Well Before You Complete Data Gathering;
 - » Prepare a “Placeholder” Version of Your Technical and Environmental Reports and Fill in Data Gaps as You Obtain the Data;
 - » Utilize Hydro Resources Model of a Restoration Action Plan (RAP) and Fill in Number and Explanations Later;
 - » Commit to a Groundwater Model for ISR Facilities

LICENSE APPLICATION PREPARATION: A PATH FORWARD

- The Second Decision is Important Too:
 - Assemble Your Team of Experts in a Variety of Fields:
 - » Technical (Geology, Hydrology, Etc.)
 - » Environmental
 - » Financial
 - » Legal & Regulatory
 - Keep Them in the Loop on All Developments So That You Reduce the Possibility of Requests for Additional Information (RAI);
 - Team Members Should Review Draft License Application Reports in All Iterations:
 - » All Technical and Environmental Reports Should Be Reviewed Minimum Three (3) Times Prior to an NRC-Sponsored Pre-Submission Audit

LICENSE APPLICATION PREPARATION: A PATH FORWARD

- By Subscribing to This Approach, You Reduce the Risk of:
 - Failing NRC or Other Agency Acceptance Review;
 - Long-Range or Broad Scope RAls;
 - Broad Scope “Open Items”
 - Lengthy License Conditions & Agency-Imposed Commitments
- **A Few Extra Resources Up-Front Can Save Hundreds of Thousands of Dollars (See Quarterly NRC Invoices!) & Time Towards License Issuance**

LICENSE APPLICATION PREPARATION: BUMPS IN THE ROAD

- It is True That No Process Is Without Its Flaws and Uranium Recovery Licensing Is No Different; But If You Plan Accordingly, Potential Risk Factors Are Lowered:
 - Learning From the Past;
 - Use of NUREG-1910 (ISR GEIS);
 - Understanding Perspectives on Regulatory Guides;
 - NHPA Section 106 Process

LICENSE APPLICATION PREPARATION: BUMPS IN THE ROAD

- What is Meant By Learning From The Past?; It is All About the RAIs:
 - The Biggest Misconception is That Licensing is Driven by Agency Resources or Timing; It is Driven by RAIs:
 - » The “30-Day RAI” Versus the “90-150 Day RAI;”
 - » The Amount of RAIs;
 - » The “Down-Time” NRC Staff Has Due to the First Two

LICENSE APPLICATION PREPARATION: BUMPS IN THE ROAD

- How Do We Fix This Problem?
 - Keep Your Expert Team Involved on All Reviews of Reports;
 - Make Sure Every RAI Asked by an Agency in the Past is conclusively Answered in Your License Application to the Extent Relevant to Your Site;
 - Don't Assume the Agency Won't Ask You a Question on a Given Subject;
 - Don't Re-Invent the Wheel

LICENSE APPLICATION PREPARATION: BUMPS IN THE ROAD

- How Does the ISR GEIS and Other Analytical Documents Play Into a Review?
 - The ISR GEIS Should Be The Foundation of All License Applications;
 - NRC Prepares SEISs and SERs Based on its Conclusions (Tiered) So Write the Reports Using Its Analyses;
 - Other Regulatory Agencies Likely Would Embrace Such Conclusions to Make Their Analyses Stronger and More Defensible

LICENSE APPLICATION PREPARATION: BUMPS IN THE ROAD

- How Do We Understand the 20-30 Year Old Regulatory Guide?
 - Regulatory Guides Are Being Updated But Not Yet Publicly Available;
 - Frequent PM-to-PM Coordination is Critical;
 - Explain Yourself in Your Answers;
 - Refer to Previously Licensed Projects as Support

LICENSE APPLICATION PREPARATION: BUMPS IN THE ROAD

- The Section 106 Process (The Long Pole in the Tent):
 - Recent Section 106 Processes Have Been Inefficient;
 - Lack of Coordination Between Agencies, Tribes, and License Applicants Are an Issue;
 - Needs to be a Uniform Approach at Every Federal Agency;
 - Learn from the Experienced Ones;
 - Put Your Foot Down!

LICENSE APPLICATION PREPARATION: AN AGENCY APPROACH

- With All This Said, What's the Best Approach to Agency Licensing; Four (4) Simple Steps:
 - Well-Defined Quarterly (Or More) Meetings With Regulators;
 - Frequent PM-to-PM Coordination;
 - Pre-Submission Audit/Site Tour;
 - Public Meeting Post-Application Submission

LICENSE APPLICATION PREPARATION: A SOLUTION

- Well-Defined Quarterly (or More) Meetings Are a Must:
 - Quarterly Meetings Are Not a Data Dump:
 - » Define a Narrow Scope for Each Meeting; What Do You Have the Most Questions on or the Most Available Data?;
 - » Provide the Agency with Advance Notice of the Items for Discussion So They Can Have the Right People in the Room;
 - » Ensure That All Meetings Are Properly Summarized So Internal Directives to Expert Team Can Be Sent and Addressed

LICENSE APPLICATION PREPARATION: A SOLUTION

- Frequent PM-to-PM Discussions Can Drive Your License Application:
 - NRC's Public Meeting Policy Generally Does Not Apply to PM-to-PM Phone Calls/Discussions;
 - Be Specific As to Topic Areas for These Discussions So, Once Again, the Right Person/People Will Be Involved;
 - Don't Be Afraid to Ask Any Question!
 - RAI Interpretations;
 - License Conditions for Previously Approved Licenses/License Amendments;
 - NRC Legal and/or Policy Determinations

LICENSE APPLICATION PREPARATION: A SOLUTION

- The New NRC Pre-Submission Audit/Site Tour Should Be a Model for All Agencies:
 - Site Tour Gives Reviewer Proper Frame of Reference for License Application Review;
 - Technical and Environmental Review of a Pre-Final Version of Technical and Environmental Reports Reduces Risk Factors for Acceptance Review and RAIs:
 - Goal is Not to Pass Acceptance Review, Goal is To Minimize RAIs (Especially Those Pesky “90-150 Day RAIs”)
 - Pre-Notification of Section 106 Tribal Consultation Can Be Justified if a Pre-Submission Audit Takes Place;
 - Agency Resources Need to Be Allocated to Support These Audits

LICENSE APPLICATION PREPARATION: A SOLUTION

- Public Meeting Post-License Application Submission Closes the Pre-Submission Process:
 - Important if You Have Multiple Reviewing Agencies Such as BLM, USFS or Others;
 - Brings in the Right People for Full Detailed Review;
 - Helps You Understand Immediate Process (90-150 Day Period):
 - Section 106;
 - Cooperating Agency Status, if Any;
 - Public Notice of Docketing & Opportunity for Hearing

POST-LICENSE APPLICATION

SUBMISSION: MILESTONES

- To Know the License Review Process is to Know Your Adversary:
 - Acceptance Review;
 - Commencement of Section 106 Process;
 - “Docketing;”
 - RAIs;
 - “Open Items;”
 - Draft License Conditions;
 - Draft Part 51 Review Documents;
 - Final SER;
 - Final SEIS, Concurrence, & License Issuance
- ITS ALL ABOUT MILESTONES FOR:
 - Investors;
 - Public Relations;
 - Public Participation;
 - Administrative Litigation, If Applicable;
 - Cooperating and Other Agency Reviews

POST-LICENSE APPLICATION

SUBMISSION: ACCEPTANCE REVIEW

- Due to Agency Resource Constraints, the “First In, First Out” Rule is Tempered by an “Acceptance Review:”
 - Internal Agency Guideline (Typically 90 Days);
 - Screening Process for Detailed Technical/Environmental Review;
 - Critical for Docketing and Maintaining Ongoing Processes (e.g., Section 106 Process);
 - Pre-Submission Audit Has Its Satisfaction as a Preliminary Goal;
 - Can Be Detrimental to Any Licensing Efforts;
 - Can Be Delayed Despite Best Efforts

POST-LICENSE APPLICATION

SUBMISSION: SECTION 106 PROCESS

- Commencement of Section 106 Process:
 - Can Be Started in Advance with Pre-Notification;
 - Needs to be Formally Commenced Prior to “Docketing;”
 - Steps 1 & 2 Need to Be Completed Prior to Draft SEIS or Risk De-Coupling;
 - Multiple Consulting Parties Lead to Multiple Delays;
 - Advance Planning is Difficult;
 - What is Reasonable?

POST-LICENSE APPLICATION SUBMISSION: DOCKETING

- Completion of the Acceptance Review Leads to Formal Docketing:
 - Acknowledgment Letter & Federal Register Notice;
 - Notice of Opportunity for a Hearing & Access to SUNSI Information;
 - Starts Internal Clock for Next Stages:
 - Notice of Intent for EIS & SEIS for Certain Projects

POST-LICENSE APPLICATION SUBMISSION: RAIs

- Requests for Additional Information:
 - Internal Agency Guideline (180-270 Days from Docketing);
 - Newer Projects Receive “Newer RAIs;”
 - Repetition of RAIs Raise Coordination Issues;
 - “30 Day RAIs” v. “90-150 Day RAIs;”
 - Pre-Submission Audit’s Ultimate Goal;
 - PM-to-PM Discussions & Public Meeting Critical

POST-LICENSE APPLICATION SUBMISSION: “OPEN ITEMS”

- “Open Items” Phase:
 - Otherwise Known as RAI Answer Deficiencies;
 - Lack of Resolutions Typically Result in New License Conditions;
 - Delays the Process and Can Be Detrimental With “90-150 Day RAIs;”
 - Lack of a Groundwater Model?;
 - Can They Be Avoided?

POST-LICENSE APPLICATION SUBMISSION: **DRAFT LICENSE CONDITIONS**

- **Draft License Conditions:**
 - **A Critical and Often Overlooked Component of Licensing;**
 - **Requires a License Applicant to Assess What Was Committed to in License Application and What Can You Live With;**
 - **Quicker You Agree, Quicker the SER is Done;**
 - **Can Make Draft SEIS More Robust if Done in Advance**

POST-LICENSE APPLICATION SUBMISSION: DRAFT PART 51 DOCUMENTS

- The Draft Part 51 Document is Probably the Most Critical Milestone in the Licensing Process:
 - Is Issued for Public Comment and Requires Responses from Agency for Reasonable Comments;
 - May Require Prior Scoping;
 - Important for License Applicants or Licensees to File Comments;
 - Can Incorporate Section 106 Process;
 - Is Basically Agency's Public Explanation for a Proposed Licensing Action

POST-LICENSE APPLICATION SUBMISSION: FINAL SER

- The Final SER is the End of the Agency's Safety Review:
 - Embodies Explanation for License Conditions and Final Conclusions on License Applications;
 - Is Not Issued for Public Comment;
 - Leads to a More Robust Part 51 Document;
 - Typically Requires Replacement Pages for a Technical Report

POST-LICENSE APPLICATION SUBMISSION: FINAL PART 51 DOCUMENT & CONCURRENCE

- The Final Part 51 Document is Essentially the End of the Review Process:
 - Final EIS or SEIS Generally Requires EPA Concurrence (30 Days);
 - Signals NRC's Intent to Issue a Licensing Action;
 - Contains Responses to Comments That Should Be Completely Reviewed;
 - License Issuance May Depend on Section 106 Process

POST-LICENSE APPLICATION SUBMISSION: MILESTONES

- So, Why Did We Even Have This Discussion?:
 - It's All About the Milestones:
 - Uranium Recovery is Re-Entering the Production Phase;
 - New Projects Require Investment & Capital;
 - Production Leads to Cash Flow & Expansion;
 - Each Step in the Process is Critical to Investors & Public Relations

ISSUES OF INTEREST FOR QUESTIONS

- To Facilitate Some Discussion, Here Are Some Topics That Could Affect The Items Discussed Above:
 - Permissible Site Activities Pre and Post-License Issuance;
 - Recent Strata Appeal to the Commission;
 - License Amendments for New Operating Licenses;
 - Licensing Actions Requiring a Full EIS;
 - Equivalent Feed RIS