

# Lessons Learned Small Site Transition/Transfer

Licensee Perspective

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# Subject Site (Maybell Title II)

- Relatively Small Former Heap Leach Facility (About 2,000,000 Tons)
- No Groundwater Issues
- Previously Approved Reclamation Design revised to meet current NRC Criteria
- First Title II site transferred in Colorado
- Site Located on Federal Land (millsite claims) with exception of 20 acre parcel acquired by licensee (surface only)

# Maybell Title II



# Reclamation Completion

- Completed Mill Demolition, Windblown Cleanup, Cover Construction
- Worked with CDPH&E to generate Construction Completion Report (CRR)
- CDPH&E Submitted to NRC
- NRC Comment and Response
- NRC Approval of CRR

# Problematic Items from DOE

## Check List for this Site

- USACE provides DOE their request for any additional items needed to complete the warranty deed (draft warranty deed is provided for review).
- DOE forwards USACE request to licensee, along with the draft warranty deed to be reviewed.
- Licensee provides requested information to USACE (and any comments on draft warranty deed).
- DOE provides comments on the draft warranty deed (once all information requested by USACE has been provided).
- DOE Realty Officer performs the final site inspection and completes the Certificate of Inspection and Possession for the USACE as required by the USDOJ; provides the CIP to USACE.



# Problem with Subsurface Rights

- 10 CFR 40, Appendix A, Criterion 11 – *"...applicant/operator must demonstrate a **serious effort** to obtain such subsurface rights, and must, in the event that certain rights cannot be obtained, **provide notification in local public land records of the fact that the land is being used for the disposal of radioactive material and is subject to either an NRC general or specific license prohibiting the disruption and disturbance of the tailings.**"*
  - "Serious Effort" to obtain subsurface rights turned out to be a lengthy process (ambiguous language)
  - Obtained 1/5 interest in subsurface estate at twice the appraised value, other owners threaten litigation, etc.
  - Value of subsurface right necessary to demonstrate "serious effort"
  - Mineral appraisals are extremely expensive – much more than value of subsurface right. Even expert opinion cost several times more than value of subsurface right
  - "Serious effort" demonstration acceptable after offer to owners to acquire at twice the value of the subsurface right
  - Who determined – DOE not sure, NRC deferred to CDPH&E for determination of "serious effort"
  - Deed Notice – language needs to be accepted/approved by agencies

# Problem with Site Access

- Site was located entirely on Federal Land with exception of 20 acre strip purchased by licensee
- Title Commitment indicated no access to property because ROW on Federal lands are not recorded and ROW terminated at withdrawal boundary
- Exception in Title Commitment was unacceptable to USACE
- Resolution – underwriter for Title Company approved removal of exception because US (regardless of agency) does not have to give itself an easement
- Resolution to issue took about 30 days

# Problem with \$10.00, and Strange Questions

- Warranty Deed Stated "... for and in consideration of the sum of Ten Dollars (\$10.00), and for other good and valuable consideration..."
  - A significant amount of time and resources (all parties) spent on resolution of this issue, i.e., does DOE really have to issue and document a \$10.00 payment to Umetco?
- USACE asked "would you rate the land as excellent, good, or average as far as condition?"  
Deferred response to DOE.
  - Our initial reaction was – land has 2,000,000 tons of radioactive waste – outside of that it is in excellent condition.



# Other Unanticipated requests

- Updated Title Commitment – necessary if Title Evidence is old (i.e., more than one year).
- Property Taxes – proof of payment and paid in full prior to transfer (check to USACE for advance payment).
- Final Inspection by USACE once Title Commitment has been received and reviewed. Same inspection to complete same Federal (CIP) form that DOE Real Estate Officer had performed.
  - It was finally determined that CIP by DOE was acceptable not necessary for USACE to also complete.
- Corporate Resolution – Before property is conveyed, owner needs to provide signed corporate resolution authorizing conveyance, i.e., establishes authority of who executes on behalf of owner/company.

# What Worked Well

- Communication/Cooperation with DOE project manager and staff.
- Communication regarding license termination between NRC and CDPH&E.
- Updated LTSF amounts by NRC, i.e., current amount determined on monthly basis with cutoff date established.
- Transfer of funds and verification to US via. NRC.
- If wire/electronic transfer ensure/verify appropriate account information, etc.

# Lessons Learned

- Process seems to degrade once personnel outside established DOE, NRC, State, and Licensee team are brought in (i.e., USACE, DOE Real Estate, Licensee legal/corporate, etc.).
- Insure access to all private/transferred lands (parcels) are well defined during preparation of Title Commitment.
- Do not assume this process is simple real estate transaction. DOJ requirements are much different than typical marketable property, inclusive of subsurface rights and water rights (monitor wells, permits, etc.).
- Do not assume agencies are effectively communicating --- keep the dialog constant.
- Insure internal legal and real estate understand DOJ requirements.

# Lesson Learned (con't)

- Recommend institute internal QC check, by knowledgeable staff, of all land documents submitted to and received from DOE and USACE – will save valuable time and money.
  - Corporate resolution signed exactly as shown (middle initial, etc.)
  - Title documents, access documents, proof legal descriptions, typo's, etc.
- Identify all personnel internal and external (all agencies) who are new to this process – maintain clear communication and understanding.
- Ensure Title Commitments and Corporate Resolutions are current and correct at time of submittal – if process drags out they will need to be updated.
- Recommend formal face to face closing as opposed to circulating documents – sets firm deliverable dates. Execution of deed must be the copy prepared and printed by USACE and contained in “the package”.