URANIUM PRODUCERS OF AMERICA

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April 6, 2015

David Henderson
U.S. Department of Energy
Office of Nuclear Energy
Mail Stop NE-52
19901 Germantown Rd.
Germantown, MD 20874-1290

Re: UPA Response to DOE Notice of Issues for Public Comment on "Excess Uranium Management: Effects of DOE Transfers of Excess Uranium on Domestic Uranium Mining, Conversion, and Enrichment Industries:

Dear Mr. Henderson:

On behalf of the Uranium Producers of America (UPA), we appreciate the opportunity to share our views about the factors the Department of Energy (DOE) intends to consider to evaluate the impacts of uranium transfers on the domestic uranium mining, conversion, and enrichment industries.

While UPA is pleased DOE is providing an additional opportunity for public comment, we are disappointed DOE rejected UPA's request for an extension of the comment period. Providing only 20 days is simply insufficient time to review, analyze and develop responses to more than 500 pages of documents, including a new economic analysis. Given the time constraints imposed by DOE, we will not attempt to point out every instance in which we do not agree with DOE or ERI's analysis, but rather attempt to raise certain critical issues that we believe require further review by the Department. In addition, to ensure the determination process is fully transparent, UPA reiterates our request for the Department to publish a draft Secretarial Determination for public comment before it is finalized, consistent with Sec. 5 U.S.C. §553.

Although UPA did not have adequate time to fully analyze the documents DOE released on March 18, 2015, below please find a summary of our most significant concerns.

DOE Continues to Misinterpret the USEC Privatization Act

The Department is charged with ensuring its transfers do not have an adverse material impact on the domestic uranium industry. The USEC Privatization Act (P.L. 104-134) neither permits DOE the discretion to justify its transfers on the basis that the Department's transfers

have less of an impact relative to other market factors nor that DOE's transfers are not the driver of the current negative state of the domestic uranium mining, conversion, or enrichment industries. As District Court Judge Reggie Walton noted in his opinion on the request for a preliminary injunction in *ConverDyn v. Moniz*, "whether the Department's transfers are "the driver" of market conditions is not the inquiry set forth in Section 2297h-10(d)."[1]

Given the Court's directive, ERI's opinion that adding back the $3 per pound price effect attributed (by ERI) to all inventory materials for Scenario 1 would not move current prices enough to cause U.S. producers to ramp well field development and production activities backup, is a totally superfluous statement. This "finding" by ERI is inappropriate in analyzing DOE's impacts and compliance with Section 3112(d).

UPA raised this concern in our response to the DOE request for information, but the DOE continues to misinterpret its mandate under the USEC Privatization Act. In the recent notice of issues for public comment, DOE maintains: "If domestic industries would experience a given negative condition regardless whether DOE made a particular transfer, it would ill serve the purposes of the USEC Privatization Act for 3112(d) to block the transfer."[2]

DOE appears to be building the case for maintaining the current rate of transfers by, in part, noting that the increase in prices expected if DOE scaled back or eliminated transfers would not be sufficient to change the market conditions for the domestic producers. This approach is contrary to the USEC Privatization Act. In addition, DOE appears to be ignoring the TradeTech report that found DOE transfers could have been a deciding factor in a uranium producer's viability during the 2012-2014 period and producers' viability could remain at the mercy of DOE's price-insensitive material.

DOE does not explain its definition of the purposes of the USEC Privatization Act with respect to the merits of its transfers, but given the concerns raised by Government Accountability Office (GAO)[3] over the legality of DOE's barter program, it is doubtful that Congress had this program in mind when it set up a procedure for DOE to sell or transfer the government's excess uranium inventories. Section 3112(d) does not use the word barter. Further, DOE initially auctioned excess inventories, giving producers the ability to purchase this material for long-term contracts and helping ensure DOE received fair market value for the material.

DOE's "driver theory" attempts to view the commercial market with blinders and blatantly ignores the cumulative effect of what is truly occurring in the market. All commenters and analysts admit that the uranium market is depressed in a state of considerable oversupply. That in itself should give sufficient reason to DOE to reject the idea of placing more material

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[1] *ConverDyn v. Moniz*, Civil Action No. 14-1012 (D.D.C. 2014).

[2] Excess Uranium Management: Effects of DOE Transfers of Excess Uranium on Domestic Uranium Mining, Conversion, and Enrichment Industries; Notice of Issues for Public Comment; 80 FED. REG. No. 52 at 14109.

[3] U.S. GOVERNMENT ACCOUNTABILITY OFFICE. (2014, May). *Enhanced Transparency Could Clarify Costs, Market Impact, Risk, and Legal Authority to Conduct Future Uranium Transactions.* (GAO 14-291 at 46).

than the U.S. domestic industry produces into a market with little, if any, current uncommitted demand.

The UPA is also concerned about DOE's potential interpretation of what constitutes as an "adverse material impact" to the domestic uranium mining, conversion, and enrichment industries. In the Notice, DOE states that "it is reasonable to view material adverse impacts as referring to impacts that go beyond normal market fluctuations, such as those that threatened the viability of an industry." Further, DOE notes that "material" is defined as "of real importance or great consequence."

This definition would establish an artificially high bar for what constitutes an "adverse material impact" essentially permitting DOE to continue sales and transfers unless they threaten to shutter the entire industry. As DOE notes, "material" is defined as "of real importance or great consequence". *Black's Law Dictionary* also defines "material" as "of such a nature that knowledge at the time would affect a person's decision-making; significant; essential." Under DOE's own estimates, continued transfers at the current level are expected to have adverse impacts. For example, ERI projected that annual transfers at current levels would decrease spot prices 7.6% and term prices 5.7%.

Other studies, such as one by UxC Consulting, found that DOE transfers at current levels would negatively impact the spot price by an average of $5.78 over the near and medium term, such that the spot price will be 14.1% lower than it would otherwise be without the DOE transfers. The study projects that that the long-term market price of uranium will decrease $4.47, or 7.1%, during the 2018-2030 period due to DOE transfers at current annual levels. From 2015-2030, DOE's transfers at current annual levels are projected to decrease spot market prices by 8.4%.

In the near and-medium term, UxC's analysis forecasts that the negative impact of DOE's sales and transfers on the uranium term price averages about 9.0% (or $4.86/lb U_3O_8) per year. As the uranium term price improves beyond the medium term, the impact of DOE's transfers would decrease slightly to 7.1% (or $5.30/lb U_3O_8) per year for the remaining forecasting period from 2018-2030. Overall, UxC projects that DOE's sales and transfers during the forecasting period from 2015 to 2030 will push down the uranium term price by an annual average rate of 7.5% (or $5.21/lb U_3O_8).

These impacts are beyond *de minimis* and clearly constitute "material" since they are "of real importance or great consequence" given the decrease in the spot or term price attributable to DOE transfers. Moreover, while the UPA believes that DOE wrongly conflated an "adverse material impact" as those impacts that would threaten the commercial viability of the domestic industry, it is nonetheless true that DOE's transfers are making it difficult for domestic producers to sustain or expand existing operations. With an oversupplied global market, DOE's transfers further depress uranium prices trimming into already tight margins for domestic uranium producers, and thus, threaten the commercial viability of the industry. Therefore, while the UPA disagrees with DOE's interpretation of an "adverse material impact," these transfers are

nonetheless meeting this high standard by threatening the commercial viability of domestic production.

DOE appears to be interpreting the concept of "material adverse impacts" as those that "go beyond normal market fluctuations, such as those that threaten the viability of an industry."[4] UPA believes that pegging DOE's impacts to non-viability is beyond the intent of Section 3112(d). Adverse material impacts must include consideration of factors such as the elimination or erosion of profits, the ability to obtain capital investment and the loss of market share. Stating that government transfers are only to be curtailed in the event that they would render the production industry non-viable misconstrues the meaning of Section 3112(d). That said, according to a recent TradeTech study, DOE transfers do affect the viability of the domestic producers. TradeTech concluded, "Modeling indicates that the DOE material transfer negative price impact could have been a deciding factor in a uranium producer's viability over the period 2012-2014." TradeTech also noted continued transfers at the current rate, "could influence the fate of a uranium producer, both existing and in development, through its impact on prevailing prices."[5]

There is overwhelming evidence the DOE inventory transfers are having an adverse material impact on the U.S. uranium and conversion industry and threatening the very existence of several U.S. producers. If DOE believes its transfers do not constitute an adverse material impact under the Privatization Act, we ask the DOE to explain why it has a different view.

DOE Falsely Assumes Russian HEU Agreement Set Standard for Acceptable Transfer Volumes

DOE's suggestion that Congress' authorization of material under the Russian HEU Agreement somehow sets a standard for the volume of material that Congress was comfortable entering the market is a flawed reading of 3112(d). The Russian HEU Agreement involved demobilizing over 17,000 nuclear weapons and provided a mechanism for the Russian Republic to obtain much-needed revenue during the breakup of the Soviet Union.

Section 3112(d)(B), 42 USCA §2297h-10(2)(d)(B), reads as follows:

> *(B) the Secretary determines that the sale of the material will not have an adverse material impact on the domestic uranium mining, conversion, or enrichment industry, taking into account the sales of uranium under the Russian HEU Agreement and the Suspension Agreement.*

DOE, for the first time in the 18 years since the passage of the USEC Privatization Act, is suggesting that Congress intended the phrase "taking into account the sales of uranium under the Russian HEU Agreement and the Suspension Agreement," somehow sets the parameters for what Congress believed should constitute an adverse material impact. This reading of the

[4] 80 FED. REG. No. 52 at 14109.

[5] TRADETECH, DOE MATERIAL TRANSFER STUDY (2015).

provision would render the requirement of the Secretarial Determination moot. The idea that Congress was telling DOE that in order to have an adverse impact, DOE would have to transfer over 20 million pounds of uranium strains credibility.

The "taking into account" language of 3112(d)(B) is clearly meant to be an additional limiting factor on the Secretary's inventory disposition. It is rather obvious that Congress, whose interest was to encourage Russia to demobilize its nuclear weapons, would discourage DOE from selling excess U.S. uranium inventories if such transfers would conflict with the goals of the Russian HEU Agreement. Section 3112(d)(B) mandates that the transfer of inventories not adversely impact the domestic nuclear fuel industry and also not get in the way of the Russian HEU Agreement. Congress was cognizant the Russian HEU Agreement could play havoc with the domestic nuclear fuel industry. That is why this section instructed the President to report to Congress each year regarding the effect the low-enriched uranium was having on the domestic nuclear fuel industry. In addition, the agreement for Cameco and other responsible parties to purchase and sell the natural uranium components from the Russian HEU Agreement into long-term contracts mitigated the impacts of this material. Former Secretary Bill Richardson put a ten-year moratorium on the very Russian UF_6 that DOE is bartering today. This is clear evidence that DOE looked at the Russian HEU Agreement as a limiting factor on inventory transfers rather than some direction from Congress as to what would create a material adverse impact.

The Russian HEU material was metered into the market and was capped. Unlike DOE's barter transactions, it was predictable and transparent. The purpose for the Russian HEU Agreement, national security, was totally different than the purpose of Section 3112 (b) and the orderly entry of excess government inventories into the commercial market.

DOE's Claim about Material Entering Long-term Market is Misleading

As UPA has previously noted, the manner in which DOE barter material moves into the market is nearly as damaging to our industry as the amount of material being transferred. In its notice of issues for public comment, DOE argues, without presenting any evidence, that the impacts of its transfers are reduced because almost all of the material has been sold under forward delivery contracts. However, it is important to note that contrary to assertions by the DOE contractors bartering and arranging for the sale of this material, these "forward delivery contracts," are not long-term contracts – they are simply contracts along the forward price curve, which is essentially the spot price with a minor adjustment for carrying costs. In fact, some sellers into this "forward" market simply forfeit their forward delivery contracts after execution, thereby effectively selling the material on a spot basis. Without question, sales into the forward market are tied to, and directly impact, the level of the spot price.

In contrast, a long-term contract is typically one where the first delivery of material occurs three of four years after contract execution, and the deliveries continue for more than three years thereafter. These contracts take into account the supplier's cost of production and investment. As noted by ERI in the study it completed for DOE, "long-term prices are determined by production costs ....."

Placing the barter material through producers (with a vested interest in market prices as opposed to brokers or traders looking to take a small spread on near-term sales) into existing long-term contracts would mitigate the negative impact of the barter sales into the spot market. The result would be less material negatively impacting spot prices, which should translate into higher prices for the DOE barter material, which of course would also benefit the US taxpayer.

UPA has encouraged the Department to work with uranium producers to facilitate the entry of the material into the market, as was done under the Megatons to Megawatts Agreement. Uranium producers as stakeholders can feed the material into long-term contracts, which will ease some of the pressure in the short-term when the market is oversupplied and there is little near-term demand from utilities. We were disappointed that the recent DOE notice barely made mention (other than a few paragraphs at the end of the notice) of this approach or any of UPA's other suggestions to minimize the impact of transfers on the domestic uranium mining, conversion and enrichment industries.

DOE's Needs an Accurate Assessment of State of Industry

As we noted in our response to the recent request for information, UPA is concerned that, based on the public record, the Department's justification for its May 2014 Secretarial Determination relied heavily on outdated market data that was submitted by Fluor-B&W Portsmouth LLC (FBP), one of the few entities that financially benefits from the Department's barter programs.[6] Of note, FBP is not a uranium producer and has no expertise in the uranium market, other than being the financial beneficiary of the DOE barters. To get an accurate view of the state of the industry, DOE needs to consider the following factors (both point in time data and trends).

- **Production** –DOE notes production in 2014 was 5 percent higher than the previous year but is expected to decline in 2015 to 2012 levels or lower. Current production numbers reflect conditions in the market three to four years ago when investment decisions were made. **A more accurate, forward-looking measurement would be exploration and development data.** According to DOE's own data, exploration drilling decreased 76 percent from 2012 to 2013. Total drilling, exploration, and development was down 53 percent compared to 2012.[7] Based on a survey of our members, we expect these bellwether indicators to be even lower in 2015.

  As a concrete example of current operation plans, Cameco has provided the following information on its 2015 planned production.

Project	2013	2014	Planned 2015
Crow Butte	0.7	0.6	0.3
SRH	1.7	2.1	1.4
Total Production (millions of pounds)	**2.4**	**2.7**	**1.7**

[6] Declaration of David Henderson, Acting Director, Office of Uranium Management and Policy, Office of Nuclear Energy, U.S. Department of Energy, *ConverDyn v. Moniz.*
[7] U.S. ENERGY INFORMATION ADMINISTRATION, 2013 Domestic Uranium Production Report, May 2014.

- **Production Costs** – Although DOE does not consider production costs as an important aspect in its impact considerations, these are a critical aspect of the industry's viability. ERI estimates average production costs are $40 per year and notes that some *in situ* producers have costs as low as $30-40 per pound. **Rather than look at an ERI estimate, DOE should use its own published data.** According to the Energy Information Administration (EIA) 2013 Domestic Uranium Production Report, the average cost to mine uranium in the United States is $67.10 per pound (includes expenses for land, exploration, drilling, production, and reclamation). When only considering the drilling and production costs, EIA estimates the average cost is $47.41 per pound, far above current market prices.

- **Average Margins** – DOE's notice includes an extensive discussion regarding price impacts of the barters, an issue also examined in a TradeTech report that was commissioned by the UPA and submitted to DOE earlier this year. All of the analyses show DOE transfers affect market prices. While looking at the price impact is important, the real issue is how any price impact affects the domestic uranium mining, enrichment, and conversion industries. **UPA urges DOE to reconsider examining the effects of proposed transfers on the average margins of producers**, a straightforward calculation that can be made using EIA's average production costs. When TradeTech conducted its analysis, they found DOE transfers could influence the fate of a uranium producer, both existing and in development, through its impact on prevailing prices and producer margins.

- **Employment Trends** – As previously noted, in making its May 2014 determination, DOE appears to have relied heavily on a FBP presentation. According to FBP, U.S. uranium employment has grown from 2009-2012. DOE would receive a more accurate picture if the agency or ERI contacted any of the domestic producers.

  Specific examples of domestic uranium producers current employment activities are shown as follows:

  UEC

2011	2012	2013	2014
82	85	67	39

  Energy Fuels Resources

	June 2012	December 2012	December 2013	December 2014
Employees	245	199	181	120
Contractors	42	34	10	5
Total	287	223	191	125

Uranium One Americas employment levels (end of year):

2011	2012	2013	2014	2015
97	116	76	49	23

AUC LLC
Employees:

2011	2012	2013	2014	2015
6	11	11	11	5

Mestena Uranium:

	2009	2013	2014
Employees	87	22	9
Contractors	78	0	0
Total	165	22	9

Cameco Resources:

Cameco Resources has invested 396 million in Wyoming and Nebraska over the past ten years in its uranium operations. However, since 2012 Cameco Resources has:

- Delayed development of three planned new mining sites (two in Wyoming an done in Nebraska)l
- Closed its headquarters office in Cheyenne, Wyoming and consolidated administration to its existing Casper, Wyoming office.
- Curtailed exploration activities.
- Reduced workforce by almost 30% from 324 to 228 (Wyoming and Nebraska)
- Ceased drilling at its Nebraska mine and idled 20 contract drillers who had been working steadily at the site for more than two decades.

While we recognize not all of these job losses are directly attributable to the DOE transfers, DOE actions are certainly a key factor. The industry is well equipped to handle regular market turbulence, including major events like Fukushima, but it is the uncertainty surrounding the DOE material that makes it hard for producers to raise necessary capital to sustain operations.

- **Uncommitted Utility Demand** – In the notice, DOE rejects UPA's suggestion to consider the level of uncommitted utility demand. While it is true that the market involves participants other than utilities, if there is little or no uncommitted demand from the utility end users, it is clear the market is oversupplied with uranium. The transfers planned in the May 2014 determination account for virtually all of global uncommitted utility demand in 2015 and 2016. ERI's most recent report also notes that even with production cutbacks and project delays, significant oversupply exists through 2022.

Other Concerns:

- According to ERI, the price effect attributed to DOE inventory is already built into current market prices. The ERI report provides no basis for that assumption and it runs counter to basic supply and demand modeling. Clearly adding an additional 2,705 MTU into a market that is already oversupplied will further drive down prices, causing an adverse material impact for the domestic industry. ERI continues to ignore the cumulative effect of the barter transactions.

- ERI's report states the total price effect of DOE inventory releases is estimated to have had an impact of $2.10/lb in 2012, $3.40/lb in 2013 and $3/lb in 2014. On a cumulative basis over these three years, this amounts to $8.50/lb in price recovery that the domestic industry would otherwise be able to achieve. Looking forward over 10 years in Scenario 1, according to ERI the additional 78 million pounds of DOE material impact averages $2.80/lb. Over 10 years the cumulative impact would be about $28/lb. The adverse impact should be obvious.

- To the best of our knowledge, ERI's latest market analysis is based on a model that has not been subjected to any peer review process. While we appreciate that DOE has released the latest ERI report for public comment, according to the Office of Management and Budget (OMB), public notice and comment is not a substitute for peer review. In an OMB guidance issued on 2004, the agency noted, "Furthermore, notice-and-comment procedures for agency rulemaking do not provide an adequate substitute for peer review, as some experts -- especially those most knowledgeable in a field -- may not file public comments with federal agencies."[8]

- The ERI report states "Based on the analysis contained in this study, it is not clear that the elimination of DOE inventory releases would cause the overall market conditions to change enough to make a significant difference in the health and status of the domestic industries." If ERI believes it is not clear, the logic extends to include the conclusion that DOE inventory releases could indeed make a significant difference in the health and status of the domestic industries. Does DOE believe it should roll the dice on its impacts to the domestic industry?

- Further, in TradeTech's analysis, they state "transfers are a key factor in the viability of the industry."

- In rejecting the suggestion to look at share prices, DOE noted that "many of the largest U.S. producers are part of multi-line companies whose share prices depend in part on product markets other than uranium." That is not accurate – none of the U.S. producers are diversified outside of uranium and uranium refining/conversion. ERI's analysis

[8] OFFICE OF MANAGEMENT AND BUDGET, FINAL INFORMATION QUALITY BULLETING FOR PEER REVIEW, December 15, 2004 (http://www.foreffectivegov.org/files/regs/library/peerreview.pdf).

demonstrates that market capitalization is directly tied to the spot price and market indices.

- DOE has never outlined why the agency is doing a new determination or whether the new determination will last for one year or two years.

- While we appreciate that DOE is asking for feedback on the factors it intends to consider for future determinations, how has DOE made these decisions in the past? DOE makes no mention of the factors that were considered for the May 2014 determination.

- DOE puts forward three scenarios in the notice: status quo (2,705 MTU), reduced transfers (1,855 MTU), and no transfers. DOE notes that many commenters suggested an annual cap phased up to 1905 MTU per year (5 million pounds), but neither ERI nor DOE looked at the market implications of this level.

- ERI's model evaluates the effect of DOE's transfers according to 50% spot and 50% long term market deliveries. This assumption is incorrect. As noted above, the ERI "long term" definition is flawed in their study. The current sales methodology ERI refers to as "long-term" is really an extension of the spot market and do not involve long term sales as defined by normal industry standards. Under current disposition methods the ERI analysis should assume 100% of DOE sales are spot market sales.

- While UPA believes the ERI study understates the impact of DOE material on the domestic industry, we note they state; "The results of ERI's market clearing price analysis indicate that the uranium market price effect attributed to DOE inventory averages $2.80 per pound over the period 2015-2024. This is equivalent to 8% of the current spot price and 6% of the current term price." And, while UPA believes the U.S. production costs are higher than presented by ERI, if their production cost of $40 per pound is used, then according to the ERI analysis, the impact of the DOE material constitutes the difference between US producers operating at profit or loss with the current market at $39.40 per pound. In another words, if the DOE material is imposed on the market it not only causes an adverse material impact, it also threatens and risks the U.S. industry ability to continue to operate.

- ERI also states "It remains clear that all of the markets - uranium concentrates, conversion services and enrichment services - are in states of considerable oversupply, with mainly discretionary near-term demand for nuclear fuel and a decline of long-term contracting." With the industry facing these conditions why would DOE introduce material that exacerbates the situation? Clearly, the introduction of additional material under these circumstances would cause adverse material impact to industry.

- Further, because DOE has no cost associated with its material, there is no economic point at which DOE would not make a transfer contrary to a domestic producer or even a trading company.

- Traxys, like UPA, agrees that DOE should assess the volume of material transferred by DOE each year compared to the size of the uranium, conversion and enrichment demand in the United States and the duration of the contracts in which the material is being placed. Thus, if the size of uncommitted demand is not sufficient to absorb the DOE transfers, they should be curtailed. As Traxys notes in its response, if the DOE "transfers were suspended," it will free up new demand that DOE transfers would otherwise absorb. The question of benefit to other sources of supply is not germane as the sole question is whether DOE transfers impact the market. The ERI report notes "any increase in secondary supply, including DOE material, will result in a decrease in sales volumes sourced from primary production for these industries. UPA also believes that any curtailment of DOE transfers would benefit the commercial market.

- ERI states "the amount of time it will take to recover from the Fukushima-driven state of the current markets remains unclear. It is clear that excess supply will need to be reduced before any significant recovery in market price can take place. In the meantime, the domestic industries have felt the effects of the oversupplied markets and have taken actions, such as production and staffing cutbacks, in order to try to weather the downturn. The effects are most acute in the uranium and conversion industries." The UPA believes DOE should also be cutting back on its transfers and honor the commitments made in the July 2013 Excess Uranium Inventory Management plan.

- The Department has stated it "is committed to managing excess inventories in a manner that:"

  1) "Is consistent with all applicable legal requirements"

     The GAO issued a report finding the DOE violated Federal Law in seven transactions in which DOE transferred uranium to two contractors in exchange for clean-up services. In the current ConverDyn vs. DOE lawsuit, District Court Judge Walton has also noted the DOE is likely in violation of the APA. Furthermore, DOE actions are in fact having an adverse material impact on the domestic industry and a clear violation of the Privatization Act.

  2) "Undertakes transactions involving non-U.S. Government entities in a transparent manner and competitive manner, and"

     The UPA notes the current manner of material disposition is not transparent or competitive and is in fact harmful to the industry,

  3) "Is consistent with and supportive of the maintenance of a strong domestic uranium industry."

     ERI as well as other uranium consulting and analytic firms agree the global uranium and conversion industries are all in a state of considerable oversupply. In

addition, current market prices are below the U.S. producers cost of production. Pushing any uranium, much less increasing the amount of DOE material into the market in its current state does not appear "consistent with and supportive of the maintenance of a strong domestic uranium industry." In fact the transfers are currently threatening the very existence of several producers in the U.S. uranium industry.

- Based on the results of reviews by TradeTech and UxC, UPA has long argued that DOE could achieve greater value for excess uranium inventories by selling this material into the long-term market. DOE has resisted any effort to calculate how much money is being lost by selling into the spot and/or short-term market. While this might be convenient for DOE, it does not answer the question as to whether DOE is maximizing the value of the government's asset. In order for the government to realize the best value for its excess uranium inventories, DOE should instruct ERI to determine when and how to achieve optimal value for these inventories, while minimizing the impacts on the domestic nuclear fuel industries.

- DOE ignores the cumulative effect of its uranium transfers on the market. ERI acknowledges that the Fukushima event had a devastating impact on uranium market prices. Uranium conversion and enrichment spot price indicators have all demonstrated similar declines, with prices as of January 31, 2015 ranging between 35-44 percent lower than prices on February 28, 2011, just prior to Fukushima. DOE failed to alter its transfers during this period when it was obvious that the market was in a free fall. In fact, due to rapidly declining prices, DOE increased its transfers and abandoned the 2008 Management Plan in order to meet its programmatic needs. This leads one to believe that DOE does not take its Section 3112(d) mandate very seriously. DOE has determined that the only requirement of Section 3112(d) is whether or not its transfers are the driver of market impacts. No one supports this position except DOE. DOE should work with the stakeholders to reach a method of inventory disposition that will maximize its inventory asset, while minimizing impact on the affected producers.

Respectfully submitted,

Jon J. Indall
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