January 22, 2015

To: Office of Nuclear Energy
Department of Energy
1000 Independence Ave., SW
Washington, DC 20585

From: Nan Swift
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Subject: Request for Information: Excess Uranium Management: Effects of DOE Transfers of Excess Uranium on Domestic Uranium Mining, Conversion, and Enrichment Industries

To whom it may concern:

On behalf of the members of the National Taxpayers Union (NTU), I write to express our concerns regarding a new Secretarial Determination covering the continued transfer of uranium from the Excess Uranium Inventory for cleanup services at the Portsmouth Gaseous Diffusion Plant and for down-blending of highly-enriched uranium to low-enriched uranium. This process is of serious interest to taxpayers as it involves the disposition of a federally owned asset with profound implications for an important sector of our economy. In particular, the current status of the program has devalued a valuable taxpayer asset, circumvented Congressional oversight, and harmed the private uranium production industry.

The 1996 USEC Privatization Act was enacted in order to get the federal government out of the uranium industry. Section 12 of the law stipulates that no sale or transfer of natural or low-enriched uranium shall be made unless "the Secretary [of Energy] determines that the sales of material will not have material adverse impact on the domestic uranium mining, conversion, or enrichment industry..." and that "the price paid to the Secretary will not be less than the fair market value of the material." However, subsequent actions on the part of the Department of Energy (DOE) regarding these sales and transfers do not, in our opinion, bear sufficient regard for these precepts.

According to a June 2014 Government Accountability Office (GAO) report, DOE applies inconsistent pricing to potentially valuable depleted uranium tails (tails). In some instances, a range of zero to $300 million is conferred on the tails, but in an especially problematic transfer in May 2012, the DOE determined that the tails had no value, resulting in a loss to taxpayers. This isn't the only time that GAO has raised questions about DOE uranium transfers, noting in 2011 that "by not depositing the value of the net proceeds from the sales of uranium into the Treasury, DOE violated the miscellaneous receipts statute." The study went on, "by not depositing the amount equal to the value of the uranium into the Treasury, DOE has inappropriately circumvented the power of the purse granted to Congress under the

Constitution." Such a stern rebuke, from an agency renowned for its diplomatic aplomb when assessing agency actions, attests to the degree of gravity this situation carries for DOE and taxpayers.

In addition, a DOE commissioned-report by Energy Resources International found that the Department's 2014 Secretarial Determination would result in an 8 percent drop in the uranium spot price, a 12 percent cut in the conversion market, and additional job losses. Together, these reports paint a picture suggesting inadequate diligence toward the conditions stipulated in the USEC Privatization Act.

Dumping large quantities of uranium, outside the previously adhered to cap of 10 percent of U.S. uranium requirements undermines the value of uranium stocks across the market, leading to lower profits for both taxpayers and producers who are already facing an uphill battle in the troubled international market. That value is further decreased when DOE makes in-kind swaps to fund the cleanup of the Portsmouth and Paducah Gaseous Diffusion plants outside of the prescribed transfer process. By going around the Treasury and ensuring that clean-up funds are not properly deliberated by Congress, DOE is in essence maintaining an ill-considered jobs program benefiting parochial interests to the detriment of a private, domestic industry. Over the long term this approach is likewise to the detriment of the government itself; after all, a prosperous private sector translates into healthy revenues for all levels of government. Unfortunately, by not adhering to the USEC Privatization Act guidelines, DOE has created a vicious circle that hurts all interests whereby dumping and swapping uranium lowers the value and it is therefore necessary to dispose of even greater quantities.

Selling and swapping various, increasing amounts of uranium, seemingly at the whims of administrators as past plans are repeatedly abandoned, unfairly changes the terms of the marketplace and imperils the long-term sustainability of the uranium industry. All businesses need predictable, transparent conditions in order to thrive and make investments for the future. With little way to anticipate what the uranium market will be year to year, due to the inconsistent actions of DOE, government is shackling the potential of this industry.

NTU urges that future Secretarial Determinations strive to gain the best possible return for taxpayers and refrain from further harming an essential industry. Reducing transfers in a down market and increasing transparency would be important steps in the right direction. Furthermore, in accordance with GAO findings, DOE should cease engaging in barters and instead remit sales receipts to the Treasury. Funding for clean-up projects should be requested through the appropriations process in order to reinstate Congressional oversight.

During this time of economic uncertainty and sky-high national debt, taxpayer investments should be stewarded with increased care and oversight, not squandered. Rather than impeding the growth of private industry, government should avoid imposing outsized unintended consequences.

Thank you for the opportunity to offer these comments, and our thousands of members across the country look forward to developing policies at DOE that help to serve taxpayers interests.

Sincerely,

Nan Swift
Federal Affairs Manager