January 22, 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 RFI; Excess Uranium Management: Effects of DOE Transfers of Excess Uranium on Domestic Uranium Mining, Conversion, and Enrichment Industries

Dear Mr. Henderson:

Uranerz Energy Corporation (Uranerz) appreciates the opportunity to provide input regarding the Department's management of the federal excess uranium inventory. Uranerz is a publicly traded company that is incorporated in the State of Nevada. Uranerz is one of the newest operating domestic uranium mining companies with the start of commercial operations at our Nichols Ranch Uranium Project in the Powder River Basin of Wyoming in April 2014. As a part of the domestic uranium industry, Uranerz has been directly impacted in an adverse material manner by federal uranium transfers. While the Request for Information (RFI) is a step in the right direction of potentially mitigating these impacts, we suggest that additional steps are needed to ensure the Department lives up to its congressional mandate to certify uranium transfers "will not have an adverse material impact on the domestic uranium mining, conversion, or enrichment industry."

Uranerz is a member of the National Mining Association (NMA) and the Uranium Producers of America (UPA), and our corporate senior leadership has been active in these trade associations' interactions and correspondence with the Department. To that end, Uranerz maintains that the Department's recent actions, including the May 2014 Secretarial Determination, fail to meet its legal obligations to protect the domestic uranium industry and violate the USEC Privatization Act. Despite extensive data provided by UPA and NMA documenting the fragile state of domestic uranium industry, the Department is dramatically increasing the amount of uranium entering the market. As described in greater detail below, these transfers come at a time when the market is already oversupplied with uranium. In addition, the amount of material the Department plans to transfer accounts for more than 100 percent of the global uncommitted utility demand for 2015, meaning there is no room for the domestic producers to compete.

Attached to this letter please find responses by Uranerz to the questions included in the RFI. If you have questions, please contact me at (307) 232-6665 or by email at pgoranson@uranerz.com.

Respectfully,

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Responses to RFI Questions

(1) What factors should DOE consider in assessing whether transfers will have an adverse material impact?

The Department should consider current market conditions and trends, including cumulative impacts from prior Departmental transfers. In the market analysis that supported Secretarial Determinations prior to May 2014, those reports focused on market clearing prices and other factors to assess adverse material impacts to the global market. However, those reports failed to account for what the law actually requires, that the analysis is relative to the domestic uranium industry. From the industry side, the Department acts as a competitor with no cost basis, and it is our belief that was not the intent of Congress when it enacted the USEC Privatization Act. Uranerz specifically recommends the Department consider:

- Use available information - The Department has information available through the U.S. Energy Information Administration that should be considered in its adverse material impact determination. Although the data is aggregated, it provides a relatively robust data point on the supply side, the state of the domestic uranium industry, relative to the demand side, nuclear power utility purchases and uses. In our opinion, the data shows an increasing disconnect between the supply and demand sides starting in 2009 when the Department began inserting large quantities of uranium into the market as a result of its barter program to accelerate cleanup at the former gaseous diffusion plants.

- Average total production costs relative to current spot market prices – The Department should look at the average production costs for domestic uranium producers, as reported by the U.S. Energy Information Administration (EIA), relative to market prices. According to EIA's 2013 Domestic Uranium Production Report, the average price per pound to mine uranium in the U.S. is $67.17 (includes expenses for land, exploration, drilling, production, and reclamation) – far above the current spot market prices of $35.50 (as of December 29, 2014). Even when excluding expenses for land, exploration, and reclamation, the average direct production cost is $44.65 per pound and still greatly exceeds current market prices.

- Employment trends – Since the May 2012 Secretarial Determination, the domestic uranium industry has lost half its workforce. At Uranerz, our planned production has been significantly reduced, and although we have not experienced the retrenchments observed elsewhere, we have not fully staffed our operations in response to market conditions. Although, the Department is not fully responsible for the adverse market conditions, it acts as a significant contributing factor. Additionally, of all of the factors that impact the market, the Department is the only one that has a statutory responsibility to not have an adverse material impact as required by the USEC Privatization Act.

- Uncommitted utility demand – At times when utilities are substantially covered by contracted supply, transfers by the Department will have a disproportionate negative impact on the spot market. For example, the transfers planned in the May 2014 determination encompass more than 100 percent of global uncommitted utility demand in calendar year 2015, leaving no room for domestic producers to compete. In 2016, the planned transfers exceed 100 percent of the U.S. uncommitted utility demand and almost 60 percent of the global uncommitted demand.

- Forward looking exploration and development data – According to EIA's data, exploration drilling decreased 76 percent from 2012 to 2013. Total drilling, exploration and development was down 53 percent in 2013 compared to 2012, and it is a reasonable expectation those numbers to be even lower for 2014. These are all important bellwether indicators of the future trends and health of the domestic uranium industry.

- Overall financial health of industry – The Department needs to consider the overall financial health of the domestic industry, including the cumulative effect of prior transfers. The Department should also look at whether domestic producers are operating at or below capacity. Over the last few years, the uncertainty about the amount of the Department's material entering the market has made it difficult for producers to raise the capital necessary to sustain and grow their operations. In some cases, uranium producers have been required to seek consolidation in order to survive.

(2) With respect to transfers from DOE's excess uranium inventory in calendar years 2012, 2013, and 2014, what have been the effects of transfers in uranium markets and the consequences for the domestic uranium mining, conversion, and enrichment industries relative to other market factors?

The period of time referenced in the question represents the period following the March 2011 Nuclear Accident at Fukushima Diiachi, Japan. Since that time, the entire nuclear fleet in Japan was shut down, Germany shut down approximately half their fleet, and four reactors in the United States were shut down. This results in a significant reduction in demand that could not have been anticipated prior to March 2011. With the reduced demand, the uranium markets became characterized as oversupplied. As a result, the spot price of uranium declined steadily throughout the period referenced in the question.

In May 2012, the Department published a Secretarial Determination that increased the quantity of material, relative to prior Secretarial Determinations. So, to increase supply into a market that is already well understood to be oversupplied could only have negative impacts on price. With the release of the May 2013 Excess Uranium Inventory Management Plan, which stated that the 10% of domestic demand guidance would be abandoned, the price of uranium dropped again. Because the uranium market does not function as a true commodity market such as the London Metals Exchange, etc. excess supply will create significant pressure toward lower prices. Although it may be difficult to point to the Departments uranium transfers as the sole impact, it is clear that they exasperate the difficult market conditions.

Uranerz represents a single uranium mining company, and as a result, we will describe the impacts to our company because they can be observed. Publicly traded mining companies, whether uranium or otherwise, are dependent on capital markets as the source of funding for construction. During the period from 2007, when the source material license and permit to mine applications were submitted to their respective regulatory agencies and 2014 when all of the permit and licensing work was completed. The uranium spot price lost more than half its value, principally from the period of 2012 through 2014, which coincides with the commencement of construction of our flagship mining property, Nichols Ranch. During that period, the capital markets demonstrated limited interest for funding uranium mining capital markets as compared to the period prior to March 2011. The primary driver in that lack of confidence in the industry by investors and analysts was the perceived continual oversupplied market. That limits revenue and consequently raises concerns that an investor may not realize any return on that investment. In the market analyst reports, the transfers by the Department was and is routinely cited as a significant contributing factor in the low uranium spot price.

From the limited perspective of a single uranium mining company, the Department's transfers have had a material adverse impact on the ability to conduct its core business. That same story can be easily observed in nearly every operating and near operational uranium mining company in the domestic uranium industry. The Departments transfers have had a depressing force on the uranium price, and the impacts are more than just in the monetary impact to the price that is often cited in the Department's market analysis, they are manifested in lost market share, lost investor confidence, and lost economic opportunity with in the domestic uranium mining industry.

(3) What market effects and industry consequences could DOE expect from continued transfers at annual rates comparable to the transfers described in the 2014 Secretarial Determination?

Currently, the Department is supplying more uranium to the market than is produced domestically. This level of supply is exasperating the current oversupply condition of the uranium market that exists now. It is expected that the market will continue to be perceived as oversupplied as long as the Department continues transfers in this manner.

(4) Would transfers at a lower annual rate significantly change these effects, and if so, how?

There is no doubt, in our view, that in an oversupplied market, as currently exists and is expected to exist in the near term, that a lower annual rate would significantly mitigate the impacts to the domestic uranium industry. The quantity of the Department's transfers are significant, relative to the domestic industry, and these transfers are in the form of uranium hexafluoride (UF_6). In this form, the material crowds produced uranium, it also significantly devalues conversion. A significant reduction in the current annual rate transferred by the Department would reduce supply for uranium and conversion in the market. Increased prices, that could result, may improve the corporate balance sheets for producers and improve the equity markets for uranium mining companies. This would ultimately mean better economics and ultimately jobs in an industry that has been experience rapid retrenchments.

(5) Are there actions DOE could take other than altering the annual rate of transfers that would mitigate any negative effects on these industries?

While reducing the amount of material entering the market is critical to ensuring the viability of a domestic uranium industry, Uranerz believes that there are ways in which the Department could mitigate potential adverse material impacts.

- In 2007, Uranerz participated in efforts by members of NEI and UPA to develop an industry consensus that presented several ideas to the Department, including setting a ramp up of deliveries and ultimately reaching a total annual limit (i.e. cap). This limit would be consistent with the guidance that was described in the 2008 Excess Uranium Inventory Management Plan of 10% of domestic utility requirements.
- Currently, the excess uranium inventory is being used as a way to pay for Department priorities through barter transfers. In the past, the Department has used this approach instead of seeking appropriations for that work, and rather than reducing work, the Department has only increased quantities of material transferred at much reduced value. It is our belief that the Department should seek Congressional appropriation first. Currently, the Department is compelled to conduct transfers to meet its plans, even though the value continues to decline, as was observed in 2014.
- More transparency is necessary. Every year, the Department submits a budget to Congress, and in that budget, there is little to no description of the work to be budgeted nor quantities to be transferred. It is important for these to be included in the budget as part of the normal budget and appropriation process, particularly when the asset being bartered is the property of the U.S. taxpayer.
- With the 2008 Excess Uranium Inventory Management Plan, the Department followed the notice and comment process through the Federal Register. It also conducted this process through a full NEPA process. Uranerz believes that this is the appropriate manner in which the Department should perform its decision making process, including its consultants reports, in full view of its stakeholders.

(6) Are there actions DOE could take with respect to the transfers that would have positive effects on these industries?

As stated in the answer to question (1), the Department acts in the market as a competitor against the domestic uranium industry, whether for mining, conversion or enrichment. As a competitor, the Department functions as a one with no cost basis, and is able to effectively sell at any price, whether directly or indirectly through barter transfers. It has been demonstrated, through these comments as well as those from others, that the domestic uranium industry must have a market that not only can support the operating cost, but also justify the capital risk for engaging in the business. Although the Departmental transfers are not the sole source of the current negative market conditions, it is, however, the only source that has a statutory requirement **NOT** to have an adverse material impact to the domestic uranium industry. (emphasis added).

To that end, the Department has the ability to take steps to mitigate adverse material, including the ability to assess whether the basis of its current Secretarial Determination remains valid and change course. A prime example is the fact that the justification of the March 2, 2011 Secretarial Determination remained "valid" following the March 11, 2011 meltdown at the Fukushima Diiachi Nuclear Facility in Japan remained valid. By the time of the May 2012 Secretarial Determination, the domestic uranium industry had begun making changes to reduce output, and the Department made a decision to increase the quantities to be bartered. From a stakeholder position, the Department acted as if growth in the industry continued when in fact, the opposite was occurring.

As the uranium industry does, the Department must assess on a real time basis the state of the industry. In order to comply with its statutory requirements, it must change plans accordingly, and to the point of halting or reducing transfers or sales to comply with the USEC Privatization Act.

(7) Are there any anticipated changes in these markets that may significantly change how DOE transfers affect the domestic uranium industries?

2014 was characterized by record low inflation adjusted spot prices for uranium and conversion. Enrichment prices likewise were at record lows as well, and secondary supplies continue to enter the market at a supply rate in excess of demand. The domestic industry has responded by retrenchments, reduction of output, and consolidation. The Department must anticipate that this condition will continue for the next few years and respond accordingly.

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