

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CONVERDYN

PLAINTIFF

V.

ERNEST J. MONIZ, in his official capacity as
Secretary of the United States
Department of Energy,

and

UNITED STATES DEPARTMENT OF ENERGY

DEFENDANTS.

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Case No. 1:14-cv-1012

AFFIDAVIT OF DENNIS J. CARR

I, **Dennis J. Carr**, state that I am competent to testify and that I am making the following statements based upon my personal knowledge. As Affiant, I hereby state as follows:

1. My position with Fluor-B&W Portsmouth LLC (FBP) is President of FBP and FBP Site Project Director for the Decontamination and Decommissioning (D&D) Contract (Contract) between the U.S. Department of Energy (DOE) and FBP (Contract No. DE-AC30-10CC40017), for work to be performed at the Portsmouth Gaseous Diffusion Plant (GDP or PORTS) near Piketon, Ohio. The GDP is a former uranium enrichment facility that utilized now-outdated gaseous diffusion technology. I have held my positions with FBP since August 2012.
2. FBP's Mission is to safely clean-up (D&D) the Site for our community's future. The Portsmouth Site is located on 3777 acres in Pike County, Ohio, a rural County in Appalachia. FBP's D&D staff at the Portsmouth Site includes approximately 1950 workers. FBP is the largest employer in the surrounding four-County area of Ohio.
3. In its Complaint, in part, ConverDyn requested that the Court issue a judgment and decree "Preliminarily and permanently enjoining the Secretary from proceeding with the transfers described in the May 2014 Determination."
4. In its Motion for Preliminary Injunction, ConverDyn requested that the Court "...grant a preliminary injunction to suspend *all* DOE transfers described in the May 2014 Determination until this case is resolved."
5. In the Secretary of Energy's Determination dated May 15, 2014 (Exhibit M to the Complaint), the Secretary determined that Department of Energy sales or transfers enumerated in the Secretarial Determination will not have an adverse material impact on the domestic uranium mining, conversion, or enrichment industries. In Para. 1) of the Secretarial Determination, the Secretary included "up to 2,055 MTU [Metric Tons of Uranium] per year of natural uranium equivalent contained in natural uranium and natural uranium from off-specification non-uranium hexafluoride transferred to DOE

- contractors for cleanup services at the Paducah or Portsmouth Gaseous Diffusion Plants, in quarterly transfers of up to 600 MTU for the period 2014 through 2021.”
6. Section H.42, Uranium Transfer, of the Contract provides for the transfer by DOE to FBP of Uranium at PORTS which is consistent with the Secretarial Determination.
 7. Uranium Transfer (UT) funds are utilized by the D&D contractor, Fluor B&W Portsmouth LLC, for the Contract work scope that is also partially funded through Congressional appropriations by the Uranium Enrichment Decontamination and Demolition (UED&D) fund for the GDP D&D Project. The FBP workforce is presently comprised of approximately 1950 employees and fulltime subcontract personnel.
 8. If the Court issues a Preliminary Injunction as ConverDyn requested or if the Court grants the permanent injunctive relief requested in the Complaint and the Department of Energy is precluded from continuing the on-going uranium transfers, all uranium transfers under the Contract will be stopped, and the *status quo* will not be preserved. There will result immediate chaotic and irreversible devastating impact upon FBP and the local community as follows:

Impacts to Fluor-B&W Portsmouth LLC and to the PORTS D&D Project:

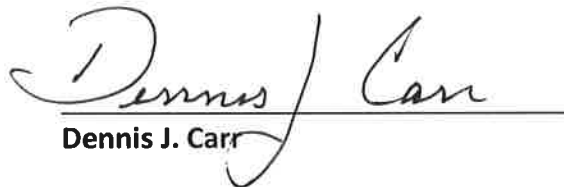
9. The financial impact to the site is expected to exceed \$160-170M/year in lost services performed by FBP. This represents over 50% of the annual dollar value of the Contract.
10. Without the planned August and September transfers remaining in FY14, and the funding provided by those transfers, FBP would need to take immediate actions. These immediate actions would include ceasing all D&D type activities and reducing staffing and expenditures to a level which supports only the continuation of the “minimum safe” operational requirements of the PORTS nuclear facilities. The “minimum safe” operations posture would provide only those essential site services necessary to ensure public safety and regulatory compliance. Staffing reductions would include furloughing or permanently reducing approximately 1250 employees and subcontractor personnel immediately in FY 14.
11. As a separate consideration apart from the impact of an injunction prohibiting DOE transfers, based upon the President’s Budget Request level of funding for PORTS for FY 15, FBP would have to enact the permanent reduction of approximately 675 members of the FBP workforce at the beginning of FY 15. An injunction halting the DOE transfers would worsen the situation by increasing the loss of jobs at PORTS to the levels described in Para. 10.
12. The loss of the skilled workforce would stop all ongoing D&D activities and environmental cleanup efforts creating significant potential liabilities for the Department of Energy and significantly increasing the long term cost of the environmental cleanup and postponing the eventual completion of work.
13. The total cost for cleanup (D&D) of the Portsmouth Gaseous Diffusion Facility is estimated by FBP to increase by over \$120 M for each year of delay due to project cost and schedule increases, not including one-time costs associated with rehiring, retraining and project resumption.
14. Nuclear process operations involving cylinder transfer/management and nuclear material stabilization will be shut down requiring extensive efforts and cost to

- restart the 60 year old nuclear facilities. The unplanned shutdown of these facilities may create Resource Conservation and Recovery Act (RCRA) compliance issues.
15. The currently available capability for repairing failed UF6 cylinders to support FBP and the operations at the depleted uranium hexafluoride conversion plant (DUF6 Conversion Plant) at PORTS will be terminated, potentially impacting DUF6 Conversion Plant operations that are separately funded.
 16. Corrective maintenance not associated with maintaining a “minimum safe” plant condition will be deferred; resulting in continued degradation of 60 year old facilities and potential failure of critical infrastructure at the Site. These deferred maintenance corrective actions include the repair and reconfiguration of a number of site utility systems. Failure of these systems would have a direct impact on the ability to sustain “minimum safe” plant operations and to maintain compliance with federal regulatory requirements including those related to the operation of the PORTS electrical switchyard. This switchyard is an integral part of the National Electrical Grid.
 17. Process Waste Shipments would be suspended leaving a significant volume of low level radioactive and/or hazardous process waste in storage.
 18. Regulatory compliance with Ohio EPA for the Site Treatment Plan regarding RCRA (hazardous) waste disposition will require revision to avert Notices of Violation.
 19. FBP operates the Site utility infrastructure allocating a portion of these costs to other Site users like the DUF6 conversion facility and the American Centrifuge Plant facility. The FBP share of distributed costs across the Site will drop, increasing cost to these other Site tenants/contracts (DOE-Nuclear Energy/Oak Ridge National Laboratory/United States Enrichment Corporation/Babcock & Wilcox Conversion Services-Depleted Uranium Hexafluoride (DUF6)) by an estimated approximately \$3M/year and impacting their mission functions.
 20. Additional cost of ~\$5M to the government would result from terminating current in-place fixed price subcontracts.

Impacts on Local Business and the Local Community:

21. The impact on the local economy and in particular on Pike County, Ohio, which hosts the PORTS facility, will be significant.
22. The current unemployment rate in Pike County, Ohio, is one of the highest in the country, with over 9% of able workers unemployed.
23. The reductions in force attributed solely to the halting of further uranium transfers are projected to increase the unemployment rate in Pike County, Ohio by in excess of 25%.
24. FBP heavily relies on the services of local small businesses for support in the execution of its Contract mission. Two specific local small businesses, Wastren Advantage, Inc. (WAI) and Innovative Solutions, Inc. (InSolves), serve as Mentor-Protégé companies of FBP under the terms of the DOE Small Business Program. Each of these companies would be significantly impacted, with WAI and InSolves losing over 50 % and 80 % of their revenue bases, respectively.
25. The annual impact to the regional economy is estimated at more than \$500M, assuming a nominal “3 Times” financial multiplier for dollars spent in the community and local region.

- 26. The annual impact to the local economy for the loss of direct procurements will be more than \$30M per year.
- 27. There will also be economic impact to the Nevada Nuclear Security Site (NNSS) as a direct result of stoppage of disposition of PORTS waste. PORTS is presently the largest waste shipper to the NNSS in the U.S. Consequently, the stoppage would also likely cause a resulting loss of jobs at NNSS.
- 28. Due to the suspension/shutdown of FBP's waste shipments as a result of an injunction, there would also be economic impact to several waste disposition companies that provide services to FBP related to the Uranium Transfer program under FBP's Contract with DOE (e.g. Energy Solutions, Waste Control Specialists, etc.).



 Dennis J. Carr

State of Ohio }
 } SS:
 County of Pike }

Before me, a Notary Public in and for the State of Ohio, on this 17th day of July, **2014**, appeared the aforesaid Dennis J. Carr who before signing the foregoing Affidavit in my presence, did state in my presence that its contents were true.



 NOTARY PUBLIC

PATRICIA BURNS, Notary Public, State of Ohio
 My Commission Expires 1-1-2019