

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CONVERDYN,)
)
 Plaintiff,)
)
 v.) No. 1:14-cv-1012 RW
)
 ERNEST J. MONIZ and)
 UNITED STATES DEPARTMENT)
 OF ENERGY,)
)
 Defendants.)

**UNOPPOSED MOTION FOR LEAVE TO FILE
BRIEF OF *AMICI CURIAE* URANIUM PRODUCERS OF AMERICA
and NATIONAL MINING ASSOCIATION**

The Uranium Producers of America (“UPA”) and the National Mining Association (“NMA”) respectfully move the Court for leave to file the attached *amicus curiae* brief in support of the Plaintiff Converdyn. Counsel for Converdyn and counsel for the federal government Defendants have both indicated that they do not oppose this Motion.

Amicus curiae UPA is a trade association consisting of domestic uranium mining and conversion companies whose mission is to promote the viability of the front end of the nation’s nuclear fuel industry. UPA members are conducting uranium exploration, development and mining operations in Arizona, Colorado, Nebraska, New Mexico, South Dakota, Texas, Utah and Wyoming. UPA companies are currently producing all of the 4.7 million pounds of uranium mined in the United States. Other UPA member companies are obtaining permits for new uranium production facilities in the United States. *Amicus curiae*

NMA is a trade association representing the producers of most of America's coal, metals including uranium, industrial and agricultural minerals. NMA's members include producers of domestic uranium as well as companies that have exploration projects or pending applications for development of domestic uranium mining projects.

This case centers on section 3112 of the United States Enrichment Corporation Privatization Act, which Congress enacted to protect both the domestic mining *and* conversion industries from adverse material impacts caused by DOE's sales and transfers of its excess uranium inventories. 42 U.S.C. § 2297h-10(d)(2)(B) (requiring certification that there is no "adverse material impact on the domestic uranium mining, conversion or enrichment industry"). Thus far in this litigation, Converdyn (which is a member of UPA) has described adverse material impact from its perspective as the sole domestic conversion supplier. UPA and NMA request leave to file an *amicus* brief to demonstrate the *broader* impact on domestic uranium *mining* from DOE's barter transactions. UPA, NMA, and their members are materially and adversely impacted by the Secretarial Determination at issue and therefore have a substantial and compelling interest in the Court's resolution of this case.

This Court should grant this unopposed motion under its "inherent authority to appoint or deny *amici* which is derived from Rule 29 of the Federal Rules of Appellate Procedure." *Jin v. Ministry of State Sec.*, 557 F. Supp. 2d 131, 136 (D.D.C. 2008). In general, "a court may grant leave to appear as an *amicus* if the information offered by it is 'timely and useful.'" *Ellsworth Assocs., Inc. v. United States*, 917 F. Supp. 841, 846 (D.D.C. 1996) (quoting *Yip v. Pagano*, 606 F. Supp. 1566, 1568 (D.N.J. 1985), *aff'd*, 782 F.2d 1033 (3d Cir. 1986)). District courts generally allow the filing of an *amicus* brief "when the

amicus has unique information or perspective that can help the court beyond the help that the lawyers for the parties are able to provide.” *Jin*, 557 F. Supp. 2d at 137 (quoting *Ryan v. Commodity Futures Trading Comm’n*, 125 F.3d 1062, 1064 (7th Cir. 1997)). Under these standards, and in light of the fact that none of the parties oppose this Motion, the Court should grant leave to file the *amicus* brief.

Respectfully submitted,

/s/ Daniel G. Jarcho

Daniel G. Jarcho (D.C. Bar No. 391837)
Andrew Shaw (D.C. Bar No. 93938)
McKENNA LONG & ALDRIDGE LLP
1900 K Street, NW
Washington, DC 20006
Phone: (202) 496-7500
Fax: (202) 496-7756
Email: djarcho@mckennalong.com

Attorneys for *Amici Curiae* Uranium
Producers of America and National Mining
Association

September 11, 2014