Department of Energy
Washington, DC 20585

MAY 2 9 2009

Judy Pasternak
Investigative Reporting Workshop
American University
6207 Crathie Lane
Bethesda, MD 20816

Re: FOIA-2009-000175

Dear Ms. Pasternak:

This is in final response to the request for information that you sent to the Department of Energy under the Freedom of Information Act (FOIA), 5 U.S.C. 552. You asked for records that relate to nuclear power, nuclear waste, specific nuclear plants or reactors, nuclear accidents and nuclear releases. Specifically, you requested all correspondence related to those matters from January 1, 2001 to the present from the following individuals: 1) Senator Byron Dorgan; 2) Senator John McCain; 3) Representative Rahm Emanuel; 4) Senator Pete Domenici; 5) Barack Obama; 6) Senator Tom Carper; and 7) Senator Robert Bennett.

The Office of Nuclear Energy (NE) completed the search of its files for responsive documents. The search located the enclosed documents as responsive to the request. The documents are provided to you in their entirety.

The search, however, did not locate any responsive documents from Senator Dorgan, Senator John McCain, Representative Rahm Emanuel, Senator Barack Obama, Senator Tom Carper, and Senator Robert Bennett. Therefore, pursuant to Title 10, Code of Federal Regulations (CFR), Section 1004.4(d), I am unable to provide any responsive documents for these individuals.

Pursuant to Title 10 CFR 1004.7 (b)(2), Mr. R. Shane Johnson, Principal Deputy Assistant Secretary for Nuclear Energy is responsible for the determination that no responsive records exist in NE from those individuals.

Pursuant to 10 CFR 1004.8, you may challenge the adequacy of the searches for responsive documents by submitting a written appeal to the Director, Office of Hearings and Appeals, at HG-1/L'Enfant Plaza Building, U.S. DOE, 1000 Independence Avenue, SW, Washington, DC 20585-1615. You should submit the appeal within 30 calendar days of receipt of this determination.

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The written appeal, including the envelope, must clearly indicate that a FOIA appeal is being made. The appeal must contain the elements required by 10 CFR 1004.8, including a copy of this letter. Judicial review will thereafter be available (1) in the district where you reside; (2) in the district where you have your principal place of business; (3) in the district where the DOE records are located; or (4) in the District of Columbia.

I appreciate the opportunity to assist you with this matter. If you have any questions about this correspondence, please contact Ms. Sheila Jeter of my staff on (202) 586-5061.

Sincerely,

Alexander C. Morris
FOIA Officer
Office of Information Resources

Enclosures

Index

1. Letter to The President from Senator Pete V. Domenici, Senator Jeff Bingaman, Senator Mike DeWine and Senator George V. Voinovich, dated July 11, 2006. Subject: Suspension Agreement and Highly Enriched Uranium Agreement as proposed by Russia. 2 pages. FOIA-2009-000175

2. Letter to The Honorable Samuel Bodman, Secretary of Energy, from Senator Pete V. Domenici, dated June 10, 2008. Subject: Nuclear Fuel. 3 pages. FOIA-2009-000175

(1)

701172

United States Senate

WASHINGTON, DC 20510

July 11, 2006

The President
The White House
Washington, DC, 20500

Dear Mr. President:

We are writing to express opposition to any changes in the existing Suspension Agreement and Highly Enriched Uranium (HEU) Agreement as proposed by Russia. Any changes proposed in either would have the potential of making the U.S. more dependent on foreign sources of nuclear fuel at a time when domestic sources are being developed. Additionally, Russian access to the U.S. market at this time is likely to result in market destabilization potentially jeopardizing resurgence of the nuclear-related industry.

Russia is now the single largest supplier of uranium enrichment services to U.S. utilities. In the period 2001-05, Russia has provided 44% of enriched uranium for U.S. utilities. Domestically produced enriched uranium accounted for just 12% of supplies used by U.S. utilities in the period 2001-05. Roughly 10% of U.S. electric generation is dependent on continued shipments of enriched uranium from Russia.

The source of this enriched uranium is dismantled Russian nuclear weapons. Accommodating these volumes of enriched uranium in the market led directly to the shutdown of more than half of the Nation's uranium enrichment capacity in 2001.

Russia signed an agreement with the United States in 1992, amended in 1994, 1996, and 1997, which currently stipulates that no additional Russian nuclear fuel supplies above and beyond those derived from Russian nuclear weapons will be delivered to U.S. utilities.

In the U.S. domestic market environment, two companies, LES and USEC, have submitted applications to the Nuclear Regulatory Commission (NRC) to each build enrichment facilities in the U.S. based on modern centrifuge technology. Both companies expect to receive NRC combined operating licenses this year.

Together, these two proposed facilities will require roughly $3.2 billion in capital investment. This investment will create, by 2013, a combined capacity to provide just half of the enriched uranium required by the nation's nuclear power reactors.

Additional Russian nuclear fuel supplies generated at dual military/civilian use enrichment facilities originally built by the Soviet Union were not anticipated. This could have a very chilling effect on the massive investments needed to resurrect a healthy domestic U.S. enrichment industry and grow that industry to meet the fuel supply requirements of new nuclear power reactors in our country.

Uranium fuel supply options for U.S. domestic nuclear plants after 2013 is an issue that should be examined from a perspective that balances nonproliferation objectives and market factors. The U.S. government should begin to undertake an initiative that examines the options while accounting for domestic and international commercial nuclear expansion and sources of fuel for those reactors.

Pending completion of such an initiative, we support maintaining, with no modifications, the existing Suspension Agreement and HEU Agreement between the U.S. and Russia.

Sincerely,

Pete V. Domenici

Jeff Bingaman

Mike DeWine

George V. Voinovich

Cc: The Honorable Samuel Bodman
Secretary of Energy
The Honorable Carlos Gutierrez
Secretary of Commerce

(2)

Incoming

PETE V. DOMENICI
NEW MEXICO

United States Senate
WASHINGTON, DC 20510-3101

COMMITTEES
ENERGY AND NATURAL RESOURCES
APPROPRIATIONS
BUDGET
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
INDIAN AFFAIRS

June 10, 2008

The Honorable Samuel Bodman
Secretary
Department of Energy
1000 Independence Avenue, S.W.
Washington, D.C. 20585

Dear Secretary Bodman,

I have received a copy of a letter from Mr. Sergey Kiriyenko, Director of Russia's State Corporation on Atomic Energy (ROSATOM). The letter comments on an amendment which I sponsored that was added by the Senate to the supplemental appropriations bill H.R. 2642. The amendment offers commercial incentives for Russia to downblend an additional 300 metric tons of highly enriched uranium (HEU). I will take this opportunity to address the concerns Mr. Kiriyenko raises, correct some apparent misunderstandings he has about the language and offer my own views.

The issue of Russian access to the U.S. nuclear fuel market is an important one. There are essential interests to balance in ensuring adequate supply to our growing nuclear industry and advancing global nonproliferation interests. I believe it is the current status quo, and not my legislation, that fails to strike a proper balance.

In his letter, Mr. Kiriyenko expresses concern about uncertainty in the U.S. market for nuclear fuel. I share his concern. Promoting market certainty is a major motivation of my amendment, second only to national security.

It is important to view this letter in the context of current uranium trade policies. Despite advocating for market certainty, Russian interests have pursued a legal defense of a trade policy that eliminates any restrictions on Russian imports. The overwhelming uncertainty that exists in the market today would benefit Russia enormously, to the detriment of U.S. suppliers.

Mr. Kiriyenko points out that my amendment would allow Russia to supply anywhere from 17% to 25% of U.S. demand depending on its HEU downblending activities. He instead offers support for the Amendment to the Russian Suspension Agreement signed in February, the text of which provides Russia with 20% of the market, without any incentive to reduce its HEU stockpiles. Mr. Kiriyenko fails to point out that under current law the Suspension Agreement provides no limitation on Russian enrichment

services. Therefore contracts to deliver low enriched uranium under enrichment contracts are deemed to be contracts for services and are not covered by the 20% limitation in the Suspension Agreement.

The level of Russian access to the U.S. market is particularly relevant due to the concerns over unfair market competition expressed by the Department of Commerce in its recent sunset review of the Suspension Agreement. In June 2006, the Commerce Department found that removing limits on Russian imports would likely lead to a continuation or recurrence of injurious dumping.[1] In September 2007, the Commerce Department reaffirmed its conclusion that that "dumping is likely to continue" and that "imports of Russian uranium and SWU would likely undercut and depress, or suppress, U.S.-market prices for uranium products" unless continued protections are provided.[2] Among the evidence cited by Commerce in support of its determination was a quote from the former Russian Minister for Atomic Energy that "we shall always supply our fuel at 30% less than western producers."

Mr. Kiriyenko also took strong exception to the provision of our text that forbids Russia any commercial access if it backs out of the current HEU deal. This is puzzling as my text only applies in a situation where the Secretary of Energy "determines that the Russian Federation has taken deliberate action to disrupt or halt the importation into the United States of low-enriched uranium under the Russian HEU Agreement." If Russia acts in good faith to implement the Agreement, as they have for over a decade, there should be no concern. Mr. Kiriyenko also fails to point out that I even took steps to provide Russia greater commercial access while the HEU deal is being implemented.

Finally, the letter states that Russia considers its HEU to be a "valuable energy resource," and notes Russia's own nuclear energy needs and desire for exports to other regions of the world. Perhaps Mr. Kiriyenko is misinterpreting my legislation. I fully recognize Russia's legitimate interest in using its HEU—as it sees fit—to promote the peaceful use of nuclear energy. That is why I have gone to great lengths to draft legislation that gives Russia the greatest flexibility possible. Under my amendment, Russia need only blend its HEU to less than 20%. It may keep the resulting low enriched uranium (LEU) for use domestically or sell it on the global market. Unlike the existing HEU Agreement, Russia would not be forced to produce 1.5% enriched blendstock to meet U.S. reactor fuel specifications, resulting in major cost savings.

My legislation not only makes it easier for Russia to downblend HEU, it includes significant rewards for Russia if it does. The expanded market access is worth two to three hundred million dollars each year. Russia can also contract directly with U.S. utilities, without having to go through a third party, something I know is important to Russia.

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[1] Notice of Final Results of Five-Year Sunset Review of Uranium from Russia, 71 Fed. Reg. 32517 (June 6, 2006).
[2] Final Results of Remand Redetermination in Sunset Review of Uranium from Russia (Sept. 26, 2007).

I am aware that the Administration prefers closing the enrichment loophole through legislation that would define LEU delivered under an enrichment contract as a "good," which Russia has also opposed. My legislation provides both a reasonable limit on Russian imports as well as strong financial incentives for the elimination of tons of additional HEU. As such it provides a balance between our energy security and national security needs.

I hope you will engage Mr. Kiriyenko directly and explain these points to him. As head of ROSATOM no doubt understands the importance of eliminating surplus stocks of weapons usable material.

Sincerely,

Pete V. Domenici

P.S. Thanks Mr. Sec.

PVD