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United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

WASHINGTON, DC 20510-6175

RICHARD M. RUSSELL, MAJORITY STAFF DIRECTOR
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December 11, 2017

The Honorable Rick Perry
Secretary
U.S. Department of Energy
1000 Independence Ave., SW
Washington, DC 20585

The Honorable Kristine Svinicki
Chairman
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Dear Secretary Perry and Chairman Svinicki:

In 2010, the Nuclear Regulatory Commission (NRC) approved the transfer of control over Uranium One, with its three uranium recovery facilities in Wyoming, to Atomredmetzoloto (ARMZ). ARMZ is wholly owned by Rosatom, a Russian government-owned entity. Prior to the approval of the sale, I wrote to then-President Barack Obama registering my strong concerns regarding Russian control over American uranium production facilities and Russia's ability to ship U.S. uranium overseas. I also requested immediate notification should ARMZ file for a license to export U.S. uranium. Based on information that has recently come to light, I now believe the response I received, and the process by which I received it, were both misleading.

On March 21, 2011, former NRC Chairman Greg Jaczko responded to my letter on behalf of then-President Obama stating:

*"At this time, neither Uranium One Inc. nor ARMZ holds a specific NRC export license. **In order to export uranium from the United States, Uranium One, Inc. or ARMZ would need to apply for and obtain a specific NRC license authorizing the export of uranium for use in reactor fuel.**"**

The NRC staff made a similar statement in their recommendation to approve the transfer control of Uranium One to ARMZ, stating:

*"before the licensee may export uranium to a foreign country, they must first comply with the NRC's regulations and **seek a specific license for such purpose.**"¹**

Recent reporting by *The Hill* uncovered that Uranium One was able to export uranium without obtaining a specific export license.² Beginning in 2012, Uranium One exported U.S. uranium by

¹ U.S. NRC *Safety Evaluation Report: Change of Control for Licenses SUA-1341, SUA-1596, and 49-29384-01*; November 22, 2010.

*Emphasis added.

² *The Hill: Uranium One Deal Led to Some Exports to Europe, Memos Show*; by John Solomon and Alison Spann; November 2, 2017.

‘piggy-backing’ as a supplier on an export license held by the shipping company, RSB Logistic Services Inc.³ The export license stipulates:

*“(For conversion of U3O8 to UF6 and return to the U.S. for future processing)”**

and

“The uranium authorized for export is to be returned to the United States. If it is to be transferred to another (non-U.S.) ultimate consignee not listed on this license, Canada must obtain U.S. prior approval before the material is re-transferred.”*

According to The Hill, not only did Uranium One export U.S. uranium, but it was subsequently exported out of Canada:

*“NRC officials told The Hill that Uranium One exports flowed from Wyoming to Canada and on to Europe between 2012 and 2014, and the approval involved a process with multiple agencies.”**

In addition to the misleading response from former NRC Chairman Jaczko, the Department of Energy (DOE) chose to hide its role in approving exports. While the NRC controls exports from the U.S., it does not have any control over subsequent exports once uranium is outside the U.S. border. The DOE is integral to the decision-making process regarding any subsequent exports. Reporting by the *Casper Star Tribune* shows that, upon receipt of my letter to President Obama, the White House forwarded the letter to the DOE which then referred this matter to the NRC stating:

“Because the subject of the letter does not fall within the purview of the Department of Energy, we are forwarding the letter to your agency.”⁴

By stating DOE had no role in the matter, the DOE concealed the possibility of subsequent exports and their responsibility in reviewing them. The DOE’s concealment, together with Chairman Jaczko’s deception, created a false narrative that there was only one agency and one process by which Uranium One could export uranium. This disturbing matter is compounded by recent reports in *The Hill* that:

“the FBI had gathered substantial evidence that Russian nuclear industry officials were engaged in bribery, kickbacks, extortion and money laundering designed to grow Vladimir Putin’s atomic energy business inside the U.S.” since 2009.⁵

Prior to the Obama Administration’s decisions to allow the sale of Uranium One, Uranium One’s exports to Canada, and from there to other countries, the FBI had evidence that:

³ U.S. NRC License No. XSOU8798, March 16, 2012.

⁴ *Casper Star Tribune: Russia Can’t Export Wyoming Uranium, Nuclear Regulators Tell Barrasso*, by Jeremy Fugleberg; attached document “EDO Principal Correspondence Control”; March 29, 2011.

⁵ *The Hill: FBI Uncovered Russian Bribery Plot Before Obama Administration Approved Controversial Nuclear Deal with Moscow*, by John Solomon and Alison Spann; October 17, 2017.

“The Russians were compromising American contractors in the nuclear industry with kickbacks and extortion threats, all of which raised legitimate national security concerns.”⁶

To assist the Committee with its investigation into this matter, I am requesting information regarding your agency’s respective roles, responsibilities, actions, and interactions, including:

- All documents, including communications, relating to interactions between the NRC and the DOE with regard to the 2010 transfer of control of Uranium One to ARMZ and the 2013 purchase of the remaining interests in Uranium One;
- All documents, including communications, relating to each export and subsequent transfer of natural uranium produced in the U.S. by Uranium One following the transfer of control of the company to ARMZ in 2010;
- All documents, including communications relating to your agency’s determinations that the sale of Uranium One, exports of its uranium, and subsequent transfers between foreign countries did not raise any unresolved national security concerns; and
- All documents, including communications, relating to your agency’s recommendation to President Obama to resubmit the U.S.-Russia 123 agreement for peaceful nuclear cooperation to Congress for review.

In addition, to assist the Committee with its investigation into this matter, I am requesting your agencies respond to the following questions:

NRC and DOE

1. Please describe the NRC’s and the DOE’s respective roles, responsibilities, processes, and procedures regarding exports as provided in the Energy Reorganization Act of 1974 and any other relevant laws.
2. Has the NRC or the DOE approved of any export or subsequent transfer of any U.S.-origin uranium to Russia? If so, was any of the exported/transferred material produced by Uranium One?
3. For each export and subsequent transfer of natural uranium produced in the U.S. by Uranium One following the transfer of control of the company to ARMZ in 2010, please provide the date, the amount, and the form of the uranium at that time, the destination, and the reason for the export or transfer.
4. Please provide specific dates, amounts, and the form of uranium for any ownership transfers from Uranium One to a purchaser.

⁶ Ibid.

5. Please provide the current location, amount, and form of all U.S.-origin uranium exported by Uranium One and/or subsequently transferred between foreign countries since the transfer of control of Uranium One to ARMZ in 2010.

DOE

1. If U.S.-origin uranium is proposed to be transferred between two countries that have both signed 123 Agreements with the U.S., under what conditions can the U.S. refuse to approve the export?
2. If U.S.-origin uranium is transferred between two foreign countries, please describe the process by which the DOE tracks the date, the amount and form of uranium, the destination, and the reason for the transfer.
3. *The Hill's* October 17, 2017, article states "FBI, Energy Department, and court documents reviewed by *The Hill* show the FBI in fact had gathered substantial evidence" that Vadim Mikerin was engaged in wrongdoing starting in 2009. That article also states "an Energy Department agent assigned to assist the FBI in the case testified that Mikerin supervised a 'racketeering scheme' that involved extortion, bribery, money laundering and kickbacks that were both directed by and provided benefit to more senior officials back in Russia." When did the DOE first learn of the FBI investigation?
4. Did the DOE notify the State Department of the ongoing FBI investigation? If not, why not? If so, when did the DOE first do so and what information was communicated?
5. Did the DOE notify the NRC of the ongoing FBI investigation? If not, why not? If so, when did the DOE first do so and what information was communicated?
6. Did the DOE consider the ongoing FBI investigation as part of its role in the Committee on Foreign Investment in the U.S. (CFIUS) decision to approve the 2010 sale of a controlling interest in Uranium One to ARMZ?
7. Did the DOE play a role in the decision to approve the 2013 sale of remaining interests in Uranium One to ARMZ? If so, was the FBI investigation considered as part of the decision-making?
8. Did the DOE consider the ongoing FBI investigation in approving the subsequent transfer of Uranium One uranium between foreign countries?
9. Was the DOE aware of DOJ's investigation when the Secretary recommended that President Obama resubmit the proposed U.S.-Russia 123 agreement to the Congress for review?
10. Are such activities grounds for invalidating the U.S.-Russia 123 agreement for peaceful nuclear cooperation?
11. Are criminal activities uncovered by the FBI investigation grounds for invalidating the Department of Commerce agreement to allow Russia to sell commercial uranium in the U.S.?
12. The DOE has made, or contributed to, many decisions that impact American uranium producers:

- The Russian purchase of American uranium production through its purchase of Uranium One;
- Continuing commercial sales of Russian uranium into the U.S. market; and
- Ongoing DOE transfers of surplus uranium for sale into the commercial market.

To what extent has the DOE considered the cumulative impact these decisions have on the economic viability of American uranium production?

13. American uranium production for 2017 is projected to be approximately 1.6 million pounds, which supplies less than 5% of U.S. needs. If preservation of domestic uranium production is important for national security, what actions is the DOE taking to preserve domestic production?


NRC

1. Please list and briefly describe all NRC processes and procedures that Uranium One could use to export uranium.
2. Please provide copies of all NRC-issued export licenses that Uranium One holds or is a party to.
3. RSB Logistics Services, Inc., is currently authorized to export uranium (U_3O_8) to Canada for conversion to UF_6 and return to the U.S. for future processing. How does the NRC ensure RSB's compliance with export license regarding return to the U.S. if DOE has authority to permit subsequent transfers to foreign countries?
4. Please describe the NRC's roles and responsibilities with regard to the subsequent transfer of U.S.-origin uranium between foreign countries.
5. Please describe the process for determining whether the export of U.S.-origin natural uranium is inimical to the common defense and security of the U.S. If the consideration of inimicality is different for commercial enriched uranium, please explain the similarities and differences in each process. Under what circumstances does the NRC consult with defense and intelligence agencies in making an inimicality finding?
6. Please describe the extent of the NRC's interaction with the CFIUS Committee in its decision to allow the ARMZ purchase of Uranium One's U.S. assets. Please include any consideration of the CFIUS decision in the NRC's decision to allow a transfer of control of Uranium One's U.S. assets to ARMZ.
7. What actions would the NRC normally take after learning of an FBI investigation involving a licensee's parent company? Under what circumstances would the NRC engage in increased oversight?
8. According to an article in *The Hill* dated October 17, 2017, "The Russians were compromising American contractors in the nuclear industry with kickbacks and extortion threats, all of which raised legitimate national security concerns. And none of that got aired before the Obama Administration made those decisions [about the sale of Uranium One and Rosatom's sale of commercial uranium in the U.S.]"
When was the NRC first made aware of the FBI's ongoing investigation? Who informed the NRC and what information was conveyed?

9. In its Safety Evaluation Report recommending approval of the transfer of control of Uranium One to ARMZ, the NRC staff notes “the parties to the proposed transactions have committed to abide by all applicable laws.”
 - a. Was the NRC aware that another Rosatom subsidiary was under investigation by the FBI for bribery, kickbacks, extortion and money laundering?
 - b. If so, what was the basis for accepting Rosatom’s commitment to abide by U.S. law with regard to the Uranium One transaction?
 - c. If the NRC was not aware of the investigation when it approved the transaction, would such knowledge have altered the NRC’s decision?
10. Was the NRC aware of the FBI’s investigation before the agency’s decision to approve an amendment to RSB Logistic Services’ export license adding Uranium One as a supplier? If so, what consideration was given to that fact in reaching a decision to allow exports by Uranium One by means of the RSB Logistics export license?
11. Was the NRC aware of the FBI’s investigation during the agency’s review of the subsequent 2013 sale of the remaining interest in Uranium One to ARMZ? If so, what consideration was given to that fact in reaching the decision to allow the transfer of control to ARMZ?
12. Was the NRC aware of the FBI’s investigation when the Commission recommended that President Obama resubmit the proposed U.S.-Russia 123 agreement to the Congress for review? If so, what consideration was given to that fact in making the decision to recommend the President resubmit the proposed 123 Agreement to Congress?

Please deliver the documents requested and responses to the enclosed questions by January 31, 2018. I anticipate that your written responses and most documents will be unclassified. If any documents do contain classified information, please segregate all unclassified material within the classified documents and provide all unclassified material directly to the Committee. Please provide a classified addendum to the Office of Senate Security. If you withhold any information, please provide a list of the records withheld and the justification for doing so. If you have any questions please contact the Committee Majority Staff at 202-224-6176.

Sincerely,


John Barrasso, M.D.
Chairman