UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF COLUMBIA

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

ATTACHMENT 2
DECLARATION OF JAMES M. OWENDOFF
DEFENDANTS' OPPOSITION TO PLAINTIFF'S
MOTION FOR PRELIMINARY INJUNCTION

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,	)	
	)	July 7, 2014
Defendants.	)	
	)	

DECLARATION OF JAMES M. OWENDOFF

I, JAMES M. OWENDOFF, do hereby declare as follows:

1. I, James M. Owendoff, do hereby declare and affirm that I am employed by the United States Department of Energy ("DOE" or "the Department") as the Senior Advisor to the Principal Deputy Assistant Secretary of the DOE Office of Environmental Management ("EM"). I am responsible for a) advising EM Headquarters program offices and field offices, as directed by the Principal Deputy Assistant Secretary, to:

   a. provide policy guidance to senior Headquarters officials and senior EM officials on specific assigned tasks and problems on a wide range of political, technical, scientific, and business management issues;

b. oversee and advise on special projects at EM Headquarters program offices and field offices, to include being the lead for EM in programs involving the management and disposition of excess uranium materials;

c. represent EM at policy-oriented meetings and also on interagency and intergovernmental task forces as well as ad hoc and external groups convened to deal with especially critical problems and issues;

d. represent and speak on behalf of EM at meetings, conferences, public sector forums, or on other similar occasions, on matters pertaining to field management, programmatic, acquisition and project management issues/concerns; and

e. review, analyze, and recommend the key steps required as a consequence of new legislation, policy directives from the Secretary, new administration initiatives, or action that will be required as a consequence of Office of Management and Budget, Inspector General, Government Accountability Office or other third party reports.

Prior to this position, I have held the following positions in EM: Acting Assistant Secretary, Principal Deputy Assistant Secretary, Deputy Assistant Secretary for Technology Development and Deputy Assistant Secretary for Environmental Restoration. I have served at DOE Headquarters since September 1995 and a total of 11 years in EM. I returned to EM in 2005 after a three-year assignment with DOE's Office of Civilian Radioactive Waste. I have a Bachelor of Science Degree in Mechanical Engineering from Virginia Polytechnic Institute and a Master of Engineering Degree from Cornell University.

2. During my tenure, I have become familiar with the legacy of radioactive waste and environmental contamination resulting from the federal government's nuclear programs and the establishment of the Office of Environmental Management to address this legacy. In my current capacity, I am familiar with the scope of the EM program, the program's historical performance and DOE's recent efforts to reform the scope of the EM program in order to achieve risk reduction and accelerate cleanup, and thereby significantly reduce the cost and schedule of the program. As I provide advice to senior DOE management on all aspects of EM cleanup operations throughout the complex, I am well-informed of the regulatory framework through which DOE employs its authorities under the Atomic Energy Act and other Federal statutes to safely manage radioactive materials and wastes and protect workers, the public, and the environment, and the manner in which EM funds its operations.

3. In particular, I am familiar with the legacy of environmental contamination resulting from the federal government's uranium enrichment programs at the Portsmouth Gaseous Diffusion Plant (PORTS), and the transferring of natural uranium as uranium hexafluoride ("natural UF6"), a form of natural uranium openly traded in the commercial uranium market, to the

PORTS Decontamination and Decommissioning ("D&D") contractor, Fluor-B&W Portsmouth ("FBP") in exchange for cleanup services. FBP's work scope includes cleanup of that environmental contamination and the D&D of the former gaseous diffusion plant ("GDP") facilities at PORTS. I am familiar with the scope of the D&D and environmental cleanup program, the program's historical performance, and DOE's recent efforts to accelerate the D&D of PORTS to achieve risk reduction and reduce the cost and schedule of the program.

4. In 1989, the Office of Environmental Restoration and Waste Management - now known as the Office of Environmental Management ("EM") -- was established to deal with the environmental legacy of nuclear weapons production. EM's mission is accelerated environmental risk reduction and cleanup of the nation's nuclear weapons program and government-sponsored nuclear energy research. The program is one of the largest and most technically complex environmental cleanup programs in the world. EM's responsibility includes: the safe disposition of large volumes of nuclear wastes; safeguarding materials that could be used in nuclear weapons; deactivating and decommissioning several thousand contaminated facilities no longer needed to support the Department's missions; and remediating extensive surface and groundwater contamination.

5. The Portsmouth/Paducah Project Office ("PPPO") is the EM field office responsible for effectively implementing EM's responsibilities, obligations and activities at both PORTS and the Paducah Gaseous Diffusion Plant (PAD) by accomplishing environmental remediation actions in compliance with regulatory milestones and agreements; dispositioning legacy and newly generated waste; dispositioning depleted uranium hexafluoride cylinders stored at both sites; managing and dispositioning the excess uranium inventories; and decontaminating, decommissioning, and demolishing the former gaseous diffusion plant facilities. The PPPO mission is one of the largest and most technically complex environmental cleanup and D&D projects in the EM portfolio.

6. The first GDP was constructed by the U.S. Army Corps of Engineers Manhattan Engineer District ("MED"), during World War II, in Oak Ridge, Tennessee to produce enriched uranium for use in developing nuclear weapons. In the 1950s GDPs were constructed by the Atomic Energy Commission (successor to the MED) at PORTS and PAD to supply additional enriched uranium for the U.S. Government's (USG's) weapons programs. In the 1950s and 1960s the USG encouraged the civilian use of enriched uranium for electrical power production and eventually offered enrichment services at the GDPs for privately owned uranium for a fee on a cost recovery basis. None of the GDPs are currently operating.

7. In 1992, Congress passed the Energy Policy Act of 1992 ("EPAct92") which created the United States Enrichment Corporation ("USEC"), a Government corporation, to take over and restructure the USG's uranium enrichment enterprise. As part of the establishment of the government corporation, USEC was granted the statutory exclusive right to lease the GDPs at PORTS and PAD. Additionally, DOE was required to retain the liability for the cleanup of the

legacy environmental contamination at the GDPs and the responsibility for the ultimate D&D of the GDPs. EPAct92 also required DOE to transfer uranium inventories necessary for the fulfillment of enrichment contracts to USEC. Uranium inventories not necessary for that purpose remained with DOE.

8. USEC was privatized in 1998 pursuant to the USEC Privatization Act (Public Law 104-134). As part of the privatization, the former government corporation was required to transfer the GDP leases to the newly privatized USEC. Accordingly, DOE retained the responsibility to clean up the legacy environmental contamination and the ultimate D&D of the GDPs.

a. In 2001, USEC ceased enrichment operations at the Portsmouth GDP and began activities to transition the property back to DOE. DOE decided not to retake possession of the property, and entered into a contract to maintain the facility in Cold Standby Status.

b. In 2013, USEC ceased enrichment operations at the Paducah GDP and notified DOE of its intent to return the property. DOE and USEC have entered into a Framework Agreement for the return of the property, and DOE will accept the return of the Paducah GDP no earlier than October 1, 2014 and after certain conditions are met. DOE plans to accept return of the property on or before August 1, 2015.

9. The Uranium Enrichment Decontamination and Decommissioning (UED&D) appropriation was established by Congress to provide funding for the cleanup of the legacy environmental contamination and the ultimate D&D of the GDP's. DOE has worked to try to accelerate the cleanup of the GDPs to reduce the overall liability and find additional funding sources to fund the cleanup and D&D. One opportunity that has supported both aims is the transfer of natural uranium as uranium hexafluoride to the D&D contractor at PORTS in exchange for services under its D&D contract.

10. DOE owns various inventories of uranium in differing forms and assays. This inventory includes natural UF6 with an assay weight of 0.711 weight % U235.

11. In 2010, DOE entered into a contract with FBP, its D&D contractor at PORTS. FBP has a contract with DOE to do this work until March 2016, with an option to continue the work until 2021.

a. In preparation for awarding the contract, DOE contracted with USEC to perform accelerated cleanup services under its cold standby contract in 2009 and 2010. These services were funded with transfers of UF6.

b. The FBP contract at Clause H.42 establishes the specific process under which DOE transfers natural UF6 to FBP in exchange for cleanup and D&D services. This provision of the contract is excerpted and attached to this declaration as an attachment. The value is offered in United States Dollars. As between DOE and FBP, the transfers of natural UF6 (NUF6) to FBP are made solely at the discretion of DOE and there is no obligation under the contract or otherwise that requires DOE to fund the work through the transfer of natural UF6. There is no requirement in the contract that uranium transfers be made, or as to the schedule or timeline for transfers, if they were to occur.

12. Following a determination by the Secretary that the amounts contemplated to be transferred to FBP will not have an adverse material impact on the domestic uranium mining, conversion, or enrichment industry, the DOE contracting officer for the FBP contract makes quarterly offers of an amount of NUF6 to FBP in exchange for services under the FBP contract. FBP then offers DOE the dollar value of services it is willing to exchange for the offered amount of NUF6.

a. DOE reviews the FBP offer against certain spot market indices and evaluates whether the offer constitutes fair market value (FMV), a requirement of section 3112(d) of the USEC Privatization Act. DOE utilizes the spot market indices as the transaction between DOE and FBP is conducted as a discrete transaction and is not part of a long term commitment by DOE to continue to transfer NUF6.

b. If DOE determines the offer to be FMV, DOE transfers the NUF6 to FBP on an agreed to date and the FMV of the services is added as funding to D&D contract through a modification to the agreement.

c. Since 2010, the annual calendar year value obtained by DOE from transfers at PORTS has ranged from approximately $107 million (M) to $255M (2010 - $107M, 2011 - $241M, 2012 - $203M and 2013 - $255M). The range in values is due to differing amounts of NUF6 transferred over the course of the contract and the value received, which is based on the uranium spot market price.

13. Prior to making any transfers, in accordance with Section 306(b) of Division D of the Consolidated Appropriations Act, 2014 (Public Law No. 113-76), DOE provides Congress with the requisite notification of the upcoming transfers. The next notification letter is planned to be sent to Congress on or before July 20, 2014 in anticipation of the planned August 20, 2014 and September 22, 2014 transfers.

14. While the transfers were originally a means to accelerate the cleanup and D&D of PORTS, the UED&D appropriations funding available to DOE for that work has steadily declined

due to the overall Federal budget constraints. Consequently, the transfer of uranium is now required just to provide sufficient funding at PORTS to maintain the ongoing pace of cleanup and D&D. If the transfers were not allowed, in order to maintain the ongoing pace, DOE would have to seek additional UED&D appropriations funding from Congress to offset the reduction in funding from the NUF6 transfers. DOE cannot predict whether the request for additional UED&D appropriations funds would be successful. In the event Congress did eventually appropriate the additional UED&D funding, given the lengthy Congressional appropriations cycle, there would likely be a several year lag in time until DOE actually obtained the funding.

a. The following represents D&D appropriations since the uranium transfers in exchange for cleanup and D&D services began:

PORTS D&D Appropriations ($ in thousands)	
FY 2009 UED&D	164,276
FY 2009 ARRA	119,800
FY 2010 UED&D	216,288
FY 2011 UED&D	177,590
FY 2012 UED&D	182,273
FY 2013 UED&D	153,337
FY 2014 UED&D	135,818

Note: ARRA – American Recovery & Reindustrialization Act

b. The next anticipated transfer is on August 20, 2014 and it will be 300 MTU natural UF6. A second third quarter transfer of 300 MTU natural UF6 is planned to occur on September 22, 2014 bringing the total EM transfers for the third quarter of calendar year 2014 to 600 MTU natural UF6.

c. EM anticipates making a transfer of 255 MTU natural UF6 in November. If additional room within levels of transfers approved in the 2014 Secretarial Determination remains, EM may make an additional transfer in December.

15. Consequently, if enjoined from making any transfers of NUF6 to FBP, DOE will suffer harms including:

a. Loss of over $160-170M per year in cleanup and D&D services at PORTS. This represents over 50% of the total annual funding (UED&D appropriations and NUF6 transfers) for cleanup and D&D work at the site.

b. PORTS' contractors would likely have to lay off the majority of highly skilled and trained D&D employees, with up to 825 employees being laid off site-wide in fiscal years 2014 and 2015. This layoff would be in addition to already planned layoffs and equivalent to approximately 50% of the PORTS' site-wide contractor workforce after the already planned layoffs.

c. The loss of the skilled workforce would not allow FBP to continue most D&D activities and much of the environmental cleanup work. This will significantly increase the long term cost of the environmental cleanup and D&D work and postpone the completion of work.

d. The environmental liability costs are estimated to increase by up to $120 M for each year of delay due to project cost and schedule increases from the loss of funding. Depending on how long DOE is unable to transfer uranium, there may be a significant additional cost to hire and train employees to obtain the skill necessary to complete the D&D work.

e. The funding without the uranium transfers is only sufficient to allow DOE to keep the Portsmouth GDP facilities in a minimum safe operations state. This would only allow DOE to ensure that the essential safety and security services are conducted in the Portsmouth GDP facilities to ensure worker and public safety and regulatory compliance.

f. While DOE would seek to ensure it would remain in compliance with the significant environmental regulatory requirements and agreements applicable to PORTS, the significant reduction in funding would greatly increase the risk that DOE might not meet its obligations. If DOE failed to meet its regulatory requirements, it could face fines and penalties which can be significant.

g. Corrective maintenance of the PORTS' GDP and support facilities would have to be deferred. This will result in continued degradation of 60 year old facilities and infrastructure at the site and increase the likelihood of releases of contamination into the environment and risk to the workforce.

h. The impact on the local economy will be significant, as the current unemployment rate in the immediate area is one of the highest in the country, with an unemployment rate estimated to be greater than 9%.

i. An annual impact to the local economy from the loss of direct procurements with local vendors of more than $30M per year.

j. DOE would stop shipping cleanup waste to the Nevada Nuclear Security Site (NNSS) for disposal. DOE pays NNSS for that disposal and PORTS' waste represents approximately 70% of the waste accepted at NNSS. Waste shipments for disposal would be stopped to commercial vendors as well, resulting in loss of revenue and impacts from that loss in the areas wherein those vendors reside. Current vendors include Energy Solutions in Utah and Waste Control Specialists in Texas.

16. If the Court granted ConverDyn injunctive relief in the form of a limitation of DOE transfers to 10% of the annual uranium market for the pendency of the litigation (assuming that is roughly three months), assuming EM and NNSA would share proportionally in the reduction, the harms in paragraph 15 would be reduced, but not eliminated. Specifically:

a. Some harms, such as the annual reduction in funding listed in 15(a) would be lessened by a proportionate amount to the decrease in funding.

b. Others, such as the degradation of the facilities in 15(g), would not occur if transfers were allowed to continue at the 10% limit.

c. However, one of the most significant harms, the significant layoff of personnel would still occur. The layoff would however be delayed by a couple months. The reason that the reduction does not eliminate the layoff is that EM has already transferred to FBP the majority of the NUF6 that could be transferred under a 10% limit. The remaining amount is not sufficient to fund the site staffing through the entire three month period. Without a guarantee that DOE would get the authority to go back up to the previously allowed amount of NUF6 and facing the prospect of being barred from transferring uranium, the site contractors would have to take steps to ensure they could stay within the anticipating funding. This would mean conducting the significant layoffs as outlined above.

17. If the Court were to require ConverDyn to secure a bond to cover the cost associated with enjoining further transfers of uranium to FBP while the Court issues its decision, the required bond amount would be approximately $48M. This amount includes $30M for estimated increased cost from the delay in completing the work on the current schedule, $17M for the estimated DOE-reimbursable cost associated with the severance of contractor personnel at PORTS, and $1M for the estimated DOE-reimbursable cost for contractor rehiring and retraining contractor personnel. These costs assume a 3 month cessation of transfers and no Court ordered restriction of future transfers. These costs are best estimates and they are based on the information provided to DOE by its contractors.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Dated this 7TH day of July, 2014.

JAMES M. OWENDOFF

ATTACHMENT TO

DECLARATION OF JAMES M. OWENDOFF

Excerpted from Fluor-B&W Portsmouth
Contract No. DE-AC30-10CC40017 (as of Modification 78)

Clause H. 42 URANIUM TRANSFER

H. 42 URANIUM TRANSFER

1. General

The DOE shall transfer to the Contractor up to approximately 1605 MTU UF6 annually for calendar year's (CY) 2011[1] through 3rd quarter CY2012 in quarterly increments not to exceed 450 MTU UF6. Beginning in 4th quarter CY2012, the DOE shall transfer up to 2,400 MTU per year of natural uranium in quarterly transfers not to exceed 600 MTU UF6 consistent with the 2012 Secretarial Determination. Further such transfers shall not be inconsistent with the *Agreement between Louisiana Energy Services, LLC, and U.S. Department of Energy Governing a UF6 Holding Account* (DOE/LES UHA). In exchange, the Contractor shall perform a portion of the PWS commensurate in value with the transferred UF6's value as established in the corresponding contract modifications. To the extent practicable, DOE anticipates providing the Contractor an estimate of the amount of UF6 to be transferred two quarters in advance of such transfers. Failure by DOE to provide such estimates in advance does not relieve the Contractor from performance under the contract. The UF6 cylinder inventory is identified in Section J; Attachment 19.

2. Title Transfer and Delivery of the Uranium

The Contractor is responsible for taking title of the natural uranium hexafluoride transferred by DOE in compliance with all applicable laws and regulations. Prior to the first title transfer, a detailed Uranium Transfer Plan that includes a description of compliance with the aforementioned laws and regulations shall be submitted to DOE. The Uranium Transfer Plan is an integrated checklist of the conditions that have to be met for DOE to transfer the material to the Contractor, not a plan for the sale of the uranium. The fair market value will be determined on a date certain immediately preceding the uranium transfer. Quarterly modifications to the contract will be executed within 5 calendar days after mutual agreement between DOE and the Contractor, to document the value of the barter. The title for the material is expected to be transferred to the Contractor within 5 calendar days after each quarterly modification is executed by the contracting officer. The amount of natural uranium hexafluoride to be transferred will be identified in each Modification.

At the time of title transfer to Contractor and at all times thereafter while the Uranium Transfer Material remains in DOE's possession, the Uranium Transfer Material shall be uranium hexafluoride meeting the current ASTM specification for commercial natural UF6 (C-787-11).

Should the Contractor request title transfer and delivery of the natural uranium hexafluoride transferred by the DOE at the USEC yards at the Paducah Gaseous Diffusion Plant, DOE shall deliver, or arrange for delivery of, the cylinders containing the natural uranium to the Contractor or the Contractor's designee at the USEC yards at the Paducah Gaseous Diffusion Plant. Any such agreement with USEC required to facilitate such delivery shall be the responsibility of the Contractor, except to the extent such delivery will be accomplished by a Book Transfer of material from DOE to the Contractor.

Should the Contractor request delivery of the natural uranium hexafluoride transferred by the DOE at the Portsmouth Gaseous Diffusion Plant, DOE shall deliver, or arrange for delivery of,

[1] CY11's 1,605 MTU barter amount will be reduced by the 349,988 kilograms bartered with USEC in 1st quarter CY11. Therefore the CY11 barter total will be 1,260 MTU.

the cylinders containing the natural uranium to the Contractor or the Contractor's designee at the Portsmouth Gaseous Diffusion Plant.

Should the Contractor request delivery of the natural uranium hexafluoride transferred by the DOE at the Louisiana Energy Services (LES) enrichment facility near Eunice, NM ("LES facility"), DOE shall deliver, or arrange for delivery of, cylinders containing the natural uranium to the Contractor or the Contractor's designee at the LES yards at the LES facility. Any such agreement with LES required to facilitate such delivery shall be the responsibility of the Contractor, except to the extent such delivery will be accomplished by a Book Transfer of material from DOE to the Contractor. Further, in the event of such a Book Transfer and consistent with the DOE/LES UHA, DOE currently anticipates retrieving the cylinders from LES after they have been emptied.

The Uranium Transfer Material shall be delivered in cylinders meeting the current regulatory requirements and industry standards including the ANSI 14.1 and USEC-651(Rev.9) The UF6 Manual: Good Handling Practices for Uranium (Hexafluoride) or any successor publication or revision, or comparable standards at other North American enrichment facilities. Within ninety(90) days of DOE's transfer of title to the Uranium Transfer Material, the Contractor has the right to reject particular Uranium Transfer Material and cylinders containing such Uranium Transfer Material that Contractor determines fail to conform to the requirements of this Section or are otherwise defective in some manner. In the event Contractor rejects one or more cylinders, DOE shall promptly replace the rejected cylinders with conforming cylinders containing an amount of conforming natural uranium no less than the amount contained in the rejected cylinder within 14 days after receiving written notice from Contractor of the rejection. Costs of replacing uranium and cylinders, including the costs of returning the rejected cylinders and uranium, shall be borne by DOE and such replacement costs shall be the sole extent of the damages available to the Contractor for nonconformance.

The current DOE inventory of natural uranium hexafluoride resides in non-48Y thin-wall cylinders (e.g., 48G, 48H, 48Hx, etc.). With respect to this current inventory, the DOE agrees that:

For uranium transfers at the Paducah Gaseous Diffusion Plant:

At the request of the Contractor, DOE shall exchange the natural uranium hexafluoride in 48G cylinders ("Exchange G Cylinders") transferred subsequent to the effective date of modification 29 for an equivalent quantity (kgU) of natural uranium hexafluoride in 48Y cylinders ("Exchange Y Cylinders"). Such exchange must be for the material and cylinders originally transferred to the Contractor.

DOE agrees to accept title to any of the above referenced 48G returned cylinder(s), including its (their) contents, from H.42.2.(g)(i)(a) directly from the Contractor's designated party and the Contractor shall not take title to the returned cylinder(s) or its (their) content.

The Exchange Y Cylinders shall comply with the provisions of H.42.2.(f), and contain natural uranium hexafluoride that meets the requirements and specifications identified in section H.42.2.(b) and (h).

DOE shall deliver or arrange for delivery of the Exchange Y Cylinders on a mutually agreed upon schedule.

Within thirty days of DOE's delivery of the last Exchange Y Cylinders, if the contractor realizes additional value from the G to Y Cylinder exchange, the contractor shall provide additional services under this contract commensurate to such realized value.

For uranium transfers at the Portsmouth Gaseous Diffusion Plant or LES facility:

DOE shall provide natural uranium hexafluoride in 48Y cylinders.

The 48Y Cylinders shall comply with the provisions of H.42.2.(f), and contain natural uranium hexafluoride that meets the requirements and specifications identified in section H.42.2.(b) and (h).

Performance by the Contractor of any of the work scope required for the DOE to meet the provisions of this section H.42.2.(g) is performed under the provisions of section C.2.6, Nuclear Material Storage, Disposition and Accountability and is a reimbursable cost under this contract.

DOE agrees that the uranium transferred to Contractor will meet the following requirements:

DOE shall transfer to Contractor good and marketable title to all Uranium Transfer Material and the cylinders containing such Uranium Transfer Material, and such title shall be free of all claims, liens, charges, pledges, security interests, and encumbrances.

At the time of title transfer to Contractor and at all times thereafter while in DOE's possession, the Uranium Transfer Material shall bear a country of origin and NMMSS obligation code that is lawful under applicable laws and regulations for enrichment into fabricated commercial nuclear fuel for consumption in the United States or other further processing in the United States; and

The Uranium Transfer Material was not obtained by DOE under any arrangement or transaction designed to circumvent the provisions of the Suspension Agreements (signed October 1992, and as amended) between the U.S. Department of Commerce and the Russian Federation concerning the importation of uranium or procedures enacted from time to time by the United States Department of Commerce for administering and enforcing Russian origin/obligation uranium delivery limitations set forth in 42U.S.C.2297h-10(b)(5).

3. Value of the Uranium Transfer Material/Value of Services

Should the Contractor elect to sell the Uranium Transfer Material, any such sale shall be consistent with all applicable laws and regulations. Within 30 days after the close of each month the Contractor shall provide DOE a detailed reconciliation status report identifying the current value remaining from the barter(s) of the Uranium Transfer Material that is available for credit against costs for work performed under the Contract.

Following the transfer of Uranium Transfer Material to the Contractor, unless written direction is received from the Contracting Officer directing otherwise, the Contractor shall credit the value of the transferred material (as specified in Clause B.6) against any invoice for work performed under the Contract that is submitted thirty or more days after the Contractor takes title to the Uranium Transfer Material.

4. Possession

The Contractor will designate, within 60 calendar days after the modification is executed, the entity who will take physical possession of the material. The Contractor's designee will take physical possession within 90 calendar days after the modification is executed. When the Contractor or its designee takes possession of the uranium, it is responsible for compliance with all applicable laws and regulations. In the event the uranium transfers occur at the Portsmouth Gaseous Diffusion Plant, and the Contractor or its designee does not take physical possession of the material within 90 days of the title transfer, DOE, at the Contractor's request, will continue storing the material for the Contractor. Contractor will remove such material no later than ninety (90) days after expiration, termination, or closeout of its contract with DOE (DE-AC30-10CC40017). In the event, the Contractor does not remove the material within that timeframe, the Contractor shall be assessed a $500 per day charge for storage until the material is not within DOE possession and control. Expenses incurred by the Contractor or its designee to remove the material from the Portsmouth Gaseous Diffusion Plant shall be borne by the Contractor or its designee.

5. Security and Safeguards

The use, disposition, export and re-export of the material are subject to applicable U.S. laws and regulations, including but not limited to the Atomic Energy Act of 1954,as amended; the Arms Export Control Act (22U.S.C.2751et seq.); the Export Administration Act of1979 (50U.S.C.Append2401et seq.); Assistance to Foreign Atomic Energy Activities (10CFR part 810); Export and Import of Nuclear Equipment and Material (10CFR part 110); International Traffic in Arms Regulation (22CFR parts 120et seq.); Export Administration Regulations(15CFR part730et seq.); Foreign Assets Control Regulations (31CFR parts500et seq.);and the Espionage Act (18 U.S.C. 793etseq.)."