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ENERGY AND REVENUE ENRICHMENT ACT OF 2011

MONDAY, JUNE 13, 2011

House of Representatives,

Subcommittee on Energy and Power,

Committee on Energy and Commerce,

Washington, D.C.

The subcommittee met, pursuant to call, at 1:38 p.m., in Room 2123, Rayburn House Office Building, Hon. Ed Whitfield [chairman of the subcommittee] presiding.

Present: Representatives Whitfield, Walden, McKinley, Rush, and Waxman (ex officio).

Staff Present: Charlotte Baker, Press Secretary; Sean Bonyun, Deputy Communications Director; Anita Bradley, Sr. Policy Advisor to Chairman Emeritus; Cory Hicks, Policy Coordinator, Energy & Power; Kirby Howard, Legislative Clerk; Ben Lieberman, Counsel, Energy & Power; Dave McCarthy, Chief Counsel, Environment/Economy; Mary

Neumayr, Counsel, Oversight/Energy; Andrew Powaleny, Press Assistant; Alex Yergin, Legislative Clerk; Jacqueline Cohen, Minority Counsel; Greg Dotson, Minority Energy and Environment Staff Director; Jocelyn Gutierrez, Minority DOE Detailee; and Caitlin Haberman, Minority Policy Analyst.

Mr. Whitfield. I would like to call this hearing to order.

Today, we have another hearing on the American Energy Initiative. This committee has had a series of hearings regarding the energy needs of the United States.

Today, also, we specifically will be looking at H.R. 2054, the Energy and Revenue Enrichment Act, which I have introduced on the House side and Senator McConnell and Senator Paul have introduced on the Senate side.

H.R. 2054 is a simple bill. It initiates a 2-year pilot program to re-enrich the uranium tails. It allows for the sale of the re-enriched uranium and deposits the money made into the Uranium Decontamination and Decommissioning Fund to be used for environmental cleanup.

I would also like to point out to those of you who may not be familiar that what we are talking about here is about 60,000 14-ton canisters located in two geographical areas of the country. There is about 40,000 of these canisters in Paducah, Kentucky, of depleted uranium waste and about 20,000 of these canisters in Piketon, Ohio.

For the last 5 or 6 years, I, along with others, have had a lot of discussions with the Department of Energy about re-enriching this material, which would accomplish a number of things. Number one, it would provide additional revenue to the Federal Government; number two, it would help the environmental cleanup, certainly in Paducah as well as in Piketon, Ohio; and, number three, it would prolong the life of the uranium enrichment plant in Paducah, Kentucky, in which we have

1,200 jobs at stake.

So this is an important piece of legislation, and it makes a lot of sense for the reasons that I have already stated. It appears to be a win, win, win situation.

I would also like to remind everyone that this is a pilot project, a 2-year pilot project, which I think will give the Department of Energy adequate time to assess the situation, and it certainly would be of benefit to our country. So I look forward to the testimony of our witnesses today.

I would also at this time ask unanimous consent to introduce into the record a letter from the International President of the United Steelworkers, a letter from the Governor of Kentucky, a letter from the Mayor of Paducah, a letter from the County Judge of McCracken County, and a letter of support from United States Senator Rand Paul.

[The information follows:]

******** COMMITTEE INSERT ********

Mr. Whitfield. I certainly want to welcome Senator McConnell being here with us today as well. As you know, he is the senior Senator from Kentucky and he is also the Republican Leader in the United States Senate, and he is quite familiar with this particular issue.

So Senator, we really appreciate your being here as well.

At this time, I would like to recognize Mr. Rush for his 5-minute opening statement.

Mr. Rush. I want to thank you, Mr. Chairman; and I want to thank our distinguished guests, including our distinguished colleague from the other side, Senator McConnell, the Senate Minority Leader, as well as all the other guests for being here today. The minority leader's presence here today speaks to the importance of today's hearing on Chairman Whitfield's legislation to the good people of the great State of Kentucky.

Chairman Whitfield and I have had conversations about the Energy and Revenue Enrichment Act, better known as the Kentucky Enrichment Act; and I hope and expect that we will be able to move this bill through this committee in a collegial and a bipartisan manner.

Mr. Chairman, I also hope and expect that this can be a turning point toward a more collaborative and bipartisan approach for enacting other initiatives and other pieces of legislation in this committee that holds importance to both the majority and minority sides.

With that being said, the Energy and Revenue Enrichment Act will launch a pilot program to re-enrich uranium tails that are currently stockpiled in yards in Paducah, Kentucky, and Portsmouth, Ohio. These

two plants hold up to 40,000 and 20,000 such tails, respectively. This bill will direct the Secretary of Energy to re-enrich these tails and sell them at a profit for the government. As written, the bill would then redirect the revenue from the sale of these tails to the Uranium Decontamination and Decommissioning Fund for environmental cleanup.

This bill will also allow DOE to increase the domestic uranium supply from 10 percent to 15 percent for 4 calendar years.

Mr. Chairman, this hearing is also in response to a letter that you and I wrote to DOE back on March 1 asking the agency to update its 2008 report on DOE's conditional options for dealing with these uranium tails. Of course, we have DOE here today; and they will testify on different options for handling these tails, as well as the value of selling these tails in today's global market.

So, Mr. Chairman, I hope, sincerely hope, that my willingness to work with you on this issue is evident to all and that we will be able to move a bipartisan bill that will bring and maintain jobs for the good people of Kentucky and Ohio, while also ensuring that we have a transparent and open bidding process that brings forth the best value for the American taxpayers. Hopefully, Mr. Chairman, this bill will set the tone for a brand new era of collaboration and bipartisanship in addressing the important issues that all of our constituents face, yours and mine.

I want to thank you, Mr. Chairman, and I want to again thank our distinguished guests; and I look forward to hearing from our witnesses and the experts on this issue.

With that, I yield back the balance of my time.

Mr. Whitfield. Thank you very much, Mr. Rush.

Mr. Waxman, you are recognized for 5 minutes.

Mr. Waxman. Thank you, Mr. Chairman.

Today, the subcommittee is examining H.R. 2054, Chairman Whitfield's legislation to direct the Department of Energy to enter into a contract to enrich its depleted uranium tails and then sell the enriched uranium on the market.

The way that this bill is currently drafted, the only entity that the DOE could contract with for these enrichment services is the United States Enrichment Corporation, or USEC. When USEC was privatized in the 1990s, proponents said there would be many benefits from privatizing uranium enrichment. Wall Street underwriters and lawyers made millions of dollars on the transaction, but USEC failed to live up to many of these promises. Within a few years of being privatized, USEC abandoned important national initiatives, announced layoffs of more than 800 workers, closed its Portsmouth facility in Ohio, sold off large amounts of uranium, whipsawing the domestic uranium industry.

With USEC's planned closure of its Paducah, Kentucky, facility in 2012 fast approaching, we are being asked to direct DOE to enter into a sole-source contract with USEC to process what has become a valuable asset, DOE's uranium tails. DOE already has the authority under law to do this, so the question is, should DOE be forced by Congress to exercise this authority?

I am concerned this legislation is not carefully drafted to yield

the best deal for the American taxpayer.

First, it is not clear how many hundreds of millions, maybe even billions, of dollars this contract would cost the American taxpayer. We should ask USEC about its capacity to execute this contract, but the company refused to testify, and the majority has not insisted that USEC send a witness today.

Second, by ordering DOE to enter into a sole-source contract, it has almost guaranteed that the government won't be able to negotiate the best deal for its uranium tails. The way this legislation is drafted, as long as the government receives one penny more in revenue than it costs to re-enrich the uranium, the contract could be deemed economically viable and the Secretary of Energy would have no discretion not to accept it.

Third, DOE has a number of options for managing its tails as well as its excess enriched uranium. Another option, for example, would be to sell the tails to the highest bidder, which would avoid the cost of enrichment. This legislation charges forward with a highly prescriptive plan without giving DOE the authority to implement the best strategies for maximizing taxpayer value.

The legislation purports to raise money for the Uranium Enrichment Decontamination and Decommissioning Fund, also known as the D&D Fund. The D&D Fund is used to clean up contamination from years of uranium enrichment activities in Kentucky, Ohio, and Tennessee. Adequately funding these cleanup efforts is important, but, because of the flaws in the bill, it is not at all clear that the fund will

receive any significant funding under this legislation.

Moreover, responsibility for contributions needs to be apportioned fairly, with both the government and the utilities that purchase uranium paying their fair share. There is an estimated shortfall of more than $11 million between the projected cleanup costs and authorized funding for the D&D Fund. Congress should reinstate the requirement that industry contribute to the D&D Fund.

Finally, even though the uranium tails have become a valuable resource in recent years, re-enriching them with old technology may not be the best approach. Experts agree that the gaseous diffusion process, which was developed in World War II, is extremely inefficient and has high production costs. Gas centrifuge technology, which is currently being deployed in the U.S., uses about 5 percent of the electricity that is consumed by the gaseous diffusion technology used in Paducah. Using this more efficient technology for enriching the tails may generate more resources for the D&D Fund than using the old technology.

I hope we will be able to examine some of these issues today. I understand the chairman intends to mark up his legislation the day after tomorrow. That gives us a short period of time to refine this legislation. I hope the chairman will work with us to make this legislation a good deal for taxpayers.

I thank the witnesses for appearing today, and I look forward to their testimony.

Mr. Whitfield. Thank you very much, Mr. Waxman.

Before I introduce Senator McConnell, I would like everyone to look at this. These are some of the canisters -- each one of them weighs 14 tons -- at Paducah, Kentucky; and the earliest ones have been there for 60 years. This has been an issue for 60 years on the best way and how do we clean up this material.

With that, at this time it is my pleasure to introduce our first witness. As I said, it is Senator Mitch McConnell, senior Senator of Kentucky and Republican Leader of the U.S. Senate, who has introduced similar legislation on the Senate side.

So, Senator McConnell, welcome. We appreciate your taking time to be with us this afternoon, and you are recognized for your opening statement.

STATEMENT OF THE HON. MITCH MCCONNELL, A UNITED STATES SENATOR FROM THE STATE OF KENTUCKY

Senator McConnell. Thank you very much, Mr. Chairman, Congressman Rush, and members of the subcommittee. I appreciate the opportunity to be here to talk about an issue that Congressman Whitfield and I have been dealing with for a long time. In fact, throughout my time in the Senate, this facility and its related issues have dominated a big part of my career and I know Congressman Whitfield's as well.

Where we are is we know this facility is going to be closed down. It has been located, as Congressman Whitfield said, along the Ohio River for nearly 60 years. It has enriched uranium for use in America's

defense and commercial nuclear reactors. Today, Paducah is home to the only domestic facility enriching uranium, making it a critical component of our Nation's energy security.

The story of uranium enrichment in Paducah begins in 1950, when the site was selected for the construction of a new gaseous diffusion plant. For many years, uranium was enriched to support our national security and then to support our energy needs. However, after decades of work, it was revealed that many of these employees were exposed to deadly toxins. The Department of Energy failed to put certain protections in place for these workers, and it was up to Congress to set them right.

I wish I could say that the Department of Energy has been quick to recognize its shortcomings over the years and then move swiftly to correct them. The sad fact is they have not, regardless of which party controlled the Department. As a result, Chairman Whitfield and I have frequently been forced to step in and challenge the bureaucracy to live up to the law.

In the late 1990s, we learned about the dangers Paducah's workforce had been exposed to, and we adopted a law to make sure that the workers were compensated for their injuries. Early last decade, DOE had to be forced -- literally forced against its will -- to implement an effective worker health screening program for workers at Paducah, Portsmouth, and Oak Ridge, Tennessee.

Time and time again, DOE shortchanged cleanup efforts at the site, requiring Congress to find resources elsewhere to make up for their

shortcomings. When DOE dragged its feet in implementing a law to convert uranium waste at the site, I helped secure passage of legislation to require groundbreaking on a site by a date certain -- in other words, literally make them open the project by a date certain. Even after passing two laws mandating action, DOE's efforts were still plagued with countless bureaucratic delays and disputes.

And 4 years ago, we asked the Department what its plans were for depleted uranium tails, the subject of this hearing here today; and here we are today again, 4 years later, asking why the Department does not have a plan that includes Paducah.

I don't want to sound like a broken record, but you can see why Congress' patience has worn a little thin while waiting for the Department to step up to do the responsible thing when it comes to these enrichment facilities. At this point, the Department has forfeited the benefit of the doubt.

The Department of Energy is in possession of 40,000 cylinders -- the chairman just showed us a picture of it -- in Paducah and 20,000 cylinders in Portsmouth containing roughly 700,000 metric tons of depleted uranium hexafluoride from former enrichment operations. The substances, more commonly known as tails, sitting in these cylinders, exposed to the elements, poses a myriad of health, safety, and environmental risks. Paducah has the capacity to convert this toxic substance into a more stable form for disposition, and that will be necessary at some point.

We can keep kicking the can down the road, but this is going to

be necessary at some point.

However, it has also the capacity to re-enrich some of this material into marketable uranium, which could then be sold to benefit the taxpayers. I would ask those present here today to consider this scenario: You have materials right in your own backyard, you have facilities to turn it into a sought-after product worth at least $1 billion, maybe more, and a workforce trained and ready to do the work. Do you use that asset in a way that saves jobs, or do you let the Department slowly dispose of all of this valuable material and in the meantime 1,200 people collect unemployment? I know which option sounds like the common-sense solution to me.

As the chairman well knows, the unemployment rate in Kentucky is 10 percent, worse than the national unemployment rate of 9.1. There are 1,200 jobs that would be immediately eliminated by the plant closure. But that's not all. Hundreds of additional jobs in the area would be cut by a shuttered Paducah plant, potentially impacting the entire economy of far western Kentucky. I would hate to see in this current time of fiscal crisis and serious unemployment a missed opportunity for the government to keep people employed and reduce the deficit at the same time. Keep people employed and reduce the deficit at the same time. What is a better outcome than that?

I know these people. I have seen how hard they work. They are obviously concerned with their own employment, but they also want to help the country. Let's allow them to do that. At a time of fiscal crisis and double-digit unemployment, a plan to re-enrich these tails

helps employ people and reduce our deficit. It has been a long time I have heard anything out of Washington that makes as much sense as that.

Everyone knows Kentucky is a coal State, which we are, but we are also a nuclear State. Paducah is a community that enthusiastically supports nuclear energy. Allowing the Paducah plant to close in 2012 and waiting years for the Department of Energy to address what to do with the existing depleted uranium, I believe, is both shortsighted and irresponsible.

So let me be very clear. We are not asking for a government intervention; we are asking that the government live up to its responsibilities and properly utilize inventory and facilities it already owns, in the best interest of the taxpayers.

So I come here today not just as the Republican Leader of the Senate but as a concerned American. When it comes to nuclear energy, we have seen this administration abandon plans and millions in taxpayer dollars before without much consideration of the consequences. Take for example its unwillingness to follow through on the nuclear storage site Yucca Mountain, paralyzing further nuclear energy production in this country. We cannot let the Department turn its back on these facilities, these workers, or these communities again.

So that is why I am grateful to you, Mr. Chairman, for crafting the Energy and Revenue Enrichment Act to give the Department of Energy the flexibility it needs to temporarily re-enrich tails at Paducah and Portsmouth. I am happy to be the sponsor of that bill in the Senate,

along with my colleague Rand Paul; and it is my hope that we can work with our counterparts in the House and Senate to find a fiscally responsible solution.

I want to thank you very much, Mr. Chairman, for the opportunity to be here and commend you once again for your extraordinary leadership on this subject. I don't know where we would be on this issue without Congressman Whitfield. So I thank you for what you have done, and let's continue to work on it together and see if we can get a solution not only for Kentucky but for the Nation. Thanks so much.

[The prepared statement of Senator McConnell follows:]

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Mr. Whitfield. Senator McConnell, thank you very much. I know that you have a commitment at 2:00, but we do appreciate you coming over and giving your opening statement. I look forward to working with you on this legislation.

At this time, I would like to call up the witnesses for the second panel. We have Mr. Gene Aloise, with the Government Accountability Office, Director of Natural Resources and Environment; and we have the Honorable Daniel B. Poneman, who is the Deputy Secretary at the U.S. Department of Energy.

Gentlemen, we appreciate both of you being here today us today. We look forward to your testimony and thoughts on this issue.

Mr. Aloise, we will start with you.

STATEMENTS OF GENE ALOISE, GOVERNMENT ACCOUNTABILITY OFFICE, DIRECTOR OF NATURAL RESOURCES AND ENVIRONMENT; AND THE HONORABLE DANIEL B. PONEMAN, DEPUTY SECRETARY, U.S. DEPARTMENT OF ENERGY

STATEMENT OF GENE ALOISE

Mr. Aloise. Mr. Chairman, ranking member, and members of the subcommittee, I am pleased to be here today to discuss DOE's options for its supply of depleted uranium, also known as tails.

As you know, since the 1940s, the government has been processing natural uranium into enriched uranium, which increases the concentration of the isotope uranium 235, making the material useful in nuclear weapons or power reactors. The production of enriched uranium over many decades has resulted in about 700,000 metric tons of leftover tails which are now stored at uranium enrichment plants in Portsmouth, Ohio, and Paducah, Kentucky.

Although the tails have historically been considered a waste product, increases in uranium prices may give DOE options to use some of the tails in ways that could provide revenue to the government. DOE's potential options include selling the tails as is, re-enriching them, or storing them indefinitely. While in our view DOE's legal authority to sell the tails as is is doubtful, DOE has the authority to carry out the re-enrichment and storage options.

According to DOE's comprehensive uranium management plan, DOE

stated that it would consider selling the tails or re-enriching them. However, to date, DOE has not done so and apparently has no current plans to sell or re-enrich this material.

At current uranium prices, we estimate DOE's tails to have a net value of $4.2 billion. However, we would have to emphasize that this estimate is very sensitive to changing uranium prices, which recently have been volatile, as well as the availability of enrichment capacity.

Our estimate assumes the May, 2011, published uranium price of $160 per kilogram of natural uranium in the form of uranium hexafluoride in a $153 per separative work unit, the standard measure of uranium enrichment services. Our estimate also assumes the capacity to re-enrich the higher concentration tails and subtracts the cost of the enrichment services. It also takes into account the cost savings DOE would realize from the reduction in the amount of tails that needed conversion to a more stable form for storage as well as the cost of stabilizing any residual tails.

Based on 2010 total U.S. demand for uranium, the total amount of natural uranium produced as a resulted of enriching the tails would be enough to supply all of the U.S. demand for about 3-and-a-half years.

Importantly, a sharp rise or fall in prices could greatly affect the value of the tails. For example, our March, 2008, report estimated that the tails had a net value of $7.6 billion. Prices for uranium have since fallen, resulting in the now-lower estimate of the value of the tails. Furthermore, there is no consensus among industry whether uranium prices will rise or fall in the future or the magnitude

of any future price changes. Also, the introduction of additional uranium onto the market by the sale of large quantities of DOE's depleted natural or enriched uranium could lead to lower prices.

To help minimize the negative effects of DOE's sales on domestic uranium producers, DOE has limited its sales to no more than 10 percent of the domestic demand for uranium annually. However, this limit lengthens the time necessary to market DOE's uranium, increasing the time DOE is exposed to swings in the price of uranium. Also, the enrichment capacity for re-enriching tails may be limited, and the cost of enrichment services are uncertain.

Uncertainty about the future of uranium prices and the cost of availability of enrichment services makes it difficult to place a precise value on DOE's tails. As a result, it is possible that DOE could receive significantly more or less than the $4.2 billion we estimate the tails are currently worth.

In conclusion, Mr. Chairman, as was the case when we reported in March, 2008, the U.S. Government has an opportunity to gain some benefit from the material that once was considered a liability. However, it is unclear to us whether DOE can act quickly enough to changing market conditions to achieve the greatest possible value from its uranium inventories.

Mr. Chairman, that concludes my statement; and I would be happy to respond to any questions you or members of the subcommittee may have.

[The prepared statement of Mr. Aloise follows:]

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Mr. Whitfield. Thank you very much, Mr. Aloise.

At this time, I would like to recognize Mr. Poneman from the Department of Energy. You are recognized for 5 minutes.

STATEMENT OF THE HONORABLE DANIEL B. PONEMAN

Mr. Poneman. Thank you, Mr. Chairman. Thank you, Ranking Member Rush and distinguished members of the committee. I appreciate this opportunity to appear before you to comment on the Energy and Revenue Enrichment Act of 2011 and to provide information on the management and disposition of the Department of Energy's depleted uranium.

The Department holds a significant inventory of uranium in various forms, including highly enriched uranium, low enriched uranium, natural uranium, and depleted uranium hexafluoride, all of which must be actively managed. The majority of this inventory is depleted uranium the Department plans to process and dispose of as waste.

The uranium equivalent contained in the remaining inventory corresponds to almost 3 years of supply requirements for U.S. nuclear power plants. This uranium has both monetary value and can help achieve vital departmental missions in maintaining our domestic nuclear fuel infrastructure. Much of the inventory requires further processing before it would be suitable for commercial use.

The Department's depleted uranium hexafluoride came from the

government's prior uranium enrichment activities. This material would require additional processing.

The portion of this material with higher assay levels that is potentially marketable in its current form is subject to the market price of uranium. This uranium could constitute at least 10 percent of DOE's total inventory of depleted uranium hexafluoride.

The Department has broad authority under the Atomic Energy Act to sell, transfer, dispose of, or utilize its inventories of uranium. The Department must act consistently with other relevant statutory provisions, including section 3112 of the USEC Privatization Act. Section 3112 imposes limitations on certain transactions, including the sale and transfer of uranium to certain domestic users. Under this section, the Secretary of Energy must determine that a proposed sale or transfer of uranium "will not have an adverse material impact on the domestic uranium mining conversion or enrichment industry."

The Department believes that introducing departmental inventories to the domestic market in amounts of no more than 10 percent of the average annual domestic demand would not have an adverse material impact on domestic uranium industries. The 10 percent guideline is in fact one of industry's own recommendations regarding DOE's uranium management. However, we anticipate that in a given year the Department may introduce less than that amount into the domestic market and in some years more for certain special purposes. Regardless of whether a transfer is above or below 10 percent, covered transactions must comply with section 3112.

Within the Department, the Offices of Nuclear Energy, Environmental Management, and the National Nuclear Security Administration are collectively responsible for uranium inventories. These offices coordinate transactions that are planned or under current or future consideration for disposition of DOE's uranium.

They also developed the Department's excess uranium inventory management plan, which provides a strategy for the sale or other disposition of this uranium. The Department is committed that its management of excess uranium inventories, one, complies with all legal requirements; two, maintains sufficient uranium inventories at all times; and, three, supports a strong domestic nuclear industry.

DOE has established priorities for the transfer of uranium through 2013. This March, Secretary Chu announced DOE's determination and market impact analysis authorizing uranium transfers to fund accelerated cleanup activities at the Portsmouth site in Piketon, Ohio. The determination found that the proposed transfers will not have an adverse impact on the domestic uranium industry. The total proposed transfers through 2013 are approximately 2,000 metric tons of uranium per year, or about 10 percent of the U.S. reactor demand.

We understand that H.R. 2054 seeks to enrich the Department's high assay depleted uranium hexafluoride to a usable form of uranium, funding the enrichment through the sale of the enriched material, assuming title to and responsibility for disposition of depleted uranium or a transfer of a portion of the enriched material in exchange for enrichment services. The amount of funding needed to enrich

depleted uranium tails is significant and not currently within the overall priorities for the Department as supported by the President's budget. As acknowledged in the legislation, transfers of uranium for enrichment might lead to a volume in excess of our annual guideline of no more than 10 percent of uranium requirements at domestic commercial reactors.

We also believe certain provisions of the bill, while well-intentioned, may complicate the Department's ability to meet its own missions. One of our objectives is to maintain sufficient uranium inventories at all times to meet the Department's current and foreseeable needs. Specifically, by funding enrichment services through the transfer of the enriched uranium, the bill might impair our ability to meet mission priorities such as national defense programs requiring domestic origin uranium. Also, several sections of the bill appear to grant the Department authorities it already has. The appearance of grants of authorities in H.R. 2054 could lead to confusion over the Department's existing authorities.

In conclusion, in considering the management and disposition of the Department's uranium inventory, including enriching high assay depleted uranium tails, a variety of factors need careful assessment.

Thank you for the opportunity to testify. I look forward to answering any questions you have.

[The prepared statement of Mr. Poneman follows:]

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Mr. Whitfield. Thank you, Mr. Poneman, for your testimony and taking the time to be here.

When I listened to Mr. Waxman's opening statement, he almost convinced me to oppose this legislation. But when you look into the depth of this legislation and the real accomplishment of this legislation, it is very clear that this is an answer to a significant problem.

Number one, it is not going to cost the government any money to implement this legislation. Number two, it is going to create revenue for the government. Number three, it is going to save 1,200 jobs. Number four, it is going to expedite the cleanup of the canisters, some of which have been there for 60 years.

Now, I understand the requirement to certify that we are not going to damage the uranium mining industry; and that 10 percent ceiling that you referred to, that is not in statute per se, is it? That is a judgment that the Department made; is that correct?

Mr. Poneman. Mr. Chairman, that is a guideline that is our interpretation of the statute. You are correct.

Mr. Whitfield. Right. It is in the statute that you have to certify it won't be damaging to the uranium industry?

Mr. Poneman. Right.

Mr. Whitfield. And you all have determined that you can sell up to 10 percent of the annual need without doing that.

And I would just say to you that this legislation is a pilot project, and we simply raise it from 10 to 15 for that period of time.

Another point that you touched on was your concern about providing sufficient supplies for the national defense. You and I know that the only other place that is enriching any uranium in America is in New Mexico, and it is not fully in business yet, is it? Aren't they still undergoing trials?

Mr. Poneman. I think they are operating, sir. But it is a different plant with different ownership and different legal regime.

Mr. Whitfield. Well, a centrifuge, for one thing.

But when you look at the practical aspects of this, as we said, these things are 14-ton canisters. And if you start transporting them around the country, and they are contaminated to a degree -- we know that because of recent reports -- and the site at Paducah is already contaminated, correct?

Mr. Poneman. Yes, sir.

Mr. Whitfield. So, number one, moving 14-ton canisters around the country, say to New Mexico, would be quite costly, wouldn't it, to transport them?

Mr. Poneman. There clearly is a cost, Mr. Chairman, associated with the transport of the canisters.

Mr. Whitfield. And it would certainly contaminate that facility out there, I am assuming. What is your opinion on that?

Mr. Poneman. In other words, if you were to, Mr. Chairman, take the contaminated gas out of the canisters and inject it into some cascade, presumably something would have to be done with the contaminants you have taken out or, indeed, I suppose it could taint

or otherwise deposit on the centrifuge rotors.

Mr. Whitfield. Yes. The bottom line is this: Yes, we could take those additional steps. It would certainly cost a lot of additional money. And I would think that the Department of Energy would welcome this legislation, to be truthful about it, because it helps solve your problem and it helps solve our problem. It provides revenue. You and I know that there is a shortage of funds for the Decontamination and Decommissioning Fund. In fact, it is my understanding there is about $4 billion in the fund right now; and in order to clean it up completely, my understanding is it would be like $29 billion; is that correct?

Mr. Poneman. The full, sum total I couldn't tell you with specificity, but we are short.

Mr. Whitfield. But it is more money than we have?

Mr. Poneman. It is much more than we have. That is true, sir.

Mr. Whitfield. And at least this legislation would provide additional funding for that fund?

Mr. Poneman. Yes.

Mr. Whitfield. We know it could be done safely at Paducah. There is no question about that. The training and equipment is there, and there is no problem with it.

So I understand the Department of Energy's concerns, but I hope as we move forward with this we can keep our dialogue open, because it seems to me that we are trying to accomplish the goals that we have set for ourselves and DOE has set for itself.

Mr. Poneman. Thank you, Mr. Chairman.

If I may comment, there is much in what you say with which we wholeheartedly agree. I always find on tough issues it is always good to start with some first principles.

One of the first things you said, Mr. Chairman, was we have invested in this tremendous asset all throughout the Cold War. Indeed, Senator McConnell said the same thing when he sat before you. It is in our interest, it is our right and our obligation to optimize the value of that resource in which we have invested as a Nation. So I think the only question is the prudent way in which to do that.

I want to acknowledge Ranking Member Rush. I think this is something we can do in a bipartisan manner. Frankly, I know of few issues more than the nuclear issue on which we can so join.

So, really, Mr. Chairman, I think it comes down to how do we prudently do this, given all of the facts we have lying before us. We have this material: 60,000 of these cylinders; 40,000 in Paducah; 20,000 in Piketon, Ohio. And then the question presented is, now that uranium prices have reached a level that they didn't use to attain at which one can contemplate doing this, how do we do this in a manner that optimizes the value of that material to the American taxpayer?

So we have to take into account, A, the market -- and, as Mr. Aloise noted, the market is a volatile thing, going up and down -- and, B, we do have to be sensitive not only because the statute requires us under the USEC Privatization Act, but because it would not optimize the value to the American people if we were to dump all of this material

at the same time because it would crash the market. Then you wouldn't get the value you are looking for. So we have to be measured in how we put this into the market.

Mr. Whitfield. That is why we put a 15 percent limit on it.

Mr. Poneman. That is why we have to be measured in how we put it.

And we also have to take into account the cost associated. See, up until now, we have been putting natural uranium which has a market out into the market. That has a value, and people just purchase it.

This, in order to gain the value, you have to get the assay back up to the natural uranium of 0.7 percent, so there is going to be a cost associated with that. How much the taxpayer gets is going to depend on netting out the revenue received from the cost to generate the valuable product.

So I think, Mr. Chairman, in short, the sentiments -- clearly, the objectives you articulate -- the national defense, the environmental protection, promoting jobs, and promoting the restart of the American industry -- these are ones that we strongly agree with; and we would be very open to working with you on a dialogue to figure out a way to optimize these interests.

Mr. Whitfield. Thank you.

Mr. Rush, you are recognized for 5 minutes.

Mr. Rush. Thank you, Mr. Chairman.

Mr. Poneman, in your opinion, DOE's opinion, how many companies have the capacity and the capability to re-enrich these tails as this

legislation calls for?

Mr. Poneman. Well, Ranking Member, there are currently two operating facilities. We have, of course, the Paducah gaseous diffusion plant, and there is the facility in New Mexico that the chairman referred to. There is a third facility in Idaho that is behind that is in the process of -- it has gotten a loan guarantee, and they are going to be building that one as well. But those would be the facilities in the United States that would have the capability to enrich uranium.

Mr. Rush. This is an issue that there should be some bipartisanship on, that we can agree on, these nuclear matters. I want to see these uranium tails disposed of, and I want to see the American people gain something from the sale of them, if they are to be sold.

But my concern right now is there is no significant bipartisanship. There is bipartisanship that exists here, but it seems like we are rushing to get this done and we are trying to direct DOE, force DOE to do something that may not be in the interest of the American taxpayer in the long run.

You mentioned the fact that there would be some costs in terms of taking these tails and bringing them up to the level and cost of natural uranium; is that correct?

Mr. Poneman. Yes, sir.

Mr. Rush. Do you think if, in fact, there is one of these companies that deals with this and if they were successful in terms of getting an agreement with the DOE that they should share some of

the cost for bringing these tails up to where they are marketable?

Mr. Poneman. Mr. Ranking Member, I would say, since the material has a value, the American way, if I may say, to make sure that the American taxpayer gets the best value for that investment is to have it out to bid. And then whoever has the least cost production would be able to offer the best price to the Department of Energy. That would be how I recommend this go forward.

Mr. Rush. So you are saying this should be competitively bid?

Mr. Poneman. I would say, if it were competitively bid, you would have a better chance of getting maximum taxpayer value from it.

Mr. Rush. All right. And the absence of a competitive bidding process would have what kind of results, as far as you are concerned? If this bill were to go forward and become law without a provision for competitive bidding, what would be the results for DOE and the American taxpayer?

Mr. Poneman. Let me just say, sir, that there are a number of factors that one may wish to take into account.

I think the chairman is referring to the fact that the only unencumbered indigenous facility we have is Paducah. So there are, if you will, certain noneconomic factors that come into play. But if you are looking at a straight economic analysis, the optimal value to the U.S. taxpayer I think would come from a competitive bid.

Mr. Rush. I yield back, Mr. Chairman.

Mr. Whitfield. I might just say that, in this legislation, we say, enter into a contract that the Secretary finds economically

viable. So it is not like we are directing you to enter into a contract. It has to be economically viable. I would just say that the concern we have is contamination is a serious issue and the transportation costs are serious as far as being competitive.

At this time, I recognize the gentleman from Oregon, Mr. Walden, for 5 minutes.

Mr. Walden. Thank you very much, Mr. Chairman.

I am curious about these canisters, if I can use your chart here. I can see them up close. It looks like they are rusting. Is that something we ought to be concerned about, Mr. Poneman?

Mr. Poneman. I do believe -- and my eyesight is not that good, sir, but I do believe the condition of the canisters is absolutely something that we need to be very mindful of and that they need to be continually monitored to be sure there is no risk.

Mr. Walden. As I look at that, I think of my own region, Hanford, which the Department of Energy has had jurisdiction over; and I heard echoes of that as I listened to Senator McConnell talk about what DOE has done over decades there, including we have Hanford, obviously, right next to the Columbia River. There is really bad stuff buried in tanks that leak, and I know DOE's involvement in cleanup activities there will probably go on for your lifetime and mine, and beyond that -- and hopefully successfully, and sooner rather than later.

I am just curious. We have also got the chem-demil facility just across the river in my district for all of the chemical weapons storage. We are going through that on a regular time basis. Is one of the issues

here you don't have or you have unclear authority to move forward on reprocessing this? I am trying to understand the GAO report and finding.

Mr. Poneman. There is, if I understand it correctly, Congressman, a difference of view. The United States Department of Energy believes that under the Atomic Energy Authority Act of 1954, as amended, we have adequate legal authority to use and dispose of that material. Mr. Aloise noted two actions he thought that we had authority for. Our general counsel tells me we have authority to do all three, including the option that GAO has concerns about. So I do think we have the authority.

But if I may, sir, because I think you raise a very important problem, I have spent a lot of time out at Hanford. I have seen that beautiful Columbia River, and we are responsible for the 53 million gallons of tank waste out there. And we are trying our best so it is finished in our lifetime, sir. But we take this -- it is not only a legal responsibility. It is a moral responsibility.

I feel the same way about the material at Paducah. You know, these people invested in creating the materials that defended us all throughout the Cold War. So I think we owe it to them to be responsible in stewarding that asset.

Mr. Walden. I do, too.

Obviously, there are people who have gone before both of us who didn't hold quite that same opinion, or chose to look the other way. We have got the down-winder issue. You have got the leaking tanks.

You have gotten not always a straight story from the Federal Government when it has come to Hanford.

So I guess I look at this and say: How long does this sit here? What is its condition as we go forward? I tie the two because the chem-demil facility, we were concerned about degradation of those canisters. I realize they are not this. They were a chemical weapon. But the mustard gas and DX and other things there, it seems like we ought to get after this.

Mr. Aloise, talk to me about your report in terms of the conflict here in authorities.

Mr. Aloise. Well, Congressman, there are basically three avenues DOE can go. They can sell the tails as is, they can re-enrich them and sell them, or they can store them. It is our view that they don't have the necessary authority to sell the tails as is. We are basing that on our read of the USEC Privatization Act.

Mr. Walden. If I may interrupt you for a second, this is where you and DOE disagree. You think you have the authority. You think they don't.

Mr. Aloise. Right. It would be a very simple fix for the Congress to --

Mr. Walden. And this bill does that?

Mr. Aloise. No. But we recommended in the past that Congress consider adding the words "depleted uranium" either to amending the USEC Privatization Act or some other piece of legislation to give DOE that authority.

But, as Mr. Poneman said, DOE believes they have that authority.

Mr. Walden. Okay. And what other conflicts do you see here that hold them up from doing this?

Mr. Aloise. It is just a policy call at this point.

Mr. Poneman. I would just add, Congressman, since I think it is directly apposite to your comment, precisely because we look at those vast fields of tanks, we have built in both Paducah and near Portsmouth what we call these DUF6 conversion facilities. And, up until recently, we thought we were going to disposition all of those canisters as waste. It is indeed one of the things that we have done to say, now that we have some value that is inherent in those canisters, we shouldn't just disposition all of it; we should look to see if we can get some value for the taxpayers.

Mr. Walden. Understood. So when you talk about disposition of waste, I assume that means storage? This reprocessing idea?

Mr. Poneman. What I am referring to is uranium hexafluoride is a very corrosive gas, sir; and, therefore, we want to turn it into a much more stable oxide form. That is the process that would happen in these so-called DUF conversion facilities.

Mr. Walden. My time has expired. Thank you, gentlemen, for your testimony; and thank you, Mr. Chairman.

Mr. Whitfield. Mr. Walden did raise one issue I would like to follow up on. The GAO said that it cost, just for the Paducah plant, like $4 million a year just to maintain the canisters.

Mr. Rush. Mr. Chairman, I must object right now to the

procedure. Mr. Waxman is here waiting.

Mr. Whitfield. Sorry. I just got so carried away.

Mr. Waxman. Mr. Chairman, I ask unanimous consent you may be given a minute.

Mr. Whitfield. Thank you very much.

I just want to know, is that $4 million annual cost correct or not?

Mr. Poneman. Actually, sir, overall, at Paducah, we are spending on the order of $140 million per year on the activities that we are doing out there. I don't know where the exact figure of $4 million comes from.

Mr. Whitfield. Thank you.

I recognize the gentleman from California for 5 minutes.

Mr. Waxman. Thank you, Mr. Chairman.

I am concerned about whether this bill gets the best deal for taxpayers. The bill requires DOE to enter into a contract with a company that has experience operating an enrichment plant under authorization of the Nuclear Regulatory Commission. Section 2 of the bill then defines an enrichment plant as a uranium enrichment plant owned by the Department of Energy. Mr. Aloise, can you tell me which enrichment facility would qualify? Is it just this one enrichment facility at Paducah that would qualify?

Mr. Aloise. There is only one that runs a DOE facility.

Mr. Waxman. So it would uniquely benefit USEC. That is why I said in my opening statement that it would be helpful if USEC had been

here to testify. If USEC were here, we could examine how they see themselves fitting into this legislation. Unfortunately, they refused to testify.

The bill directs DOE to enter into a contract that is economically viable. Those are the terms, economically viable. But section 3(a)(3) of the bill states that a contract shall be considered economically viable if "the costs to the U.S. of the re-enrichment are less than the revenue anticipated from the sale of the re-enriched uranium."

Mr. Poneman, if USEC proposed enriching the uranium tails at a cost which was one penny less than the revenue expected from the sale of the re-enriched uranium, would the contract be economically viable under this bill?

Mr. Poneman. Congressman, I was reading this language last night; and I concur that 3(a)(3), a one penny delta, would constitute viability. But, I must say, sir, that it seems to be somewhat inconsistent with some of the other language in the bill, so I was trying to reconcile it. But that clause certainly reads that way, sir.

Mr. Waxman. If this bill were to become law, would DOE have the option of refusing to enter into a contract that met this definition of economic viability, even though it provided so little return to the taxpayer?

Mr. Poneman. This is where I was struggling. I am a recovering lawyer, sir, but I don't practice law at the moment. There is other language that talks about this.

Mr. Waxman. We won't hold that against you. It is a problem shared by others.

Mr. Poneman. Thank you. In 3(a)(1), it says Secretary shall seeks to maximize the financial return to the Federal Government in negotiating the terms of such contract. I was trying to reconcile how to read that term in the context of 3(a)(3), and I was having some trouble, sir.

Mr. Waxman. So it doesn't appear this is giving DOE discretion. It sounds likes they are being mandated.

Mr. Poneman. Our concern is precisely that. Something that has been granted to the Department as a discretionary power that we have to maximize the taxpayer return would perhaps be inadvertently curtailed by this.

Mr. Waxman. Mr. Aloise, what safeguards do you see in this bill which would prevent USEC from overcharging DOE for the enrichment services?

Mr. Aloise. We would hope that if this bill got passed DOE would implement it in a manner that would benefit the government much more than we have just discussed here.

Mr. Waxman. Well, USEC is a publicly traded company. It is obligated to its shareholders to maximize its profits. USEC will have no reason to do anything other than to charge the maximum possible price. That would be good for its investors, but it won't be good for the D&D Fund, the contaminated sites in Ohio, Kentucky, and Tennessee, or workers who engage in contamination cleanup.

It seems to me that forcing the DOE to enter into a contract under statutory language that prevents the Department from having sufficient leverage to negotiate a fair contract will not adequately protect the American taxpayers.

This bill is being touted as a way to fund the Uranium Decontamination and Decommissioning Fund and provide money to clean up the enrichment sites. The Energy Policy Act authorized contributions of $7.2 billion to clean up enrichment sites, and liability was apportioned between the government and the utilities that purchased uranium. In 2007, DOE said there was a difference of $11.9 billion between the projected cost of cleanup and funds authorized by the Energy Policy Act. Mr. Poneman, is there still such a huge discrepancy between the amount of available resources and the amount of resources needed to clean up these enrichment sites?

Mr. Poneman. Congressman, I can't give it to the penny, but there is still a significant shortfall, yes. That is why we have sought in the President's budget to renew the collection of those D&D contributions from the utilities.

Mr. Waxman. Has the administration proposed reinstating the industry contribution to the D&D Fund?

Mr. Poneman. Yes, sir.

Mr. Waxman. The fund is clearly underfunded. Congress has to take steps to make sure the environmental mess created by these enrichment sites is cleaned up. However, this bill does not guarantee that any money would be raised for the D&D funds. The people of Paducah

and Piketon and Oak Ridge need assurances that their communities will be made whole. We need to provide for real funding for the D&D Fund, and it just makes sense that the utilities that benefited from enrichment activities pay their fair share.

I appreciate this opportunity to ask you questions. We may have additional questions. Either I will submit them in writing or, if the chairman permits and I am available, we will do a second round.

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Mr. Whitfield. Thank you, Mr. Waxman.

It is time to recognize the gentleman from West Virginia, Mr. McKinley, for 5 minutes of questions.

Mr. McKinley. Thank you, Mr. Chairman.

To the GAO, this report has just come out; is that correct?

Mr. Aloise. The testimony today, issued today.

Mr. McKinley. If you had any second thoughts, reconsideration, now that you finalized your report that would change your opinion about the revenue -- potential revenue that could come in?

Mr. Aloise. No, sir.

Mr. McKinley. No, sir? Okay.

Then to Mr. Poneman, please. You have had a chance, I suppose -- have you read the report yet?

Mr. Poneman. The one from today?

Mr. McKinley. Yes.

Mr. Poneman. No, sir, I have not.

Mr. McKinley. From what you have heard in the testimony, do you have any disagreement with it?

Mr. Poneman. Just, Congressman, the one that I mentioned, which is that we believe that already under the 1954 Atomic Energy Act we possessed all authority we need within the Department to disposition this material.

Mr. McKinley. I guess the focus I am on is more as a revenue.

Mr. Poneman. Oh --

Mr. McKinley. What I am referencing is that this thing could generate 3 to 7 billion dollars.

Mr. Poneman. Actually, our assessments are different from that. I have to caveat that sir, because it is something that depends on a market that is constantly changing. But I think the numbers we have were on the order of 830 million --

Mr. McKinley. Could you provide us then with some of your own -- so we could compare the two with your analysis between that. If could you do that for us, please.

Mr. Poneman. I am happy to. It would have to be caveated by the market uncertainties and also by the cost of production of the separative work needed to get --

Mr. McKinley. Thank you.

What I heard earlier in the testimony was some of those cylinders have been there as much as 60 years, certainly before your time and my time on it. What is your plan?

It seems like around here we criticize each other, the other side of the aisle, they are back across this side. Anyone puts a plan out; everyone shoots it down. So here's a plan that raises revenue for the Federal Government 3 to 4 to 7 billion dollars.

Mr. Poneman. Right.

Mr. McKinley. It protects 1,200 jobs, and it gets rid of a problem at a site where the degradation of the tanks and gets rid of

some of the problems, the environmental issues, but you sound like you are opposed to this bill.

Mr. Poneman. Oh, sir, I did not mean to convey that. I said that I thought that the sentiments of the bill and the optimization of the value to the taxpayer are laudable things and objectives and all things that could be supported and the environmental protection and so forth we are strongly supportive.

Mr. McKinley. You are supportive of this legislation?

Mr. Poneman. No, I said we are supportive of the purposes of --

Mr. McKinley. What is your plan then?

Mr. Poneman. Our plan is to make sure that, number one, we continue to fulfill our mission to defend the Nation in terms of preserving the tritium and so forth that we need --

Mr. McKinley. In concrete, not abstract. Here is a concrete plan to do something to generate revenue and protect jobs and clean up a site, and I want to know what is your concrete plan now to do that.

Mr. Poneman. Our concrete plan is to produce the tritium we need for the deterrent out of the material that we have already offered to exchange in the 2,000 tons that we are now putting into the market. The balance of that material is going into the existing obligations to decommission and decontamination --

Mr. McKinley. Could you speak in the mic just a little bit better for me? I am having a hard time hearing you.

Mr. Poneman. Sorry.

First is the national security requirement. Second is the D&D

obligations we have at Portsmouth. Then, with respect to the cylinders there in Paducah, we have a plan both to disposition that which does not have market value in the DUF6 conversion facility, and we are willing to work with the committee to find out a way to optimize the value to the taxpayer of the cylinders that have market value.

Mr. McKinley. If we followed that plan -- seemed pretty general still -- how many of the cylinders would be gone from Paducah and Portsmouth?

Mr. Poneman. Oh, we need to look at the market, look at the cost of producing the separative work.

Mr. McKinley. A year from now they could all still be there or 2 years they could all still be there, correct?

Mr. Poneman. This is something, Congressman, that --

Mr. McKinley. And we wouldn't have the jobs associated with it. I am just sorry. It sounds like we study things to death here instead of doing something. It seems to me more that we have made perfect the enemy of good.

Mr. Poneman. Congressman, we have statutory obligations we need to fulfill, and we need to make sure that we are doing the right thing by the taxpayer. Now if it costs $150 million to produce separative work that will give you $151 million worth of benefit, you have not done really what you need to do. So that is why we are trying to work with the committee, with the other House of Congress, with all the stakeholders to find out how to get the best value for the taxpayer. It is very practical, and we feel the fierce urgency of now. We are

not trying to be anything other than very focused and concrete about this.

Mr. McKinley. Thank you. I look forward to getting the information from you.

Mr. Poneman. Thank you, sir.

Mr. Whitfield. Well, I think that culminates the questions for this panel.

I would say this, Mr. Poneman, I know DOE has been working on this issue for a long, long time. The GAO even talks about a March, 2008, report, so forth. And I do take you at your word that you all are interested in solving this issue. And we have an opportunity to solve it. So, hopefully, we could have some additional discussions about this. Because I do think it is imperative that we -- not only are we talking about disposing of this material and creating revenue for the government, we are talking about saving 1,200 jobs.

So, with that, this panel is dismissed; and we will call up the second panel. Thank you all very much -- I mean, the third panel.

On the third panel, we have Mr. Jim Key, who is Vice President of the United Steelworkers Union Local 550; and we have Mr. Herman Potter, who is the President of the United Steelworkers Local 689.

So, Mr. Key and Mr. Potter, thank you very much for joining us this afternoon. We appreciate your coming into Washington for the purpose of testifying.

And at this time, Mr. Potter, I would recognize you for 5 minutes for the purpose of making an opening statement; and if you would be

sure to touch the button so that your microphone is on. Thank you.

STATEMENTS OF JIM H. KEY, VICE PRESIDENT, UNITED STEELWORKERS UNION LOCAL 550; AND HERMAN POTTER, UNITED STEELWORKERS LOCAL 689

STATEMENT OF HERMAN R. POTTER

Mr. Potter. Thank you.

I would like to thank the chairman and the committee members for the opportunity to come before you to testify on behalf of my constituency and also to support my colleagues from the Paducah, Kentucky, site. I also would like to acknowledge our Ohio delegation, which has always proven to be very helpful with issues related to the Piketon site in Southern Ohio and specifically those issues that deal with the enrichment site; and we encourage them to support this legislation and respond to this positively.

Mr. Chairman, I am going to kind of deviate a little bit from some of my details in my written testimony just because it is kind of redundant to what was mentioned before as far as some of the details and issues that went on the site. But I do want to identify some concerns that we have and some issues that we support.

My name is Herman Potter. I am the President of the United Steelworkers Local 689 at the Department of Energy Uranium Enrichment Site in Piketon, Ohio. I represent approximately 850 members that are involved in the environmental remediation, surveillance, maintenance, infrastructure, and also the depleted uranium conversion activities

at the site.

Also, our local actually intends to eventually be the workforce at the American centrifuge project at the site, since our members were at the original -- they actually operated the original uranium enrichment site that was closed down in the early 1980s. With multiple contractors and multiple jobs at the site, we actually have people working there that actually extend out in the whole region, including northeast Kentucky and also West Virginia. And even though I work at the Ohio site, I am actually a resident of Kentucky myself.

We know that the Members of Congress have debated the possibility of enacting this legislation to direct the re-enrichment of tails material since the uranium market had determined there is value when at one time it did not exist.

The value of the material due to the market change has provided us an opportunity for this re-enrichment to take place, eventually returning that monetary value back to the Department of Energy and allowing them to easily meet, or more easily meet, their obligations to the workforce and the communities where these DOE sites exist.

We believe that legislation is now warranted. The DOE has demonstrated inactivity as an agency in the implementation of this re-enrichment program due to the fear from foreign influence to uranium producers associations and other organizations. We respectfully request that you fully endorse the House Bill 2054 authored and introduced by Congressman Ed Whitfield for successful passage of the House by concurrent support by you and your colleagues in the U.S.

Senate.

We are concerned about some issues. One is the timing of the Russian 123 agreement with the United States Enrichment Corporation. We are concerned about that this possibly would allow USEC to change their mission from being an uranium enricher to uranium broker, which would negatively impact the intended operation of the gaseous centrifuge plant in Piketon, Ohio.

The agreement would also eliminate any re-enrichment program, negatively impact the enrichment at the Paducah site, and eliminate the return of millions of dollars back to the DOE to fulfill their obligations.

Currently, we think more than $100 million per year can be realized with introduction and implementation of the pilot tails re-enrichment program. I would submit that the returns from this program be clearly identified and monitored to be used to fulfill the DOE's commitments and obligations. In so doing, things such as the complete funding of the retirement and benefits programs provided for those working at the Paducah and Piketon sites.

Currently, at the Piketon site itself, the DOE is deviating from the intent of the Congress by eliminating their obligations through manipulation and abuse of the Federal procurement process and reinterpretation of the law. The intent is clearly to fulfill a policy of reduced post-retirement health care and pension obligations. The legislation would provide the funding that would eliminate that financial justification.

An additional concern needs to be addressed regarding the operation of the two DUF6 plants at Paducah and Piketon. The impact that this proposed legislation may have on the projected time of operation has been expressed. It is our belief that the number of re-enrichable DUF6 cylinders is limited in number and clearly not the full inventory of depleted cylinders. Considering the percentage of depleted uranium 238 to the desired uranium 235, the negative impact would be minimal and have little effect on the life span of the DUF6 plants. However, strict guidance and oversight over the DOE to ensure that the re-enriched material be returned to the site of origination would ensure any anxiety created regarding the reduction of plant life expectancy at the DUF6 plants.

We have concerns that the absence of establishing this as a sole-source contract is not in the proposed legislation. The fact that URENCO and AREVA are interested in the refeed heightens our concerns that the additional costs of transportation of the depleted tails cylinders from Paducah and Piketon to either of the re-enrichment sites would not considered.

Although we have historically had concerns about USEC's reliability and DOE's adequate oversight, we are confident that the strict guidelines and criteria would be put in place to ensure that these commitments and obligations are honored.

The Department of Energy has a unique opportunity to convert a stockpile of depleted uranium tails from its former enrichment plant operations into a commercially valuable product that can be sold to

generate new revenue for the Federal Government. At the same time, this program would extend operations at the sole remaining U.S. gaseous diffusion plant, providing time for the U.S. enrichment industry to transition to the advanced gas centrifuge technology.

The proposed program requires no additional appropriations, and it is completely self-funded. In fact, it would reduce the pressure to eliminate the commitments that this government expects the Department of Energy to follow.

The sale of re-enriched material proposed in this legislation would generate approximately $500 million. The total net value of the tails has been calculated to be as much as $4 billion.

And the congressman mentioned earlier about a concrete plan. Well, our site has a true grassroots, concrete plan for this funding.

We think these revenues should be used to provide full and complete funding for the retirement and health benefits at the Paducah and Piketon sites.

We think it should support the continued decommissioning and decontamination activities at the site, which would include reducing the contaminated barrel area footprint in preparation for reindustrialization of the site.

We think it should be used for reindustrialization of the Paducah and Portsmouth sites, which would include the supplemental funding of a plant -- recycled metal plant at the Piketon site, which would reduce associated costs with waste removal and establish a specific source of materials to be used in construction and development at future

nuclear sites. And attached to the documentation we have a letter describing that initiative and detail.

Mr. Whitfield. Mr. Potter, if you would conclude your remarks, because you are already over about 3-and-a-half minutes.

Mr. Potter. Oh, I'm sorry.

Also, we think we should support training and education for a rapidly depleting nuclear workforce and support advanced energy part initiatives.

In my conclusion, I just want to say that our constituency does not want this funding to be used for deficit reduction. We want to use these funds to fulfill the commitments made by the Department of Energy and the expected intent of our government to honor commitments and obligations to the aging workforce while concurrently creating an environment conducive to encourage site and workforce development. And I apologize --

[The prepared statement of Mr. Potter follows:]

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Mr. Whitfield. It is okay. Thank you.

Mr. Key, you are recognized for 5 minutes for your opening statement.

STATEMENT OF JIM H. KEY

Mr. Key. Thank you, sir.

Before I begin, please allow me to take an opportunity to thank you, Chairman, Ranking Member Rush, and commend members for conducting this hearing today and allowing me to come and testify on this unique opportunity to clean up waste, preserve jobs, and actually make money for the government.

Mr. Chairman and distinguished committee members, I am Jim Key, the Vice President of the United Steelworkers Local 550 at the Paducah Gaseous Diffusion Plant in Paducah, Kentucky. There are approximately 850,000 active members of the United Steelworkers International Union, and we are North America's largest industrial union. I represent approximately 1,000 members who are involved in uranium enrichment, environmental remediation, infrastructure, and depleted uranium conversion activities at the Paducah site, which houses our Nation's last U.S. Government-owned, operating uranium facility.

I do not come before you today solely as the representative of the union hourly workers but also as a representative for the non-union salaried workers at the facility, for the residents of the community of which I have been a part for the past 56 years, and the economic

stability of the region as a whole. Twelve hundred workers are employed at the enrichment facility, which is scheduled to shut down after advanced technology comes on board.

The wages of the workers at the facility turn over six to seven times within our regional community, providing over $50 million annually for the economy, which has a direct effect on the viability of local businesses. Services and goods purchased by our combined workforce allow businesses to not only operate but also to thrive and provide the tax base of the community as a whole.

Our region has recently been devastated by the shutdown of major industrial employers in the past 5 years. It started with the loss of the General Tire plant and has accelerated with the most recent announcement of the closing of the Goodyear Tire plant in Union City, Tennessee, very close to western Kentucky, where an additional 1,600 family and community supportive jobs will disappear at the end of 2011. I am sure in an era of high unemployment you can fully realize the impact of an additional loss of 1,200 highly skilled employees at the gaseous diffusion plant and the devastating rippling effect it would have on our regional area.

In order to keep these 1,200 jobs in Paducah, many of us have been suggesting that the Department of Energy start a program to re-enrich the 62,000 depleted uranium tails cylinders stored at Paducah and Portsmouth. Until a few years ago, these cylinders were considered a waste byproduct of the enrichment process and an environmental liability to our government and our community.

As a matter of history, Public Laws 105-204 and 107-206 were championed by Senator Mitch McConnell and enacted by Congress to build facilities to convert these tails to a more stable substance, which proves these tails were then considered a liability to the government.

DOE has a unique opportunity to re-enrich tails left over from the former enrichment plant operations into commercially valuable natural uranium that can be sold to generate new revenue for the Federal Government. At the same time, the program will be a significant factor in extending operations at the sole remaining plant in Paducah.

The proposed program requires no appropriations. It is self-funded in that a portion of the natural uranium feed generated will be sold to pay for the enrichment. This program it remarkable in that it actually raises revenue for the Federal Government through the sale of the enriched uranium.

This program would utilize all the resources of Paducah plant while it is still operational. Once the plant shuts down, re-enrichment tails become significantly more expensive for the government because of transportation costs and the benefit of the program is greatly reduced.

This issue is critically important to the members of the United Steelworkers Local 550 in that it provides the best opportunity to extend our production jobs at the Paducah plant at a time when manufacturing employment is at record lows and the regional economy is still sputtering to recover from a nationwide recession, as shown in the latest jobs report.

There is also good reason to believe that the loss of the second largest industrial customer will lead the Tennessee Valley Authority to act on its plan to begin closing its electrical power plant near the plant where I work, causing further job losses of good jobs in a region that desperately needs them.

After hearing about such a productive program, I am sure you are asking yourself, why are we not implementing this program? To answer that, we actually think DOE could do this without legislation, but because of DOE inaction on this issue over the past several years I believe legislation is now warranted.

While DOE currently has a self-imposed policy which only allows it to introduce enriched uranium into the market at 10 percent of the domestic uranium demand, we believe that this quota is not conducive to allow domestic uranium enrichment processes and programs to reach their full potential and value. At current market value, a return of between 235 and 500 million dollars per year can be realized with the implementation of the pilot tails re-enrichment program we were discussing today.

Finally, there comes the issue of right and wrong. When the United States needed a reliable supply of enriched uranium for its weapons programs, it turned to Paducah and other nuclear sites around the country for help. They found strong communities and good people who were proud to assume that responsibility in spite of the hazards that came with it.

For nearly 60 years, this community has been home to millions of

tons of DOE's waste tails; and now that the tails are recognized to have value, Paducah, the region, and the plant employees should be the ones to benefit. To even consider shipping these tails away from Paducah to another facility is simply wrong.

The highly trained sons and daughters of those original enrichment facility employees continue working hard to provide a safe operating facility at outstanding production levels, providing a reliable, vital service at the Paducah plant; and they deserve a chance to protect their jobs and the regional communities in which they live by re-enriching these tails.

This is not a government handout, and it will not cost the government or taxpayers one cent. To the contrary, the government will make money. How many bills will you vote on this session that can make that claim? This is a case of the government making a sound policy and economic decision to utilize an important national resource for the benefit of the entire country.

In closing, I ask you to fully endorse and support H.R. 2054 offered and introduced by Chairman Whitfield for a successful passage in the House of Representatives and concurrent support by you with your counterparts and colleagues in the Senate.

This concludes my opening statement. I will be happy to answer any questions the committee members might have.

[The prepared statement of Mr. Key follows:]

******** INSERT 2-2 ********

Mr. Whitfield. Thank you, Mr. Key and Mr. Potter, for your testimony.

So, Mr. Key, you support this legislation, correct?

Mr. Key. That is correct.

Mr. Whitfield. And, Mr. Potter, do you support this legislation?

Mr. Potter. Yes, we do.

Mr. Whitfield. Now, to be fair, critics of this legislation say the U.S. Government, whenever it enters into a contract, they have competitive bidding, which makes all the sense in the world. Because, normally, you have competitive bidding and you get a lower price. Would either one of you -- I would ask one of you, or both of you, to explain from your perspective what it is about this legislation, while it does not have competitive bidding, what are the practical impacts, what are the practical problems if you had competitive bidding in this legislation?

Mr. Key. The problem I have, Chairman, with any competitive bidding process is you have other enrichers that have foreign influence. If they were successful in winning that bid, there is nothing that would prevent them from loading these cylinders up and transporting them to Russia, to France, or to a European consortium and doing the enrichment process there, virtually leaving the 1,200 plus workers at Paducah without a job.

Mr. Whitfield. And, in the United States -- obviously, this can be done at Paducah. I assume it can be done in New Mexico, even though

I still understand they are undergoing trials out there with their process. And the Idaho facility is not going to be built for years and years to come. So the reality is there are only two places in the U.S. that it is conceivable that it can be done; is that correct?

Mr. Potter. Yes. Yes, that is our understanding.

Mr. Whitfield. Now, we hear a lot about the contamination issue, that this material, transuranic, and other things, that it is contaminated and that the Paducah plant is already contaminated. Well, the New Mexico plant is not contaminated. So if you own the plant in New Mexico would you be excited about bidding to enrich these depleted tails?

Mr. Key. If I was the owner of the New Mexico facility, I would not want this material to be introduced into my system, thereby transferring that contamination.

I also think the New Mexico facility was built -- their capacity that they have built that plant at is based upon the contracts that they already have out in the previous years. I don't think they have the capacity to enrich these fields.

As far as the problem as has been spoken today by others of supposedly a sole-source contract and not going to competitive bid, as far as the profit margin that the enrichment may make, I think since enrichment would likely be at published commercial rates, the profit margin, as I understand it, are very minimal. The true value to the D&D Fund would come from the uranium generated in excess of what the enrichment costs the DOE will obtain when it is sold to the highest --

Mr. Whitfield. So you are saying that USEC would be paid a fee for re-enriching the material; is that correct?

Mr. Key. Yes. I believe their charge as well as any published rate that is currently there.

Mr. Whitfield. And there is a commercial published rate on that, correct?

Mr. Key. Yes, sir.

Mr. Whitfield. And the Federal Government would sell the enriched uranium and from those profits money would go to the decontamination fund, correct?

Mr. Key. That is correct, sir.

Mr. Whitfield. Mr. Potter, did you want to have any comment on that?

Mr. Potter. I think if we actually go outside, go to the bidding process, I am not very confident that that money would be funneled back into cleaning up the Portsmouth/Paducah site. That is where these cylinders are, and that is where they were generated. And I think there is some obligation to the workforce in the area and the community in the area to maintain the work and clean up those areas and reduce the footprints, use that money to reduce the contaminated barrel site footprints so they can reindustrialize.

Mr. Whitfield. And in the U.S. there is only two places that it is conceivable that it could be done, correct?

Mr. Potter. Yes.

Mr. Whitfield. Now, just briefly, on the DUF6, your concern

about the DUF6 facility is that if you utilized too many of these canisters for enrichment that you would jeopardize the DUF6 plan?

Mr. Potter. Now let me clarify the point I was trying to make. The thing of it is that one of the criticisms that we have heard from a lot of people is that if you do this that it would reduce the life expectancy of the DUF6 plans.

Mr. Whitfield. Okay.

Mr. Potter. Because we have worked in the areas and we understand the science associated with the enrichment process, we believe that there is still -- we are talking about a minimal number of cylinders that would be generated to basically make the enrichment -- the newly enriched material. You still have quite a number -- in fact, mostly DUF6 material -- that still would have to go through the DUF6 process.

We think it would be fine. We don't think it would have any negative impact at all. We just think that if there would be some criteria established it may alleviate some angst that some of the community people have and some of the naysayers would have.

Mr. Whitfield. My time has expired.

Mr. Key, would you want to make a comment?

Mr. Key. To you put it in perspective, if you will, Mr. Chairman, for every five cylinders of depleted tails that you would feed into the re-enrichment pilot program, you would still have three cylinders of depleted tails coming out on the depleted end stream, which would then be taken into the DUF6 --

Mr. Whitfield. Okay.

Mr. Key. I have also asked DOE and insinuated to them that those cylinders sitting in the yard have various levels of assay amounts. We need to take those that have the least amount of assay material to start feeding in DUF6 to save the rest for a re-enrichment program.

Mr. Whitfield. Thank you.

Mr. Rush, you are recognized for 5 minutes.

Mr. Rush. Mr. Potter, do you trust USEC?

Mr. Potter. My sense, sir, no. We feel like they have been unreliable in the past. That is why we are advocating putting some very strict guidelines on USEC to make sure that they follow the rules correctly.

Mr. Rush. What about you, Mr. Key? Do you trust USEC?

Mr. Key. I trust USEC today more than I did in their formative years under the Presidential appointee that they had operating as a CEO at that time, yes, sir.

Mr. Rush. Mr. Key, do you think that USEC will live up to its obligations if this legislation will go forward without any restrictions, any competitive processing occurring? Do you think that USEC will live up to its word?

Mr. Key. Yes, sir, I do.

Mr. Rush. What about you, Mr. Potter?

Mr. Potter. I think so.

Mr. Rush. You indicated that you thought that USEC would change its mission if this legislation was enacted. How fearful are you that USEC would change its mission to becoming a broker if this legislation

was enacted?

Mr. Potter. I am pretty confident that we can establish direction and guidelines to make sure that they could not do that type of activity.

Mr. Rush. How would you do that? How would you do that?

Mr. Potter. I would hope that our Congress, somebody much better -- more than I am -- could actually establish those criteria.

Mr. Rush. So you think that this legislation is not protective in a more profound and absolute way of the 1,200 workers, that the 1,200 workers, if we pass this legislation as written, that you would be left at the mercy of USEC without any way of blending or amending or in any way changing their relationship with the 1,200 workers and your union?

Mr. Potter. I think that there is some guidelines that could be established to prevent them --

Mr. Rush. Who will establish the guidelines?

Mr. Potter. Congress. I would think Congress could do this.

Mr. Rush. Are you suggesting that this legislation should see through the possibility that USEC would take this legislation if it became law and just run away and do what they wanted to do, become whatever they wanted to become, and leave 1,200 workers that we are all concerned about, leave them standing still and suffering as a result without pensions?

Mr. Key. No, sir. Ranking Member Rush, I do not expect USEC to take this legislation in the form that it is written and run away with the proceeds and not provide the obligation that this legislation

directs to keep the Paducah plant and 1,200 employees employed. I do not think that they would do that.

Mr. Rush. Do you agree with that, Mr. Potter?

Mr. Potter. Yes. That was some of the concerns that has been brought to us, and we are confident that that would not happen.

Mr. Rush. If there are only two domestic companies that have the capacity and the capability to bid on the contract and USEC is the best company to complete this bid, wouldn't it make more sense to include competitive bidding language so that everything is fair and transparent and that your union would be in a better position to negotiate with USEC around the issues that you hold near and dear?

Mr. Key. Well --

Mr. Rush. Such as --

Mr. Key. In response, Ranking Member Rush, last year we completed a contract negotiation with USEC for the next 6 years on a contractual obligation between the union and the company. Again, I expressed my concerns with a competitive bid and without any guidelines that would prevent those with foreign interests to be able to bid and possibly successfully win that bid and then transport those cylinders out of our Nation to re-enrich, thereby taking away the money that this program can create for the Federal Government while also keeping workers employed.

Mr. Rush. Well, don't you think that it is within the power of the Members of Congress to ensure that your experience is not realized, that if there is a foreign company that bid or even successfully bid

that their commission restrictions placed on that company in terms of -- that would help your workers maintain -- we are all for protecting American jobs.

Mr. Key. Right.

Mr. Rush. I want to protect American jobs. I want your 1,200 workers to keep their jobs, keep their pension, and for us to repay the extraordinary contribution that they made, to pay them for that. All right. I am for that.

Mr. Key. Thank you.

Mr. Rush. And I want to protect that. But I don't want to just give one company the sole authority to deal with this significant problem that we are faced with as a Nation and then for that company to renege on the American workers and on the community right now. And I think the best way to deal with that is to make sure there are some provisions in this law such as competitive bidding, all right, that will help your workers and help your community and to keep resolution of this issue in the hands of the American workers and not foreign workers. That is my concern. And I think we can get that through American -- through competitive bidding, a competitive bidding process.

Right now, without that provision, we are just giving USEC the authority, mandating that the Department of Energy contract with USEC, and we are hoping and praying that USEC continues to be or turns out to be good guys and that they will keep their word. I don't think we should go into this with that kind of frame of mind. That is not good

negotiating, as far as I am concerned. And I admire labor for their ability to negotiate strongly and to protect the American worker.

I yield back.

Mr. Whitfield. Did you all want to make a comment?

Mr. Key. No. I agree with a lot of what the ranking member said. Some of the funds in excess of what this program can bring, a payment to the D&D fund, any excess value can go to the reindustrialization of both Paducah enforcement sites.

I don't need to sit here and have a discussion concerning the loss of manufacturing in this country in the last 10 to 12 years, and we as a Nation cannot continue to rely on service sector jobs to pay off our national deficit and reduce our debt and become a rich Nation again. We must invest -- reinvest in the reindustrialization of our manufacturing sector. This is a clear example, this pilot program, of doing that.

Mr. Whitfield. Mr. McKinley, you are recognized for 5 minutes.

Mr. McKinley. Thank you, Mr. Chairman.

Can either of you give us an example of the exposure that the men in the community have by having these canisters expose the elements like that? What are the health hazards that we are facing?

Mr. Key. -- that occurs on these canisters is put in place to check the wall thickness of the cylinders themselves because of the elements they are exposed to. And we have in the past had some of these walls to break through and create an HF cloud in reaction to the moisture of the material and try to encapsulate that and capture it. That is

why we S&M -- surveillance and maintenance -- of those, test the wall thickness. But we have had those occasions where we have had to repair the cylinders on site to reduce any exposure, not only to the workers but also out to the community.

Mr. McKinley. You both heard the testimony from the DOE. We have talked about and I really admire the fact that you are so passionate to protect those 1,200 jobs in all facilities. But we have a plan before us to protect the 1,200 jobs, we have a plan that is going to raise money for however it is to be spent, and we have a way to clean up an environmental problem. They want to continue to study it. Am I missing something? What did you hear that would put you at odds with the DOE?

Mr. Potter. I kind of get the impression that they do study quite a bit. They study a lot. We need to start making decisions to clean up these sites. There is some opportunities here that we could actually do things in a reasonable, practical way as far as reducing the waste at the site.

At the Portsmouth site, we can't move on with reindustrialization until we can get rid of some of these low-waste material -- low-RAD-waste material areas; and that is only going to help out. So that is why we had kind of a grassroots plan to go in there and maybe dig up some of these old sites, recycle some of the metal. That is a practical way to look at things. Even if you don't do anything with the metal, you are actually preparing it for future use and you are saving on the waste, that you have to ship it off and

bury it somewhere else.

Mr. McKinley. I am trying to understand why do you think the DOE wants to continue to study it and not to protect the 1,200 jobs and not to raise the money and not to clean up the site? What do you think their problem is?

Mr. Potter. Personally, I think it is fear to make the decision, fear of making the wrong decision.

Mr. McKinley. Do you agree?

Mr. Key. To answer you, Congressman, I really don't know what their plan is. It has been related here this morning, or this afternoon, we had this same hearing in 2008. They had a plan to forward, and here we are in 2011 and nothing has been done.

There is a couple comments in the Deputy Secretary's testimony that I will agree with, to support the maintenance of a strong domestic nuclear industry while also supporting the skilled jobs for American workers. I will agree with his testimony on that. That is my intent and my desire out of the legislation that the chairman has introduced.

Mr. McKinley. Thank you. I yield back the balance of my time.

Mr. Whitfield. Thank you, Mr. McKinley.

Do you have anything else?

Well, I want to thank Mr. Potter and Mr. Key for being with us today and for your testimony. We look forward to working with you as we attempt to move forward with this legislation.

So, with that, we will conclude today's hearing; and we will have the record will remain open for 10 days for additional material to be

submitted, members to ask additional questions.

And, with that, thank you very much for being with us.

[Whereupon, at 3:21 p.m., the subcommittee was adjourned.]