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United States Government Accountability Office
Washington, DC 20548

B-309834

January 11, 2008

Mr. Eric J. Fygi
Deputy General Counsel
U.S. Department of Energy

Dear Mr. Fygi:

Thank you for your letter of December 21, 2007, responding to our December 10 request for the Department's legal position on its authority to manage its depleted uranium inventory.

As the Department has elected not to state its legal position, pursuant to 31 U.S.C. § 716, GAO hereby requests the following documents:

1. Any memoranda, correspondence, notes, files, research, orders, analyses, guidelines or other documents prepared, reviewed, or considered in making the statements regarding the Atomic Energy Act and the USEC Privatization Act on page 2 of the Department's May 10, 2005 memorandum referenced on pages 1-2 of our December 10 letter.¹ Page 7 of the Department's 2005 memorandum indicates that the Office of General Counsel concurred in the memorandum.
2. The written criteria DOE has developed, as required by section 63c of the Atomic Energy Act, to determine whether a charge is made for source material licensed and distributed under section 63a the Atomic Energy Act, and any guidelines related to these criteria.

¹ See May 10, 2005 Memorandum for the DOE Deputy Secretary from the DOE Principal Deputy Assistant Secretary for Environmental Management and the Administrator and Chief Executive Officer of the Bonneville Power Administration re: "ACTION: Approve Uranium Tails Pilot Project involving Bonneville Power Administration, the Department of Energy Office of Environmental Management and Energy Northwest," at p. 2 ("The Secretary has the statutory authority under section 161m of the Atomic Energy Act to approve the transfer of . . . depleted uranium.. Section 3112 of the USEC Privatization Act, which restricts the sale or transfer of certain DOE natural and enriched uranium stockpiles, does not apply to . . . transfer of . . . depleted uranium (tails).").

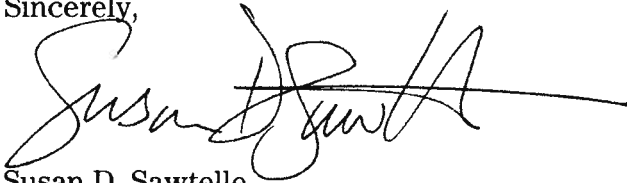
3. Any memoranda, correspondence, notes, files, research, orders, analyses, guidelines or other documents discussing, reflecting, or relating to DOE's legal authority to sell or otherwise transfer depleted uranium either to other government agencies or to non-government entities.

4. Any memoranda, correspondence, notes, files, research, orders, analyses, guidelines or other documents discussing, reflecting, or relating to DOE's legal authority to re-enrich its depleted uranium inventory through a contractual arrangement or otherwise, and its legal authority to sell or otherwise transfer the product of such re-enrichment.

5. Any memoranda, correspondence, notes, files, research, orders, analyses, guidelines or other documents discussing, reflecting, or relating to the continuing availability to DOE of the authority in section 314 of the Energy and Water Development Appropriations Act, 2006 to barter, transfer, or sell uranium, or to whether re-enrichment of depleted uranium would constitute "remediation" under this section.

We would appreciate the Department's response no later than January 25, 2008. To arrange for delivery of these documents, please contact Assistant General Counsel Karen Keegan at (202) 512-8240. Thank you for your cooperation.

Sincerely,

A handwritten signature in black ink, appearing to read "Susan D. Sawtelle", with a long horizontal flourish extending to the right.

Susan D. Sawtelle
Managing Associate General Counsel