

United States Senate

November 17, 2015

The Honorable Ernest Moniz
Secretary
U.S. Department of Energy
1000 Independence Ave., S.W.
Washington, D.C. 20585

Dear Secretary Moniz:

I write to follow up on my April 23, 2015 letter, expressing concern about the Department of Energy's (DOE) failure to conduct oversight of transactions of uranium between Fluor-B&W Portsmouth LLC and the Traxys Group. Since 2011, DOE has transferred roughly \$1 billion of publicly owned uranium which has financially benefitted these two companies. It is appropriate for DOE to examine these transactions particularly in light of the nomination of John Kotek, a former consultant to Fluor, to be Assistant Secretary for Nuclear Energy. DOE must ensure that Fluor-B&W's transactions with Traxys do not come at the expense of the American public.

For years, DOE has refused to include in its budget request the funding necessary to cleanup DOE's gaseous diffusion plant in Piketon, Ohio. Beginning in December 2009, DOE has used excess supplies of publicly owned uranium to help finance decommissioning efforts at this facility. Since 2011, DOE has provided Fluor-B&W roughly \$1 billion of uranium in exchange for decommissioning services at the site. During this time, Traxys, a metal commodities merchant, has been the exclusive buyer of the uranium that DOE has provided to Fluor-B&W. According to Traxys, the excess uranium that DOE transfers to Fluor-B&W and which Fluor-B&W then sells to Traxys has made Traxys "a top 10 supplier of uranium to the world market."

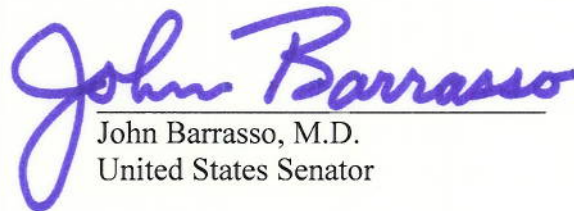
In April, I wrote to you questioning whether DOE receives full value of the uranium that it transfers to Fluor-B&W if it does not consider the terms under which Fluor-B&W sells that uranium to Traxys. I explained that both Fluor-B&W and Traxys are traders in, not consumers of, uranium, suggesting that DOE receives far less than the full value of the public's uranium. In a response dated May 14, 2015, Mark Whitney, Acting Assistant Secretary for Environmental Management, stated that "[t]he value of the services that DOE receives [from Fluor-B&W] are based on prevailing market prices." However, Mr. Whitney failed to explain whether DOE would capture *additional* value through an alternative arrangement to its current one with Fluor-B&W, such as an arrangement in which DOE *gradually* releases the uranium into the market.

If confirmed, Mr. Kotek would play a major role in determining the circumstances and the conditions under which DOE authorizes additional transfers of the public's excess uranium. At Mr. Kotek's confirmation hearing, I asked Mr. Kotek whether he would recuse himself from decisions benefitting Fluor. I also asked Mr. Kotek whether he would condition future transfers to Fluor-B&W on the requirement that Fluor-B&W publicly disclose its contract(s) with Traxys. In both instances, Mr. Kotek would not commit to taking these steps. At a minimum, DOE should condition future transfers of excess uranium to Fluor-B&W on the requirement that it

disclose its contract(s) with Traxys to members of the House and Senate committees which oversee DOE. Until that happens, I will withhold my support for Mr. Kotek's nomination.

Thank you for your consideration and I look forward to your prompt response.

Sincerely,


John Barrasso, M.D.
United States Senator