



August 18, 2010

Dr. David Feary
Study Director
Board on Earth Sciences and Resources
Division on Earth and Life Studies
National Academy of Sciences
500 Fifth Street, NW
Washington, DC 20001

Re: The Balance and Composition of Provisional Committee for the Study of Uranium Mining in Virginia, DELS-BESR-09-06

Dear Dr. Feary:

The Natural Resources Defense Council (NRDC) writes today to voice concern regarding the balance and composition of the *Provisional Committee for the Study of Uranium Mining in Virginia*, DELS-BESR-09-06 (hereinafter "Provisional Committee"). We also echo many of the concerns voiced by various public interest organizations, concerned citizens, the Roanoke River Basin Association and the Dan River Basin Association in their letter dated this same day.

This Provisional Committee has been established to examine the scientific, technical, environmental, human health, safety, and regulatory aspects of uranium mining, milling, and processing if such actions were to take place in the Commonwealth of Virginia. The Provisional Committee's work will be important, as the findings of the study will assist the Commonwealth in determining whether uranium mining, milling, and processing can be undertaken in a manner that safeguards the environment, natural and historic resources, agricultural lands, and the health and well-being of its citizens.

This is serious charge as the history of uranium recovery and management in the United States (and indeed, around the globe) is replete with environmental damage, serious worker safety and health abuses, and harm to entire communities. Many of the affected communities have been either low-income or majority indigenous (or both), representative of an industry's all too common pattern of environmental injustice. In addition, the great majority of contaminated uranium mining and milling sites have not

received adequate, or indeed any, cleanup of past harms, and for what little cleanup has been done, most of the cost has been borne by taxpayers rather than the companies and associated beneficiaries of the uranium mined. Furthermore, despite the history of environmental and public health harms, the framework for the regulation of uranium recovery is an segmented and confused mishmash of federal and state oversight, characterized by little accountability for lax decisions and an evident unwillingness to enforce what few protective standards exist if these would increase costs to the industry.

As is true in every region of the country where uranium recovery has taken place, proposed uranium mining has been a controversial issue in the Commonwealth of Virginia. This has been true in Virginia since late 1970s when the uranium mining deposits were first explored in any significant detail. For years, this matter has been an issue of concern for the communities that will be affected by any potential uranium mining activities. And those concerns have become more pressing with the commencement of the Provisional Committee's work.

For all of these reasons, it is crucial that the composition of the Study Panel be well-balanced, objective, thorough, and free of any obligations to the entities that could benefit from lifting a ban on uranium mining in Virginia. As noted, we share many of the concerns expressed by the Roanoke River Basin Association, the Dan River Basin Association and others, particularly with the composition and balance of the panel, the appearance of conflict interest in the source of funding for the study, the length of the initial public comment period, and the lack of public meetings,

Conflicts of Interest

The National Academies have established policies and procedures for addressing potential conflicts of interest to be used by committees in the development of its reports. This policy states that “[i]t is essential that the work of committees of the institution used in the development of reports not be compromised by any significant conflict of interest. For this purpose, the term "conflict of interest" means any financial or other interest which conflicts with the service of the individual because it (1) could significantly impair the individual's objectivity or (2) could create an unfair competitive advantage for any person or organization. Except for those situations in which the institution determines that a conflict of interest is unavoidable and promptly and publicly discloses the conflict of interest, no individual can be appointed to serve (or continue to serve) on a committee of the institution used in the development of reports if the individual has a conflict of interest that is relevant to the functions to be performed.”

First, it is important to note that we do not question the integrity of the members of the Commission, for which we have high regard, and we recognize their dedication to public service. Our concerns arise from the legal requirement that a committee be balanced in terms of the points of view represented, and from the common-sense perspective that if the Provisional Committee is to succeed, it shouldn't commence work by locking out constituencies necessary for success. This Provisional Committee's current composition is not balanced and important points of view are not represented.

Specifically, several members of the Provisional Committee have either direct conflicts of interest or the appearance of conflicts of interest that could significantly impair their objectivity and damage the credibility of this study in the eyes of the public.

As detailed in the letter from the Roanoke River Basin Association and the Dan River Basin Association, we respectfully request that the Board on Earth Sciences and Resources (“BESR”) conduct a review of Dr. Corby G. Anderson, Dr. Lawrence W. Barnhouse, and Dr. Michel Cuney for potential conflicts of interest, and we concur with our colleagues that Mr. Henry Schnell should not participate as a member of the Provisional Committee due to an evident conflict of interest.

Balance of the Study Committee

Under the Statement of Task for the uranium mining study, the Provisional Committee is called upon to examine 12 questions covering a range of areas, from the legal framework to public health and safety, to mining methods to reclamation and waste management, to cultural issues, geology, climate and water management, *etc.* The scope of the uranium mining study is complex, but the study committee is comprised of only 13 experts, and particular disciplines and entire communities are unrepresented on the study. This oversight should be rectified. We believe that the committee membership must be expanded to include more experts and representative members of affected communities, especially in the areas highlighted below.

The first item of the Statement of Task directs the study committee to “assess the potential short- and long-term occupational and public health ... considerations ... including the potential human health risks.” Item 4 directs the committee to “analyze the impact of uranium mining, milling, processing, and reclamation operations on public health.” Comprehensive examination of items 1 and 4 of the Statement of Task requires experts in occupational and public health, as well as a medical doctor. The provisional committee currently includes public and occupational health experts and epidemiologists but no medical doctor. Along with its radiotoxicity, uranium is a potent nephrotoxin and the inclusion of an expert with a medical degree is a necessary addition to the committee.

Pursuant to item 4 of the Statement of Task, the study committee is to “analyze the impact of uranium mining, milling, processing, and reclamation operations ... at sites with comparable ... hydrologic ... characteristics to those found in the Commonwealth.” In addition, item 9 directs the study committee to “identify the issues that may need to be considered regarding the quality and quantity of groundwater and surface water... [A]s relevant, water and waste management ... may also be considered.” As noted in the August 18 letter from members of the public that share our concerns, the potential impact of uranium mining on water supply has been of concern to local communities where uranium mining and milling could take place as well as for downstream or down-gradient communities where water sources could be affected. Furthermore, controversy over uranium recovery’s impacts on water quality have been growing for several years, and for this reason, we respectfully request the BESR ensure that the study committee includes

additional non-conflicted members with expertise in hydrology, geochemistry and other water-related disciplines.

Item 5 of the Statement of Task directs the study committee to “review the ... cultural settings ... in the Commonwealth of Virginia.” A comprehensive analysis of the cultural settings requires at least one or more experts in environmental justice. Unfortunately, it is not apparent from the information posted on the credentials of the provisional committee members whether the committee includes a single expert in environmental justice. The history of uranium mining and milling is replete with harms to low-income communities across the country. And if the ban is lifted in Virginia, it is certain that several low-income communities with little influence over legislative decisions and limited access to the legal system will be affected. Thus, it is important that the issue of environmental justice be examined thoroughly. To this end, the study committee should be expanded to include at least two experts in environmental justice, and at least one of those experts should have some experience of addressing these issues in the communities affected by uranium mining.

In addition, it appears that the majority of questions under the Statement of Task require global expertise in uranium mining and broad knowledge of world-wide trends and experiences of other U.S. states and foreign nations with uranium mining.

Unfortunately, it's not apparent to us that the provisional committee includes such expertise. We, therefore, respectfully request that BESR expand the committee to include at least two or three experts who have studied the environmental and social impacts of uranium recovery world-wide.

It is also unclear from the published bios of the provisional committee members whether there is the relevant expertise required for evaluating the post-mining impacts of tailings impoundments. We, therefore, respectfully request that BESR ensure that an expert in this specific area is included in the committee.

Concerns with respect to funding, timing of public comments, and availability of public meetings

We understand from our Virginia colleagues that it has been reported in the Virginia local press that the funding for this study is coming from Virginia Uranium, Inc., the company seeking to lift Virginia's 1982 ban on uranium mining, and that the Virginia Center for Coal and Energy Research at the Virginia Polytechnic Institute and State University is serving as a conduit for funds to the National Research Council. The Governing Board Executive Council of National Academies was apprised of this situation in an October 2, 2009 letter signed by over 30 concerned citizens. Because of the original source of the funding, the study's credibility is already being questioned by the public.

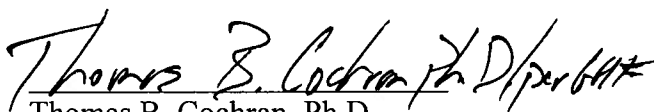
Under these circumstances, it is especially important that the study process be conducted in a manner ensuring transparency and an ample opportunity for public comment. Accordingly, we respectfully request that the BESR extend the comment

period until September 15, 2010. In accordance with Section 15(b) of the Federal Advisory Committee Act ("FACA"), the National Academy of Sciences "shall ... provide a reasonable opportunity for the public to comment on ... appointments before they are made or... in the period immediately following the appointments." In this particular case, given the controversial nature of the issue to be examined in the uranium mining study, the fact that Virginia residents received either no notice or insufficient notice of the commencement of the comment period, and the fact that the comment period has fallen in August, a time when many affected residents are on vacation, the BESR should extend the public comment period until September 15, 2010 to allow all interested parties to comment on the composition of the Provisional Committee.

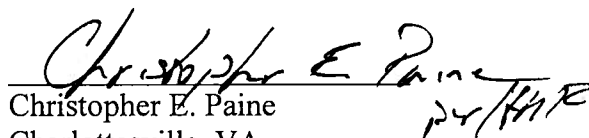
In addition, along with our local colleagues, we urge the BESR to conduct public hearings to provide an open public forum for interested parties to participate in the study committee discussions in accordance with Section 15(b)(3) of FACA, and to promptly make available to the public a summary of any committee meetings and any materials provided to the study committee in accordance with Sections 15(b)(3)-(4). The general public should also be provided with a sufficient notice of at least thirty (30) days prior to the date of the public meeting and an opportunity to submit written comments on the public committee discussions. We also believe that public meetings should be conducted so as to facilitate attendance by residents from all locations in the Commonwealth that may potentially be affected by uranium recovery. Conducting public meetings at multiple locations will ensure the appropriate transparency for the controversial issue raised by the environmental, public health, economic and social impacts of uranium mining and milling.

Thank you very much for your time and attention. Please do not hesitate to contact us at (202) 289-6868 if you have any questions.

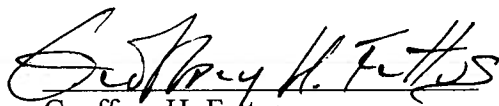
Sincerely,



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