



October 25, 2017

Office of Information Programs and Services (IPS)
A/GIS/IPS/RL
U.S. Department of State, State Annex 2 (SA-2)
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RE: FOIA Request for Records Regarding Uranium One and CFIUS Approving Transfer of Control of Twenty Percent of American Uranium to Russian Company

Dear Sir or Ma'am:

This letter is a request ("Request") in accordance with the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, and the corresponding department/agency implementing regulations.

The Request is made by the American Center for Law and Justice (ACLJ)¹ on behalf of our members who have signed our petition to demand the truth about the previous Administration's approval of the transfer of 20% of American uranium production capacity to a Russian-owned energy conglomeration given what we now know through news reports.

To summarize, the numbered requests contained herein seek any and all records concerning approval by the Committee on Foreign Investments in the United States (CFIUS) of the sale of a controlling stake in Uranium One to Rosatom, a Russian energy conglomerate in 2010 (resulting in a total takeover by 2013); and what the CFIUS members knew when they voted to approve the transfer in light of the fact that: (1) the FBI was investigating bribes, kickbacks and racketeering by the Russian conglomerate's American subsidiary calculated to compromise contractors in the American nuclear energy industry and the Attorney General's representative sat on the CFIUS; (2) "Russian nuclear officials" were "rout[ing] millions of dollars to the" Clinton Foundation and then-Secretary Clinton's representative sat on the CFIUS; and (3) then-Secretary Clinton's husband received \$500,000 from the Russian government for a speech in Moscow.

¹The ACLJ is a not-for-profit 501(c)(3) organization dedicated to the defense of constitutional liberties secured by law. The ACLJ regularly monitors governmental activity with respect to international affairs, and works to inform the public of such affairs. The ACLJ and its global affiliated organizations are committed to ensuring the ongoing viability of freedom and liberty in the United States and around the world.



Background

Pursuant to State Department FOIA regulation 22 C.F.R. § 171.4(b), this Background addresses “the subject, timeframe, names of any individuals involved, a contract number (if applicable), and reasons why the requester believes the Department may have records on the subject of the request.” 22 C.F.R. § 171.4(b).

According to The Hill:

Before the Obama administration approved a controversial deal in 2010 giving Moscow control of a large swath of American uranium, the FBI had gathered substantial evidence that Russian nuclear industry officials were engaged in bribery, kickbacks, extortion and money laundering designed to grow Vladimir Putin’s atomic energy business inside the United States, according to government documents and interviews.²

According to the report,

Federal agents used a confidential U.S. witness working inside the Russian nuclear industry to gather extensive financial records, make secret recordings and intercept emails as early as 2009 that showed Moscow had compromised an American uranium trucking firm with bribes and kickbacks in violation of the Foreign Corrupt Practices Act, FBI and court documents show.³

The transfer of a controlling interest in Uranium One to Russian state-owned ARMZ, (a wholly owned subsidiary of Rosatom) was approved by the Committee on Foreign Investments in the United States (CFIUS), which consists of leadership from multiple government agencies, including the Attorney General, the Secretary of State and the Secretary of the Treasury. The approval is believed to have occurred on October 22, 2010. Its CFIUS case number is 10-40.

As to the significance of the deal, one article

detailed how the Russian atomic energy agency, Rosatom, had taken over a Canadian company with uranium-mining stakes stretching from Central Asia to the American West. The deal made Rosatom one of the world’s largest uranium producers and brought Mr. Putin closer to his goal of controlling much of the global uranium supply chain.⁴

And according to the New York Times in 2015:

² John Solomon & Alison Spann, *FBI Uncovered Russian Bribery Plot Before Obama Administration Approved Controversial Nuclear Deal with Moscow*, THE HILL (Oct. 17, 2017, 6:00 AM), <http://thehill.com/policy/national-security/355749-fbi-uncovered-russian-bribery-plot-before-obama-administration>.

³ *Id.*

⁴ Jo Becker & Mike McIntire, *Iran Air Takes Its First A330-200 as Fleet Upgrade Continues*, THE N.Y. TIMES (Apr. 23, 2015), <https://www.nytimes.com/2015/04/24/us/cash-flowed-to-clinton-foundation-as-russians-pressed-for-control-of-uranium-company.html>.

[T]he untold story behind that story is one that involves not just the Russian president, but also a former American president and a woman who would like to be the next one.

At the heart of the tale are several men, leaders of the Canadian mining industry, who have been major donors to the charitable endeavors of former President Bill Clinton and his family. Members of that group built, financed and eventually sold off to the Russians a company that would become known as Uranium One.

Beyond mines in Kazakhstan that are among the most lucrative in the world, the sale gave the Russians control of one-fifth of all uranium production capacity in the United States. Since uranium is considered a strategic asset, with implications for national security, the deal had to be approved by a committee composed of representatives from a number of United States government agencies. Among the agencies that eventually signed off was the State Department, then headed by Mr. Clinton's wife, Hillary Rodham Clinton.

As the Russians gradually assumed control of Uranium One in three separate transactions from 2009 to 2013, Canadian records show, a flow of cash made its way to the Clinton Foundation.⁵

Newsweek reports the number of dollars given to the Clinton Foundation by “those linked to Uranium One or UrAsia,” another company involved in the series of transactions at issue, at \$145 million.⁶

Also noteworthy,

In March 2010, to push the Obama “reset” agenda, Secretary Clinton traveled to Russia, where she met with Putin and Dimitri Medvedev Soon after, it emerged that Renaissance Capital, a regime-tied Russian bank, had offered Bill Clinton \$500,000 to make a single speech — far more than the former president's usual haul in what would become one of his biggest paydays ever. Renaissance was an aggressive promoter of Rosatom. The Clinton speech took place in Moscow in June.⁷

Making numerous headlines now, however, is the revelation that “at the time the administration approved the transfer, it knew that Rosatom's American subsidiary [Tenam USA] was engaged in a lucrative racketeering enterprise that had already committed felony extortion, fraud, and money-laundering offenses”⁸ as part of a concerted effort to “compromise[] the American

⁵ *Id.*

⁶ Greg Price, *Did Russia Send Money to Bill Clinton's Foundation Like Trump Says? Fact-Checking the President's Claim*, NEWSWEEK (Oct. 19, 2017, 11:19 AM), <http://www.newsweek.com/fact-check-clintons-russia-trump-688592>.

⁷ Andrew C. McCarthy, *The Obama Administration's Uranium One Scandal*, NATIONAL REVIEW (Oct. 21, 2017, 4:00 AM), <http://www.nationalreview.com/article/452972/uranium-one-deal-obama-administration-doj-hillary-clinton-racketeering>.

⁸ *Id.*

companies that paid the bribes, rendering players in U.S. nuclear energy — a sector critical to national security — vulnerable to blackmail by Moscow.”⁹

Rather than bring immediate charges in 2010, however, the Department of Justice (DOJ) continued investigating the matter for nearly four more years, essentially leaving the American public and Congress in the dark about Russian nuclear corruption on U.S. soil during a period when the Obama administration made two major decisions benefiting Putin’s commercial nuclear ambitions.¹⁰

Those two decisions were the CFIUS approval in 2010 for Uranium One to take partial control over Uranium (and its 20% of American uranium). The second decision was came in 2011 when “the administration gave approval for Rosatom’s Tenex subsidiary to sell commercial uranium to U.S. nuclear power plants in a partnership with the United States Enrichment Corp. Before then, Tenex had been limited to selling U.S. nuclear power plants reprocessed uranium recovered from dismantled Soviet nuclear weapons.”¹¹

As reported by the Hill, even though

[t]hen-Attorney General Eric Holder was among the Obama administration officials joining Hillary Clinton on the Committee on Foreign Investment in the United States at the time the Uranium One deal was approved[,] [m]ultiple current and former government officials told The Hill they did not know whether the FBI or DOJ ever alerted committee members to the criminal activity they uncovered.¹²

“In 2010, the State Department’s representative was former Assistant Secretary of State for Economic, Energy and Business Affairs Jose W. Fernandez The Treasury Department was represented by Marisa Lago, Assistant Secretary of Treasury for International Markets and Development.”¹³ The National Security Division (NSD) of the Department of Justice “serves as the staff-level DOJ representative on the CFIUS,”¹⁴ but then-Attorney General Eric Holder was DOJ’s cabinet-level official who sat on the committee.¹⁵

⁹ *Id.*

¹⁰ Solomon & Spann, *supra* n. 2.

¹¹ *Id.*

¹² *Id.*

¹³ Michael Patrick Leahy, *Clinton Cash Uranium Deal Approved by Foreign Investment Committee 52 Days After Shareholders Finalized Takeover*, BREITBART (May 4, 2015), <http://www.breitbart.com/big-government/2015/05/04/clinton-cash-uranium-deal-approved-by-foreign-investment-committee-52-days-after-shareholders-finalized-takeover/>.

¹⁴ U.S. DEP’T OF JUSTICE, NAT’L SEC. DIV., PERFORMANCE BUDGET CONGRESSIONAL SUBMISSION, FISCAL YEAR 2016 (2016), https://www.justice.gov/sites/default/files/jmd/pages/attachments/2015/02/01/6._national_security_division_nsd.pdf.

¹⁵ Solomon & Span, *supra* n. 2.

Records Requested

For purposes of this Request, the term “record” is “any information” that qualifies under 5 U.S.C. § 552(f), and includes, but is not limited to, the original or any full, complete and unedited copy of any log, chart, list, memorandum, note, correspondence, writing of any kind, policy, procedure, guideline, agenda, handout, report, transcript, set of minutes or notes, video, photo, audio recordings, or other material. The term “record” also includes, but is not limited to, all relevant information created, stored, received or delivered in any electronic or digital format, e.g., electronic mail, instant messaging or Facebook Messenger, iMessage, text messages or any other means of communication, and any information generated, sent, received, reviewed, stored or located on a government or private account or server, consistent with the holdings of *Competitive Enterprise Institute v. Office of Science and Technology Policy*, No. 15-5128 (D.C. Cir. July 5, 2016)¹⁶ (rejecting agency argument that emails on private email account were not under agency control, and holding, “If a department head can deprive the citizens of their right to know what his department is up to by the simple expedient of maintaining his departmental emails on an account in another domain, that purpose is hardly served.”).

For purposes of this Request, the term “briefing” includes, but is not limited to, any in-person meeting, teleconference, electronic communication, or other means of gathering or communicating by which information was conveyed to one or more person(s).

For purposes of this Request, the term “DOS official” includes, but is not limited to, any person who is (1) employed by or on behalf of the DOS, any Mission of the United States, or any Delegation of the United States, in any capacity; (2) contracted for services by or on behalf of the DOS, any Mission of the United States, or any Delegation of the United States, in any capacity; (3) appointed by the President of the United States to serve in any capacity at or within the DOS, any Mission of the United States, or any Delegation of the United States; or (4) any such person’s staff, agent or employee; all without regard to the component, bureau, or office in which that person serves.

For purposes of this Request, all sources, documents, letters, reports, briefings, articles and press releases cited in this Request are incorporated by reference as if fully set forth herein.

For purposes of this Request, the timeframe of records requested herein is July 1, 2010, to the date this Request is processed, unless otherwise indicated.

Pursuant to FOIA, 5 U.S.C. § 552, ACLJ hereby requests that the DOS respond to the following numbered requests and produce all responsive records:

1. State Department Records

All records, communications or briefings created, generated, forwarded, transmitted, sent, shared, saved, received, or reviewed by any DOS official from any other DOS official or employee referencing or regarding in any way Uranium One, UrAsia, Rosatom, Tenex, Tenam USA, Vidim Mikarin or Frank Giustra, an FBI investigation of Vidim Mikarin, or the issue of

¹⁶ *Competitive Enter. Inst. v. Office of Sci. & Tech. Policy*, 827 F.3d 145 (D.C. Cir. 2016).

whether the CFIUS should, would or did approve the transfer of control in October 2010, CFIUS case no. 10-40, all as referenced in the Background section above, including but not limited to any record located on backup tapes, archives, any other recovery, backup, storage or retrieval system, DOS electronic mail or message accounts, non- DOS electronic mail or message accounts, personal electronic mail or message accounts, DOS servers, non- DOS servers, and personal servers, as well as any electronic mail or message carbon copied to agency account recipients, any electronic mail or message carbon copied to non-agency account recipients, any electronic mail or message forwarded to agency account recipients, any electronic mail or message forwarded to non-agency account recipients, and attachments to any electronic mail or message.

2. Records Regarding State Department Communications with Officials from Other Agencies

All records, communications or briefings created, generated, forwarded, transmitted, sent, shared, saved, received, or reviewed by any DOS official or employee referencing or regarding in any way Uranium One, UrAsia, Rosatom, Tenex, Tenam USA, Vidim Mikarin or Frank Giustra, an FBI investigation of Vidim Mikarin, or the issue of whether the CFIUS should, would or did approve the transfer of control in October 2010, CFIUS case no. 10-40, all as referenced in the Background section above, including but not limited to any record located on backup tapes, archives, any other recovery, backup, storage or retrieval system, DOS electronic mail or message accounts, non- DOS electronic mail or message accounts, personal electronic mail or message accounts, DOS servers, non- DOS servers, and personal servers, as well as any electronic mail or message carbon copied to agency account recipients, any electronic mail or message carbon copied to non-agency account recipients, any electronic mail or message forwarded to agency account recipients, any electronic mail or message forwarded to non-agency account recipients, and attachments to any electronic mail or message.

3. State Department Records From Non-Governmental Person or Entity

All records, communications or briefings created, generated, forwarded, transmitted, sent, shared, saved, received, or reviewed by any DOS official from any non-U.S. government person or entity referencing or regarding in any way Uranium One, UrAsia, Rosatom, Tenex, Tenam USA, Vidim Mikarin or Frank Giustra, an FBI investigation of Vidim Mikarin, or the issue of whether the CFIUS should, would or did approve the transfer of control in October 2010, CFIUS case no. 10-40, all as referenced in the Background section above, including but not limited to any record located on backup tapes, archives, any other recovery, backup, storage or retrieval system, DOS electronic mail or message accounts, non- DOS electronic mail or message accounts, personal electronic mail or message accounts, DOS servers, non- DOS servers, and personal servers, as well as any electronic mail or message carbon copied to agency account recipients, any electronic mail or message carbon copied to non-agency account recipients, any electronic mail or message forwarded to agency account recipients, any electronic mail or message forwarded to non-agency account recipients, and attachments to any electronic mail or message.

CONCLUSION

If this Request is denied in whole or in part, ACLJ requests that, within the time requirements imposed by FOIA, you support all denials by reference to specific FOIA exemptions and provide any statutorily or judicially required explanatory information, including but not limited to a *Vaughn* Index.

Moreover, as explained in an accompanying memorandum, the ACLJ is entitled to expedited processing of this Request as well as a waiver of all fees associated with it. The ACLJ reserves the right to appeal a decision to withhold any information sought by this request and/or to deny the separate application for expedited processing and waiver of fees.

Thank you for your prompt consideration of this Request. Please furnish all applicable records and direct any responses to:

Jordan Sekulow, Executive Director
Carly F. Gammill, Senior Litigation Counsel
Benjamin P. Sisney, Senior Litigation Counsel
American Center for Law and Justice



I affirm that the foregoing request and attached documentation are true and correct to the best of my knowledge and belief.

Respectfully submitted,

Handwritten signature of Jordan Sekulow in black ink.

Jordan Sekulow
Executive Director

Handwritten signature of Carly F. Gammill in black ink.

Carly F. Gammill
Senior Litigation Counsel

Handwritten signature of Benjamin P. Sisney in black ink.

Benjamin P. Sisney
Senior Litigation Counsel