Testimony of

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Hearing to understand the impacts of the capability of the United States to maintain a domestic enrichment capability as a result of the recently initiated amendment between the United States and the Russian Federation on the Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation.

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Chairman Bingaman, Senator Domenici and members of the Committee, thank you for the opportunity to speak to you today about the important issue on the capability of the United States to maintain a domestic enrichment industry after the recent amendment adopted to the Russian Suspension Agreement. My name is Reinhard Hinterreither and I am President and CEO of Louisiana Energy Services (LES) located in Eunice, NM.

Following a 30 month licensing period that culminated in the U.S. Nuclear Regulatory Commission issuing the first Combined Construction/Operating License in June 2006, LES is more than one year into construction of an advanced uranium enrichment plant in southeastern New Mexico that is currently planned to be capable of providing approximately 25% of U.S. demand for enriched uranium.

LES will employ a low-energy use, zero emission centrifuge technology to enrich uranium that has been developed and commercially proven in Europe by its parent company, Urenco. Centrifuge technology lends itself to incremental expansion, which should serve the expanding needs of a potentially larger U.S. nuclear fleet well into the future. All uranium enrichment technology, however, is highly capital intensive. LES' plant in New Mexico is projected to cost nearly $2 billion. Our closest competitor in the U.S., the United States Enrichment Corporation (USEC) has estimated the cost of its similarly sized centrifuge enrichment plant at $3.5 billion.

In order that enrichment activities can begin next year, LES currently employs 190 full-time employees in New Mexico. In addition, over 700 construction workers and construction managers and 235 contractors with more than 10,000 man-years of combined nuclear and construction experience are currently working on-site. Such significant investments in infrastructure, a skilled

work-force and the community necessarily demand long-term market stability for the many years required to recover the substantial up-front capital costs associated with a centrifuge facility. A key prerequisite for committing to make this enormous investment were contracts with U.S. utilities to purchase enrichment services from LES. While these contracts give some confidence that LES is not constructing a financial white elephant, long-term success and further investment in potential additional capacity depends on a much longer-term predictability in enrichment fuel markets than is afforded by LES' current contract portfolio. One of the primary reasons LES did not commit to build a U.S. enrichment plant from the late 1980's until June 2006 was that the U.S. market environment was unstable and adjusting to significant new supply sources - from Russia.

Russia enjoys an enormous excess of uranium enrichment capacity largely built during the Cold War for weapons purposes. This capacity was not developed in response to ordinary market supply and demand signals. LES estimates a current Russian capacity to enrich uranium of 26 million Separative Work Units (SWU) per year, compared to indigenous Russian demand (including demand in republics of the former Soviet Union) of just 8 million SWU per year. The excess enrichment capacity in Russia exceeds total annual U.S. enrichment demand, which is just over 14 million SWU per year. We are very concerned that unregulated supplies of fuel from this excess Russian enrichment capacity has the potential to make LES' investment in domestic enrichment capacity uneconomic. LES believes that there needs to be reasonable regulation of Russian enrichment services delivered to the United States that allows consumers to achieve supply diversity but that does not discourage development of domestic infrastructure nor undercut national energy security.

For the past 15 years, the Russian Suspension Agreement has been the principal means for regulating the supply of Russian enrichment services to the United States. The Suspension Agreement was negotiated between the U.S. Department of Commerce and the government of Russia as a resolution to an antidumping action that was brought in 1991. The purpose of the Suspension Agreement has been to ensure that imports of uranium products from Russia would not disrupt the U.S. market to the detriment of domestic suppliers.

The Russian Suspension Agreement has operated in harmony with a landmark 1993 Agreement between the United States and Russia under which Russia down-blends highly enriched uranium (HEU) from dismantled nuclear weapons into low enriched uranium (LEU) suitable for use as commercial nuclear power plant fuel. To date, HEU from more than 13,000 nuclear weapons in Russia has been converted to nuclear fuel and delivered to U.S. utilities. LES is fully supportive of the nuclear non-proliferation goals achieved through the Agreement, and recognizes the primacy of national security objectives associated with eliminating nuclear weapons over competing commercial objectives. The Suspension Agreement specifically permits the entry of low-

enriched uranium produced from HEU into the United States and, until the recent amendments to the Suspension Agreement, did not provide for access to the U.S. market for low-enriched uranium not derived from HEU. Under the HEU Agreement, enriched uranium from Russia has been the single largest source of supply to the U.S. market for the past 15 years.

The most recent amendment to the Suspension Agreement, published on February 1, 2008, establishes export limits on the amount of Russian uranium products that may be exported to the United States through 2020. Due to several developments, however, the stability afforded by the combination of the Russian Suspension Agreement and the HEU Agreement is nearing an end. First, the HEU Agreement, with its concordant non-proliferation benefits, will expire in 2013. Second, the efficacy of the Suspension Agreement as a means to regulate imports of Russian uranium products has been undermined by Court decisions determining that contracts for the provision of enrichment services ("SWU Contracts") fall outside of the scope of the antidumping laws. Third, multiple legal challenges to the continuation of the Russian Suspension Agreement – in any form – are also pending in the U.S. Court of International Trade.

Each of these developments has important implications for LES. The judicial determinations excluding SWU Contracts from the antidumping laws are highly significant. These decisions mean that the apparent limits on exports of Russian uranium products are essentially meaningless. There is nothing in the Amended Suspension Agreement that prevents Russia from exporting far more than the agreed-upon amounts simply by structuring contracts so as to fall outside the coverage of the antidumping laws. Finally, the pending litigation over the Russian Suspension Agreement creates substantial uncertainty to whether the Russian Suspension Agreement will continue to exist at all. In sum, these developments result in an extremely unpredictable environment for further investments in critically needed U.S. enrichment capacity.

LES is not opposed to the Amended Suspension Agreement and recognizes the valuable role that it has played in stabilizing trade with Russia in the past but it is time for Congress to consider new options to balance needs of all stakeholders, including those of the U.S. Government. LES believes that a legislative solution should contain the following elements:

- Enable U.S. utilities to have direct and immediate access to reasonable quantities of commercial Russian enrichment to ensure that their operations are not threatened;

- Ensure long-term market predictability that is a prerequisite for new investments in domestic nuclear fuel cycle infrastructure by legislating overall limits on Russian enrichment imports that are reasonably

consistent with quantities already agreed by Russia under the Amended Suspension Agreement;

- Provide incentives to complete the current HEU Agreement, ensuring blend-down of the full scope of Russian nuclear weapons envisioned under the 1993 Agreement and provision of the resulting commercial-grade fuel anticipated by U.S. utilities;

- Provide incentives to establish a follow-on HEU agreement that requires additional blend-down of HEU from Russia's nuclear arsenal.

I thank the Committee for considering steps to address these vital issues relating to energy security and enrichment supply and look forward to your questions.