4 July 2007

Ms Maggie Eibisch
Regulatory Burdens – Primary Sector
Productivity Commission
PO Box 80
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Dear Ms Eibisch

Annual Review of Regulatory Burdens on Business – Primary Sector

The Australian Uranium Association welcomes the opportunity to make a submission to this Annual Review.

The Association, formed in September 2006, represents all the current mining capacity in the Australian uranium industry and most of the country's leading uranium exploration businesses. It has 25 members.

Australia's uranium industry has been the subject of three reviews or inquiries over the past two years including the *Uranium Mining, Processing and Nuclear Energy Review* (the 'Switkowski' report), the *Report of the Uranium Industry Framework Steering Group* (the 'White' report - whose recommendations are being taken forward by a similarly named Implementation Group), and *Australia's uranium – Greenhouse friendly fuel for an energy hungry world* (the 'Prosser' report).

Each of these reports has examined the regulatory framework for the Australian uranium industry. The Association is satisfied that the regulatory regime applied to the industry has been well studied, and we will support the current reform processes in the endeavour to produce a fit-for-purpose regulatory arrangement which reconciles the roles of the Commonwealth and the States and Territories.

In light of these reports and the implementation activity that may follow, the Association wishes to deal only with two matters in this submission: the basis on which uranium mining is considered a matter of national environmental significance; and the inclusion of environmental conditions on export permits.

Uranium ore is unique in several regulatory respects. One of these is that it is the only ore whose mining and milling specifically requires consideration as a matter of national environmental significance, regardless of the location, size or potential for environmental impact of the mine or mill concerned.

Under the Environmental Protection and Biodiversity Control (EPBC) Act, a constitutional corporation must not take a 'nuclear action' that has, will have or is likely to have a significant impact on the environment. A 'nuclear action' includes the mining or milling of uranium ore and the rehabilitation of a uranium mine. We will refer to these collectively as uranium mining in the following paragraphs.

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The EPBC Act defines other 'nuclear actions' but the Association's interest is confined to uranium mining.

In our view, treating uranium mining per se as a matter of national environmental significance is a broad and far-reaching provision. Uranium ore deposits are to be found in many parts of Australia, from the central west of Western Australia, to that State's centre and central south; in the centre and east of South Australia; in central Northern Territory and in its west and north; and in the north west and north east of Queensland. There are at least 260 uranium deposits or projects identifiable in Australia.

It is not immediately apparent that those diverse parts of Australia share unifying environmental characteristics that are, of themselves, likely to be significantly impacted by uranium mining. Nor is it clear that each of these areas is, per se, at risk of environmental impact from uranium mining or any other kinds of mining or development.

As an example of the lack of unifying environmental characteristics, the three mines currently operating in Australia have little in common: Ranger is an open cut mine located next to a national park in an area of high rainfall; Olympic Dam is an underground mine located in an area of indifferent rainfall; Beverley is a small in-situ leach mine located in a remote arid area. Similarly, the 260 or so deposits or projects are unlikely to share locations with unifying environmental characteristics.

Australia's uranium ore deposits are as widely spread as, and in some cases co-located with, deposits of other minerals. None of those other minerals is subject to the particular treatment uranium ore receives under the EPBC Act. Again, it is not immediately apparent that it is the areas themselves in which uranium mining takes place or could take place that the Act seeks to protect.

The other matters of national environmental significance specified in the EPBC Act – world and national heritage areas, wetlands, threatened and migratory species, marine environment – all possess inherent characteristics that make them valuable per se from a national environmental perspective.

Drawing those facts together allows the reasonable inference to be drawn that uranium mining is included in the definition of 'nuclear actions' on the basis of the assumed environmental impact of the physical properties of uranium ore per se.

In addition, we submit, that while, in theory, some uranium projects would not trigger the Act because they could be judged to not have significant environmental impact, in practice, the threshold is low, as recent experiences show.

Our submission is that the physical properties of uranium ore that account for its treatment under national environmental legislation need to be identified in a review so as to provide an informed, clear and public basis for that treatment. We submit also that such a study could usefully extend to an examination of the implications of the physical properties of uranium for employee and public health and safety.

With that in mind, the Association submits that the Productivity Commission should recommend that the Chief Scientist of Australia and the Chief Medical Officer, together

with a scientist of repute in the field and assisted by a small secretariat, be commissioned to review and report on

- *The physical properties of uranium ore and uranium oxide concentrate, including their radioactive properties;*
- *The health and safety and environmental risks inherent in uranium ore and uranium oxide concentrate as a result of those properties;*
- *The basis for making judgements about the acceptable levels of health and safety and environmental risk;*
- *An overall analysis of the available data, from Australia's uranium mining record, on health and safety and environmental management;*
- *On the basis of the findings, the matters that need to be managed to ensure the health and safety of employees in the uranium industry and of the public; and for the protection of the environment; and*
- *The general principles for managing employee and public health and safety and the environment in regard to uranium mining.*

The commission given to the Chief Scientist and the Chief Medical Officer should be for a research-based review of the current scientific evidence followed by preparation of a report.

The Chief Scientist's report would provide the informed, clear and public basis for legislative treatment of the uranium mining industry with reference to the most up-to-date scientific analysis.

The environmental practices of uranium mining companies are also subject to regulation by export permits issued by the Department of Industry, Tourism and Resources, in association with the Australian Safeguards and Non-Proliferation Office (ASNO), under the Customs Act.

The Association supports the need for robust safeguards provisions, the use of export permits, and the regulation and administration of these issues by the Commonwealth. We would question, however, whether the continued inclusion of mining and environment-related conditions in export permits is necessary. It would seem more appropriate for environmental conditions to be imposed under an environmental protection act, and uranium security conditions to be imposed under safeguards-related regulation. This would be clearer and guard against duplication.

The Association would be happy to elaborate on any points raised in this submission.

Yours sincerely

Michael Angwin
EXECUTIVE DIRECTOR