



November 20, 2006  
GDP 06-0057

Mr. Jack R. Strosnider  
Director, Office of Nuclear Material Safety and Safeguards  
Attention: Document Control Desk  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555-0001

**Portsmouth Gaseous Diffusion Plant (PORTS)  
Docket No. 70-7002, Certificate No. GDP-2  
Withholding of Presentation Material**

Dear Mr. Strosnider:

On October 27, 2006, the United States Enrichment Corporation (USEC) and the Nuclear Regulatory Commission (NRC) conducted a closed meeting to discuss USEC's future plans for the Portsmouth Gaseous Diffusion Plant. During this closed meeting, USEC provided the NRC with a meeting handout which contained USEC proprietary information. As such, USEC requests that the meeting handout from the October 27, 2006 meeting be withheld from public disclosure pursuant to Section 1314 of the Atomic Energy Act of 1954, as amended, and 10 CFR 2.390 and 9.17(a)(4).

The enclosed USEC affidavit provides the information required by 10 CFR 2.390(b)(4).

Should you have any questions regarding this matter, please contact me at (301) 564-3250. There are no new commitments contained in this submittal.

Sincerely,

Steven A. Toelle  
Director, Regulatory Affairs

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Enclosure: As stated.

cc: (All without Enclosure, unless noted otherwise)

L. Clark, DOE

R. DeVault, DOE

J. Henson, NRC Region II

B. Smith, NRC HQ

D. Martin, NRC Project Manager

(w/attachment)

M. Thomas, NRC Senior Resident Inspector – PGDP

Enclosure 1  
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Affidavit

**AFFIDAVIT OF STEVEN A. TOELLE  
SUPPORTING APPLICATION TO WITHHOLD FROM  
PUBLIC DISCLOSURE CERTAIN INFORMATION PREVIOUSLY PROVIDED TO  
NRC IN THE CLOSED MEETING DATED OCTOBER 27, 2006**

I, Steven A. Toelle, of the United States Enrichment Corporation (USEC), having been duly sworn, do hereby affirm and state:

1. I have been authorized by USEC to (a) review the information owned by USEC which is referenced herein relating to USEC's future plans for the Portsmouth Gaseous Diffusion Plant (PORTS) previously provided to the NRC in a closed meeting conducted on October 27, 2006 and which USEC seeks to have withheld from public disclosure pursuant to section 147 of the *Atomic Energy Act* (AEA), as amended, 42 U.S.C § 2167, and 10 CFR 2.390(a)(4), and 9.17(a)(4), and (b) apply for the withholding of such information from public disclosure by the U.S. Nuclear Regulatory Commission (NRC) on behalf of USEC.
  
2. Consistent with the provisions of 10 CFR 2.390(b)(4) of the Commission's regulations, the following is furnished for consideration by the Commission in determining whether the information sought to be withheld from public disclosure should be withheld.
  - i. The information sought to be withheld from public disclosure is owned and has been held in confidence by USEC.
  - ii. The information is of a type customarily held in confidence by USEC and not customarily disclosed to the public. USEC has a rational basis for determining the types of information customarily held in confidence by it and, in that connection, utilizes a system to determine when and whether to hold certain types of information in confidence. The application of that system and the substance of that system constitute USEC policy and provide the rational

basis required. Under that system, information is held in confidence if it falls in one or more of several types, the release of which might result in the loss of an existing or potential competitive advantage, as follows:

- a) The information reveals the distinguishing aspects of a process (or component, structure, tool, method, etc.) where presentation of its use by any of USEC's competitors without license from USEC constitutes a competitive economic advantage over other companies.
  - b) It consists of supporting data, including test data, relative to a process (or component, structure, tool, method, etc.), the application of which data secures a competitive economic advantage (e.g., by optimization or improved marketability).
  - c) Its use by a competitor would reduce their expenditure of resources or improve their competitive position in the design, manufacture, shipment, installation, assurance of quality, or licensing a similar product.
  - d) It reveals cost or price information, production capacities, budget levels, or commercial strategies of USEC, its customers or suppliers.
  - e) It reveals aspects of past, present, or future USEC or customer funded development plans and programs of potential commercial value to USEC.
  - f) It contains patentable ideas, for which patent protection may be desirable.
  - g) It reveals information concerning the terms and conditions, work performed, administration, performance under or extension of contracts with its customers or suppliers.
- iii. There are sound policy reasons behind the USEC system which include the following:
- a) The use of such information by USEC gives USEC a competitive advantage over its competitors. It is, therefore, withheld from disclosure to protect the USEC competitive position.

- b) It is information, which is marketable in many ways. The extent to which such information is available to competitors diminishes USEC's ability to sell products and services involving the use of the information.
  - c) Use by our competitors would put USEC at a competitive disadvantage by reducing their expenditure of resources at USEC expense.
  - d) Each component of proprietary information pertinent to a particular competitive advantage is potentially as valuable as the total competitive advantage. If competitors acquire components or proprietary information, any one component may be the key to the entire puzzle, thereby depriving USEC of a competitive advantage.
  - e) Unrestricted disclosure would jeopardize the position of prominence of USEC in the world market, and thereby give a market advantage to the competition of those countries.
  - f) The USEC capacity to invest corporate assets in research and development depends upon the success in obtaining and maintaining a competitive advantage.
- iv. The information is being transmitted to the Commission in confidence and, under the provisions of 10 CFR Section 2.390, it is to be received in confidence by the Commission.
- v. The information sought to be protected is not available in public sources or available information has not been previously employed in the same original manner or method to the best of our knowledge and belief.
3. The proprietary information sought to be withheld was previously provided to NRC as a meeting handout in the October 27, 2006 closed meeting to discuss USEC's future plans for PORTS. Specifically, the meeting handout contains information that reveals 1) future development plans at PORTS of potential commercial value to USEC, and 2) commercial strategies of USEC at

PORTS. Public disclosure of this proprietary information is likely to cause substantial harm to the competitive position of USEC because it may enhance the ability of competitors to position and provide similar information as well as to provide an insight into USEC's internal business plans for PORTS.

Further, this information has substantial commercial value as follows:

- The development of the information described in part is the result of applying many person-hours and the expenditure of thousands of dollars; and
- In order for a competitor of USEC to duplicate this information, a similar process would have to be undertaken and a significant effort and resources would have to be expended.

Further the deponent sayeth not.

Steven A. Toelle, having been duly sworn, hereby confirms that I am the Director, Regulatory Affairs of USEC, that I am authorized on behalf of USEC to review the information attached hereto and to sign and file with the U.S. Nuclear Regulatory Commission this affidavit and the attachments hereto, and that the statements made and matters set forth herein are true and correct to the best of my knowledge, information, and belief.

S. A. Toelle

Steven A. Toelle

On this 20<sup>th</sup> day of November 2006, the individual signing above personally appeared before me, is known by me to be the person whose name is subscribed to within the instrument, and acknowledged that he executed the same for the purposes therein contained. In witness hereof I hereunto set my hand and official seal.

Rita L. Peak

Rita L. Peak, Notary Public  
State of Maryland, Montgomery County  
My commission expires December 1, 2009

