

Security-Related Information – Withhold Under 10 CFR 2.390  
Export Controlled Information



September 10, 2010

AET 10-0039

ATTN: Document Control Desk  
Ms. Catherine Haney, Director  
Office of Nuclear Material Safety and Safeguards  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555-0001

**American Centrifuge Plant and Lead Cascade Facility  
Docket Numbers 70-7004 and 70-7003; License Numbers SNM-2011 and SNM-7003  
Request for Written Consent to Transfer of Licenses – Security-Related Information and  
Export Controlled Information**

**INFORMATION TRANSMITTED HEREWITH IS PROTECTED FROM PUBLIC  
DISCLOSURE AS CONFIDENTIAL COMMERCIAL OR FINANCIAL INFORMATION  
AND/OR TRADE SECRETS PURSUANT TO 10 CFR 2.390 AND 9.17(a)(4)**

**AND**

**INFORMATION TRANSMITTED HEREWITH IS PROTECTED FROM  
DISCLOSURE PURSUANT TO 10 CFR PART 810**

Dear Ms. Haney:

**Purpose**

This letter submits for U.S. Nuclear Regulatory Commission (NRC) review information to support USEC Inc.'s (USEC) request for consent to transfer control of the subject licenses from USEC to a wholly owned subsidiary limited liability company (LLC), American Centrifuge Operating, LLC (AC Operating), under the provisions of 10 *Code of Federal Regulations* (CFR) 70.36. USEC also requests approval of changes to the Security Program pursuant to 10 CFR 95.19.

In addition, we also request your review and confirmation that Phase 2 of the Toshiba American Nuclear Energy Corp. (TANE) and the Babcock & Wilcox Investment Company (BWIC) investment does not require formal NRC consent.

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When separated from Enclosure 2, this letter is uncontrolled.**

USEC Inc.  
6903 Rockledge Drive, Bethesda, MD 20817-1818  
Telephone 301-564-3200 Fax 301-564-3201 <http://www.usec.com>

ECI info removed



NH5501

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**Background**

USEC previously submitted its application for NRC consent to transfer control of the subject licenses from USEC to a subsidiary LLC on February 10, 2009 (Reference 1) and supplemented the request on June 12, 2009 (Reference 2). On November 25, 2009 (Reference 3), USEC requested withdrawal of this licensing action from NRC review and NRC accepted withdrawal of this licensing action on December 3, 2009 (Reference 4).

**Discussion**

In order to facilitate project financing of the American Centrifuge Plant (ACP), USEC is proceeding with establishing the LLC structure previously described in References 1 and 2 and further described in Enclosure 1. Accordingly, in accordance with 10 CFR 70.36, USEC hereby requests NRC's consent to transfer control of the American Centrifuge Lead Cascade Facility (Lead Cascade) and the ACP Materials Licenses from USEC to a subsidiary LLC, AC Operating, and approval of the proposed changes to the Materials Licenses shown in Enclosure 1. With NRC approval of the transfer request, USEC will then make conforming changes to the License Applications to reflect AC Operating as the licensee. This request also includes proposed changes to Chapter 2 of the combined Lead Cascade and ACP Security Program. These changes have been determined to be a substantive change and require prior approval in accordance with 10 CFR 95.19.

Enclosure 1 to this letter provides license transfer information in accordance with the guidance provided in NUREG-1556, Volume 15, *Consolidated Guidance about Material Licenses - Guidance About Changes of Control and About Bankruptcy Involving Byproduct, Source, or Special Nuclear Materials Licenses*, along with a detailed description, justification, and USEC's significance determination for the proposed changes associated with the corporate restructuring and requested transfer of the Materials Licenses to a USEC subsidiary. Enclosure 1 also contains information to support your review of Phase 2 of the TANE and BWIC investment.

Enclosure 2 provides proposed page changes for the Security Program. Proposed changes are designated with a revision bar in the right hand margin. Enclosure 3 provides the certificate of formation for AC Operating that is proposed as the new Licensee. Based upon the changes identified in Enclosure 2 of this letter and for your convenience, Enclosure 4 is being provided to identify proposed changes for the Facility Data and Approval Record for Facility Code 11560. USEC will be submitting the appropriate Foreign Ownership, Control or Influence documents for each of the LLCs in the near-term to support your review.

Enclosure 2 contains Security-Related Information; therefore, USEC requests this enclosure be withheld from public disclosure pursuant to 10 CFR 2.390(d)(1). Additionally, Enclosure 2 has been determined, in accordance with the guidance provided by the U.S. Department of Energy,

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to contain Export Controlled Information. This information must be protected from disclosure per the requirements of 10 CFR Part 810.

**Action**

USEC respectfully requests that the NRC consent to the transfer of control of licenses for the Lead Cascade and ACP in accordance with 10 CFR 70.36, and approve the proposed changes to the Licenses and the Security Program by January 14, 2011.

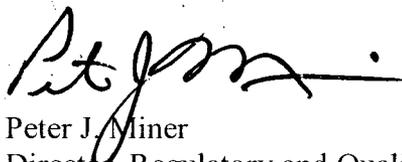
USEC also requests your review and confirmation that Phase 2 of the TANE and BWIC investment does not require formal NRC consent. We believe a meeting to discuss these requests may be beneficial in assuring mutual understanding of the requests and the details contained herein.

Consistent with our request for the Lead Cascade and ACP licenses, the United States Enrichment Corp, under separate cover, will submit a request for NRC review of Phase 2 of the TANE and BWIC investment to confirm that no formal consent to transfer the Certificates of Compliance will be required.

**Contact**

If you have any questions regarding this matter, please contact me at (301) 564-3470 or Terry Sensue at (740) 897-2412.

Sincerely,



Peter J. Miner  
Director, Regulatory and Quality Assurance

Enclosures: As Stated

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cc: S. Cange, DOE  
R. DeVault, DOE  
J. Downs, NRC HQ  
K. Everly, NRC HQ  
J. Henson, NRC Region II  
B. Smith, NRC HQ  
O. Siurano, NRC HQ  
B. Stapleton, NRC HQ  
W. Szymanski, DOE

References contained within letter:

1. USEC letter AET 09-0004 from P.J. Miner to M.F. Weber (NRC) regarding Request for Written Consent to Transfer of Licenses, dated February 10, 2009
2. USEC letter AET 09-0051 from P.J. Miner to M.F. Weber (NRC) regarding Supplement to Request for Written Consent to Transfer of Licenses (TAC L32498), dated June 12, 2009
3. USEC letter AET 09-0088 from P.J. Miner to M.F. Weber (NRC) regarding Withdrawal of Licensing Action from Review Related to Consent to Transfer Licenses (TAC L32498), dated November 29, 2009
4. NRC letter from O. Siurano to P.J. Miner (USEC) regarding Withdrawal of Licensing Action from Review Related to Consent to Transfer Licenses (TAC No. L32498), dated December 3, 2009

References contained within Enclosure 1:

5. USEC letter from P.J. Miner to C. Haney (NRC) regarding Request for Confirmation of Absence of Direct or Indirect Transfer of Ownership or Control dated May 21, 2010
6. USEC letter USEC 10-0001 from P.J. Miner to C. Haney (NRC) regarding Submittal of Transaction Documents in Support of NRC Review, dated May 28, 2010
7. USEC letter USEC 10-0002 from P.J. Miner to C. Haney (NRC) regarding Submittal of Shareholders Agreement in Support of NRC Review, dated June 21, 2010
8. NRC letter from M.D. Tschiltz to P.J. Miner (USEC) regarding Request for Confirmation of Absence of Direct or Indirect Transfer of Ownership or Control (TAC No. L32989), dated July 29, 2010

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**Enclosure 1 of AET 10-0039**

**Transfer of Licenses and Changes to Documents,  
Detailed Description, Justification, and Significance Determination**

**Information contained within  
does not contain  
Export Controlled Information**

**Reviewer: Gregg Peed and Bob Lykowski  
Date: 08/31/2010 and 09/08/2010**

**Transfer of Licenses and Changes to Documents,  
Detailed Description, Justification, and Significance Determination**

Section I of this enclosure provides the U.S. Nuclear Regulatory Commission (NRC) with information in support of USEC Inc.'s (USEC) request to transfer control of materials licenses SNM-2011 for the American Centrifuge Plant (ACP) and SNM-7003 for the American Centrifuge Lead Cascade Facility (herein referred to as the "Lead Cascade") to American Centrifuge Operating LLC, (AC Operating) a wholly owned indirect subsidiary of USEC. Section II of this enclosure provides background information on other affiliated entities established by USEC to facilitate financing of the construction of ACP and to perform related manufacturing and technology development that will be used to support the construction of ACP. Section III of this enclosure provides information in support of USEC's request for a determination that the completion of the third phase (referred to as Phase 2 in Reference 5) of the investment by Toshiba American Nuclear Energy (TANE) and by Babcock & Wilcox Investment Company (BWIC) in USEC does not require any further consent from the NRC. Finally, Section IV of this enclosure provides the detailed description, justification, and significance determination of the proposed document changes that would be required to reflect USEC's new corporate structure and the requested transfer of control.

**I. NUREG-1556 – Information Needed for Transfer of Control Application**

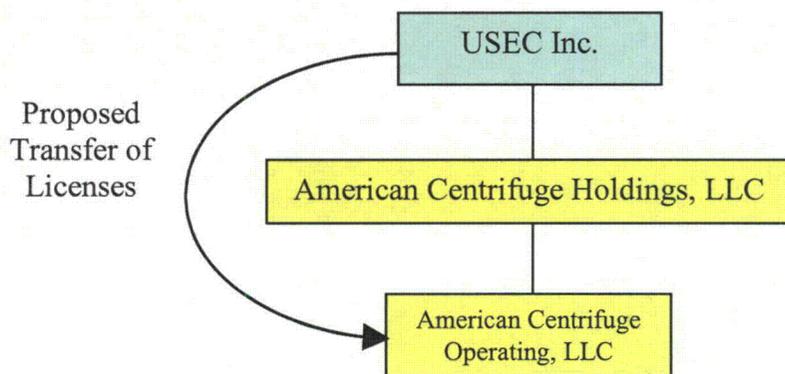
The following information is submitted consistent with NUREG-1556, Volume 15 (November 2000), *Consolidated Guidance about Material License – Guidance About Changes of Control and About Bankruptcy Involving Byproduct, Source, or Special Nuclear Materials Licenses* and in response to the Appendix F questions from that NUREG.

1. *Provide a complete description of the transaction (transfer of stocks or assets, or merger). Indicate whether the name has changed and include the new name. Include the name and telephone number of a licensee contact who NRC may contact if more information is needed.*

On July 30, 2010, USEC submitted an update to its application under the U.S. Department of Energy's (DOE) loan guarantee program. In order to facilitate financing under the DOE loan guarantee program and permit future expansion of the ACP, USEC proposes to transfer control of materials licenses SNM-2011 (ACP) and SNM-7003 (Lead Cascade) (collectively the "Licenses") to American Centrifuge Operating, LLC. AC Operating is a limited liability corporation formed under the laws of Delaware. AC Operating is a wholly owned subsidiary of American Centrifuge Holdings, LLC (AC Holdings), which is also a limited liability corporation formed under the laws of Delaware. AC Holdings, as discussed in Section II below, is a wholly owned subsidiary of USEC. Figure 1 illustrates the direct corporate ownership of AC Operating.<sup>1</sup>

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<sup>1</sup> As described in Section II below, there are other affiliated companies that will support the deployment of the ACP which are not depicted in Figure 1.



**Figure 1**

AC Operating will hold the Licenses for both the Lead Cascade and the ACP. AC Operating will be responsible for the operation, maintenance and decommissioning of those facilities (including the disposition of wastes and depleted uranium resulting from operations). AC Operating will physically possess the licensed uranium and control the centrifuge machines and facilities. AC Operating will hold the sublease with the United States Enrichment Corporation with respect to the licensed facilities in Piketon, Ohio. The workers necessary to operate the Lead Cascade and operate the ACP will be employed by, or loaned to, AC Operating or its qualified contractors. Copies of the unexecuted decommissioning financial assurance instrument required under NRC regulations and as a condition to the Lead Cascade license will be provided to NRC for review within two weeks of the date of this letter. AC Operating is using the same financial assurance for decommissioning instrument used by USEC – a surety bond – and the terms and conditions in the unexecuted instrument are the same as for USEC, except for the substitution of AC Operating for USEC as the licensee. The executed financial instruments will be provided to NRC 60 days prior to the effective date of the transfer of the licenses.<sup>2</sup> Following implementation of the proposed transactions, the new name of the licensee will be:

American Centrifuge Operating, LLC.

The physical and postal addresses for the Lead Cascade and ACP will remain:

3930 U.S. Rt. 23 S.  
Post Office Box 628  
Piketon, Ohio 45661-0628

<sup>2</sup> As described in Section II, an affiliated entity American Centrifuge Enrichment, LLC (ACE) and customers of the affiliate will have legal title to, but not possession of, the uranium as authorized under 10 CFR 70.20 and 40.21 under a general license. ACE will also have title to, but not possession of, the machines and other equipment.

The person to contact if additional information is required is:

Peter J. Miner, Director, Regulatory and Quality Assurance at 301-564-3470

- 2. Describe any changes in personnel or duties that relate to the licensed program. Include training and experience for new personnel.*

There are no planned changes in personnel or duties associated with the proposed transfer of the Licenses from the parent company, USEC, to the subsidiary company, AC Operating. At the time of transfer of the Licenses, the Board of Control of AC Operating will be comprised of senior executive officers of USEC. Senior executives and managers described in the Lead Cascade and ACP License Applications will remain the same. The qualifications, responsibilities, and authorities for managerial positions that have the principal responsibilities important to the licensed facilities and environmental, health, safety, safeguards, security, and quality will not change as a result of the proposed transfers. Personnel may become employees of AC Operating or may remain employees of USEC and be seconded by USEC to AC Operating without altering such employees' job descriptions, responsibilities, or authorities.

- 3. Describe any changes in the organization, location, facilities, equipment or procedures that relate to the licensed program.*

There are no planned changes in the organization, location, facilities, equipment, or procedures related to the licensed programs associated with the transfer of control of the Licenses.

No physical changes will be made to the Lead Cascade or ACP location, facilities or equipment, and there will be no technical changes in current programs or procedures, or in the day-to-day conduct of operations of the facilities as a result of the proposed American Centrifuge Project restructuring. There will be no changes in the use, possession, location, or storage of the licensed materials in connection with the transaction. The NRC licensed activities will be the same before and after the transfer. The proposed transfers will not have any adverse impact on the public health and safety, or be inimical to the common defense and security.

- 4. Describe the status of the surveillance program (surveys, wipe tests, quality control) at the present time and the expected status at the time that control is to be transferred.*

All licensed activities will continue without interruption from and after the time of the planned restructuring. There will be no change in the status of surveillance programs as a result of the American Centrifuge Project restructuring. Surveillance items and records will continue to be maintained the same as before the proposed license transfers in accordance with applicable regulations, license conditions, and commitments.

5. *Confirm that all records concerning the safe and effective decommissioning of the facility will be transferred to the transferee or to NRC, as appropriate. These records include documentation of surveys of ambient radiation levels and fixed and/or removable contamination, including methods and sensitivity.*

USEC confirms that all records concerning the safe and effective decommissioning of the Lead Cascade and ACP will be transferred and will remain available to AC Operating after the transfer of the licenses.

6. *Confirm that the transferee will abide by all constraints, conditions, requirements and commitments of the transferor or that the transferee will submit a complete description of the proposed licensed program.*

As described below, AC Operating will abide by all constraints, conditions, requirements, and commitments of USEC's present Licenses. With regard to any open inspection items, AC Operating will assume full responsibility for such items and any resulting NRC actions.

With NRC approval of the transfer, the Licensee for the Lead Cascade and the ACP will be changed from "USEC Inc." to "American Centrifuge Operating, LLC." Conforming document text changes proposed to reflect the transfer of the licenses from USEC to AC Operating are shown in Section IV below.

With respect to financial qualifications for construction and operation of the ACP, there is currently in place license condition 15 in the ACP License SNM-2011. Specifically regarding financial assurance for construction funding, license condition 15 states:

Construction of each incremental phase of the ACP shall not commence before funding for that increment is available or committed. Of this funding, USEC must have in place before constructing such increment, commitments for one or more of the following: equity contributions from USEC, affiliates and/or partners, along with lending and/or lease arrangements that solely or cumulatively are sufficient to ensure funding for the particular increment's construction costs. USEC shall make available for Nuclear Regulatory Commission (NRC) inspection, documentation of both budgeted costs for such phase and the source of funds available or committed to pay those costs.

As described in Section II below, an affiliated company, American Centrifuge Enrichment, LLC (ACE) will, among other things, be the borrower under the DOE loan guarantee, own the centrifuges and other equipment and materials, and hold the customer contracts for enrichment services. ACE will obtain adequate incremental construction funding as necessary. NRC would retain the right to inspect documentation of both budgeted costs and sources of funds, including the terms of and adequacy of funds to support construction in accordance with the existing

license condition before incremental construction phases could commence. USEC requests a change to add the phrase “or affiliates” before “must have in place” in the license condition.

Regarding financial assurance for operations, license condition 15 states:

Operation of the ACP shall not commence until USEC has in place either:  
(1) long term contracts lasting five years or more that provide sufficient funding for the estimated cost of operating the facility for the five year period; (2) documentation of the availability of one or more alternative sources of funds that provide sufficient funding for the estimated cost of operating the facility for five years; or (3) some combination of (1) and (2).

Again, because the customer contracts for enrichment services will be held by ACE, USEC requests a change to add the phrase “or affiliates” before “has in place” in the license condition. ACE will provide adequate funding for operations to AC Operating through a contract for the operation of the ACP. Again, NRC would have the right to inspect documentation, as necessary, to ensure that adequate financial arrangements for operations are in place before such operations commence.

## **II. Information on Affiliated Entities**

To facilitate financing the construction of ACP under the DOE loan guarantee program, permit future expansion of and to provide support to ACP, USEC has created the following four other entities affiliated with AC Operating:

- American Centrifuge Holdings, LLC (AC Holdings)
- American Centrifuge Enrichment, LLC (ACE)
- American Centrifuge Technology, LLC (AC Tech)
- American Centrifuge Manufacturing, LLC (AC Mfg)

While these entities will not possess any nuclear material or engage in any activities requiring licensing by the NRC, they may require access to classified information.<sup>3</sup> The following describes these affiliated entities and Figure 2 depicts the full corporate structure including these entities.

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<sup>3</sup> AC Tech will possess small quantities of nuclear material and will conduct testing at the K-1600 facility located in the East Tennessee Technology Park outside of Oak Ridge, Tennessee which is leased from the DOE. These activities are currently regulated by DOE and will continue to be regulated by DOE.

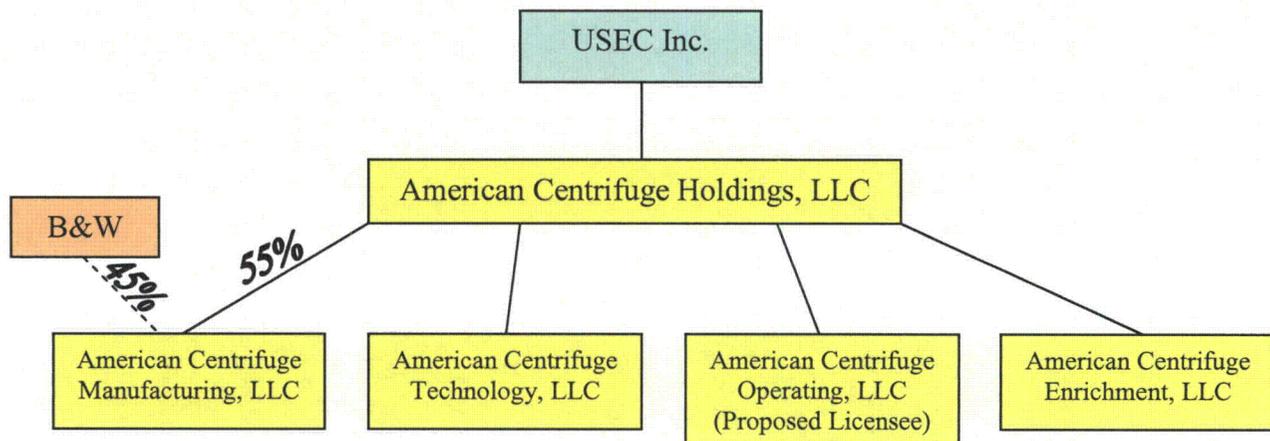


Figure 2

a) AC Holdings

AC Holdings is a subsidiary of USEC and AC Operating (the proposed licensee), ACE, and AC Tech are wholly owned subsidiaries of AC Holdings. AC Holdings will own a majority of AC Mfg (a joint venture with Babcock & Wilcox Technical Services Group, Inc.). Together, these five companies will hold all the assets, rights, and obligations connected with the centrifuge technology. This structure will accommodate any third party financing or investment in the American Centrifuge Project and the future expansion of the project using funds from other sources.

b) ACE

ACE is being established in order to permit project financing of the construction of ACP. ACE will be the borrower under any loans obtained through the DOE loan guarantee program or from other sources of project level financing. Following the transfer of assets to ACE by USEC, ACE will own the centrifuges and other equipment and materials related to the American Centrifuge Project. ACE also will have the customer contracts and the contracts for the construction of the ACP and with other vendors needed to complete deployment of the American Centrifuge Project. These assets will be pledged as collateral for the DOE loan guarantee and other project level financing. Title to uranium will be held by ACE, its customers, and other contracting parties.<sup>4</sup> ACE will purchase the centrifuges from AC Mfg. ACE will also be party to agreements with AC Operating pursuant to which AC Operating will operate and maintain the Lead Cascade and the ACP (including decontamination and decommissioning activities.) AC Operating, not ACE, will control the centrifuge machines, uranium, the Lead Cascade, the ACP, and any other licensed facilities and materials.

<sup>4</sup> Under 10 CFR 40.21 and 70.20, any and all of these entities hold general licenses to receive title to and own source material and special nuclear material. None of these entities will physically possess licensed material as part of the project.

c) AC Tech

AC Tech will hold the intellectual property rights to the American Centrifuge technology and will continue the technology development activities now being conducted by USEC in Oak Ridge, Tennessee. AC Tech will also be the owner of the Lead Cascade and will contract with AC Operating for its operation and maintenance.

d) AC Mfg

AC Mfg is a joint venture being formed by USEC and Babcock & Wilcox Technical Services Group, Inc. (B&W) to manufacture and assemble the centrifuge machines for the ACP. It will have manufacturing facilities in Oak Ridge Tennessee and will assemble machines in an area of X-7725 Recycle and Assembly Building (RA Building). AC Operating will retain control of the area of the RA Building used by AC Mfg and AC Mfg will follow AC Operating's procedures and directions related to safety, security and other activities under the license.

### **III. Completion of Minority Investment in USEC**

By letter dated May 21, 2010 (Reference 5), USEC and the United States Enrichment Corp. sought NRC confirmation that anticipated minority financial investments in USEC by Toshiba Corporation (through a U.S. affiliate, Toshiba American Nuclear Energy (TANE)) and by Babcock & Wilcox Investment Company (BWIC), an affiliate of The Babcock & Wilcox Company in the first two phases (referred to as Phases 1 and 1A in Reference 5) of the investment, would not constitute a direct or indirect transfer or assignment of ownership or control of any NRC license or certificate of compliance, and thus would not require any prior written NRC consent pursuant to Section 184 of the Atomic Energy Act or 10 CFR 70.36 or 76.65.

In a letter dated May 28, 2010 (Reference 6), we provided the NRC with additional information concerning the financial investment in USEC by TANE and BWIC. Our June 21, 2010 (Reference 7) letter provided the Shareholders Agreement to support NRC's review of the financial investment. Subsequently on July 29, 2010 (Reference 8) the NRC issued its Safety Evaluation Report which concluded that the subject financial transaction and related ownership interest transfer does not involve a transfer, direct or indirect, of the operating licenses and Certificates of Compliance, pursuant to 10 CFR 70.36 or 76.65, respectively. The NRC staff also concluded that the subject financial transaction and related ownership interest transfer will not affect the qualifications of USEC and/or the United States Enrichment Corp. as the licensee and certificate holder, respectively, and that the subject transaction and ownership interest transfer otherwise is consistent with applicable provisions of law, regulations, and orders issued by the Commission. As a result, no NRC consent was required for the described actions.

USEC is now providing further details regarding the third phase (referred to as Phase 2 in Reference 5) of the transaction. We believe that this phase of the transaction, like the initial two phases, will also not require any formal NRC consent. The closing on the third phase (Phase 2) of the transaction is expected to be simultaneous with the closing on a loan guarantee by DOE. Figure 3 depicts the investment in, and organization of, USEC and its subsidiaries after the third closing and the closing on the loan guaranteed by DOE:

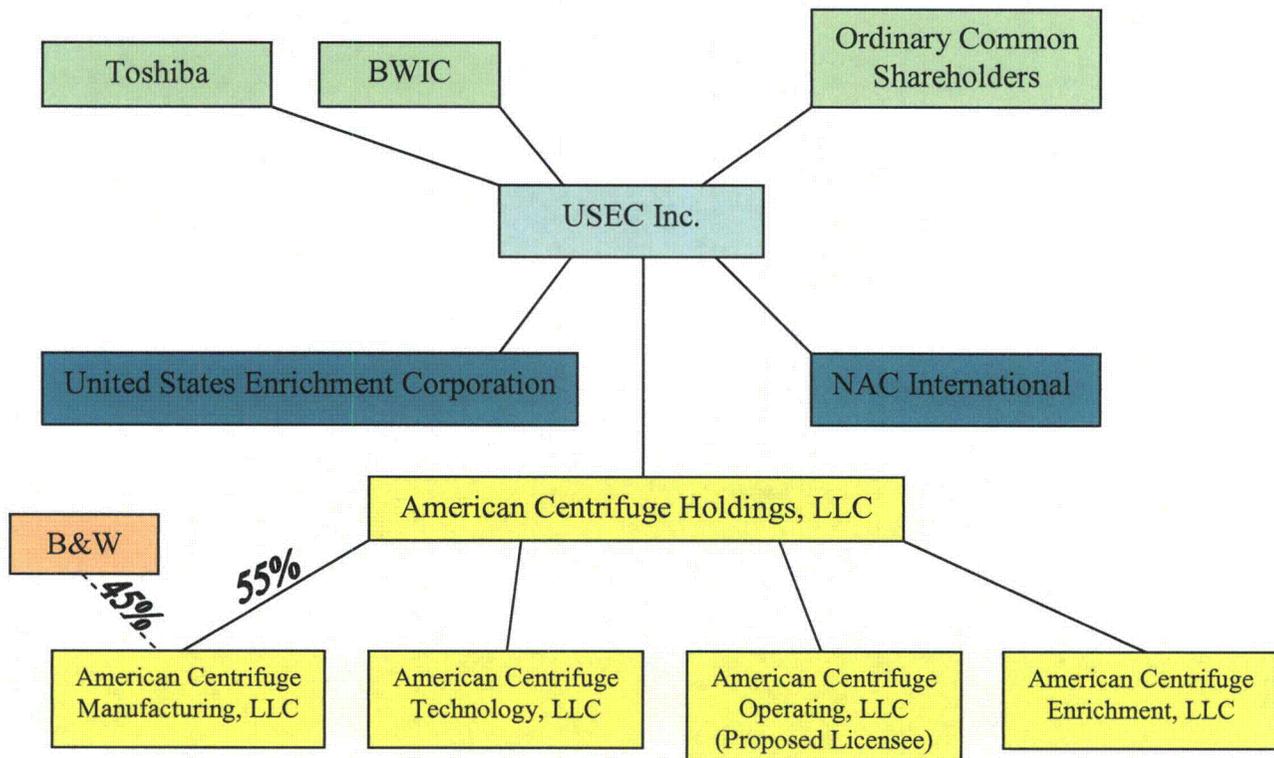


Figure 3

Description of Third Phase of Investment

In the third phase (Phase 2), TANE and BWIC will invest an additional \$37.5 million each in USEC upon closing of a DOE loan guarantee financing for the ACP, for a total investment of \$75 million at the third closing, and a total overall investment by both companies in USEC of \$200 million. The combined total investment in USEC represents an approximate 25% of USEC's total market capitalization of \$798 million following the \$200 million investment.<sup>5</sup> The rights of TANE and BWIC will remain the same as described previously to NRC for the first two phases of the investment, except that TANE and BWIC will have the additional right to vote together with ordinary common stockholders on proposed change in control transactions that are

<sup>5</sup> Again, this estimate of market capitalization is based upon the Volume-Weighted Average Price for USEC stock for, in this case, the one quarter period from April 1, 2010 to June 30, 2010 which was \$5.237, and outstanding shares as of USEC's second quarterly report of 114,190,954.

subject to vote by the shareholders. TANE and BWIC combined voting power in such situations will be limited to voting no more than twenty percent (20%) of the total voting power eligible to vote on such matters.

For the same reasons as discussed in References 5 and 6, Phase 2 of the financial investment does not require prior NRC consent.<sup>6</sup>

#### IV. Proposed Document Changes Associated With Project Restructuring

With NRC approval of the transfer requested in Section I, the Licensee for the Lead Cascade and the ACP will be changed from "USEC Inc." to "American Centrifuge Operating, LLC." The following proposed changes to the Materials Licenses reflect the changes in corporate structure and transfer of the Licenses from USEC to AC Operating.

The proposed changes to the Security Program are contained in Enclosure 2. For your convenience, Enclosure 4 is also being provided to identify proposed changes for the Facility Data and Approval Record (i.e., Item Numbers 5a, 13, 17, and 20) for Facility Code 11560.

Proposed changes are identified by the following method:

- **Blue Strikeout** - Identifies text to be removed
- **Red underline** – Identifies text to be added

##### 1. ACP Materials License, SNM-2011

a. License Condition 1, revise as follows:

1. ~~USEC Inc.~~ American Centrifuge Operating, LLC

b. License Condition 14,

NRC letter from Julie Olivier to Peter Miner, dated July 16, 2007, stated ". . . USEC has satisfied the requirements of NRC License Condition #14 and no further action is required by USEC concerning this license condition."

USEC Inc. therefore requests deletion of Condition 14 and restated as "Deleted by Amendment #"

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<sup>6</sup> Because Phase 2 of the investment would involve corporate structural changes USEC limited its request at that time to Phases 1 and 1A of the transaction. Those corporate structural changes are the subject of the request for the transfer of the licenses in Section I. Also, as noted in Enclosure 1 of Reference 5, construction of the ACP will likely require additional debt or equity financing. At this time, USEC is in discussions regarding such financing but those discussions are in the early stages. Once those arrangements are better defined, USEC will provide information and seek NRC review as appropriate.

If License Condition 14 remains in effect, USEC requests it be revised as follows:

~~USEC, Inc. (USEC)~~ **The Licensee** shall provide to the Commission, at least 120 days prior to the planned date for obtaining licensed material, documentation of any liability insurance required to be obtained by ~~USEC~~ **the Licensee** under its lease with DOE for the ACP by that time or, alternatively, the status of ~~USEC's~~ **the Licensee's** efforts to obtain liability insurance, ~~USEC~~ **the Licensee** shall provide the Commission with status reports regarding those efforts. The status reports shall be submitted at a frequency of at least once every six months following issuance of a license. ~~USEC~~ **The Licensee** shall notify the Commission within 30 days upon receiving notification of denial or approval of commercial liability insurance for the ACP. If commercial liability insurance is required to be obtained under its lease with DOE, within 60 days of receiving notification of approval of commercial liability insurance, ~~USEC~~ **the Licensee** shall provide proof of liability insurance coverage and a justification, for Commission review and approval, if ~~USEC~~ **the Licensee** is proposing to provide less than \$300 million of liability insurance coverage.

- c. License Condition 15, revise as follows:

Construction of each incremental phase of the ACP shall not commence before funding for that increment is available or committed. Of this funding, ~~USEC~~ **the Licensee or affiliates** must have in place before constructing such increment, commitments for one or more of the following: equity contributions from ~~USEC~~ **the Licensee**, affiliates and/or partners, along with lending and/or lease arrangements that solely or cumulatively are sufficient to ensure funding for the particular increment's construction costs. ~~USEC~~ **The Licensee** shall make available for Nuclear Regulatory Commission (NRC) inspection, documentation of both the budgeted costs for such phase and the source of funds available or committed to pay those costs.

Operation of the ACP shall not commence until ~~USEC~~ **the Licensee or affiliates** has in place either: (1) long term contracts lasting five years or more that provide sufficient funding for the estimated cost of operating the facility for the five year period; (2) documentation of the availability of one or more alternative sources of funds that provide sufficient funding for the estimated cost of operating the facility for five years; or (3) some combination of (1) and (2).

- d. License Condition 16, revise as follows:

~~USEC~~ **The Licensee** shall provide final copies of the proposed financial assurance instruments to NRC for review at least six months prior to the planned date for obtaining licensed material, and provide to NRC final executed copies of the reviewed financial assurance instruments prior to the receipt of licensed material. The amount of the financial assurance instrument shall be updated to current year dollars and include any

applicable changes to the decommissioning cost estimate. The decommissioning cost estimate shall include an update to **USEC the Licensee's** Analysis of Depleted Uranium Disposal Costs for the ACP. To develop this update, **USEC the Licensee** shall coordinate with DOE to determine necessary changes to the DOE contractor's depleted uranium cost estimate utilized as input to the **USEC the Licensee** specific analysis.

- e. License Condition 17, item (2), revise as follows:

The cost estimate for depleted uranium byproduct generation shall be provided on a projected annual forward-looking basis. The decommissioning cost estimate shall include an update to **USEC the Licensee's** Analysis of Depleted Uranium Disposal Costs for the ACP. To develop this update, **USEC the Licensee** shall coordinate with DOE to determine necessary changes to the DOE contractor's depleted uranium cost estimate utilized as input to the **USEC the Licensee** specific analysis.

- f. License Condition 18, revise as follows:

**USEC The Licensee** shall utilize its procedure, "IROFS Boundary Determination Plan," to define the boundaries of each Item Relied on for Safety (IROFS). Completed IROFS boundaries for all IROFS shall be available for inspection at the time of the operational readiness review.

- g. License Condition 20, revise as follows:

**USEC The Licensee** shall provide a minimum 60-day notice to NRC prior to initial customer product withdrawal of licensed material exceeding 5 wt. percent <sup>235</sup>U enrichment. This notice shall identify the necessary equipment and operational changes to support customer product shipment for these assays.

## 2. Lead Cascade Materials License, SNM-7003, Amendment 5

- a. License Condition 1, revise as follows:

1. **USEC Inc. American Centrifuge Operating, LLC**

- b. License Condition 12, revise as follows:

**USEC Inc. The Licensee** is hereby granted the special authorizations and exemptions identified in Chapter 1, Section 1.2.3.E of the American Centrifuge Lead Cascade Facility Safety Evaluation Report, dated January 2004.

### **Justification for Proposed Changes**

USEC has developed a new corporate structure which includes new subsidiaries to hold American Centrifuge Project assets and clearly separates American Centrifuge Project assets from other corporate assets and liabilities. The structure has been developed to facilitate obtaining a DOE loan guarantee under the DOE's Loan Guarantee Program authorized under Title XVII of the *Energy Policy Act* of 2005 and to facilitate third party financing or investment in the American Centrifuge Project in a traditional project finance structure.

The creation of new LLCs, proposed transfer of NRC licenses, and change of Licensee name will not affect the qualifications, responsibilities, and activities of managerial positions at the Lead Cascade and ACP. Some title changes could occur, but the responsibilities for environmental, health, safety, safeguards, security, and quality will continue to be clearly defined. Legal ownership of USEC-owned uranium inventory and USEC-owned plant and equipment will be transferred to ACE, but AC Operating (the Licensee) will have responsibility for all licensed activities, day-to-day operations, and physical possession of the uranium and equipment. The workers necessary to operate the Lead Cascade and ACP in Piketon will work for AC Operating or its contractors. Some of the positions identified on the organization charts within the License Applications may be filled by personnel from affiliates of the Licensee. The proposed changes will not alter the commitment to conduct operations in a manner that protects the health and safety of workers and the public, the environment, and the common defense and security.

AC Operating will continue to use the same policies and procedures. Some procedures refer to USEC which has no effect on how the plant is operated or how activities are conducted in a safe manner. Therefore, the name change in such procedures will not need to be made at this time, but will be changed when the procedures are revised as opportunities exist within the next year. The proposed transfer of the current Materials Licenses and revision of the License Application documents to reflect our new Licensee name will not affect any previously analyzed accident sequences. The existing controls will continue to maintain the mitigated consequences or the likelihood of these accident scenarios in conformance with the performance requirements of 10 CFR 70.61.

The associated conforming change of our new Licensee name from USEC Inc. to American Centrifuge Operating, LLC in the Licenses and Security Program requires NRC pre-approval in accordance with 10 CFR 70.36 and 95.19.

**Significance Determination for Proposed Conforming Changes**

**1. No Significant Change to Any Conditions to the License.**

The proposed changes, upon NRC approval of the transfer of the Licenses, would replace USEC with the approved replacement, AC Operating, as the named Licensee on page 1 of the Materials Licenses, and replace the USEC name with the generic "the Licensee" throughout the supplemental sheets of the Licenses. The proposed changes will not alter the commitment to conduct operations in a manner that protects the health and safety of workers and the public, the environment, and the common defense and security. Therefore, making the proposed changes will not involve any significant change to any condition to the license. In particular, the proposed changes to license condition 15 are discussed earlier and will have no effect on providing reasonable assurance of the adequacy of funds for ACP construction and operation.

**2. No Significant Increase in the probability of occurrence or consequences of previously evaluated accidents.**

The proposed changes are administrative in nature and will not change any accident scenario identified in the Integrated Safety Analysis Summary or exceed the performance requirements of 10 CFR 70.61; therefore, there is no significant increase in the probability of occurrence or consequences of the previously evaluated accidents.

**3. No new or different type of accident.**

The proposed changes are administrative in nature and do not create new or different types of accident sequences that, unless mitigated or prevented, would exceed the performance requirements of 10 CFR 70.61 and that have not previously been described in the Integrated Safety Analysis Summary.

**4. No significant reduction in the margins of safety.**

The proposed changes are administrative in nature and do not decrease the margin of safety associated with any Items Relied On For Safety that are being credited to ensure the performance requirements of 10 CFR 70.61 are met.

**5. No significant decrease in the effectiveness of any programs or plans contained in the licensing documents.**

Following NRC approval of the transfer of the Licenses, legal ownership of uranium inventory will be transferred to ACE, but AC Operating will have responsibility for licensed activities and physical possession of the uranium. The proposed changes do not require changes to the Fundamental Nuclear Material Control Program (FNMCP) or the way it is implemented.

- The FNMCP will still meet the requirements of 10 CFR Parts 70 and 74 with the proposed changes.
- The proposed changes will not change any function or process to control nuclear material. As no changes are being made to the operating organization, the FNMCP activities will be carried out in the same manner.
- The proposed transfer of the Licenses and associated revisions to documents to reflect the new Licensee name will not decrease the overall level of security system performance to protect against the loss or compromise of classified matter. The proposed changes do not affect the control of classified storage areas or vaults, training of classifiers, documentation of classification of matter, or computer security. The changes do not alter aspects of physical security or transportation of special nuclear material (SNM).
- The proposed changes will not create a reduction in the levels of emergency preparedness, and will not decrease the abilities of the Responses Organization to mitigate accident consequences or reasonably assure the adequate protection of the health and safety of the off-site and on-site personnel in the event of an emergency.
- The proposed changes do not represent an alternative to a requirement described in Quality Assurance Program Description and do not represent a relaxation of a requirement of Quality Assurance Program Description which has not been previously reviewed and approved by the NRC.

Based on the above the proposed changes will not result in a significant decrease in the effectiveness of any programs or plans contained in the licensing documents.

**6. The proposed changes do not result in undue risk to: 1) Public health and safety; 2) Common defense and security; and 3) Environment.**

The proposed changes are administrative in nature. There are no increases in hazardous materials or waste streams and no undue risk to public health and safety. The proposed changes will not increase the likelihood that protected material or SNM will be accessible to unauthorized personnel since facilities and activities are within the Controlled Access Area. The change will not decrease the effectiveness of the Emergency Plan, Security Program/Plans, FNMCP, or the Quality Assurance Program Description. The proposed changes do not result in undue risk to public health and safety, the environment, or to the common defense and security.

**7. There is no Change in the Type or Significant Increases in the Amounts of any Effluents that may be released Off-site.**

The proposed changes are administrative in nature and do not result in any new or unusual sources of hazardous substances, hazardous waste, or new waste streams that could be generated or used in unacceptable levels that exceed applicable regulatory requirements as a

result of the proposed changes. In addition, there is no change in the type or significant increases in the amounts of any effluents that may be released off-site.

**8. There is no significant increase in individual or cumulative occupational radiation exposure.**

The proposed changes are administrative in nature and will not increase radiological or chemical releases beyond applicable regulatory limits (10 CFR 70.61) and will not create any new or unusual sources of radioactive waste. Therefore, the changes will result in no significant increase in individual or cumulative occupational radiation exposure.

**9. There is no significant construction impact.**

The proposed transfer of the Licenses and associated changes to reflect the change in corporate structure and new Licensee name in licensing documents are administrative in nature and will not have a significant impact on construction.