

July 15, 2013

Dr. David M. Slaughter
Chief Executive Officer
Nuclear Labyrinth, LLC

SUBJECT: AEROTEST OPERATIONS, INC. - DENIAL OF LICENSE TRANSFER
REGARDING THE AEROTEST RADIOGRAPHY AND RESEARCH REACTOR,
FACILITY OPERATING LICENSE NO. R-98 (TAC NO. ME8811)

Dear Dr. Slaughter:

The U.S. Nuclear Regulatory Commission (NRC or Commission) staff has reviewed Aerotest Operations, Inc. (Aerotest), and Nuclear Labyrinth, LLC's application for consent to transfer Facility Operating License No. R-98 to Nuclear Labyrinth, LLC, and hereby denies the application to transfer the license. On May 30, 2012, Aerotest and Nuclear Labyrinth, LLC (the applicants) submitted an application for an indirect license transfer (Agencywide Documents Access and Management System (ADAMS) Accession Nos. ML12152A233 and ML12180A384) of Facility Operating License No. R-98 for the Aerotest Radiography and Research Reactor (ARRR) from Aerotest to Nuclear Labyrinth, LLC. The NRC requested supplemental information on July 5, 2012 (ADAMS Accession Nos. ML121740317 and ML121740343), and received responses on July 19, 2012 (ADAMS Accession No. ML122021201). The NRC accepted the application for review on August 14, 2012 (ADAMS Accession No. ML12213A486).

The NRC issued a request for additional information (RAI) on September 14, 2012 (ADAMS Accession Nos. ML12242A460 and ML12242A479). The applicants responded on October 15, 2012 (ADAMS Accession No. ML12291A508), but did not adequately demonstrate financial assurance. On December 10, 2012, the NRC issued another RAI (ADAMS Accession Nos. ML12339A181 and ML12339A189) which was discussed in a public meeting on December 19, 2012 (ADAMS Accession No. ML13018A003). The purpose of the public meeting was to ensure that the applicants understood the financial assurance requirements for license transfer approval. The applicants responded to the RAI on January 10, 2013 (ADAMS Accession No. ML13015A395).

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| <p>NOTE: ENCLOSURE 1 TRANSMITTED HERewith CONTAINS PROPRIETARY INFORMATION. WHEN SEPARATED FROM ENCLOSURE 1 THIS DOCUMENT IS DECONTROLLED.</p> |
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Enclosure 1 is the NRC staff's non-public safety evaluation for the indirect license transfer request (enclosure 2 is the public version located under ADAMS Accession No. ML13129A001) which concludes that the NRC does not have reasonable assurance, as required by Title 10 of the *Code of Federal Regulations* (10 CFR), Section 50.33, "Contents of applications; general information," that Nuclear Labyrinth, LLC, would have sufficient funding to conduct the activities authorized by the ARRR license if the license were transferred. Therefore, the application for transfer of Facility Operating License No. R-98 to Nuclear Labyrinth, LLC, is denied.

In accordance with 10 CFR 2.103(b), you have the right to demand a hearing on the license transfer denial within 20 days of the date of this letter.

If you request an adjudicatory hearing pursuant to 10 CFR 2.103(b)(2) based on the denial contained in this letter, submit your request electronically through the NRC's E-Filing system in accordance with the requirements of 10 CFR 2.302(a) through (g).

10 CFR 2.302(a) states:

- (a) Documents filed in Commission adjudicatory proceedings subject to this part shall be electronically transmitted through the E-Filing system, unless the Commission or presiding officer grants an exemption permitting an alternative filing method or unless the filing falls within the scope of paragraph (g)(1) of this section [i.e., information that may not be transmitted electronically for security or other reasons].

In addition, 10 days before the date your request for hearing is due, you must request a digital ID certificate from the NRC in order to access the Electronic Information Exchange (EIE) system. The instructions for obtaining a digital certificate are found in 10 CFR 2.302(f) and on the NRC Web site at: <http://www.nrc.gov/site-help/e-submittals.html>.

In accordance with 10 CFR 2.390 and the NRC's "Rules of Practice," a copy of this letter and enclosure 2 will be made available electronically for public inspection in the NRC Public Document Room and in ADAMS, accessible through the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>.

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Please contact Spyros Traiforos by phone at 301-415-3965 or by e-mail at Spyros.Traiforos@nrc.gov should you have any questions.

Sincerely,

/RA/

Eric J. Leeds, Director
Office of Nuclear Reactor Regulation

Docket No. 50-228

Enclosures:

1. Nonpublic Safety Evaluation
2. Public Safety Evaluation

cc w/encl 2: See next page

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Aerotest Operations, Inc.

Docket No. 50-228

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Sincerely,

/RA/

Eric J. Leeds, Director
Office of Nuclear Reactor Regulation

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1. Non Public Safety Evaluation
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cc w/encl 2: See next page

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ADAMS Accession No.: Package: ML13134A376 Letter: ML13134A390

Non Public Safety Evaluation: ML13128A403, Public Safety Evaluation: ML13129A001 NRR-106

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|--------|-----------------|---------------|-----------------|-----------------|
| OFFICE | NRR/DPR/PRLB/PM | Tech Editor | NRR/DPR/PRLB/LA | NRR/DPR/PRLB/BC |
| NAME | STraiforos | JDougherty | GLappert | AAdams |
| DATE | 4/19/2013 | 4/24/2013 | 5/23/2013 | 5/23/2013 |
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