

August 13, 2013

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

In the Matter of)	
)	Docket No. 50-228
Aerotest Operations, Inc.)	License No. R-98
(Aerotest Radiography and)	
Research Reactor))	

**JOINT DEMAND FOR HEARING ON DENIAL OF LICENSE RENEWAL AND
INDIRECT LICENSE TRANSFER REGARDING AEROTEST RADIOGRAPHY
AND RESEARCH REACTOR FACILITY OPERATING LICENSE NO. R-98**

On February 28, 2005, Aerotest Operations, Inc. (“Aerotest”) submitted to the Nuclear Regulatory Commission (“NRC”) an application to renew Facility Operating License No. R-98 for the Aerotest Radiography and Research Reactor (the “License”) (ADAMS Accession No. ML050660109). On May 30, 2012 Aerotest and Nuclear Labyrinth, LLC (“Nuclear Labyrinth”) jointly submitted to the NRC an application for approval of the indirect transfer of control of the License to Nuclear Labyrinth (ADAMS Accession Nos. ML12152A233 and ML12180A384). By letter to Mr. Michael Anderson, President of Aerotest, dated July 24, 2013, the Director of the NRC’s Office of Nuclear Reactor Regulation (“NRR”) stated that Aerotest’s license renewal application and the application for approval of the indirect transfer of the License to Nuclear Labyrinth were denied (ADAMS Accession No. ML13120A598). Similarly, by letter to Dr. David M. Slaughter, Chief Executive Officer of Nuclear

Labyrinth, dated July 15, 2013 (ADAMS Accession No. ML13134A390),¹ the Director of NRR stated that the license transfer application was denied. Pursuant to 10 C.F.R. § 2.103(b) and the two above-referenced letters, Aerotest and Nuclear Labyrinth hereby jointly demand a hearing on the denials of the license renewal application and the application for approval of the indirect transfer of control of the License.²

Respectfully Submitted

/signed electronically by/

Jay E. Silberg
Kimberly A. Harshaw

PILLSBURY WINTHROP SHAW PITTMAN LLP
2300 N Street, N.W.
Washington, DC 20037-1128
Tel. 202-663-8000

Counsel for Aerotest Operations, Inc. and
Nuclear Labyrinth, LLC

¹ In a letter dated August 2, 2013 to Dr. Slaughter, Gregory T. Bowman, Acting Deputy Director, Division of Policy and Rulemaking, NRR, stated that the letter dated July 15, 2013 to Dr. Slaughter was not issued until July 24, 2013, and that the deadline for requesting a hearing is August 13, 2013 (ADAMS Accession No. ML13214A343).

² Because 10 C.F.R. § 2.103(b) and the letters provide “the right to **demand** a hearing”, the provisions of 10 C.F.R. § 2.309 relating to a “**request** for hearing” do not apply. Emphasis added. *See, e.g., Charlissa C. Smith* (Denial of Senior Reactor Operator License), LBP-13-03, 77 NRC __ (slip op.) (Feb. 19, 2013); *See also Nuclear Innovation North America LLC* (South Texas Project Units 3 and 4), Order (Requesting Additional Briefing on NINA’s Motion) (May 9, 2013) (questioning whether the Board had the authority to admit a contention put forth by an applicant and whether a hearing demand under 10 C.F.R. § 2.130(b)(2) provides an adequate remedy to address the Applicant’s concerns), and *Nuclear Innovation North America LLC* (South Texas Project Units 3 and 4), Order (Granting NINA’s Motion to Toll Deadline for Filing of New Contention) (May 24, 2013). Should it be subsequently determined that the requirements of 10 C.F.R. § 2.309 apply to this Joint Demand for Hearing, Aerotest and Nuclear Labyrinth hereby respectfully request an appropriate extension of time to address those requirements.

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing Joint Demand for Hearing on Denial of License Renewal and Indirect License Transfer Regarding Aerotest Radiography and Research Reactor Facility Operating License No. R-98 has been served through the E-Filing system on the participants in the above-captioned proceeding this 13th day of August 2013.

/Signed electronically by/

Kimberly A Harshaw