

July 11, 2016

Dr. David M. Slaughter, Chief Executive Officer  
Nuclear Labyrinth LLC  
10874 South Bay Meadow Circle  
Sandy, UT 84092

SUBJECT: REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE  
FOR THE AEROTEST RADIOGRAPHY AND RESEARCH REACTOR  
(TAC NO. MF7221)

Dear Dr. Slaughter:

By letter dated June 16, 2016 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML16176A221), you submitted an affidavit executed by yourself, requesting that the information contained in the following documents be withheld from public disclosure pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR), Section 2.390:

Letter from American Capital Holdings, LLC, dated May 13, 2016

Report entitled "Domestic Mo-99 Production: A Partnership that Makes Sense"

Letter from Pillsbury Winthrop Shaw Pittman LLP to the U.S. Nuclear Regulatory Commission (NRC), dated May 27, 2016

A nonproprietary (redacted) copy of the letter from Pillsbury Winthrop Shaw Pittman LLP to the NRC has been placed in the NRC's Public Document Room and added to the NRC Library (ADAMS Accession No. ML16176A221). Since you requested that the letter from American Capital Holdings and the report entitled "Domestic Mo-99 Production: A Partnership that Makes Sense," be withheld in their entirety, no nonproprietary copies of those documents have been made publicly available.

The affidavit stated that the submitted information should be considered exempt from mandatory public disclosure for the following reasons:

- i. This information is and has been held in confidence by Nuclear Labyrinth.
- ii. This information is of a type that is customarily held in confidence by Nuclear Labyrinth, and there is a rational basis for doing so because the information includes sensitive business information pertaining to the production of Molybdenum-99.
- iii. The information is being transmitted to the NRC voluntarily and in confidence.
- iv. This information is not available in public sources and could not be gathered readily from other publicly available information.
- v. Public disclosure of this information would create substantial harm to the competitive position of Nuclear Labyrinth by disclosing certain business decisions Nuclear Labyrinth has made or is considering and the analysis that went behind those decisions. Development and evaluation of this

- commercial information was achieved at, and disclosure could lead to additional, significant cost to Nuclear Labyrinth.
- vi. Public disclosure of the information sought to be withheld is likely to cause substantial harm to Nuclear Labyrinth's competitive position. The value of the information goes beyond the disclosure of actual information pertaining to Nuclear Labyrinth potential business, and includes substantial time and work towards developing the project, and represents significant efforts by Nuclear Labyrinth and its associates. The research, development, engineering, and analytical costs comprise and substantial investment of time and money by Nuclear Labyrinth. The precise value of the information is difficult to quantify, but clearly is substantial.
  - vii. Nuclear Labyrinth competitive advantage will be lost if its competitors are able to use the results of Nuclear Labyrinth activities to aid their own commercial activities. The value of this information to Nuclear Labyrinth would be lost if the information were disclosed to the public. Making such information available to other entities without their having been required to undertake a similar expenditure of resources would unfairly provide competitors with a windfall, and deprive Nuclear Labyrinth of the opportunity to exercise its competitive advantage to seek and *[sic]* adequate return on its large investment.

We have reviewed your application and the material in accordance with the requirements of 10 CFR 2.390 and, on the basis of the statements in the affidavit, have determined that the submitted information sought to be withheld contains proprietary commercial information and should be withheld from public disclosure.

Therefore, the version(s) of the submitted information marked as proprietary will be withheld from public disclosure pursuant to 10 CFR 2.390(b)(5) and Section 103(b) of the Atomic Energy Act of 1954, as amended.

Withholding from public inspection shall not affect the right, if any, of persons properly and directly concerned to inspect the documents. If the need arises, we may send copies of this information to our consultants working in this area. We will, of course, ensure that the consultants have signed the appropriate agreements for handling proprietary information.

If the basis for withholding this information from public inspection should change in the future such that the information could then be made available for public inspection, you should promptly notify the NRC. You also should understand that the NRC may have cause to review this determination in the future, for example, if the scope of a Freedom of Information Act request includes your information. In all review situations, if the NRC makes a determination adverse to the above, you will be notified in advance of any public disclosure.

D. Slaughter

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If you have any questions regarding this matter, please contact Edward Helvenston at 301-415-4067, or by electronic mail at [Edward.Helvenston@nrc.gov](mailto:Edward.Helvenston@nrc.gov).

Sincerely,

*/RA/*

Spyros A. Traiforos, Project Manager  
Research and Test Reactors Licensing Branch  
Division of Policy and Rulemaking  
Office of Nuclear Reactor Regulation

Docket No. 50-228

Aerotest Operations, Inc.

Docket No. 50-228

cc:

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California Energy Commission  
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Radiologic Health Branch  
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Test, Research, and Training  
Reactor Newsletter  
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Anthony Nellis  
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Vice President, Legal Americas, Autoliv ASP, Inc.  
1320 Pacific Drive  
Auburn Hills, MI 48326

D. Slaughter

- 3 -

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Sincerely,

*/RA/*

Spyros A. Traiforos, Project Manager  
Research and Test Reactors Licensing Branch  
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Docket No. 50-228

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**NRR-088**

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