



September 1, 2005  
AET 05-0067

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

**Docket Numbers 70-7003 and 70-7004  
Submittal of Results of USEC Inc.'s Review of Request for Withholding Information from  
Public Disclosure for the American Centrifuge Plant (TAC Nos. L32306, L32307, L32308, and  
L32312) – Export Controlled Information**

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

Dear Mr. Strosnider:

USEC Inc. (USEC) hereby submits to the U.S. Nuclear Regulatory Commission (NRC) the results of the comprehensive review of the withheld information requested in Reference 1. This submittal completes our efforts in this matter. Enclosure 1 provides a detailed disposition for each of the letters listed in Reference 1. Enclosures 2, 3, 4, 5, and 6 provide the resubmitted information.

Enclosure 5 contains USEC Proprietary Information. Accordingly, USEC requests that Enclosure 5 be withheld from public disclosure pursuant to 10 CFR 2.390(a)(4). An affidavit required by 10 CFR 2.390(b)(1)(ii) is provided in Enclosure 7. In addition, Enclosures 2 through 6 have been determined, in accordance with the guidance provided by the U.S. Department of Energy (DOE), to contain Export Controlled Information. This information must be protected from disclosure per the requirements of 10 CFR Part 810.

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If you have any questions regarding this matter, please contact Peter J. Miner at (301) 564-3470.

Sincerely,

S. A. Toelle

Steven A. Toelle  
Director, Nuclear Regulatory Affairs

cc: Y. Faraz, NRC HQ  
B. Smith, NRC HQ

Enclosure: As Stated

Reference:

1. Yawar H. Faraz (NRC) letter to Steven A. Toelle (USEC), NRC Review of USEC Inc.'s Request for Withholding Information from Public Disclosure for the American Centrifuge Plant (TAC Nos. L32306, L32307, L32308, and L32312)," dated July 28, 2005.

**Enclosure 1 to AET 05-0067**

**Submittal of USEC Inc.'s Results of the Comprehensive Review  
of Withheld Information**

**USEC's Results of the Comprehensive Review of Withheld Information**  
**Docket Nos. 70-7003 and 70-7004**

April 29, 2005	AET 05-0030	Proprietary markings were removed, but remains as Export Controlled Information. This information has been appropriately marked and is being resubmitted as Enclosure 2 of this letter.
May 4, 2005	AET 05-0033	Proprietary markings were removed, but remains as Export Controlled Information. This information was appropriately marked and resubmitted to the NRC by USEC letter AET 05-0062.
May 9, 2005	AET 05-0021	Information remains as USEC Proprietary and Export Controlled Information and is therefore not being resubmitted. USEC letter AET 05-0021 affidavit remains valid for the withholding of this information pursuant to 10 <i>Code of Federal Regulations</i> (CFR) 2.390(a)(4).
	AET 05-0022	Information remains as USEC Proprietary and Export Controlled Information and is therefore not being resubmitted. USEC letter AET 05-0022 affidavit remains valid for the withholding of this information pursuant to 10 CFR 2.390(a)(4).
	AET 05-0034	Proprietary markings were removed, but remains as Export Controlled Information. This information was appropriately marked and resubmitted to the NRC by USEC letter AET 05-0068.
May 12, 2005	AET 05-0035	Information remains as USEC Proprietary and Export Controlled Information and is therefore not being resubmitted. USEC letter AET 05-0035 affidavit remains valid for the withholding of this information pursuant to 10 CFR 2.390(a)(4) and (d)(1).

May 23, 2005      AET 05-0037      Proprietary markings were removed from Enclosures 1 and 2 of USEC letter AET 05-0037, but remains as Export Controlled Information. This information has been appropriately marked and being resubmitted as Enclosure 3 of this letter. Proprietary markings were removed from the Integrated Safety Analysis (ISA) Summary contained in Enclosure 3 of USEC letter AET 05-0037, but remains as Export Controlled Information. This information was appropriately marked and resubmitted to the NRC by USEC letter AET 05-0068. However, Addendum 1 of the ISA Summary contained in Enclosure 3 of USEC letter AET 05-0037, remains as USEC Proprietary and Export Controlled Information and is therefore not being resubmitted. Proprietary markings were removed from Enclosure 4 of USEC letter AET 05-0037, and this information was appropriately marked and resubmitted to the NRC by USEC letter AET 05-0068. Enclosure 5 of USEC letter AET 05-0037 remains as USEC Proprietary and is therefore not being resubmitted.

USEC letter AET 05-0037 affidavit requested the withholding of this information pursuant to 10 CFR 2.390(a)(4) and (d)(1). Addendum 1 of the ISA Summary and Enclosure 5 of USEC letter AET 05-0037 should only be withheld pursuant to 10 CFR 2.390(a)(4). Enclosure 7 of this letter submits a new affidavit for this information.

June 3, 2005      AET 05-0042      Enclosure 1 of USEC letter AET 05-0042, remains as USEC Proprietary Information and is therefore not being resubmitted. USEC letter AET 05-0042 affidavit remains valid for the withholding of this information pursuant to 10 CFR 2.390(d)(1). With the exception of the question and response for Request for Additional Information (RAI) GS-6, the proprietary markings have been removed from Enclosure 2 of USEC letter AET 05-0042, but remains as Export Controlled Information. This information has been appropriately marked and is being resubmitted as Enclosure 4 of this letter. The question and response for RAI GS-6 is considered USEC Proprietary and Export Controlled Information and is being resubmitted as Enclosure 5 of this letter. The affidavit contained in Enclosure 7 of this letter addresses the withholding of this information pursuant to 10 CFR 2.390(a)(4).

June 10, 2005	AET 05-0043	Information remains as USEC Proprietary and Export Controlled Information and is therefore not being resubmitted. USEC letter AET 05-0043 affidavit remains valid for the withholding of this information pursuant to 10 CFR 2.390(a)(4).
June 14, 2005	AET 05-0045	Information remains as USEC Proprietary and Export Controlled Information and is therefore not being resubmitted. USEC letter AET 05-0045 affidavit remains valid for the withholding of this information pursuant to 10 CFR 2.390(a)(4).
June 15, 2005	AET 05-0044	Proprietary markings have been removed, but remains as Export Controlled Information. This information has been appropriately marked and is being resubmitted as Enclosure 6 of this letter.
	AET 05-0025	Information remains as USEC Proprietary and is therefore not being resubmitted. USEC letter AET 05-0025 affidavit remains valid for the withholding of this information pursuant to 10 CFR 2.390(a)(4).
June 17, 2005	AET 05-0047	Proprietary markings were removed from the Emergency Plan contained in Enclosure 1 of USEC letter AET 05-0047. This information was appropriately marked and resubmitted to the NRC by USEC letter AET 05-0068. However, the Security Program contained in Enclosure 1 of USEC letter AET 05-0047, remains as USEC Proprietary Information and is therefore not being resubmitted. USEC letter AET 05-0047 affidavit remains valid for the withholding of this information pursuant to 10 CFR 2.390(d)(1). Proprietary markings were removed from the ISA Summary contained in Enclosure 2 of USEC letter AET 05-0047, but remains as Export Controlled Information. This information was appropriately marked and resubmitted to the NRC by USEC letter AET 05-0068. However, Addendum 1 of the ISA Summary contained in Enclosure 2 of USEC letter AET 05-0047, remains as USEC Proprietary and Export Controlled Information and is therefore not being resubmitted. USEC letter AET 05-0047 affidavit remains valid for the withholding of this information pursuant to 10 CFR 2.390(a)(4).
June 24, 2005	AET 05-0050	Information remains as USEC Proprietary Information. USEC letter AET 05-0054 affidavit requested the withholding of this information pursuant to 10 CFR 2.390(a)(4) and (d)(1). This information should only be withheld pursuant to 10 CFR 2.390(a)(4). Enclosure 7 of this letter submits a new affidavit for this information.

June 24, 2005	AET 05-0051	Information remains as USEC Proprietary and Export Controlled Information and is therefore not being resubmitted. USEC letter AET 05-0051 affidavit remains valid for the withholding of this information pursuant to 10 CFR 2.390(a)(4).
July 6, 2005	AET 05-0054	Information remains as USEC Proprietary Information and is therefore not being resubmitted. USEC letter AET 05-0054 affidavit remains valid for the withholding of this information pursuant to 10 CFR 2.390(a)(4).
July 8, 2005	AET 05-0049	Information remains as USEC Proprietary Information and is therefore not being resubmitted. USEC letter AET 05-0054 affidavit remains valid for the withholding of this information pursuant to 10 CFR 2.390(a)(4).

Docket No. 70-7003 Lead Cascade Facility

**Enclosure 7 to AET 05-0067**

**Affidavit**



**AFFIDAVIT OF STEVEN A. TOELLE  
SUPPORTING APPLICATION TO WITHHOLD FROM  
PUBLIC DISCLOSURE CERTAIN INFORMATION CONTAINED IN  
ENCLOSURES 2 THROUGH 6 FOR THE AMERICAN CENTRIFUGE PLANT**

I, Steven A. Toelle, of USEC Inc., 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 the U.S. Nuclear Regulatory Commission (NRC) Request for Additional Information for the American Centrifuge Plant 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)(3), 2.390(a)(4), 2.390(d)(1) and 9.17(a)(4), and (b) apply for the withholding of such information from public disclosure by the 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 is contained in Enclosures 2 through 6 to USEC letter AET 05-0067. 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 products. The development of the information

described in part is the result of applying many hundreds of person-hours and the expenditure of hundreds of thousands of dollars. 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, Nuclear 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 1<sup>st</sup> day of September 2005, 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.

Robin D. Johnson  
Robin D. Johnson, Notary Public  
State of Maryland, Montgomery County  
My commission expires June 1, 2006