

NUCLEAR REGULATORY COMMISSION

[NRC-2012-0242]

**In the Matter of
Timothy M. Goold**

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IA-12-014

**Confirmatory Order
(Effective Immediately)**

I

Mr. Timothy Goold was employed as a radiographer at JANX Integrity Group, Inc. (JANX), at a temporary jobsite on Spy Island, Alaska during July 2011. JANX is the holder of the U.S. Nuclear Regulatory Commission (NRC or Commission's) Materials License No. 21-16560-01 which authorized, at the time, specific activities involving byproduct, source, and/or special nuclear material.

This Confirmatory Order is the result of an agreement reached during an alternative dispute resolution (ADR) mediation session conducted on August 24, 2012.

II

On July 27, 2011, the NRC conducted an unannounced inspection of JANX's radiographic activities on Spy Island. As a result of the inspector's observations, on October 31, 2011, the NRC's Office of Investigations (OI) began an investigation at JANX. Based on the evidence developed during its investigation, OI substantiated that 1) Mr. Goold willfully performed radiography without a second person present, and (2) Mr. Goold willfully

impeded the NRC's inspection by avoiding the NRC inspector. In a letter dated March 15, 2012, (ML12076A253) the NRC informed Mr. Goold that the NRC was considering escalated enforcement action for two apparent violations of section 30.10 of Title 10 of the *Code of Federal Regulations* (CFR), the NRC's deliberate misconduct rule. The NRC offered Mr. Goold the opportunity to respond in writing, request a predecisional enforcement conference or request ADR with the NRC in an attempt to resolve issues associated with this matter. Mr. Goold provided a written response on April 9, 2012 (ML12121A669).

On June 25, 2012, the NRC issued an Order to Mr. Goold based on a review of all the available information including Mr. Goold's April 9, 2012, letter and the results of the inspection and OI investigations. The NRC concluded that Mr. Goold twice engaged in deliberate misconduct in violation of 10 CFR 30.10(a)(1). First, Mr. Goold engaged in deliberate misconduct in violation of 10 CFR 30.10(a)(1) by performing radiography without a second person present causing JANX to be in violation of 10 CFR 34.41(a). Second, Mr. Goold again engaged in deliberate misconduct in violation of 10 CFR 30.10(a)(1) when he avoided the inspector by leaving when the inspector tried to question him regarding the whereabouts of the second qualified radiographer, causing JANX to be in violation of 10 CFR 30.52(a).

Subsequent to the issuance of the NRC's June 25, 2012 Order, Mr. Goold requested to participate in the NRC's alternate dispute resolution (ADR) process. ADR is a process in which a neutral mediator with no decision-making authority assists the parties in reaching an agreement and resolving any differences regarding the dispute. On August 24, 2012, the NRC and Mr. Goold met in an ADR session mediated by a professional mediator, arranged through

Cornell University's Institute on Conflict Resolution. This confirmatory order is issued pursuant to the agreement reached during the ADR process.

III

In response to the NRC's offer, Mr. Goold requested use of the NRC ADR process to resolve differences he had with the NRC. During that ADR session, a preliminary settlement agreement or an Agreement in Principle was reached. As part of the Agreement in Principle, the parties agreed to disagree on whether Mr. Goold engaged in deliberate misconduct as discussed in the Order (IA-12-014) issued to Mr. Goold on June 25, 2012.

The remaining elements of the Agreement in Principle consisted of the following:

A. WORK RESTRICTIONS

1. Mr. Timothy Goold will not engage in NRC-licensed activities until the issuance of the Confirmatory Order. NRC-licensed activities are those activities that are conducted pursuant to a specific or general license issued by the NRC, including, but not limited to, those activities of Agreement State licensees conducted pursuant to the authority granted by 10 CFR 150.20. This means that during the prohibition period Mr. Goold is prohibited from performing, supervising, assisting or otherwise engaging in (1) industrial radiographic operations in NRC jurisdiction for an Agreement State licensee that are conducted under a general license pursuant to 10 CFR 150.20; (2) industrial radiographic operations for an NRC

licensee including but not limited to, radiography conducted under the authority of a license issued pursuant to 10 CFR Part 34; and (3) any other licensed activity in NRC jurisdiction. It was mutually agreed that the NRC will consider that the prohibition period began when Mr. Goold voluntarily informed his employer on or about July 1, 2012, of the terms of the June 25, 2012, Order and ceased performing licensed activities and that the prohibition will continue until the issuance of the Confirmatory Order.

2. For a 2-year period from the effective the date of the Confirmatory Order, Mr. Goold is prohibited from engaging in NRC-licensed industrial radiographic operations unless he is working under the direct supervision of a radiographer who meets the requirements of 10 CFR 34.43.
3. For a 2-year period from the effective date of the Confirmatory Order, Mr. Goold is prohibited from working for any NRC licensee as an Area Supervisor, Radiation Safety Officer, trainer, or in any other supervisory position while in NRC jurisdiction. This includes the situation where he works for an Agreement State licensee performing work in NRC jurisdiction under reciprocity.

B. NOTIFICATIONS

1. For a 2-year period from the effective date of the Confirmatory Order, Mr. Goold will notify NRC Region III office within 15 days of his acceptance of any employment with an NRC or Agreement State licensee. Mr. Goold may provide

this notification by e-mail to the attention of the Director, Division of Nuclear Materials Safety, U.S. Nuclear Regulatory Commission, Region III at the e-mail address listed in B.2.

2. For a 2-year period from the effective date of the Confirmatory Order, Mr. Goold will notify NRC Region III office on a weekly basis of where he will be performing radiography. Mr. Goold will provide that notification to the NRC by no later than 1200 hours Eastern Time each Sunday for activities performed the following 7 days. Mr. Goold may provide this notification by e-mail to the attention of the Director, Division of Nuclear Materials Safety; U.S. Nuclear Regulatory Commission, Region III, e-mail: R3.Reciprocity@nrc.gov. The e-mail will contain the name and location of the radiography site where Mr. Goold expects to be performing radiography and which days he expects to be shooting. If Mr. Goold does not expect to be performing radiography during the week, he will provide notification so stating.
3. For a 2-year period from the effective date of the Confirmatory Order, in order to ensure NRC licensees are aware of the limitations on Mr. Goold's NRC licensed activities, Mr. Goold will provide a copy of the Confirmatory Order to his employers who are either NRC licensees or are Agreement State licensees performing work in the NRC's jurisdiction under reciprocity.
4. For a 2-year period from the effective date of the Confirmatory Order and while performing industrial radiographic operations at an NRC or Agreement State

licensee, Mr. Goold will provide the NRC Region III office a copy of the semi-annual audit report performed by the licensee under 10 CFR 34.43(e) or under the applicable Agreement State requirement and any additional audits that Mr. Goold's employer performs. If the licensee indicates that the inspection results were not documented, then Mr. Goold will send in a letter attesting to whom he spoke to in the licensee's office and upon what date, such that the NRC can confirm the information. The letter will be addressed to the Director of the Division of Nuclear Materials Safety, 2443 Warrenville Road, Suite 210, Lisle, IL, 60532. Alternatively, the e-mail address in item B.2 above can be used.

5. Mr. Goold recognizes an opportunity for other radiographers to learn from his actions. Mr. Goold will convey his personal lessons learned from the events by preparing an article. Mr. Goold agrees that the article will contain a description of the events of July 27, 2011; what he learned from them, including his understanding of why it's important to have two people present during all radiographic operations and why it's important to cooperate with NRC inspectors; what he would do differently in the future; and the consequences of his behavior. Mr. Goold will submit the draft article to the NRC Region III Enforcement/ Investigations Officer within 120 days of the issuance of the Confirmatory Order and will submit the final article to a trade publication (such as the American Society for Nondestructive Testing) for possible publication, after providing 30 days for NRC comment, and no later than 180 days of the date of the confirmatory order. Within 7 days of Mr. Goold's submission of the article, Mr. Goold will provide a copy of that submission to the NRC Region III Director of

the Division of Nuclear Materials Safety, 2443 Warrenville Road, Suite 210, Lisle, IL, 60532. Alternatively, the e-mail address in item B.2 above can be used. The NRC, at its sole discretion, may also publish the article in a future Office of Federal and State Materials and Environmental Management Programs (FSME) Newsletter.

6. Mr. Goold recognizes an opportunity to expand upon his previous response to the NRC. Mr. Goold will provide an expanded response which will address in more detail what Mr. Goold has learned from the events of July 27, 2011, including his understanding of why it's important to have two people present during all radiographic operations and why it's important to cooperate with NRC inspectors; what he would do differently in the future; and the consequences of his behavior. Mr. Goold will submit this response to the NRC Region III Director of the Division of Nuclear Materials Safety, 2443 Warrenville Road, Suite 210, Lisle, IL, 60532 within 180 days of the Confirmatory Order. Alternatively, the e-mail address in item B.2 above can be used.

C. TRAINING

Mr. Goold has stated that he has completed additional training in industrial radiography, radiation safety, and the corresponding NRC regulations in December 2011 – January 2012, which will be acknowledged in the Confirmatory Order. Mr. Goold agreed to provide documentation of the training to the NRC Region III Enforcement/ Investigations Officer. If the training does not meet or exceed 40 hours of instruction in

the subjects described in 10 CFR 34.43(g), Mr. Goold agreed to attend additional training that would satisfy that level of instruction within 180 days of issuance of the Confirmatory Order.

D. RESCISSION OF JUNE 25, 2012 NRC ORDER

The NRC agrees to rescind the Order previously issued to Mr. Goold on June 25, 2012. The NRC agrees not to pursue any further enforcement action concerning the violations described in the June 25, 2012 Order. This does not prohibit NRC from taking enforcement action in accordance with the NRC Enforcement Policy if Mr. Goold commits a similar violation in the future or violates the Confirmatory Order stemming from this Agreement in Principle.

IV

On August 27, 2012, Mr. Goold provided the NRC with training records demonstrating that he had successfully completed 21.5 hours of instructional training covering the majority of the areas in 10 CFR 34.43(g). Therefore, Section V.C of the Order requires that Mr. Goold attend training to satisfy an additional 18.5 hours of instruction in the subjects described in 10 CFR 34.43(g), including the requirements of pertinent federal regulations and case histories of accidents in radiography within 180 days of issuance of the Confirmatory Order.

On October 1, 2012, Mr. Goold consented to issuing this Order with the commitments, as described in Section V below. Mr. Goold further agreed that this Order is to be effective upon issuance and that he has waived his right to a hearing.

Since Mr. Goold has agreed to take additional actions to address NRC concerns, as set forth in Item III above, the NRC has concluded that its concerns can be resolved through issuance of this Confirmatory Order.

I find that the Mr. Goold's commitments as set forth in Section V are acceptable and necessary and conclude that with these commitments the public health and safety are reasonably assured. In view of the foregoing, I have determined that public health and safety require that Mr. Goold's commitments be confirmed by this Order. Based on the above and Mr. Goold's consent, this Confirmatory Order is immediately effective upon issuance.

V

Accordingly, pursuant to Sections 81, 161b, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, IT IS HEREBY ORDERED, EFFECTIVE IMMEDIATELY, THAT:

A. WORK RESTRICTIONS

1. For a 2-year period from the effective the date of the Confirmatory Order, Mr. Goold is prohibited from engaging in NRC-licensed industrial radiographic

operations unless he is working under the direct supervision of a radiographer who meets the requirements of 10 CFR 34.43.

2. For a 2-year period from the effective date of the Confirmatory Order, Mr. Goold is prohibited from working for any NRC licensee as an Area Supervisor, Radiation Safety Officer, trainer, or in any other supervisory position while in NRC jurisdiction. This includes the situation where he works for an Agreement State licensee performing work in NRC jurisdiction under reciprocity.

B. NOTIFICATIONS

1. For a 2-year period from the effective date of the Confirmatory Order, Mr. Goold will notify NRC Region III office within 15 days of his acceptance of any employment with an NRC or Agreement State licensee. Mr. Goold may provide this notification by e-mail to the attention of the Director, Division of Nuclear Materials Safety; U.S. Nuclear Regulatory Commission, Region III at the e-mail address listed in B.2.
2. For a 2-year period from the effective date of the Confirmatory Order, Mr. Goold will notify NRC Region III office on a weekly basis of where he will be performing radiography. Mr. Goold will provide that notification to the NRC by no later than 1200 hours Eastern Time each Sunday for activities performed the following 7 days. Mr. Goold may provide this notification by e-mail to the attention of the Director, Division of Nuclear Materials Safety; U.S. Nuclear Regulatory

Commission, Region III, e-mail: R3.Reciprocity@nrc.gov. The e-mail will contain the name and location of the radiography site where Mr. Goold expects to be performing radiography and which days he expects to be shooting. If Mr. Goold does not expect to be performing radiography during the week, he will provide notification so stating.

3. For a 2-year period from the effective date of the Confirmatory Order, in order to ensure NRC licensees are aware of the limitations on Mr. Goold's NRC licensed activities, Mr. Goold will provide a copy of the Confirmatory Order to his employers who are either NRC licensees or are Agreement State licensees performing work in the NRC's jurisdiction under reciprocity.

4. For a 2-year period from the effective date of the Confirmatory Order and while performing industrial radiographic operations at an NRC or Agreement State licensee, Mr. Goold will provide the NRC Region III office a copy of the semi-annual audit report performed by the licensee under 10 CFR 34.43(e) or under the applicable Agreement State requirement and any additional audits that Mr. Goold's employer performs of Mr. Goold's activities. If the licensee indicates that the audit results were not documented, then Mr. Goold will send in a letter attesting to whom he spoke to in the licensee's office and upon what date, such that the NRC can confirm the information. The letter will be addressed to the Director of the Division of Nuclear Materials Safety, 2443 Warrenville Road, Suite 210, Lisle, IL, 60532. Alternatively, the e-mail address in item B.2 above can be used.

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C. TRAINING

Mr. Goold will attend training to satisfy 18.5 hours of instruction in the subjects described in 10 CFR 34.43(g), including the requirements of pertinent federal regulations and case histories of accidents in radiography within 180 days of issuance of the Confirmatory Order.

Upon issuance of this Confirmatory Order, the Order Prohibiting Involvement in NRC-Licensed Activities, IA-12-014, dated June 25, 2012, is rescinded.

The Regional Administrator, NRC Region III, may, in writing, relax or rescind any of the above conditions upon demonstration by Mr. Goold of good cause.

VI

Any person adversely affected by this Confirmatory Order, other than Mr. Goold, may request a hearing within 20 days of its publication in the *Federal Register*. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and include a statement of good cause for the extension.

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule (72 FR 49139; August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by e-mail at hearing.docket@nrc.gov, or by telephone at 301-415-1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing

(even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals/apply-certificates.html>. System requirements for accessing the E-Submittal server are detailed in NRC's "Guidance for Electronic Submission," which is available on the agency's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange System, users will be required to install a Web browser plug-in from the NRC's Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>.

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene.

Submissions should be in Portable Document Format (PDF) in accordance with the NRC's guidance available on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The E-Filing system also distributes an e-mail notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the "Contact Us" link located on the NRC's Web site at <http://www.nrc.gov/site-help/e-submittals.html>, by e-mail at MSHD.Resource@nrc.gov, or by a toll-free call at 1-866- 672-7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format.

Such filings must be submitted by: (1) first class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at <http://ehd1.nrc.gov/ehd/>, unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

If a person (other than Mr. Goold) requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Confirmatory Order and shall address the criteria set forth in 10 CFR 2.309(d) and (f).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section V above shall be final 20 days from the date this Confirmatory Order is published in the *Federal Register* without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section V shall be final when the extension expires if a hearing request has not been received.

A REQUEST FOR HEARING SHALL NOT STAY THE IMMEDIATE EFFECTIVENESS OF THIS ORDER.

For the Nuclear Regulatory Commission.

Dated at Rockville, MD, this 10th day of October 2012

/RA/

Roy P. Zimmerman,

Director, Office of Enforcement