

EA-03-177

KTL Roudebush Testing Response to NRC Order

The attached was faxed to the Rill office on the evening of June 3, 2004, with no cover letter. Mr. Roudebush is requesting a hearing..

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of

KTL Roubidush Testing
Kansas City, Missouri

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Docket No. 030-33785
License No. 24-28628-01
EA-03-177

ORDER SUSPENDING LICENSE
(EFFECTIVE IMMEDIATELY)
AND DEMAND FOR INFORMATION

1

KTL Roubidush Testing (Licensee) is the holder of Byproduct Material License No. 24-28628-01 issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Parts 30 and 34. The license authorizes the possession and use of iridium-192 in sealed sources for industrial radiography, and cesium-137 and americium-241 in sealed sources for measuring physical properties of materials, at temporary job sites of the Licensee anywhere in the United States where the NRC maintains jurisdiction for regulating the use of licensed material. The license identifies Christopher V. Roubidush as the Radiation Safety Officer (RSO). Mr. Roubidush is the President and owner of KTL Roubidush Testing, and he serves as a Licensee radiographer. The license, originally issued on November 20, 1995, was last amended on January 16, 2004, and is due to expire on March 31, 2011.

II

a On April 8, 2003, two NRC inspectors attempted to inspect the Licensee's activities and inquired about radiography at temporary job sites. The Licensee's RSO indicated that the Licensee might be performing radiography work at the Kansas City Power & Light Plant Generating Station located in Weston, Missouri on either Thursday or Friday (April 10 or 11,

2003). On the morning of April 10, 2003, the inspectors again called the Licensee Inquiring about radiography at temporary job sites. A Licensee employee, a radiographer's assistant, answered and stated that the Licensee's staff had just finished radiography at a temporary job site in Weston, Missouri, and was preparing to return to the main office. Following the telephone conversation, the inspectors drove to the Licensee's office at 1608 Cherry Street, Kansas City, Missouri and waited for the work crew to return. When a Licensee radiographer returned to the office, the inspectors evaluated the Licensee's transport of the radiographic exposure devices within the vehicle and discovered that one of the devices was not properly secured in the vehicle and shipping papers were not present.

d When the RSO returned to the office, the inspectors conducted an inspection of the Licensee's records that are required by 10 CFR Part 34. During the inspection, the RSO presented the inspectors with four records of the quarterly maintenance/inspection of radiographic exposure devices. Two records were dated March 30, 2002, and two records were dated March 28, 2003. The records were blank, other than the device identifiers and the dated signature of the RSO. When questioned about the blank records, the RSO stated that the 2002 maintenance/inspections were completed after the dated signature and the resulting records were entered into his office desktop computer. The RSO also stated that the records for the maintenance/inspection of exposure devices for the second through fourth quarters of 2002 were not available. The RSO claimed that a Licensee employee had entered the information into the computer and he was unable to retrieve these records. The RSO also claimed that the employee may have removed these records when he left the company under unfavorable conditions. On April 14, 2003, one of the inspectors interviewed the former employee by telephone. The former employee denied entering any records of radiographic operations into a

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e computer system maintained by the Licensee and recalled the completed records were normally handwritten. The inspection resulted in nine unresolved items.

On April 21, 2003, the NRC Office of Investigation was asked to look into concerns regarding potential willful/deliberate violations of NRC requirements by the RSO. These concerns included: (1) deliberately falsifying exposure device records; (2) deliberately providing incomplete and inaccurate information regarding the performance of quarterly inspections; (3) deliberately failing to perform quarterly inspections; (4) deliberately failing to properly secure an exposure device during transportation; and (5) deliberately violating the two-man rule requirement at a temporary job site in Joplin, Missouri.

K — On September 16, 2003, the NRC was contacted by a former Licensee radiographer's assistant, who informed the NRC that the RSO had asked him after the April 2003 NRC inspection to falsify the missing records and to manipulate the computer data so it would not appear as if the records were backdated. After the former Licensee employee told the RSO that he would not be able to manipulate the computer data, the former employee stated that the RSO hid the computer in the attic and subsequently destroyed the computer after he was issued a subpoena for the computer contents. The former Licensee employee also stated that the RSO was hiring personnel with no previous radiography experience from a temporary agency and the temporary personnel were not provided with the required training or radiation dosimetry. On September 18, 2003, these concerns were provided to the NRC Office of Investigations for inclusion in its ongoing investigation.

On October 23, 2003, an NRC inspection was conducted at a temporary job site in Livingston County, Missouri. Based on the results of this inspection, three violations of NRC requirements

were identified involving: (1) a failure to have shipping papers readily accessible in the vehicle cab when the driver is not at the vehicle's controls; (2) a failure to provide the emergency response telephone number on the shipping papers; and (3) a failure to amend the license to reflect a name change from PSI Inspection, Inc. to KTL Roudeshush Testing.

On February 18, 2004, the NRC Office of Investigation (OI) issued its report (Case No. 3-2003-009) and substantiated nine deliberate violations of NRC requirements. Based on the results of the April 2003 inspection and the OI investigation, the following deliberate violations of regulatory requirements have been identified:

1. On April 10, 2003, October 28 and 29, 2002, and on several occasions between October 2001 and January 2002, the Licensee's RSO, who is also the President and Owner of KTL Roudeshush Testing, deliberately conducted radiography at locations other than a permanent radiographic installation (temporary job sites), and the RSO/radiographer was not accompanied by an additional qualified individual who could observe the operations and was capable of providing immediate assistance to prevent unauthorized entry, as required by 10 CFR 34.41.
2. On April 10, 2003, and on October 28 and 29, 2002, the Licensee's RSO deliberately permitted individuals to act as a radiographer's assistant before those individuals had successfully completed the Licensee's training program for radiographer's assistants, as required by 10 CFR 34.43(c) and License Condition 28.
3. On October 28, 2002, the Licensee's RSO deliberately permitted an individual who was not wearing a direct-reading pocket dosimeter, an alarming ratemeter, and either a film

badge or a thermoluminescent dosimeter, as required by 10 CFR 34.47(a), to act as a radiographer's assistant.

4. As of April 12, 2003, the Licensee's RSO deliberately failed to conduct inspections and routine maintenance of Licensee radiographic exposure devices and associated equipment during the first quarter of 2003, an interval exceeding three months, as required by 10 CFR 34.31(b).
5. On April 8, 2003, the Licensee's RSO deliberately provided inaccurate and incomplete information to an NRC Inspector regarding the maintenance of records of quarterly inspections of radiographic exposure devices, required to be maintained in accordance with 10 CFR 34.73. The RSO stated that the required inspections had been conducted in calendar year 2002 and that electronic records of the subject inspections were prepared by another named individual. Transcribed sworn statements by one or more individuals indicated that the Licensee never prepared the subject records, electronic or handwritten, in calendar year 2002.
6. On August 5, 2003, the Licensee's RSO deliberately provided inaccurate and incomplete information to an NRC Office of Investigations Special Agent and deliberately did not afford the Commission an opportunity to inspect records of quarterly maintenance and inspections of radiographic exposure devices, required to be maintained in accordance with 10 CFR 34.73. The Licensee's RSO deliberately failed to provide information requested in a subpoena for the hard disk drive data, including any magnetic or optical media, floppy disks, zip disks, and compact disks, pertaining to the Licensee's quarterly maintenance and inspection logs for the year 2002. The

Licensee's RSO stated that he had thrown the computer in the trash because it was not working. However, a licensee employee notified the NRC that the computer was in the attic in August and was destroyed by the owner, after the subpoena had been served.

7. On April 10, 2003, and between October 2001 and January 2002, the Licensee's RSO transported on public highways a SPEC Model 150 radiographic exposure device (package), containing a nominal 142 curie Iridium-192 sealed source, and the Licensee deliberately did not block and brace the package such that it could not change position during conditions normally incident to transportation, as required by 10 CFR 71.5(o) and 49 CFR 177.842(d). Specifically, two radiographic exposure devices were transported in the back of a company truck and one of the exposure devices was not properly blocked or braced.
8. On April 10, 2003, the Licensee's RSO deliberately transported a SPEC Model 150 radiographic exposure device, containing a nominal 142 curie Iridium-192 sealed source, by highway without a shipping paper and the material was not excepted from shipping paper requirements, as required by 10 CFR 71.5(a) and 49 CFR 177.817(a).
9. On April 10, 2003, the Licensee's RSO deliberately transported a radiographic exposure device, containing a nominal 142 curie Iridium-192 sealed source, without its safety cover installed to protect the source assembly from water, mud, sand or other foreign matter, as required by 10 CFR 94.20(c)(3).

III

The NRC must be able to rely on the Licensee and its employees to comply with all NRC requirements and to ensure that radiography is not conducted unless all required qualified individuals are present, have completed all required training, and are wearing all required dosimetry (i.e., a direct-reading pocket dosimeter, alarming rate meter, and a film badge or a thermoluminescent dosimeter). The failure to ensure that qualified individuals with appropriate dosimetry are present during radiography is a significant safety issue. The purpose of the second qualified individual is to observe radiographic operations, to provide immediate assistance to prevent unauthorized entry into areas where radiography is being conducted, and to assist the radiographer in case of an event involving the radiography source. The purpose of dosimetry, in particular the alarming rate meter, is to provide information to the individuals involved in radiographic operations that there is a substantial radiation dose rate present, thereby allowing individuals to take appropriate precautions to reduce their exposures and those of the public.

In addition, the NRC must be able to rely on its licensees to maintain accurate records and to provide information to the NRC that is complete and accurate in all material respects. Based on the violations described in Section II above, the Licensee has deliberately failed to comply with NRC requirements, and has deliberately provided inaccurate and incomplete information to the NRC. These actions by the Licensee have raised serious doubt as to whether the Licensee can be relied upon in the future to comply with NRC requirements.

Consequently, I lack the requisite reasonable assurance that the Licensee's current operations under License No. 24-26628-01 can be conducted in compliance with the Commission's

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Answer for Demand and
Request for Hearing

i. True

ii. Mostly True;

- a. This was poor communication on my part in the fact that I was trying to train the newly hired Radiographer and cover my shift from 3:00am to 7:00am. I was also making sure that the NRC inspectors would have authorization to enter the plant for the temporary job site inspection meeting. This was poorly handled and will not happen again. The NRC is welcome to inspect at any and all times and all future communication will be better with the NRC inspectors.
- b. One of the devices was not in the overpack and was not blocked and secured. This was purely my fault and this will not happen again. I will take two vehicles and/or mount another overpack in the vehicle that will be taken. I guess I now realize the consequences of my actions and it will not happen again.
- c. In my defense, with the shipping papers I do this correctly. The papers are always with the source. I have no excuse for this action, other than they were just misplaced. On October 23, 2003, an NRC inspection was conducted at a temporary job site. A violation was identified, failure to have shipping papers readily accessible in the vehicle cab when the driver is not at the vehicle's controls. A reply to a notice of violation dated January 23, 2004, stated that KTL fulfilled your request and corrected this violation. The reply stated that KTL will make an extra copy and leave the original shipping papers in the vehicle's cab at all times during radiographic operations. I will work harder and more diligently to see that this does not happen again.
- d. While it is true that the records presented were not completed, to the best of my recollection, this part of the inspection was completed on April 8, 2003 and not on April 10, 2003 after I had returned. However the records were incomplete and I was in the wrong. I had started the 2003 quarterly maintenance/inspection reports and had not yet been finished. I typically conduct my audit on the first or second week after the quarter ended. While it was the 8th I had not yet completed the reports. Yes, I had signed them and that was my mistake. It was not in an attempt to be deceitful; I had intended to finish them when I had started. In the future I will not sign until the entire audit is complete and will have each quarterly audit completed within 10 days (if that is satisfactory to the NRC (rule 10 CFR 34.31(b) an interval not to exceed three months)) after the quarter has ended. The 2002 audits were the records that had been completed on the computer and those were the records that were lost. This is where the major problem between the NRC and I started. I do not know what happened to these records. After consideration, I don't think that [redacted] probably erased these records. I did have many problems with this computer and I purchased a new Gateway computer January 7, 2002 for my use only. The Hewlett Packard (old computer) was kept as a second computer for [redacted] and I to use. I had kept the old computer mainly because it had a specific program on it that created shipping invoices (I liked the way it functioned). [redacted] also copied the forms on this computer. This is why I kept the quarterly and maintenance inspection logs on it. I recreated these records only in an attempt to provide this to the NRC. I did not do this with intention to deceive. I stated at the time that these records were recreated. I did not know what else to do.

- e. The 1999 through 2001 records had been kept on paper records and put in a three ring binder. [REDACTED] had helped complete parts of the record from sometime in 2000 to some point in 2001. At that time we had a difference of opinion on how they were to be handled. I then took back over full control of the records and initiated a new procedure to keep all of the information on the computer. The original forms were recreated and utilized. After I lost most of the records, I then went back to the hand written forms. I still had the intentions of moving everything over to the computer and having a paperless office. I just don't know enough about the computer to get it set up right and had not found anyone that I trusted to set it up.
- f. Deliberately falsifying exposure device records (see #1 below)
- g. Deliberately providing incomplete and inaccurate information regarding the performance of quarterly inspections (see #1 below)
- h. Deliberately failing to perform quarterly inspections (see #1 below)
- i. Deliberately failing to properly secure an exposure device during transportation. (see #1 below)
- j. Deliberately violating the two-man rule requirement at a temporary job site in Joplin, Missouri (see #2 below)
 - 1. While the actions accused are mostly true, the action of deliberation was not the intent. Time restraints or just plain lack of judgment were what caused the violations. I am sorry for the problems and will in the future do everything in my power to avoid making these same mistakes. If my license is reinstated I will hire a full time crew and make sure that I have part help trained so that I do not run into the same problems. I have already hired an assistant RSO, Eric Harrington to help with part of that problem.
 - 2. As for the two man rule, I was trained in Texas and that an acceptable practice there. The rule for Missouri did not come about until around 1998. I thought that it was an acceptable practice. It will not happen again.
- k. I have never and would never ask anyone to falsify any reports. As for the employee in question, [REDACTED] he has never even completed a daily report. He has attempted to start it, but never finished one. No other reports were ever even attempted by him. He would not be able to even name the reports if shown. As for asking him to manipulate any computer records, to my knowledge he does not have any computer skills at all. There is no way possible that he could manipulate a computer program. As limited as I am on the computer, I look like a computer tech compared to him. There is no way that I would have asked anyone, let alone him to manipulate any records. This is an absolutely false statement.
- l. This is an absolutely false statement. The computer in question had never ever been in the attic. On or around April 12th (estimated date) after the inspection with James Cameron, I had taken the computer to my home to try to find the lost data and attempt to retrieve it. I was not able to find the data, so I disassembled the computer to throw away and kept some for spare parts then placed the remaining computer tower outside by a storage building to be thrown away.

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Kit Roudebush

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- m. Once the subpoena was served, at or around 4:00, I told the Inspector that I had thrown the computer away. Before the NRC inspectors had even left the vicinity of my office, I got in the truck with [REDACTED] and showed [REDACTED] the subpoena, so we went to my house and picked up the computer. I am not sure what I was going to do with it, I just felt compelled to go and see that it was still there. After we had picked up the remaining part of the computer tower, we were driving back toward the office and at that point [REDACTED] said that we have to get rid of it now. At that time I was driving and [REDACTED] said stop and pull over here. We started at my house in Harrisonville and went north on Stark Road to 251st and turned east. We pulled over just past north Miller road and [REDACTED] got out, picked up the computer and threw it. He picked it up and dropped it several times, before I got out and said that's enough. I picked it up and placed it in the back of the truck. At that point [REDACTED] said this is what you've got to destroy (indicating the circuit boards inside). [REDACTED] then pulled out some of the stuff inside and got in the truck. As we drove north on Miller road and turned north onto Old 71 Highway, he began throwing out parts. I am not trying to make this out to be [REDACTED] fault; I am just trying to indicate how badly [REDACTED] is fabricating a lot of his testimony. I am still responsible for the computer and the incident; however I did not ask him to destroy the computer. I am not sure what I was going to do with it, but I did not ask [REDACTED] to destroy it.
- n. I did hire temporary help from a temporary help agency. These people did not have previous radiography experience; I did not realize that the second person had to be trained for Kansas. I thought that as long as there was a certified radiographer, it was alright. The only thing that I had these people do was to watch my area. Maybe they would put up barricades. The Assistant RSO, Eric Harrington was added to KTL Safety Program to hire certified personnel; therefore this will not happen again.
- o. To the best of my knowledge, any time that I had someone help, that I actually rolled out the camera, I provide them with the proper dosimetry. In the future, I will not have temporary help; therefore if this happened in the past, it will not happen again.
- p. Failure to have shipping papers readily accessible in the vehicle. This issue was resolved and corrected immediately after the inspection.
- q. Failure to provide the emergency response telephone number on shipping papers. This issue was resolved and corrected immediately after the inspection.
- r. Failure to amend the license to reflect a name change from PSI, Inc. This issue was resolved and corrected immediately after the inspection.

- 1 True
2 True
3 False

A. The individual in question was not at the location for more than 30 to 45 minutes. His time card did say 4 hours and this is because he gets a four hour minimum. My qualified assistant was able to make it that day and I no longer needed the temp.

- 4 False (it was completed, however exceeded the 3 months??)
5 False (as previously discussed)
6 True/mostly (as previously discussed)
7 True (as previously discussed)
8 True/mostly (as previously discussed) if it matters the exposure device was not 142 curies it was only 15 curies on April 10, 2003.

9 True However this had never ever happened before and has never happened since. The cap was on when we left the office and when I got ready to set up for my first shot in the field it was missing I cannot explain how or when disappeared. To make sure this does not happen again I will purchase a new safety cap and plug as a spare for immediate replacement if lost.

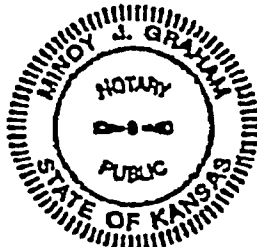
iii I would like to say that I am very sorry for all the mistakes and misleading information. I am not a deceitful person; however my actions have not shown this to be true. I would be very grate for any comments and suggestions. If I am able to continue my business and get my licenses reinstate, I think that you will find that I am very willing to do whatever it takes to make it right. I have added an additional RSO to help me oversee the audits and all required paper work to help maintain accurate records. I am also working on hiring trained and qualified individuals familiar with the industry instead of hiring and training individuals not familiar with this line of work. I have worked hard for 12 years to get the credentials that are needed to work in this field and have spent significant capital investing in equipment and supplies. I have done all of this to insure that I had a career that I could be proud of. My lapse in judgment could have destroyed it all, however I hope this is not the case. If throughout this answer I have not completely answered any of your questions, I would be grateful if I had a chance to do so.

I am requesting a hearing to discuss the facts of this case for any unresolved issues pursuant to the emergency order of suspension of license.

I affirm that the above and forgoing is true and accurate to the best of my knowledge.

Christopher Roudebush

Christopher (KR) Roudebush



State of Missouri
County of Jackson

My Appl Expires 5/10/08

Subscribed and sworn to before me this 3 day of

Marely J. Graham
Notary Public

June, 2004.