

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)
)
JAMES CHAISSON) Docket No. IA-14-025-EA
)
) ASLBP No. 14-932-02-EA-BD01
)

JOINT MOTION TO APPROVE SETTLEMENT AGREEMENT AND TERMINATE
PROCEEDING

On April 14, 2015, the staff of the U.S. Nuclear Regulatory Commission (NRC) and James Chaisson finalized an agreement to settle the issues raised in this proceeding. In accordance with 10 C.F.R. §§ 2.203 and 2.338, the parties hereby request that the Board approve the attached Settlement Agreement and terminate the proceeding.

The parties believe that the Settlement Agreement, included as Attachment A to this motion, is in the public interest. Stated in general terms, the purpose of the NRC's enforcement program is to deter noncompliance with regulatory requirements and encourage prompt, comprehensive corrective actions.¹ The attached Settlement Agreement serves this purpose. The terms of the Settlement Agreement provide reasonable assurance that, if Mr. Chaisson returns to NRC-licensed activities, he will conduct such activities in a manner that adequately protects public health and safety. Because the Settlement Agreement provides reasonable assurance of public health and safety, and because it provides Mr. Chaisson an opportunity to resume full employment once he meets certain conditions, the Settlement Agreement serves the public interest. Accordingly, the Board should approve the Settlement Agreement and issue the order included as Attachment B to this motion terminating the proceeding.

¹ See Enforcement Policy (Feb. 4, 2015) at <http://pbadupws.nrc.gov/docs/ML1502/ML15029A148.pdf>.

Respectfully submitted,

IRA by James Maltese/

James L. Maltese
Counsel for NRC Staff

IRA by James Maltese for James Chaisson/

James P. Chaisson

ATTACHMENT A

**SETTLEMENT AGREEMENT BETWEEN
U.S. NUCLEAR REGULATORY COMMISSION
AND
JAMES P. CHAISSON**

Whereas, on July 11, 2014, the U.S. Nuclear Regulatory Commission (NRC) Staff issued an Order (Prohibiting Involvement in NRC-licensed Activities) banning Mr. James P. Chaisson from engaging in any licensed activities for a period of three years;

Whereas, on August 4, 2014, Mr. James P. Chaisson filed a request for hearing challenging the NRC Staff's issuance of the July Order;

Whereas, both the NRC Staff and Mr. Chaisson wish to enter into a settlement agreement to resolve the matters referenced by rescinding the July Order and withdrawing the request for hearing;

Therefore, on this 14th day of April, 2015, the NRC Staff and Mr. James Chaisson agree to the following terms and conditions:

1. Work Restriction (Contingent on Completion of Certain Requirements)

a. Mr. Chaisson may continue to perform work as a radiographer's assistant.

However, Mr. Chaisson is prohibited from performing work as a radiographer while in NRC jurisdiction (*i.e.*, Mr. Chaisson must always be under the supervision of a certified radiographer) until he successfully completes the following requirements:

i. Mr. Chaisson shall meet, in person, with NRC Staff representatives to review and discuss the importance of compliance with NRC regulations with an emphasis on industrial radiography. The location of this meeting shall be the Region IV office in Arlington, Texas, or at an alternate location agreed to by Mr. Chaisson and the NRC Staff.

- ii. Mr. Chaisson must complete a 40-hour formal training course designed for qualifying radiation safety officers, or demonstrate that he has done so within the past 18 months from the date of this Settlement Agreement. The course must include training on the security requirements of Title 10 Code of Federal Regulations (C.F.R.) Part 37, "Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material." If the radiation safety officer training course does not include instruction on NRC security requirements, Mr. Chaisson must attend a separate course on the requirements of 10 C.F.R. Part 37. Within 10 days of completion of the training course(s), Mr. Chaisson shall provide a copy of the course completion certificates, or similar proof of attendance, by mail to the Director, Division of Nuclear Materials Safety, NRC Region IV.
- iii. Mr. Chaisson must "shadow" and observe a radiation safety officer (RSO) for a minimum of 40 hours as the RSO performs his oversight of the radiation safety program for a radiography company. Prior to shadowing an RSO, Mr. Chaisson must request and receive NRC approval of the RSO he proposes to observe. Mr. Chaisson must send his request by e-mail [EA-14-222@nrc.gov] or by mail to the Director, Division of Nuclear Materials Safety, NRC Region IV. At a minimum, Mr. Chaisson's observations of the RSO must include conducting audits of: (1) at least three different crews performing work activities in the field at a temporary jobsite; (2) a storage location for radiography cameras and the security systems at the storage location; and (3) a security system for radiography trucks. Upon completion of the observations listed above, Mr. Chaisson must notify the Director, Division of Nuclear Materials Safety, NRC

- Region IV, by e-mail or in writing, of the dates that the shadowing observations occurred as well as the details of the observations.

2. Limited Work Restrictions

- a. The following restrictions shall persist for a period of three years from the date of this settlement agreement:
 - i. Mr. Chaisson shall contact NRC Region IV, via e-mail [EA-14-222@nrc.gov] once per quarter regarding his engagement in NRC-licensed activities and provide a brief summary of these activities. The summary shall include an overview of activities completed within the previous quarter and identification of known or intended work projections and locations for the next quarter. NRC-licensed activities include those activities that are conducted pursuant to a specific or general license issued by the NRC (*e.g.*, industrial radiographic operations conducted pursuant to 10 C.F.R. Part 34), and activities of Agreement State licensees conducted pursuant to the authority granted by 10 C.F.R. § 150.20.
 - ii. Mr. Chaisson shall notify the Director, Division of Nuclear Materials Safety, NRC Region IV, via e-mail [EA-14-222@nrc.gov], of any employment with an NRC licensee, within 3 days of each acceptance of employment with each NRC licensee.
 - iii. Mr. Chaisson shall notify the Director, Division of Nuclear Materials Safety, NRC Region IV, via e-mail [EA-14-222@nrc.gov], prior to working in NRC jurisdiction during employment with an Agreement State licensee that provides notification to the NRC of its intent to perform work in NRC jurisdiction. Mr. Chaisson's notification must be separate and apart from the notification provided by the agreement state licensee, and must

include the dates and specific location where Mr. Chaisson will be conducting NRC-licensed activities. The notification must be made at least 3 days prior to working in NRC jurisdiction.

- iv. Mr. Chaisson must provide, at least 3 days prior to starting work with any NRC licensee, a copy of this settlement agreement to the licensee. This includes Agreement State licensees who conduct activities pursuant to the authority granted by 10 C.F.R. § 150.20.
- v. Mr. Chaisson is prohibited from working for any NRC licensee (or an Agreement State licensee performing work in NRC jurisdiction under reciprocity) while in NRC jurisdiction in the following capacities:
 1. Manager, Area Supervisor, any other position providing supervision or oversight of industrial radiographic operations;
 2. Radiation Safety Officer; and
 3. Instructor of industrial radiographic operations.

3. Penalties

- a. If Mr. Chaisson fails to abide by the requirements listed above (or submit a timely request for an extension, relaxation, or rescission of these requirements), or otherwise fails to comply with NRC requirements, regulations, or license conditions while engaged in NRC-licensed activities (as defined in section 2.a.i above), the NRC may issue an order prohibiting him from engaging in all NRC-licensed activities for a period up to a lifetime ban.

4. Requests for Extension, Relaxation, and Rescission

- a. The Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, may relax or rescind any provisions of this settlement agreement upon a showing of good cause by Mr. Chaisson. Mr. Chaisson must send any relaxation or rescission requests, in writing, to the Director, Office of Enforcement,

Washington, DC 20555, or by e-mail [EA-14-222@nrc.gov] prior to the expiration of a deadline listed above. The NRC Staff will not consider any requests for extension, relaxation, or rescission of any requirements submitted after the expiration of a deadline.

5. Board Approval

- a. The parties will submit this Settlement Agreement to the Atomic Safety and Licensing Board Panel assigned to this proceeding with a joint motion requesting approval of the settlement and termination of the proceeding with prejudice based on the resolution of matters in this Settlement Agreement. This Settlement Agreement will become effective upon its execution by both parties; however, the agreement is contingent upon approval by the Board pursuant to 10 C.F.R. § 2.203. Upon approval by the Board, this Settlement Agreement will have the same force and effect as an Order made after a full hearing.

6. Correspondence and Telephone Contact with NRC

- a. All written notifications required in this settlement agreement shall be addressed and mailed to the Director, Division of Nuclear Materials Safety, U.S. Nuclear Regulatory Commission, Region IV, 1600 E. Lamar Blvd., Arlington, Texas 76011-4511. Telephone contact with the Director, Division of Nuclear Materials Safety must be made by calling 817-200-1106. E-mail contact with the NRC should be sent to: EA-14-222@nrc.gov. Facsimile contact should be sent to 817-200-1188.

7. Waiver

- a. The parties agree to waive any and all rights to challenge, contest, or seek judicial review of the validity of the Board Order entered into in accordance with this Settlement Agreement.

8. Rescission of July 18, 2014 Order

ATTACHMENT B

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD PANEL

Before the Licensing Board:

G. Paul Bollwerk, Chairman
Michael M. Gibson
Dr. Gary S. Arnold

In the Matter of

JAMES CHAISSON

(Enforcement Action)

Docket No. IA-14-025-EA

ASLBP No. 14-932-02-EA-BD01

April __, 2015

ORDER

(Approving Settlement Agreement and Terminating Proceeding)

1. On July 11, 2014, the Nuclear Regulatory Commission (NRC) Staff issued an Order (Effective Immediately) Prohibiting Involvement in NRC Licensed Activities to Mr. James Chaisson.
2. On August 4, 2014, Mr. Chaisson timely answered the Order, denied the allegations in the Order, and requested an expedited hearing.
3. On August 13, 2014, this Licensing Board was established.
4. On August 15, 2014, the Staff answered Mr. Chaisson's hearing request and agreed that he was entitled to a hearing.
5. On September 8, 2014, the Board granted Mr. Chaisson's hearing request.
6. On October 17, 2014, Judge Paul S. Ryerson was appointed to serve as Settlement Judge to preside over settlement negotiations between the parties.
7. On April 17, 2015, the Staff and Mr. Chaisson jointly submitted to this Board a Settlement Agreement that would resolve all contested issues in this hearing. The Settlement Agreement, attached as Exhibit A to this Order, is hereby incorporated into this Order.

8. Also on April 17, 2015, the Staff and Mr. Chaisson jointly moved for this Board to approve the Settlement Agreement and terminate this proceeding.

9. Upon review of the Settlement Agreement, the Licensing Board is satisfied that its terms reflect a fair and reasonable settlement of this matter, in keeping with the objectives of the NRC's Enforcement Policy, and that the public interest does not require further adjudication of any matter.

10. Because all matters required to be adjudicated as part of this proceeding have been resolved, the proceeding is terminated.

It is so ORDERED.

THE ATOMIC SAFETY
AND LICENSING BOARD

G. Paul Bollwerk, III, Chairman
ADMINISTRATIVE JUDGE

Michael M. Gibson
ADMINISTRATIVE JUDGE

Dr. Gary S. Arnold
ADMINISTRATIVE JUDGE

Rockville, MD
April __, 2015

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
)	Docket No. IA-14-025-EA
JAMES CHAISSON)	ASLBP No. 14-932-02-EA-BD01
)	
)	Date: April 17, 2015

CERTIFICATE OF SERVICE

I hereby certify that the foregoing JOINT MOTION TO APPROVE SETTLEMENT AGREEMENT AND TERMINATE PROCEEDING has been served over the Electronic Information Exchange, the NRC's E-Filing System, and by email to James Chaisson, this 17th day of April 2015.

/Signed (electronically) by/

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