

November 24, 1997

Docket No. 030-33725  
EA No. 97-484

License No. 37-28442-02

Mr. John Boschuk, Jr.  
J&L Testing Company, Inc.  
938 S. Central Avenue  
Canonsburg, Pennsylvania 15317

SUBJECT: INVESTIGATION CONDUCTED BY NRC OFFICE OF INVESTIGATIONS

Dear Mr. Boschuk:

This refers to an investigation conducted by the NRC Region I Office of Investigations (OI), which occurred subsequent to an NRC inspection performed at the address listed above on August 1 through 3, 1995. (See NRC Inspection Report 95-011, issued September 6, 1995 to J&L Testing Company, Inc.) This letter also provides you with an opportunity to attend a predecisional enforcement conference to discuss your involvement regarding the findings.

The findings of the OI investigation are identified in the enclosed synopsis of Investigation Report No. 1-95-044. The OI report indicates (1) that J&L Testing Company, Inc. (J&L) officials deliberately made written material false statements in support of J&L's application for a materials license, (2) that the President of J&L made written material false statements in a letter dated September 18, 1995, (3) that the President of J&L provided false and misleading information during an enforcement conference conducted on September 15, 1995, (4) that J&L failed to provide complete and accurate information in other communications with the NRC concerning Troxler gauge use, transfer, and storage, (5) that a Troxler nuclear density gauge was knowingly possessed, used, and transferred without a valid NRC license, and (6) that J&L records pertaining to gauge use had been falsified to conceal such use, which are apparent violations of 10 CFR 30.9.

You were President of J&L Engineering (former NRC licensee) and provided information to the NRC which OI determined to be inaccurate as well as participated in NRC regulated activities at J&L at the time the several apparent violations occurred. The NRC is considering escalated enforcement action in accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions" (Enforcement Policy), NUREG 1600, against J&L, its President, and you as an individual, based on your actions in this matter as summarized in the enclosed OI investigation synopsis. Such action could include an order to you that would preclude you from any involvement in activities under NRC jurisdiction for a specified period. Accordingly, no Notice of Violation is presently being issued for these findings.

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J&L Testing Company, Inc.

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A closed, transcribed, predecisional enforcement conference with representatives of J&L to discuss these apparent violations at our King of Prussia, Pennsylvania, office has been scheduled for December 18, 1997 at 1:00 p.m. Subsequent to this enforcement conference, we would hold a separate transcribed conference with you as an individual. The decision to hold a predecisional enforcement conference does not mean that the NRC has determined that a violation has occurred or that enforcement action will be taken. This conference is being held to obtain information to enable the NRC to make an enforcement decision, such as a common understanding of the facts, root causes, missed opportunities to identify the apparent violation sooner, corrective actions, significance of the issues and the need for lasting and effective corrective action. In particular, we expect you to address why the NRC should have confidence that you will comply with NRC requirements in the future. In addition, this is an opportunity for you to point out any errors in our inspection report and for you to provide any information concerning your perspectives on 1) the severity of the violations, 2) the application of the factors that the NRC considers when it determines the amount of a civil penalty that may be assessed in accordance with Section VI.B.2 of the Enforcement Policy, and 3) any other application of the Enforcement Policy to this case, including the exercise of discretion in accordance with Section VII. In presenting your corrective action, you should be aware that the promptness and comprehensiveness of your actions will be considered in assessing any civil penalty for the apparent violations. The guidance in the enclosed NRC Information Notice 96-28, "SUGGESTED GUIDANCE RELATING TO DEVELOPMENT AND IMPLEMENTATION OF CORRECTIVE ACTION," may be helpful.

Please contact Ms. Jenny Johansen of this office at (610) 337-5304, within 10 days of the date of this letter, if you choose to schedule a separate, closed and transcribed conference.

You will be advised by separate correspondence of the results of our deliberations on this matter.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter and its enclosure will be placed in the NRC Public Document Room.

Sincerely,

A. Randolph Blough, Director  
Division of Nuclear Materials Safety

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Enclosures:

1. NRC OI Investigation Synopsis
2. NUREG 1600 (Enforcement Policy)
3. NRC Information Notice 96-28
4. Directions to Region I Office

cc w/enclosures: (1)  
Commonwealth of Pennsylvania  
State of New York  
State of Illinois (Bruce Sanza)

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## SYNOPSIS

This investigation was initiated on September 20, 1995, by the Nuclear Regulatory Commission (NRC), Office of Investigations (OI), Region I, to determine if material false statements were made by company officials, in written correspondence supporting an application for a materials license. The correspondence was submitted to the NRC by J & L Engineering, Inc. (JLE) and J & L Testing Company, Inc. (JLT), Canonsburg, Pennsylvania, in October and November 1994.

During the course of the investigation, additional allegations surfaced which indicated that a JLT Troxler nuclear density gauge was knowingly used by JLT without a reciprocity agreement in states that require such an agreement; that JLT violated the terms of a Confirmatory Action letter (CAL) issued on September 15, 1995; that JLT provided false and misleading information to the NRC at an enforcement conference (EC); that JLT failed to provide complete and accurate information in other communications with the NRC about Troxler gauge use, transfer and storage; and, that JLT records pertaining to gauge use had been destroyed, altered, or sanitized to conceal such use.

Based on the evidence developed during this investigation, the following conclusions were reached: that company officials deliberately made written material false statements in support of JLT's application for a materials license; that a Troxler nuclear density gauge was knowingly possessed, used and transferred without a valid NRC license; that a JLT Troxler nuclear density gauge was knowingly used without reciprocity in 2 states that require reciprocity agreements; that JLT violated the terms of a CAL issued on September 15, 1995; that JLT's president provided false and misleading information to the NRC at an EC; that JLT failed to provide complete and accurate information in other communications with the NRC concerning Troxler gauge use, transfer, and storage; and, that JLT records pertaining to gauge use had been sanitized to conceal such use.