



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, DC 20555 - 0001

December 30, 2004

EA-04-178

Christopher V. Roudebush
President & Radiation Safety Officer
KTL Roudebush Testing
P.O. Box 15512
Kansas City, MO 64106

SUBJECT: ORDER REVOKING LICENSE

Dear Mr. Roudebush:

The enclosed Order Revoking License (Order) is being issued to KTL Roudebush Testing (formerly PSI Inspection, Inc.) as a result of a number of safety significant violations and regulatory problems identified during an inspection and an investigation by the U.S. Nuclear Regulatory Commission (NRC). The inspection and investigation findings are described in Inspection Report No. 030-33765/2003-001(DNMS), NRC Office of Investigations (OI) Report No. 3-2003-009, an Order Suspending License (Effective Immediately) and Demand for Information issued by the NRC on March 11, 2004, and the enclosed Order.

Section IV of the Suspension Order required KTL Roudebush Testing to suspend its use of NRC-licensed material under NRC License No. 24-26628-01 and to safely store the material pending further action by the NRC. On June 3, 2004, you (the President, owner, and Radiation Safety Officer of, and a radiographer for, KTL Roudebush Testing) provided a written response to the Demand for Information and met with the NRC staff on July 21, 2004. On September 15, 2004, the NRC staff informed you by letter that the staff, after carefully considering the information that you provided in your written response to the Demand for Information and during the July 21, 2004, meeting, as well as the information in the subject inspection and investigation reports, was prepared to make a final enforcement decision regarding the status of the license and any potential individual actions against you for apparent deliberate violations of NRC requirements. We also offered you in that letter an opportunity to have a predecisional enforcement conference or provide a written response, and provided you with information concerning the alternative dispute resolution (ADR) process. On September 24, 2004, you contacted the NRC Region III Office in Lisle, Illinois, and informed the NRC staff that you did not desire a predecisional enforcement conference, would not be providing a written response, and did not desire to participate in the ADR process.

After reviewing all available information, the NRC is issuing the enclosed Order Revoking License to KTL Roudebush Testing. The provisions of the March 11, 2004, Suspension Order remain in effect under the provisions of Section VI.A of the enclosed Order. In addition, Section VI.A of the enclosed Order directs KTL Roudebush Testing to: (1) transfer all NRC-licensed materials in its possession to authorized recipients within 20 days of the date of the enclosed Order; (2) perform a leak test, by an authorized individual, of each sealed source of NRC-licensed material in the possession of the licensee that has not been leak tested within six months prior to transfer of that material; (3) notify the Director, Division of Nuclear Materials

Safety, NRC Region III, at least five working days prior to the date the materials are to be transferred so the NRC may, if it elects, observe the transfer; (4) no later than five (5) days after the transfer, provide written certification, under oath or affirmation, to the Regional Administrator, NRC Region III, that all material has been properly transferred; and (5) provide the Regional Administrator copies of all transfer records required by 10 C.F.R. § 30.51. Section VI.B of the enclosed Order Revoking License provides that License No. 24-26628-01 is revoked upon confirmation of the transfer of all NRC-licensed material currently possessed.

You are required to provide an answer to the Order. Failure to comply with the provisions of this Order may result in further civil enforcement action, and pursuant to Section 223 of the Atomic Energy Act of 1954, as amended, any person who willfully violates, attempts to violate, or conspires to violate, any provision of this Order shall be subject to criminal prosecution as set forth in that section. Additionally, the issuance of this Order does not preclude the possibility of further enforcement actions against any individuals who deliberately violated NRC requirements.

In accordance with 10 C.F.R. § 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosure, and your response will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the public without redaction. If personal privacy or proprietary information is necessary to provide an acceptable response, then please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request withholding of such material, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 C.F.R. § 2.390(b) to support a request for withholding confidential commercial or financial information). If safeguards information is necessary to provide an acceptable response, please provide the level of protection described in 10 C.F.R. § 73.21.

Please note that on October 25, 2004, the NRC temporarily suspended public access to ADAMS and initiated an additional security review of publicly available documents to ensure that potentially sensitive information is removed from the ADAMS database accessible through the NRC's web site. Interested members of the public may obtain copies of the referenced documents for review and/or copying by contacting the Public Document Room pending resumption of public access to ADAMS. The NRC Public Documents Room is located at NRC Headquarters in Rockville, MD, and can be contacted at (800) 397-4209 or (301) 415-4737 or pdr@nrc.gov.

C. Roudebush

3

Questions concerning the enclosed Order should be addressed to Frank Congel, Director, Office of Enforcement, who can be reached at (301) 415-2741.

Sincerely,

/RA/

Martin J. Virgilio,
Deputy Executive Director for
Materials, Research and State Programs

Docket No. 030-33765
License No. 24-26628-01

Enclosure: As stated

cc w/enclosure:

K. Henke, Planner
Missouri Department of Health and Senior Services
930 Wildwood Drive
P.O. Box 570
Jefferson City, MO 65102-0570

R. Kucera, Deputy Director for Policy
Missouri Department of Natural Resources
205 Jefferson Street
P.O. Box 176
Jefferson City, MO 65102

T. Conley, Chief, Radiation and Asbestos
Control Section, Bureau of Air and Radiation
Department of Health and Environment, State of Kansas
Curtis State Office Building, 1000 SE Jackson, Suite 310
Topeka, KS 66612-1366

J. Thompson, Program Leader, Radioactive Materials License,
Radiation Control, Arkansas Department of Health
4815 West Markham Street
Little Rock, AR 72205-3867

J. Endahl, Industrial Radiographer Certification Program,
Texas Bureau of Radiation Control, Texas Department of Health
1100 West 49th Street
Austin, TX 7856-3199

American Society for Nondestructive Testing, Inc.
ATTN: Technical Services Manager
1711 Arlingate Lane
P.O. Box 28518
Columbus, OH 43228-0518

DISTRIBUTION:

ADAMS (PARS)
 SECY
 OCA
 L. Reyes, EDO
 M. Virgilio, DEDMRS
 F. Congel, OE
 C. Nolan, OE
 S. Merchant, OE
 J. Caldwell, RIII
 G. Grant, RIII
 L. Chandler, OGC
 J. Moore, OGC
 J. Strosnider, NMSS
 C. Miller, NMSS
 K. O'Brien
 M. Dapas, RIII
 G. Shear, RIII
 L. Gersey, NMSS
 M. Woods, OGC
 D. Holody, RI
 C. Evans, RII

G. Sanborn, RIV
 S. Gagner, OPA
 H. Bell, OIG
 R. Norman, OIG
 G. Caputo, OI
 J. Piccone, OSTP
 R. Paul, OI:RIII
 S. Kryk, OI:RIII
 J. Strasma, RIII:PA
 K. O'Brien, RIII
 J. Madera, RIII
 Patricia Pelke, RIII
 C. Weil, RIII
 R. Lickus, RIII
 J. Lynch, RIII
 R. Gattone, RIII
 N. Hilton, OE
 OEWEB
 OEMAIL
 State of Missouri

ML043580243

See previous concurrence

OFFICE	RIII*		RIII*		RIII*		RIII*	
NAME	C. Weil		K. O'Brien		Dapas		Caldwell	
DATE	11/24/04		11/24/04		12/23/04		11/24 /04	

OFFICE	IMNS*		OGC*		OE		DEDMRS	
NAME	C. Miller (L.Psyk-Gersey for)		J. Moore (M. Woods for)		F. Congel		M. Virgilio	
DATE	11/26/04		12/22/04		12/28/04		12/29/04	

OFFICIAL RECORD COPY

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)	
)	Docket No. 030-33765
KTL Roudebush Testing)	License No. 24-26628-01
Kansas City, Missouri)	EA-04-178

ORDER REVOKING LICENSE

I

KTL Roudebush Testing (Licensee) is the holder of Byproduct Material License No. 24-26628-01 issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 C.F.R. Parts 30 and 34. The license authorizes the possession and use of iridium-192 in sealed sources for industrial radiography. The license also authorizes the possession and use of cesium-137 and americium-241 in sealed sources to be used in portable gauges for measuring physical properties of materials. In addition, the license authorizes the possession of depleted uranium, as solid metal, for shielding in radiography equipment.

Christopher V. Roudebush is the President and owner of KTL Roudebush Testing. The license identifies Mr. Roudebush as the Radiation Safety Officer (RSO). Mr. Roudebush also serves as a radiographer for the Licensee. The license was originally issued on November 20, 1995.

License Amendment No. 4 was issued on January 16, 2004, to change the name of the Licensee from PSI Inspection, Inc. to KTL Roudebush Testing. The license was amended in its entirety on February 5, 2004 (Amendment No. 5) and is due to expire on March 31, 2011. The license was suspended by NRC Order on March 11, 2004 (EA-03-0177) (69 FR 13336). That Order was made immediately effective.

On March 11, 2004, the NRC issued an Order Suspending License (Effective Immediately) and Demand for Information to KTL Roudebush Testing after a routine inspection by the NRC staff and an investigation by the NRC Office of Investigations (OI) identified numerous apparent deliberate violations of the NRC's radiation safety requirements by Christopher V. Roudebush, the President, owner, and Radiation Safety Officer of, and a radiographer for, KTL Roudebush Testing. The apparent violations were described in Inspection Report No. 030-33765/2003-001(DNMS), OI Report No. 3-2003-009, and the Order Suspending License (Effective Immediately) issued on March 11, 2004. The Suspension Order required KTL Roudebush Testing to suspend its use of NRC-licensed material and to place the material in safe storage pending further deliberation by the NRC regarding the apparent violations. The apparent deliberate violations giving rise to the Order Suspending License were described therein and, in summary, included the following:

1. On April 10, 2003, October 28 and 29, 2002, and on several occasions between October 2001 and January 2002, Mr. Roudebush deliberately conducted industrial radiography at locations other than a permanent radiographic installation (field locations or temporary job sites) without having an additional qualified individual present who could observe radiographic operations and was capable of providing immediate assistance to prevent unauthorized entry, as required by 10 C.F.R. § 34.41.
2. On April 10, 2003, and on October 28 and 29, 2002, Mr. Roudebush deliberately permitted individuals to act as a radiographer's assistant before these individuals had successfully completed the Licensee's training program for radiographer's assistants, as required by 10 C.F.R. § 34.43(c) and Condition No. 26 of NRC License No. 24-26628-01.

3. On October 28, 2002, Mr. Roudebush 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 C.F.R. § 34.47(a), to act as a radiographer's assistant.
4. As of April 12, 2003, Mr. Roudebush deliberately failed to conduct inspections and routine maintenance of Licensee radiographic exposure devices and associated equipment during the first quarter of Calendar Year 2003, an interval exceeding three months, as required by 10 C.F.R. § 34.31(b).
5. On April 8, 2003, Mr. Roudebush deliberately provided inaccurate and incomplete information to an NRC inspector about maintaining records of quarterly inspections of radiographic exposure devices, as required to be maintained in accordance with 10 C.F.R. § 34.73.
6. On August 5, 2003, in response to a subpoena from the NRC, Mr. Roudebush deliberately provided inaccurate and incomplete information to a Special Agent of the NRC Office of Investigations when he stated that he had destroyed a computer described in a subpoena from the NRC. Mr. Roudebush deliberately failed to afford the Commission an opportunity to inspect records of quarterly maintenance and inspections of radiographic exposure devices that were required to be maintained in accordance with 10 C.F.R. § 34.73.
7. On April 10, 2003, and between October 2001 and January 2002, Mr. Roudebush transported on public highways a SPEC Model 150 radiographic exposure device (package), containing a nominal 142 curie iridium-192 sealed source, and he 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 C.F.R. § 71.5(a) and 49 C.F.R. § 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, Mr. Roudebush 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 C.F.R. § 71.5(a) and 49 C.F.R. § 177.817(a).
9. On April 10, 2003, Mr. Roudebush 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 C.F.R. § 34.20(c)(3).

III

The March 11, 2004, Order Suspending License also contained a Demand for Information issued pursuant to 10 C.F.R. § 2.204. The Demand for Information required the Licensee to provide in writing, under oath or affirmation, an explanation as to why, in light of the inspection and investigation findings, that License No. 24-26628-01 should not be revoked. The Demand for Information also provided that should the Licensee believe that the license should not be revoked, the Licensee must provide in a written response, under oath or affirmation, reasonable assurance that in the future all licensed activities will be conducted with appropriate management oversight to ensure all licensed activities will be performed in accordance with regulatory requirements. By letter dated March 17, 2004, the Licensee requested additional time to respond to the Demand for Information. The NRC granted the request for additional

time on April 2, 2004. On June 3, 2004, the Licensee provided the written response required by the Demand for Information and also requested a hearing on the Order Suspending License.

On June 14, 2004, the Licensee withdrew the request for hearing upon the NRC granting the Licensee's request to meet with the NRC staff, and consequently the NRC staff extended the time for the Licensee to request a hearing on the Order Suspending License. Representatives of the Licensee met with the NRC staff on July 21, 2004, in the NRC Region III Office in Lisle, Illinois.

In the Licensee's undated¹ written response to the Demand for Information and at the meeting with the NRC staff, Christopher V. Roudebush, the President, owner, and Radiation Safety Officer of KTL Roudebush Testing, stated that he made mistakes and he had lapses in judgment as a businessman; however, none of the violations were deliberate in nature.

Mr. Roudebush stated that he planned to hire only experienced individuals in the future and he would no longer hire individuals from a temporary labor agency. According to Mr. Roudebush, he hired a second radiographer to be an additional Radiation Safety Officer in order to help with completion of NRC-required inspections and audits and maintain related records. (Note: On December 20, 2003, the Licensee submitted a license amendment request to the NRC, requesting an individual be added to the license as the Assistant Radiation Safety Officer. License Amendment No. 4 was issued on January 16, 2004, and listed that individual as the Assistant Radiation Safety Officer.)

The NRC staff carefully considered the Licensee's response to the Demand for Information and the additional information provided during the meeting held on July 21, 2004. Notwithstanding the Licensee's arguments, the NRC concludes that the apparent deliberate violations specified

¹Received by NRC on June 3, 2004

in the Suspension Order occurred as stated. For example, Mr. Roudebush admitted in the response to the Demand for Information and at the July 21, 2004, meeting that he violated the NRC requirement to have two qualified individuals present during radiographic operations; however, he denied that the violation was deliberate. He explained that he received his training and certification as a radiographer in the State of Texas and the regulations in the State of Texas required only one certified radiographer. He also denied during the meeting on July 21, 2004, that he had received a prior Notice of Violation associated with the "two-man rule," 10 C.F.R. § 34.41(a). However, the NRC issued a Notice of Violation to the Licensee on January 18, 2000, associated with the "two man rule," 10 C.F.R. § 34.41(a). The inspection report containing the violation (No. 030-33765/99-001(DNMS)) documents that Mr. Roudebush told an NRC inspector during the December 10, 1999, inspection that he was familiar with the NRC's "two man rule," 10 C.F.R. § 34.41(a). Therefore, the NRC staff concludes that the statements by Mr. Roudebush that he was not aware of the requirement to have two qualified individuals present at a temporary job site and he did not deliberately violate the provisions of 10 C.F.R. § 34.41(a), were not credible.

Additionally, Mr. Roudebush provided a lengthy explanation regarding the apparent deliberate failure to provide the information requested by the NRC subpoena, the opportunity to inspect the records contained in the computer, and the destruction of that computer. Mr. Roudebush stated that an employee threw computer parts from a truck operated by Mr. Roudebush after Mr. Roudebush had received the subpoena from the Office of Investigations. Mr. Roudebush admitted that he was present when his employee threw away the computer parts and stated that he made no attempt to stop the employee from destroying the computer. Regardless of who may have actually destroyed the computer, Mr. Roudebush, as the Licensee's President, owner, and Radiation Safety Officer, was complicit in, and responsible for, deliberate violations of 10 C.F.R. § 30.9 and 10 C.F.R. § 30.52(b).

The NRC staff carefully considered the Licensee's explanations provided in its response to the Demand for Information and at the July 21, 2004, meeting regarding the other violations alleged in the Suspension Order. While Mr. Roudebush contends that his conduct reflected mistakes and lapses of judgment, the NRC concludes that the violations were deliberate and occurred as stated in the Order Suspending License.

IV

In addition to the deliberate violations described in Section III which occurred within the NRC's jurisdiction, and upon which this Order is based, the investigation conducted by the NRC Office of Investigations determined that the following activities occurred in the State of Kansas, an NRC Agreement State. On February 17, and March 6, 2003, and on several occasions between May and October 2002, the Licensee deliberately conducted radiography at temporary job sites and the radiographer was not accompanied by an additional qualified individual. On February 17, and March 6, 2003, the Licensee deliberately permitted individuals to act as a radiographer's assistants before they had successfully completed the Licensee's training program for a radiographer's assistant, and these individuals did not wear a direct-reading pocket dosimeter, an alarming ratemeter, and either a film badge or a thermoluminescent dosimeter while conducting radiography. Based on these findings, on March 12, 2004, the State of Kansas issued an Emergency Order of Suspension of License (Case No. 04-E-0071) to KTL Inspection (as named on the Order and License). The license in the State of Kansas expired on June 30, 2004, and summary judgment was entered without further action by the State of Kansas based on the expiration of the license.

As described in Section III, the deliberate acts and omissions of Christopher V. Roudebush violated NRC requirements over an extended period of time. These violations jeopardized the public health and safety, and on that basis, represent a significant regulatory concern. The deliberate violations also demonstrate that Christopher V. Roudebush, as the President, owner, and Radiation Safety Officer of KTL Roudebush Testing, and a radiographer for the Licensee, is unable to comply with the Commission's requirements to protect the public health and safety. The corrective actions described by Mr. Roudebush (hiring an Assistant Radiation Safety Officer/radiographer, and stating he would not hire temporary workers in the future) are not sufficient to demonstrate otherwise. The deliberate violations demonstrate that the Commission is not able to rely upon the integrity of Mr. Roudebush. Such reliance is essential to assuring adequate protection of the public health and safety. Given the above matters and the actions of Mr. Roudebush as the President, owner, and Radiation Safety Officer for the Licensee, the Commission lacks the requisite reasonable assurance that the public health and safety is adequately protected by continuing activities under the existing license. If, at the time the license was issued, the NRC had known of the Licensee's inability to control licensed activities in accordance with the Commission's requirements, or the questionable integrity of the Licensee's President and Radiation Safety Officer, the license would not have been issued. Therefore, I have determined that permitting this Licensee to conduct or resume activities under License No. 24-26628-01 would be contrary to the public health and safety and that this license should be revoked. I have also determined, pursuant to 10 C.F.R. § 2.202(a)(5), that the public health and safety requires the continued suspension of this license until the material in the Licensee's possession has been returned to the manufacturer or transferred to another person authorized to possess the material, and that this continued suspension must remain in effect pending license revocation.

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 C.F.R. § 2.202 and 10 C.F.R. § 30 and 34:

A. IT IS HEREBY ORDERED, THAT:

1. The Licensee shall transfer all NRC-licensed material acquired or possessed under the authority of License No. 24-26628-01 within 20 days of the date of this Order, either by returning the material to the manufacturer or transferring it to another person authorized to possess that material;
2. Any sources that have not been leak tested within six months prior to the transfer shall be leak tested by a person authorized to do so, prior to transfer of the source;
3. The Licensee shall notify Mr. Marc L. Dapas, Director, Division of Nuclear Materials Safety, NRC Region III, Lisle, Illinois, by telephone (630-829-9800) at least five working days prior to the date the radioactive materials are to be transferred so that the NRC may, if it elects, observe the transfer of the material;
4. The Licensee shall, within 5 days after transfer of the material, certify in writing, under oath or affirmation, to the Regional Administrator, NRC Region III, 2443 Warrenville Road, Suite 210, Lisle, Illinois 60532-4532, that all material has been properly transferred and provide the Regional Administrator copies of transfer records required by 10 C.F.R. § 30.51; and

5. The issuance of this Order does not otherwise alter the continued effectiveness of the Suspension Order.

B. IT IS FURTHER ORDERED THAT:

Following confirmation of the transfer of all NRC-licensed material currently possessed, as discussed above, License No. 24-26628-01 is revoked.

The Director of the Office of Enforcement or the Regional Administrator, Region III, may, in writing, at any time prior to final agency action sustaining the revocation of License No. 24-26628-01, relax or rescind any of the above provisions on demonstration by the Licensee, in writing and under oath or affirmation, of good cause.

VII

In accordance with 10 C.F.R. § 2.202(b), the Licensee must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order, within 20 days of the date of this Order. 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, and include a statement of good cause for the extension. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically admit or deny each allegation or charge made in this Order and set forth the matters of fact and law on which the Licensee or other person

adversely affected relies, and the reasons as to why the Order should not have been issued.

Any answer or request for a hearing shall be submitted to the Secretary, U.S. Nuclear

Regulatory Commission, ATTN: Rulemakings and Adjudications Staff, Washington, DC 20555.

Copies of the hearing request also should be sent to the Director, Office of Enforcement,

U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, to the Assistant General

Counsel for Materials Litigation and Enforcement, Office of the General Counsel, at the same

address, to the Regional Administrator, NRC Region III, 2443 Warrenville Road, Suite 210,

Lisle, IL 60532-4352, and to the Licensee if the hearing request is by a person other than the

Licensee. Because of continuing disruptions in delivery of mail to United States Government

offices, it is requested that answers and requests for hearing be transmitted to the Secretary of

the Commission either by means of facsimile transmission to 301-415-1101 or by e-mail to

hearingdocket@nrc.gov and also to the Assistant General Counsel either by means of facsimile

transmission to 301-415-3725 or by e-mail to OGCMailCenter@nrc.gov. If a person other than

the Licensee requests a hearing, that person shall set forth with particularity the manner in

which the interest of the person is adversely affected by this Order and shall address the criteria

set forth in 10 C.F.R. § 2.309.

If a hearing is requested by the Licensee or 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 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 VI above shall be final 20 days from the

date of this Order without further order or proceedings. If an extension of time for requesting a

hearing has been approved, the provisions specified in Section VI shall be final when the extension expires if a hearing request has not been received.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

Martin J. Virgilio
Deputy Executive Director for
Materials, Research and State Programs
Office of Executive Director for Operations

Dated this 30th day of December 2004