

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 CFR 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 CFR 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.

Dated this 30th day of December, 2004.

For the Nuclear Regulatory Commission.

Martin J. Virgilio,

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

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NUCLEAR REGULATORY COMMISSION

[IA-04-019]

Christopher V. Roudebush; Order Prohibiting Involvement in NRC-Licensed Activities (Effective Immediately)

I

KTL Roudebush Testing (Licensee) is the holder of Byproduct Material License No. 24-26628-01 issued by the U.S. Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR 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. 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), which was effective immediately. Additionally, the NRC staff informed the Licensee, on September 15, 2004, that an extension of time for requesting a hearing on the March 11, 2004, Order Suspending License was granted until 20 days following the final disposition of the issues described in the Suspension Order. 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.

II

Based on the results of a routine inspection by the NRC staff and an investigation by the NRC Office of Investigations (OI), the NRC determined that Christopher V. Roudebush, the President, owner, Radiation Safety Officer of, and a radiographer for, KTL Roudebush Testing, engaged in deliberate misconduct that caused the Licensee to be in violation of numerous NRC radiation safety requirements, including the requirements to: have a sufficient number of qualified personnel present at temporary job sites; provide radiation safety training and dosimetry to employees; conduct inspections and maintenance of industrial radiography equipment at specified intervals; and maintain records of NRC required inspection and maintenance activities. The NRC also determined that Mr. Roudebush deliberately provided incomplete and inaccurate information to NRC inspectors and investigators, and Mr. Roudebush deliberately prevented NRC inspectors and investigators from having access to NRC-required records.

As a result of the activities of Mr. Roudebush, the NRC issued an Order Suspending License (Effective Immediately) and Demand for Information to KTL Roudebush Testing on March 11, 2004. 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 deliberate 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 the radiographic 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, 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 CFR 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 CFR 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 CFR 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 CFR 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 CFR 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 CFR 71.5(a) 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, 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 CFR 71.5(a) and 49 CFR 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 CFR 34.20(3).

III

The March 11, 2004, Order Suspending License also contained a Demand for Information issued pursuant to 10 CFR 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, 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 written response to the Demand for Information and at the July 21, 2004, 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 the completion of NRC-required inspections and audits and the maintenance of 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 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 CFR 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 CFR 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 CFR 34.41(a). Therefore, the NRC staff concludes that the statements by Mr. Roudebush that he was not aware of the NRC requirement to have two qualified individuals present at a temporary job site and he did not deliberately violate the provisions of 10 CFR 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 he 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 CFR 30.9 and 10 CFR 30.52(b).

The NRC staff carefully considered the Licensee's explanations provided in its response to the Demand for Information and at the meeting on July 21, 2004, regarding the other violations alleged in the Suspension Order. While Mr. Roudebush contends that he merely made mistakes and had lapses of judgment, the NRC concludes that the violations were deliberate and occurred as stated in the Order Suspending License. Therefore, an Order Revoking License was issued to KTL Roudebush Testing on December 30, 2004.

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. Based on expiration of the license, summary judgment was entered without further action by the State of Kansas.

V

As described in Section II and 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 Mr. Roudebush is unable to comply with the Commission's requirements to protect the public health and safety, and 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. Consequently, I lack the requisite reasonable assurance that licensed activities can be conducted in compliance with the Commission's requirements and that the health and safety of the public will be protected if Mr. Roudebush is permitted to be involved in NRC-licensed activities. Therefore, the public health, safety and interest require that Christopher V. Roudebush be prohibited from any involvement in NRC-licensed activities for a period of five years from the date of this Order. Additionally, Mr. Roudebush is required to notify the NRC of his first employment in NRC-licensed activities for a period of five years following the prohibition period. Furthermore, pursuant to 10 CFR 2.202(a)(5), I find that the significance of Mr. Roudebush's conduct described above is such that the public health, safety and interest require that this Order be immediately effective.

VI

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, 10 CFR 30.10, and 10 CFR 150.20, *it is hereby ordered*, effective immediately, that:

A. 1. Christopher V. Roudebush is prohibited for five years from the date of this Order from engaging in NRC-

licensed activities. 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.

2. Mr. Roudebush is permitted to conduct licensed activities as necessary to maintain licensed material in the possession of KTL Roudebush Testing in safe storage, as required by the March 11, 2004, Order Suspending License (Effective Immediately), and to transfer the material to an authorized recipient, as required by the December 30, 2004, Order Revoking License.

B. If Mr. Roudebush is currently involved with another licensee in NRC-licensed activities, he must immediately cease those activities, and inform the NRC of the name, address and telephone number of the employer, and provide a copy of this Order to the employer.

C. For a period of five years after the five year period of prohibition has expired, Mr. Roudebush shall, within 20 days of acceptance of his first employment offer involving NRC-licensed activities or his becoming involved in NRC-licensed activities, as defined in Paragraph VI.A. above, provide notice to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, of the name, address, and telephone number of the employer or the entity where he is, or will be, involved in the NRC-licensed activities. In the notification, Mr. Roudebush shall include a statement of his commitment to compliance with regulatory requirements and the basis why the Commission should have confidence that he will now comply with applicable NRC requirements.

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

VII

In accordance with 10 CFR 2.202(b), Christopher V. Roudebush 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 shall set forth the matters of fact and law on which Mr. Roudebush 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 also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, 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 Mr. Roudebush if the answer or hearing request is by a person other than Mr. Roudebush. 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 Mr. Roudebush requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309.

If a hearing is requested by Mr. Roudebush 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.

Pursuant to 10 CFR 2.202(c)(2)(I), Mr. Roudebush, may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

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 IV 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 IV shall be final when the extension expires if a hearing request has not been received. An answer or a request for hearing shall not stay the immediate effectiveness of this Order.

Dated this 30th day of December, 2004.

For the Nuclear Regulatory Commission.

Martin J. Virgilio,

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

[FR Doc. 05-478 Filed 1-10-05; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

[Docket No. 72-11]

Sacramento Municipal Utility District; Rancho Seco Independent Spent Fuel Storage Installation; Issuance of Environmental Assessment and Finding of No Significant Impact Regarding a Proposed Exemption and Conforming Amendment

AGENCY: Nuclear Regulatory Commission.

ACTION: Environmental assessment.

FOR FURTHER INFORMATION CONTACT:

Amy M. Snyder, Project Manager, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone: (301) 415-8580; fax number: (301) 425-8555; e-mail: ams3@nrc.gov.

SUPPLEMENTARY INFORMATION: The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an exemption, pursuant to 10 CFR 72.7, from the provisions of 10 CFR 72.44(d)(3), to the Sacramento Municipal Utility District (SMUD or the licensee). The requested exemption (in conjunction with a conforming license amendment) would relieve SMUD from the requirement to submit an annual radioactive effluent report for the Rancho Seco Independent Spent Fuel Storage Installation (ISFSI). SMUD submitted the exemption request by letter dated July 19, 2004, in which it also requested an amendment to the Rancho Seco ISFSI license; specifically, the deletion of Technical Specification 5.5.2., Radiological Environmental Monitoring Program, item (d). The licensee is currently storing spent nuclear fuel at the Rancho Seco ISFSI

on the site of the decommissioned Rancho Seco Nuclear Generating Station in Sacramento County, California.

Environmental Assessment (EA)

Identification of Proposed Action: SMUD has requested both an exemption and a conforming license amendment to obtain relief from the requirement to submit an annual radioactive effluent report for the Rancho Seco ISFSI. According to 10 CFR 72.44(d), each 10 CFR part 72 license must include technical specifications regarding radioactive effluents. Specifically, 10 CFR 72.44(d)(3) requires that an annual report be submitted to the NRC, specifying the quantity of each of the principal radionuclides released to the environment in liquid and in gaseous effluents during the previous 12 months of ISFSI operation. In addition to the regulation itself, the Rancho Seco ISFSI Technical Specifications (Appendix to License No. SNM-2510), section 5.5.2, Radiological Environmental Monitoring Program, item d., requires an annual report to be submitted pursuant to 10 CFR 72.44(d)(3).

The proposed action before the NRC is whether to grant the exemption and conforming amendment.

Need for the Proposed Action: The requirements of 10 CFR 72.44(d)(3) and Rancho Seco ISFSI Technical Specification 5.5.2.d. impose certain regulatory obligations, with associated costs, on the licensee. In its Safety Evaluation Report related to the ISFSI license, the staff found that there are no credible scenarios by which liquid or gaseous effluents could be released from the dry shielded canister. The licensee further stated that any concerns over small quantities of gaseous or liquid effluent that may be produced during cask loading and transfer decontamination activities are no longer relevant, since all the spent fuel has been transferred to the ISFSI, and that the NUHOMS-24P dry cask storage system used at the Rancho Seco ISFSI is a passive system which, by design, produces no gaseous or liquid effluent.

Granting the requested exemption and approving the conforming amendment will relieve the licensee from the requirement to submit an annual radioactive effluent report pursuant to 10 CFR 72.44(d)(3). The requirement to submit an annual radioactive effluent monitoring report is not needed for this facility in its current configuration and is an unnecessary administrative burden. Thus, the licensee would not have to incur the costs associated with preparing and submitting an annual ISFSI radioactive effluent report.