



**UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, DC 20555 - 0001**

December 30, 2004

IA-04-019

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

**SUBJECT: ORDER PROHIBITING INVOLVEMENT IN NRC-LICENSED ACTIVITIES
(EFFECTIVE IMMEDIATELY)**

Dear Mr. Roudebush:

The enclosed Order Prohibiting Involvement in U.S. Nuclear Regulatory Commission (NRC) Licensed Activities (Effective Immediately) is being issued because you engaged in deliberate misconduct as defined in 10 CFR § 30.10, causing KTL Roudebush Testing to be in violation of a number of significant radiation safety regulations. As described in the enclosed Order, you deliberately failed to: ensure two qualified individuals were present during radiographic operations at temporary job sites, provide required training and dosimetry to employees, perform required inspections and maintenance of industrial radiography equipment at specified intervals, and maintain records of the NRC required inspections and maintenance activities. Additionally, you deliberately prevented NRC inspectors and investigators from gaining access to records required by the NRC and you deliberately failed to provide complete and accurate material information to NRC inspectors and investigators. 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. Additionally, an Order Revoking License is being issued today to KTL Roudebush Testing based on your deliberate actions.

The enclosed Order prohibits your involvement in all NRC-licensed activities for a period of five years from the date of the Order, except as necessary to maintain licensed material in possession of KTL Roudebush Testing in accordance with the Suspension Order and to transfer that material to an authorized recipient in accordance with the Revocation Orders. The enclosed Order also provides that you must immediately cease NRC-licensed activities if you are currently involved with another NRC licensee, inform the NRC of the name, address and telephone number of the employer, and provide a copy of this Order to the employer. Additionally, for a period of five years, after the 5-year period of prohibition has expired, you are required, within 20 days of your acceptance of your first employment offer

involving NRC-licensed activities or becoming involved in NRC-licensed activities, to provide written 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 you are, or will be, involved in the NRC-licensed activities. 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. Violation of this Order may also subject the person to civil monetary penalties.

In accordance with 10 CFR § 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 CFR § 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 CFR § 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.

This letter will be maintained by the Office of Enforcement (OE) in an NRC Privacy Act system of records, NRC-3, "Enforcement Actions Against Individuals." The NRC-3 system notice, which provides detailed information about this system of records, can be accessed from our Web site at <http://www.nrc.gov/reading-rm/foia/privacy-systems.html>.

C. Roudebush

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Questions concerning the enclosed Order should be addressed to Frank J. 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
Office of Executive Director for Operations

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

Enclosure: As Stated

cc w/enclosure:

N. Zych, Office of the United States Attorney,
Charles Evans Whittaker Courthouse
400 East 9th Street, Room 5510,
Kansas City, MO 64106

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 78756-3199

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

Questions concerning the enclosed Order should be addressed to Frank J. 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
Office of Executive Director for Operations

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

Enclosure: As Stated

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ML043580153

*See previous concurrence

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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 (C. Nolan)		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

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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 C.F.R. § 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 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(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, 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 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 NRC 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 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 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 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.

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 C.F.R. § 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.

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, 10 C.F.R. §

30.10, and 10 C.F.R. § 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 C.F.R. § 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 C.F.R. § 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 C.F.R. § 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 C.F.R. § 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.

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