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Title: James Chaisson Enforcement Action

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1 UNITED STATES OF AMERICA

2 NUCLEAR REGULATORY COMMISSION

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4 ATOMIC SAFETY AND LICENSING BOARD PANEL

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6 HEARING

7 -----x

8 In the Matter of: : Docket No.

9 JAMES CHAISSON : IA-14-025-EA

10 (Enforcement Action) :

11 -----x

12 Wednesday, June 10, 2015

13
14 Teleconference15
16 BEFORE:

17 G. PAUL BOLLWERK, III, Chair

18 DR. GARY S. ARNOLD, Administrative Judge

19 MICHAEL M. GIBSON, Administrative Judge

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Region 4

P R O C E E D I N G S

11:05 a.m.

CHAIRMAN BOLLWERK: Good morning. We're here today for a telephone conference in the James Chaisson enforcement proceeding.

Let me first introduce the Board Members. Judge Gibson, one of our Legal Judges, full time Legal Judges is here. As well as Judge Arnold, one of our full time Nuclear Engineers, a Technical Judge.

My name is Paul Bollwerk and I'm the Chairman of this Panel or the Board rather. And I'm a Legal Judge.

Also, with us are Panel Law Clerks Matt Zogby and Alana Wase. And also Administrative Assistant Tawana Ellis.

For the record, let's have the parties go ahead and identify themselves. Let's start with Mr. Chaisson please?

MR. CHAISSON: Yes, gentlemen, this is James Chaisson.

CHAIRMAN BOLLWERK: All right. Thank you, sir. And could we have the NRC staff identify the attorneys that are there for them as well as any of the technical folks that you think might be participating.

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1 MR. MALTESE: Yes, Your Honor. This is
2 Jim Maltese for the NRC Staff and the Office of the
3 General Counsel. Also, from the Office of the General
4 Counsel is Christopher Hair, Mauri Lemoncelli and
5 Catherine Scott.

6 Also, joining us at Headquarters from the
7 Office of Enforcement is Nick Hilton and Rob
8 Carpenter. I believe we also have in a listen mode
9 from Region IV, Michael Hay.

10 CHAIRMAN BOLLWERK: All right. Thank you.
11 Again, I would like to remind everyone, and it makes
12 the conference call much easier for the Court
13 Reporter, if you could before you speak, that you
14 identify yourself.

15 And again, if the Court Reporter at any
16 point is having any difficulties in terms of
17 identifying a speaker or needs any other information,
18 he should feel free to come on and just let us know
19 what his problem is. And we'll try to rectify it
20 right then.

21 All right. So, we're here today to have
22 a telephone conference in light of a Settlement
23 Agreement. And a joint motion by the parties to
24 approve that Agreement. And also to terminate this
25 proceeding that's been filed with the Board.

1 Before we talk about that I just want to
2 check, I know Mr. Chaisson, you've had some medical
3 issues in the past. How are you feeling today sir?

4 MR. CHAISSON: Oh, I'm feeling great, Your
5 Honor. Actually, I'm going to get around a lot
6 better. No crutches, no anything.

7 I'm going through physical therapy. And
8 it's going quite well.

9 CHAIRMAN BOLLWERK: All right. Judge
10 Arnold, are you back on your motorcycle yet?

11 JUDGE ARNOLD: Yes, sir. My children are
12 after me to sell it, but I can't let her go.

13 CHAIRMAN BOLLWERK: You're a braver man
14 than I am sir. But, all right.

15 JUDGE ARNOLD: I refuse to ride it in the
16 city or on the interstates anymore.

17 CHAIRMAN BOLLWERK: All right. And so
18 you're feeling well?

19 JUDGE ARNOLD: Yes, sir. Yes, sir. Thank
20 you for asking.

21 CHAIRMAN BOLLWERK: All right. Okay. And
22 I take it over the period that we've been talking
23 about with the Settlement Agreement everything's been
24 okay with your health?

25 MR. CHAISSON: Come again, Your Honor?

1 CHAIRMAN BOLLWERK: In terms of the period
2 -- right now we know how you're doing. Let's go back
3 to April when the Settlement Agreement, you were
4 working with that, everything was fine then as well?

5 MR. CHAISSON: Correct, Your Honor. James
6 Chaisson. Correct.

7 CHAIRMAN BOLLWERK: Okay. All right. Go
8 ahead.

9 JUDGE GIBSON: Mr. Chaisson, this is Judge
10 Gibson. I just want to get a clear idea about your
11 own -- I understand you've been on some medication and
12 a few other things.

13 I just want to make sure that at this
14 point in time, you feel like you're in control of your
15 faculties and are thinking clearly and there's not
16 anything that's clouding your judgement. Is that
17 correct?

18 MR. CHAISSON: This is James Chaisson.
19 Yes, sir, Judge Gibson. I actually have -- the doctor
20 is very surprised, but I'm not even taking the pain
21 medication anymore.

22 I'm down to ibuprofen and Tylenol. I
23 never liked that medicine anyway. It doesn't make --
24 made me feel good, so.

25 JUDGE GIBSON: Good.

1 MR. CHAISSON: Not going to do stuff like
2 that.

3 MR. GIBSON: Good. Well, if you're seen
4 the cover of this month's Time Magazine, you'll know
5 that you're making a good decision to stay off that
6 stuff.

7 MR. CHAISSON: Oh, yes, sir. James
8 Chaisson again. I agree with you on that. Yes, I
9 mean, you never know what they're selling you now a
10 days.

11 JUDGE GIBSON: Yes. Okay, well I just
12 want to be sure -- I just want to be sure that you're
13 feeling in control of your faculties. There's not
14 anything that's clouding your judgement.

15 I just think that's very important as we
16 go forward here that you're -- you understand the
17 situation. So, very good.

18 MR. CHAISSON: Yes, sir.

19 CHAIRMAN BOLLWERK: All right. Let's talk
20 for a second about -- give a little -- talk a little
21 bit about the background of why we're here today and
22 the reason for this conference.

23 You all will recall that the Board had set
24 a schedule for prehearing filings. We were actually
25 headed to -- for an evidentiary hearing in July.

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1 And called a conference for April 8 to
2 discuss the plans relative to that July evidentiary
3 hearing. But we suspended that on April 6 based on
4 word from the parties that on April 3 as a result of
5 settlement discussion talks with Judge Ryerson on
6 April 2, they'd reached an agreement.

7 The Board then received the signed
8 Agreement and a Joint Motion to Approve or Terminate
9 the Proceeding on April 17. And at that point, we
10 tried to move forward with setting a conference.

11 Just in terms of the regulatory side, and
12 Mr. Chaisson, I should mention, if anything we talk
13 about today in terms of the regulations or the laws or
14 the statutes, is unclear to you, please stop me and
15 we'll be glad to -- or stop the staff and we'll be
16 glad to try to give you an additional explanation.

17 But under 10 CFR Section 2.338(i), to be
18 effective, for that Settlement Agreement to be
19 effective, the Board must approve the Agreement. And
20 because this is an enforcement proceeding, the
21 Regulation provides that the Board must accord due
22 weight to the position of the staff regarding the
23 Settlement Agreement.

24 And what that basically means is that in
25 looking at the agreement and looking at the

1 provisions, whether it complies with the Regulatory
2 Provisions that are in place as well as the case law.
3 I think both of which we cited in our April -- or
4 rather June 4 Order to the parties.

5 That we have to pay particular attention
6 to what the staff says relative to the Settlement
7 Agreement. And that's something obviously the Board
8 will do.

9 In that context, obviously because the
10 Board has to approve the Agreement, we do have the
11 discretion to convene a conference regarding the
12 Agreement, to talk to the parties about any provisions
13 we might be unclear about. Or any other issues that
14 we might have or questions we might have.

15 I was just saying, we first called this
16 teleconference back in April, given the fact that Mr.
17 Chaisson is not represented by counsel, we wanted
18 again to make sure that he was fully aware of what was
19 going on. And there were no questions on his part.

20 And also that there had been some issues
21 previously with the terms of the September 2012
22 mediated Confirmatory Order that suggested that
23 probably that was a good idea to talk with you all as
24 well, just to make sure that again, we didn't have a
25 repeat of that situation.

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1 Then some additional circumstances came to
2 light that we felt added to the need for the
3 conference that we'll talk about a little later. And
4 so we're here today again to talk about the agreement
5 a little bit.

6 In light of a June 4 Order that I
7 mentioned we issued, we want to raise some -- get some
8 information from the parties. I should mention that
9 probably a lot of the questions that we have, we'll
10 start off with NRC staff and asking them for
11 information.

12 Having said that Mr. Chaisson, you will
13 obviously always have an opportunity to say anything
14 you think is appropriate in the context of the staff's
15 response. Or -- and if you feel that you have any
16 questions about what's being talked about, please sir,
17 feel free to interject yourself at any point.

18 And we'll again, give you an opportunity
19 to ask your questions and make sure that we provide
20 you the best explanation that we can. I want to make
21 sure again, given you're not represented by counsel,
22 that you have that opportunity.

23 Is that clear sir?

24 MR. CHAISSON: this is Mr. James Chaisson.
25 Yes, sir, Your Honor. And thank you.

1 CHAIRMAN BOLLWERK: Okay. So, let me
2 start off in terms of the terms of the Settlement
3 Agreement.

4 And I know that during the discovery
5 deposition that you gave with staff where they talked
6 with you about what happened with the September 2012
7 Confirmatory Order, there were some questions about
8 whether prior to signing the Agreement, how -- the
9 degree to which that Confirmatory Order or the
10 underlying statement that became that Confirmatory
11 Order, the degree to which you'd read it before you
12 signed it.

13 And I just want to confirm Mr. Chaisson,
14 that this particular Settlement Agreement, the one
15 that we're talking about now, the April 2015
16 Settlement Agreement, you read it to the degree you
17 needed to before you signed it? And you're fully
18 aware of its contents?

19 MR. CHAISSON: Yes, sir. But -- this is
20 James Chaisson again, sorry. I have -- I just got
21 back yesterday, I had sent it out to a former employer
22 to apply for a position with him.

23 And he did give me one little thing that
24 to ask this morning of the Board. On the -- they
25 would be on page four under the fifth amendment.

1 It states that Mr. Chaisson is prohibited
2 from working for any NRC licensee or an Agreement
3 State licensee performing work in NRC jurisdiction
4 under reciprocity while in NRC jurisdiction in the
5 following specificities: in manager, area supervisor
6 or any other position providing supervision or
7 oversight of industrial radiography operations.

8 CHAIRMAN BOLLWERK: Okay. All right.

9 MR. CHAISSON: What that part --

10 CHAIRMAN BOLLWERK: Hold that for the time
11 being and we'll get to it when we get to that
12 provision. Is that okay?

13 MR. CHAISSON: That's fine. Yes, sir.

14 CHAIRMAN BOLLWERK: But we're aware of it
15 that you need, you want to talk with us about that,
16 you want to talk to the staff about that at the time.
17 And I made a little mark on my paper.

18 And we'll make sure that when we get to
19 that provision, we -- I'll give you an opportunity to
20 raise your question. All right?

21 MR. CHAISSON: Yes, sir.

22 CHAIRMAN BOLLWERK: Okay. And I
23 appreciate you bringing that to our attention.
24 Because it's important to know that. All right?

25 MR. CHAISSON: Thank you, sir.

1 CHAIRMAN BOLLWERK: So, we just heard that
2 in fact with the Settlement Agreement, the April 2015
3 Settlement Agreement, you read it before you signed
4 it. And that's a good thing. So we'll move onto the
5 next question.

6 And I'm going to turn to the staff on this
7 one. The first question that we had asked in our
8 Order was the question of which terms of the
9 Settlement Agreement fulfill each of the four
10 requirements of 10 CFR Section 2.338(h)?

11 And there are four provisions under that.
12 Four listings under that provision. And let me go
13 through each one.

14 And maybe you can give me an idea of
15 relative to the Settlement Agreement, about to the
16 agreements those are applicable, which ones -- where
17 in the Settlement Agreement we can find the terms that
18 fulfill these particular requirements?

19 So, number one is an admission of all
20 jurisdictional facts.

21 MR. MALTESE: Yes, Your Honor, this is Jim
22 Maltese. The whereas clauses in the preamble to the
23 Settlement Agreement contains the jurisdictional
24 facts.

25 CHAIRMAN BOLLWERK: All right. And the

1 second one, an express waiver of further procedural
2 steps before the presiding officer of any right to
3 challenge or contest the Validity Order entered into
4 in accordance with the Agreement. And all rights to
5 seek judicial review or otherwise contest the validity
6 of the Consent Order.

7 MR. MALTESE: Your Honor, that would be
8 Section 7 in it.

9 CHAIRMAN BOLLWERK: All right. The third
10 one is a statement that the Order has the same force
11 and effect as an Order made after a full hearing.

12 MR. MALTESE: And that would be contained
13 in Section 5.

14 CHAIRMAN BOLLWERK: All right. And then
15 a statement that matters identified in the Agreement
16 required to be adjudicated have been resolved by the
17 proposed Settlement Agreement and Consent Order to the
18 degree there is one.

19 MR. MALTESE: And we believe that Section
20 5 also covers that requirement as well.

21 CHAIRMAN BOLLWERK: All right. Mr.
22 Chaisson, do you have any questions about that?
23 Again, this is sort of a legal technicality. But I
24 wanted to make sure I raised it.

25 MR. CHAISSON: James Chaisson again. No,

1 sir, Your Honor. When -- as Mr. Maltese was saying
2 the numbers, yes, it all looks in order to me as well.

3 CHAIRMAN BOLLWERK: Okay. Thank you, sir.
4 Then the second question that we -- okay, so let's
5 talk for a second then before we move into the actual
6 -- the other provisions of the Settlement Order or the
7 Settlement Agreement.

8 The chart that we provided you all that
9 has a, sort of a breakdown of the different provisions
10 of the Settlement Agreement, although it may be
11 organized somewhat differently. We'd asked that if
12 you had any problems with that chart or issues or
13 corrections, whatever, that you get back to us
14 yesterday by close of business.

15 We haven't seen anything. And I just
16 wanted to see if anybody at this point had any issues
17 with that chart?

18 MR. MALTESE: This is Jim Maltese for the
19 staff, Your Honor. No. There were no issues from our
20 perspective with the way the Board put that chart
21 together.

22 CHAIRMAN BOLLWERK: All right. Mr.
23 Chaisson, everything was all right with you?

24 MR. CHAISSON: This is James Chaisson,
25 Your Honor. Yes, sir.

1 CHAIRMAN BOLLWERK: Okay. Now, I should
2 indicate that the reason we put that chart together is
3 we felt that it might be a little easier for you going
4 forward to be able to follow exactly what the
5 requirements are into the Settlement Agreement.

6 And we would propose if the parties have
7 no objections to the tacit as part of, assuming we
8 issue an Order approving the Settlement, one of the
9 things we have to do is conclude the Settlement
10 Agreement as part of that. But also to include that
11 chart.

12 Does anyone have any objection to that?
13 Staff first.

14 MR. MALTESE: No objection, Your Honor.

15 CHAIRMAN BOLLWERK: Mr. Chaisson?

16 MR. CHAISSON: This is James Chaisson.
17 No, sir, Your Honor. No objection at all.

18 CHAIRMAN BOLLWERK: All right. Then we'll
19 plan on doing that. And again, we're going to be
20 talking about a number of things here.

21 Hopefully there will be nothing that comes
22 up that we need to change that chart. But if that's
23 the case, we can talk about that as well.

24 All right. So, we're going to talk for a
25 couple of minutes about the Settlement Agreement

1 itself, the various provisions. And in doing so, we
2 want to -- we're going to bear in mind the sensitivity
3 that's accorded to settlement negotiations under
4 Section 2.338(d) of the Regulations.

5 Having said that, we'd appreciate to the
6 degree they feel comfortable doing so, the parties
7 answering our questions as forth rightly as they can.
8 We're not trying to violate the sanctity of your
9 settlement negotiations.

10 On the other hand, we would like to get
11 the information to the degree we were requesting it.
12 So, I just say that. It's something you can bear in
13 mind.

14 If at some point you feel we're getting
15 into the territory you're not comfortable about
16 talking about, let us know that. And we'll deal with
17 that at that point.

18 Is that clear to everyone? Of the staff?

19 MR. MALTESE: Yes, Your Honor.

20 CHAIRMAN BOLLWERK: All right. And Mr.
21 Chaisson?

22 MR. CHAISSON: Yes, Your Honor.

23 CHAIRMAN BOLLWERK: All right. And before
24 we start this, does any of the Board Members or
25 anybody else have anything they want to raise at this

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1 point?

2 (No response)

3 CHAIRMAN BOLLWERK: All right. Then let's
4 move forward. Let's talk about paragraph one first,
5 which is the work restriction paragraph.

6 In our Order, we had raised the question
7 about paragraph 1(a), whether and how does the work
8 restriction of paragraph 1(a) of the Settlement
9 Agreement differ from that imposed in paragraph roman
10 numeral IV(1) of the staff's July 2014 Enforcement
11 Order?

12 And I will turn to the staff to answer
13 that first.

14 MR. MALTESE: Thank you, Your Honor. In
15 Section IV, paragraph 1 of the 2014 Prohibitory Order,
16 that was a blanket prohibition on participation in NRC
17 activities for a minimum of three years. Lasting
18 longer depending on Mr. Chaisson's completion of
19 requirements.

20 In the current Settlement Agreement, this
21 restriction on only applies to participation in NRC
22 licensed activities as a full radiographer. Mr.
23 Chaisson could work immediately at as a radiographer's
24 assistant.

25 And the restriction on working as a

1 radiographer only lasts as long as -- until the
2 completion of the requirements, which are in 1(a)(i)
3 through (iii).

4 CHAIRMAN BOLLWERK: All right. So this
5 then is a -- it sort of steps back from the July 2014
6 Order in one sense?

7 MR. MALTESE: Yes. That -- we consider it
8 as such, yes.

9 CHAIRMAN BOLLWERK: All right. And I note
10 that Part 34 has a definition of radiographer's
11 assistant. Is that sort of the provision you're
12 looking at in terms of -- again, you've also indicated
13 must be supervised by a certified radiographer.
14 That's in the new Settlement Agreement itself.

15 MR. MALTESE: Yes. That's correct, Your
16 Honor. The Part 34 definition is what controls.

17 And in practice, the way that radiography
18 is conducted, you have sort of a two-man team where
19 you have what's often referred to as a level 2
20 radiographer performing work with a radiographer's
21 assistant.

22 CHAIRMAN BOLLWERK: All right. Let me ask
23 one other question. And then I'm going to turn to Mr.
24 Chaisson to see if he has anything to say about this.

25 You'd mentioned before that there's three

1 requirements that he has to fulfill in order for this
2 work restriction to be lifted. Is there any time
3 limit on how long he has to keep -- Mr. Chaisson has
4 to fulfill these requirements?

5 MR. MALTESE: No. There's no time limit.
6 The way this is set up, it's entirely in Mr.
7 Chaisson's hands to complete the requirements and lift
8 the restrictions.

9 CHAIRMAN BOLLWERK: All right. Okay. Mr.
10 Chaisson, let me turn to you. Did you have any
11 questions or comments about what you just heard in
12 terms of paragraph 1(a)?

13 MR. CHAISSON: No, sir, Your Honor. I
14 understand fully that once I complete a 40 hour formal
15 training course, I will be allowed to be. Like Mr.
16 Maltese just said, we have what we call in the working
17 field, is a level 1 and a level 2. The level 1 is the
18 assistant.

19 So, in my understanding with them as we
20 went over this, was that once I complete the 40 hour
21 formal training, I can, you know, be a level 2 in the
22 NRC jurisdictions. And so far, I would also have to
23 follow the radiation safety officer for 40 hours of
24 his job to make sure that I'm going over the
25 provisions in the Regulations and the, you know,

1 executing and everything in order.

2 And that can all be done, you know, within
3 the same -- that all can be done within a two week
4 period. So, it's not a problem.

5 CHAIRMAN BOLLWERK: Okay. And so that's
6 actually -- we're going to talk about each one of
7 those requirements that are in place to allow the band
8 to be lifted or the work restriction to be lifted.

9 There's also one more which I want to talk
10 about right now. Which is the question about staff
11 review. That's the first one of those.

12 And the question that we'd ask about that
13 one, to what degree does the staff review -- whether
14 and how does the staff review provision in Paragraph
15 1(a)(i), I should say, little (i) of the Settlement
16 Agreement, differ from the staff review provision in
17 Paragraph IV(3)(b) of the staff's July 2014
18 Enforcement Order?

19 Let me turn again to Mr. -- to the staff?

20 MR. MALTESE: Yes, Your Honor. This is
21 Jim Maltese. We view these as very similar. But I
22 think the way it was drafted in the original Order
23 from 2014, there was a discussion about Mr. Chaisson
24 talking about corrective actions for his deliberate
25 misconduct.

1 On review and taking into account the
2 Board's views on this, realizing that Mr. Chaisson
3 agreed to disagree and did not admit his deliberate
4 misconduct in the previous settlement agreement, we've
5 referred to this meeting more just about generally the
6 importance of complying with NRC regulations.

7 CHAIRMAN BOLLWERK: Okay. So, yes, it
8 sounds like you consider the format of this one a
9 little, I want to say it's maybe looser is not the
10 right term, but a little more open in terms of what
11 the subject for discussion is?

12 MR. MALTESE: Yes. This is intended to be
13 an open and productive discussion. A meeting of the
14 minds of the staff and Mr. Chaisson.

15 CHAIRMAN BOLLWERK: All right. Now, one
16 of the things that we pointed out in footnote five to
17 the Order that we issued in June that one of the
18 things we have to look at is whether the terms of the
19 Settlement Agreement appear capable or incapable as
20 the provision says, of effective implementation and
21 enforcement.

22 I know that the provision indicates that
23 the meeting place is to be Region IV or an alternative
24 agreed location. In terms of the parties, we take it
25 that you're confident that you can reach an agreement

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1 on a meeting place.

2 And I'll turn to the staff first?

3 MR. MALTESE: Yes, Your Honor. For
4 example, Mr. Chaisson is close, just outside of Salt
5 Lake City, which is a major metropolitan area. And we
6 think that if necessary, it would be possible to
7 arrange for the staff to meet with Mr. Chaisson there.

8 CHAIRMAN BOLLWERK: All right. Mr.
9 Chaisson, anything you want to say about the meeting
10 place?

11 MR. CHAISSON: This is James Chaisson.
12 Yes, sir, Your Honor. We had -- me and Mr. Maltese
13 and Mr. Hair had discussed it.

14 And that was one of the things that they
15 had agreed to, you know, because of me being off of
16 work so long and all that. That Salt Lake City is
17 like he just said, a major hub.

18 And that is where I've had quite a few
19 meetings with them already. So, that would be one of
20 our best alternatives. We changed the thing.

21 CHAIRMAN BOLLWERK: All right. Just so
22 you're -- to make sure that you're aware. That if you
23 all for whatever reason can't reach an agreement, the
24 way that the Settlement Agreement is drafted is that
25 Arlington, Texas is the default location, so.

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1 In other words, if you all for whatever
2 reason can't agree, in theory that the staff can say
3 you need to come to Arlington. I'm hoping it won't
4 come to that. But I just want to make sure you're
5 aware of that.

6 MR. CHAISSON: This is James Chaisson.
7 Yes, sir, I am. And you know, and I don't feel it
8 would come to that. But if it did, I'd be automatic
9 to do my route on my way home as it is for family
10 stuff.

11 CHAIRMAN BOLLWERK: All right. Judge
12 Gibson, do you have a question?

13 JUDGE GIBSON: No, I was just curious, Mr.
14 Maltese, is there any -- would it be beneficial to
15 make some explicit statement that the parties
16 anticipate that they will be able to meet near Mr.
17 Chaisson's current residence in Salt Lake City or
18 something?

19 It's just a little -- I'm just a little
20 uneasy about the fact that you say well, we'll meet an
21 agreeable place. But the default's Arlington. What
22 do you think?

23 MR. MALTESE: Well, Your Honor, seeing as
24 Arlington, Texas is the headquarters of Region IV,
25 which is where the staff is, you know, always located,

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1 it seems that that was reasonable to have that as a
2 default location.

3 But, we don't anti -- I don't anticipate
4 and the staff doesn't anticipate any difficulty in
5 arranging a mutually agreed location. But, we didn't
6 think we needed to put a -- prejudge the availability
7 or any specific location pending discussions with Mr.
8 Chaisson.

9 JUDGE GIBSON: Okay.

10 CHAIRMAN BOLLWERK: Judge Gibson, anything
11 further?

12 JUDGE GIBSON: No.

13 CHAIRMAN BOLLWERK: Okay. And I take it
14 this is only a single meeting, correct? To fulfill
15 this particular provision?

16 MR. MALTESE: That's correct, Your Honor.

17 CHAIRMAN BOLLWERK: All right. Anything
18 further you want to say on this -- in this regard, Mr.
19 Chaisson about this particular staff review provision?

20 MR. CHAISSON: No, sir, Your Honor. I
21 mean, the only thing that from my understanding is
22 that this was in lieu to the letter provision that was
23 in the other Orders.

24 So, I kind of prefer this one even better
25 to where, you know, it's done fact to face with

1 people. So there can be no letter being misplaced or
2 anything not being, you know, put in their hands like
3 it was last time.

4 So, I kind of like this one a lot better.

5 CHAIRMAN BOLLWERK: All right. Just one
6 question. Do you all anticipate there'll be some kind
7 of agenda before the meeting?

8 Or are -- is this just going to see if Mr.
9 Chaisson's in town or the staff's in town, therefore
10 let's meet?

11 MR. MALTESE: Your Honor, this is Jim
12 Maltese for the staff. Yes, we do expect that at
13 least on the staff's side, that an agenda would be
14 prepared for the meeting. So that it's as productive
15 as possible.

16 CHAIRMAN BOLLWERK: All right. And so Mr.
17 Chaisson will have some kind of a heads up about what
18 you all anticipate you're going to be -- what's going
19 to be discussed?

20 MR. CHAISSON: Yes, sir. I was under that
21 same understanding, Your Honor that they -- I figured
22 they were going to see where that provisions and
23 agenda of what has to be covered in the meeting.

24 You know, like there was in the letter.
25 So, you know, I'm in agreement with it.

1 CHAIRMAN BOLLWERK: All right. All right.
2 Anything either of the Board Members have on this one?

3 (No response)

4 CHAIRMAN BOLLWERK: Moving forward, all
5 right. Let's then move to Paragraph, again, under
6 Paragraph 1. Paragraph 1(a)(ii), which is the
7 training paragraph.

8 And the question that we had under that
9 one is whether and how do the training requirements of
10 Paragraph 1(a)(ii) of the Settlement Agreement differ
11 from the training provisions of Paragraph IV(3)(a) of
12 the staff's July 2014 Enforcement Order?

13 Mr. Maltese, I'll start with you again.

14 MR. MALTESE: Yes, Your Honor. The only
15 difference here is that the 2014 Prohibitory Order
16 required a training class on non-destructive testing.
17 We have eliminated that.

18 But the 40 hour course designed for
19 radiation safety officers, that requirement is
20 identical.

21 CHAIRMAN BOLLWERK: All right. And is
22 there anything you can share with the Board about why
23 you dropped that?

24 MR. MALTESE: Well, in the time between
25 the 2014 and now, Mr. Chaisson has obtained a

1 radiography card from the State of Oklahoma. And that
2 is analogous essentially to the NDT training that we
3 needed.

4 We're satisfied that Mr. Chaisson has
5 shown his technical competency in receiving his card.
6 But this training that is still part of it, is focused
7 on radiological safety. And which is, of course, what
8 is really the most important to the NRC.

9 CHAIRMAN BOLLWERK: All right. Maybe it's
10 by way of background, to the degree that you can,
11 could you give us some idea of how the radiation
12 safety officer training is administered? Sort of what
13 happens? What the length of it is?

14 I've read and I know and the Appendix A to
15 Part 34 talks about multiple choice questions. Can
16 you give us any background about how the test is
17 administered?

18 MR. MALTESE: This is Jim Maltese for the
19 staff, Your Honor. I do not have a -- I don't believe
20 I have enough of a knowledge base on the specifics of
21 the training program to give you a full answer to that
22 question.

23 CHAIRMAN BOLLWERK: All right. Anybody
24 from the staff that's there can help us out?

25 MR. MALTESE: I don't think that we have

1 the right person with that technical information
2 unfortunately on the call, Your Honor.

3 CHAIRMAN BOLLWERK: All right.

4 MR. CHAISSON: This is James Chaisson,
5 Your Honor. I can help you with that.

6 CHAIRMAN BOLLWERK: All right.

7 MR. CHAISSON: Yes. I just currently hold
8 an RSO certificate, which as you know, is valid. What
9 it basically is, is the same thing as your 40 hour
10 radiation safety -- radiographer safety course.

11 But it's more intense. It's more focused
12 on amendments to 2011. To you know, the higher danger
13 ratio of people and -- which what the radiation safety
14 officer's main job is, is to oversee all provisions of
15 a company's radiation safety program is being followed
16 by the employees.

17 And they mainly go out and perform surveys
18 out in the field and audits to make sure that all
19 provisions are being followed by NRC regulations. And
20 which they also are capable, we can go out and
21 retrieve a source if one happens to become dislodged
22 from any of the industrial cameras that are used out
23 in the field.

24 Which, from the new provisions on the
25 cameras are very rare because of the safety --

1 implement safety features that have been put onto the
2 cameras.

3 And that is basically what all an RSO
4 does. It's usually a level 2 from -- that's been in
5 the industry for a while. There are requirements to
6 be an RSO of years of experience and training into the
7 field.

8 CHAIRMAN BOLLWERK: You don't say, I mean,
9 there's talk about a security training versus the RSO
10 training? I take it when security training is part of
11 that -- is that part of the RSO course generally?

12 MR. CHAISSON: Correct, Your Honor.

13 CHAIRMAN BOLLWERK: Does that have a
14 certain number of hours? Do you know? I don't.

15 MR. CHAISSON: It's all broke down into
16 during the 40 hour course. The trainer, like Ms.
17 Laurie McGowen, the person who gives the radiation
18 safety officer training is level 3 or above.

19 Which that is the highest you can get in
20 industrial radiography is, it's called a level 3.
21 They can -- they're allowed to write the provisions
22 and the dialog of a company's radiation safety
23 program.

24 And then that's the terms that the RSO
25 follows. Whatever the level 3 does. And they're the

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1 ones who give the exam.

2 So, and then also like I said, it covers
3 -- it shows a person how to retrieve a source safely
4 without allowing a level 2 to do anything like that.
5 Because you don't want anybody going out there and
6 just trying to grab a source.

7 And it -- the level 3 breaks it down into
8 the hours of this course, whichever way he sees the
9 people in his class needs more on. That's what he
10 goes on.

11 And then at the end, you have a multiple
12 choice exam they give you. And if you don't pass it,
13 you don't become an RSO.

14 CHAIRMAN BOLLWERK: Okay. Do you know
15 what a passing grade is just out of interest?

16 MR. CHAISSON: Yes, sir. A 70 or above.

17 CHAIRMAN BOLLWERK: All right. Thank you
18 for that information. We appreciate it.

19 Is there anything further the staff wants
20 to say about what, given by what Mr. Chaisson just
21 told us?

22 MR. MALTESE: No, sir, Your Honor. Just
23 to -- well, just to clarify that I think as Mr.
24 Chaisson said, our expectation is that for most of
25 these courses, the Part 37 security requirements would

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1 be covered in the 40 hours in the course.

2 In the event that it were not, as we
3 specified, then separate training on those Part 37
4 security requirements would be required. But, we
5 expect that in most cases, most of these courses would
6 include discussion of that in the 40 hours.

7 CHAIRMAN BOLLWERK: All right. Let me
8 turn, do the Board Members have any questions about
9 this provision?

10 (No response)

11 CHAIRMAN BOLLWERK: No? All right. Let's
12 turn then to the next Paragraph. This is Paragraph of
13 the Settlement Agreement 1(a)(iii) and we have a
14 couple of things that we were interested about with
15 regard to 1(a)(iii).

16 The question was under Paragraph 1(a)(iii)
17 of the Settlement Agreement regarding shadowing of a
18 radiation safety office, an RSO, how much in advance
19 does Mr. Chaisson need to submit his request to Region
20 IV for approval of an RSO?

21 In other words, there has to be
22 preapproval of the RSO he uses to do the shadowing.
23 And we didn't see really anything in the agreement.
24 I was wondering if the parties had any understanding
25 about that?

1 I'll turn to the staff first.

2 MR. MALTESE: Yes, Your Honor. This is
3 Jim Maltese. We expect that that would be no more
4 then one week from receiving information from Mr.
5 Chaisson about the identity of the RSO to verify that
6 information and sign off.

7 CHAIRMAN BOLLWERK: All right. Mr.
8 Chaisson, what is our expectation in that regard?

9 MR. CHAISSON: That -- this is James
10 Chaisson, Your Honor. That's pretty much what I had
11 expected too. And the reason for that is the
12 different regulations that each state has.

13 You know, because they do have a couple of
14 states that -- our Agreement States that allow a
15 person to be an RSO just on their years of experience
16 without them having to go through an RSO exam class.

17 And I think that's one of the things that
18 needs to be looked at. Because that would be someone
19 that I'm sure the NRC wouldn't approve of me
20 shadowing. And that's someone I wouldn't even want to
21 submit to shadow.

22 I would make sure that the person I'm
23 shadowing has went through a course for radiation
24 safety officer.

25 CHAIRMAN BOLLWERK: Okay. And again, you

1 under -- you just heard the staff state that about --
2 they're going to need to know about whoever you want
3 to use about a week in advance, so?

4 MR. CHAISSON: Yes, sir. And I don't see
5 where I would have a problem with that at all.

6 CHAIRMAN BOLLWERK: All right. That's
7 okay.

8 MR. CHAISSON: Like I stated earlier, Your
9 Honor, that, you know, so I could give them notice of
10 the week in advance while I'm doing -- you know,
11 before I start the refresher course.

12 And so I could submit that RSO -- that
13 company RSO's name to them and they could -- that
14 would give them time do to the background check that
15 they want to on him.

16 CHAIRMAN BOLLWERK: Okay. Anything
17 further the staff wants to say about that particular
18 question? That part of the question I should say?

19 MR. MALTESE: Yes, Your Honor. I just
20 want to clarify and make it clear. I think Mr.
21 Chaisson hit the nail on the head.

22 But, this requirement for shadowing, Mr.
23 Chaisson could shadow an RSO who's in an Agreement
24 State. It doesn't have to be someone who's in an NRC
25 state and meets all of the regulations for radiation

1 safety officer in the NRC regulations.

2 It could be someone certified through the
3 Agreement State process. And then, as Mr. Chaisson
4 mentioned, that in that week we would of course, have
5 to work with the Agreement State to determine that
6 person's qualifications.

7 CHAIRMAN BOLLWERK: Right. And I would
8 take it on the staff's part, if Mr. Chaisson does give
9 you a name within a week -- a week beforehand. And
10 for whatever reason you're not going to be able to
11 give him an answer by the time he wants to start, you
12 can go back -- you're going to tell him that I take it
13 and give him an idea of when you can approve the
14 person?

15 MR. MALTESE: Absolutely, Your Honor.

16 CHAIRMAN BOLLWERK: All right. Okay. And
17 then again, anything the Board Members have on that
18 particular part of this?

19 (No response)

20 CHAIRMAN BOLLWERK: All right. Anything
21 further you want to say on that Mr. Chaisson? We're
22 going to move to the second part of the question. But
23 anything about the amount of time you need to let them
24 know about it?

25 MR. CHAISSON: No, sir, Your Honor.

1 CHAIRMAN BOLLWERK: Okay. Thank you. The
2 second part of this question asks, what knowledge or
3 information regarding safe, radiographic operations
4 does the staff anticipate Mr. Chaisson will acquire
5 relative to each specific audit listed in Paragraph
6 1(a)(iii)?

7 And I believe, let me see if I can find
8 those. Hold on one second here. Those audits are at
9 least -- you must include an RSO conducted audits of
10 at least three different crews performing field work
11 activities at temporary job sites.

12 Number two is a radiographic camera
13 storage location, including the storage location
14 security system. And number three, a radiography
15 truck security system.

16 So, I'll turn it over to the staff.

17 MR. MALTESE: Yes, Your Honor. As far as
18 gaining knowledge, the expectation for the shadowing,
19 it's not necessarily about gaining knowledge. We're
20 simply requiring that Mr. Chaisson to take the RSO
21 training course that's going to focus on handling
22 materials in a safe manner.

23 The shadowing aspect is and it's to
24 reinforce behavior's of an RSO, an adequately
25 performing RSO. Sort of just demonstrating in the

1 field the proper attitude towards safety.

2 And the audits that we selected, sort of
3 correspond to areas of friction that have occurred
4 between the NRC and Mr. Chaisson in the past. And so,
5 it's this is just sort of a kind of boxes.

6 CHAIRMAN BOLLWERK: All right. You're
7 trying to make sure to a degree that he's got the
8 message you've been trying to send him about these
9 particular items? Or am I mischaracterizing it?

10 MR. MALTESE: No, no. I think you're
11 characterizing that correctly, Your Honor.

12 CHAIRMAN BOLLWERK: All right. Let me ask
13 the third question. And then I'm going to go to Mr.
14 Chaisson about both of these things that we've been
15 talking about.

16 What are the parties' expectations about
17 the difficulty that Mr. Chaisson will have in
18 fulfilling the shadowing requirement in light of the
19 specific audits listed in Paragraph 1(a)(iii)?

20 Let me go to the staff first and then I'll
21 come back to Mr. Chaisson about the last two points
22 that we just raised?

23 MR. MALTESE: Your Honor, the staff
24 understanding and expectation is that in the field of
25 radiography, these kinds of audits are not uncommon.

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1 And that if Mr. Chaisson is able to hook up with a
2 radiographer at a job site, that it would not be
3 terribly difficult.

4 CHAIRMAN BOLLWERK: All right. So, Mr.
5 Chaisson, let me turn to you. What -- in terms of
6 what you've heard from the staff, do you understand
7 the reason for the audits?

8 I take it you signed the Settlement
9 Agreement, so you had some understanding. But, I just
10 want to make sure that you're aware of what's
11 required. And that you think that you can do this.

12 MR. CHAISSON: This is James Chaisson,
13 Your Honor. Yes, sir, I understand that that was --
14 these were some of their main concerns from the very
15 first, you know, requirements of the first Orders.

16 And what -- I can help you a little better
17 on their answers. That is, this type of audits have
18 to be done, performed by the company RSO at least once
19 a month, you know, for NRC regulations.

20 And what they mean by the three different
21 crews performing work activity, that's called a field
22 audit. And the RS -- the company RSO has a form he
23 fills out for that.

24 When he goes out to do the audit there's
25 a checklist to make sure that the crew is following

1 all guidelines set forth by the NRC. Plus, the
2 company always, any companies you work for, they'll
3 add more guidelines to it then just what the NRC
4 requires.

5 So, the RSO -- it's something the RSO will
6 check, do that checklist off. And he turns that in.
7 And it's always in a file for when the company ever
8 gets audited by the NRC or the Agreement State
9 Department of Environmental Quality or whatever that
10 they overseeing their radioactive material license.

11 And then the storage location of
12 radiography cameras and security systems is, you have
13 to have camera, video cameras that will record, you
14 know, all the, in a limited amount of time of -- and
15 it has to be positioned at every entrance of a storage
16 vault.

17 And they have to, you know, be backed by
18 a battery powered system in case of loss of
19 electricity to where they're always ran no matter what
20 the conditions are.

21 And they have -- also have what we -- the
22 digital locks and unlocks to where each -- the only
23 people that can be approved to go in there are called
24 competent people.

25 And a competent person is determined by

1 the company of their years of experience and how many
2 write ups or, you know, non-compliance they have had
3 throughout the years or time working with that
4 company. It's up to the company to determine them
5 competent or not.

6 And the third one is on the trucks that we
7 use to go out in the field to perform this work, also
8 have to have an alarm system on your door, which we
9 call the -- that's called the dark room. That's where
10 we do all the developing.

11 And it has to have an alarm on it. And a
12 lot of companies will have it where your truck or your
13 door system and anything else that if someone breaks
14 into it, your truck becomes automatically disabled.
15 It will not be able to be started no matter what you
16 do.

17 So, a lot of companies will set that up on
18 a truck. But if they ever have problems with it, they
19 felt that even though the level 2 tells the RSO of it,
20 you know, unfortunately you have companies out there,
21 well as long as you don't get audited, you're all
22 right. And that's how they'll do things.

23 So, that's happened to me on a few
24 companies. And it's unfortunate that the level 2s out
25 in the field don't understand that once you get that

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1 40 hour radiography safety course that the liability
2 then becomes on you instead of the company.

3 So that's why if a person isn't
4 knowledgeable in this industry that they can get their
5 self in trouble. That's exactly what happened to me.

6 The company, you know, dropped the ball.
7 And I was still up there working. And you know,
8 unfortunately, I've learned my lesson on that. That
9 you never cover for a company.

10 If the stuff isn't right, you don't take
11 the truck out. You have a checklist to perform before
12 you take that truck out in that field.

13 And that way you cover yourself.

14 CHAIRMAN BOLLWERK: All right. Thank you
15 for that explanation. Is there -- I appreciate it.
16 That brought us a lot of information.

17 Is there anything the staff wants to say
18 in light of what Mr. Chaisson has indicted to us?

19 MR. MALTESE: No, Your Honor. We have
20 nothing further on that.

21 CHAIRMAN BOLLWERK: Anything the Board
22 Members have?

23 (No response)

24 CHAIRMAN BOLLWERK: All right. Well, let
25 me ask actually one other question. This condition,

1 has this been utilized before? Is this unusual?

2 Or is it sort of something you've used in
3 the past with individuals that the staff has
4 encountered difficulty with? It felt it had
5 difficulty with?

6 MR. HAIR: Hi, Your Honor. This is Chris
7 Hair at the NRC staff. We've done shadowing before.
8 I don't have the cases in front of me.

9 But a recent case in my experience dealt
10 with an RSO in a cardiology practice who was the
11 cardiologist himself. We had him shadow as part of
12 the settlement agreement, another RSO at a different
13 medical practice.

14 And we found that to be productive.

15 CHAIRMAN BOLLWERK: All right. And one
16 other thing I should mention, I tell you, I'm looking
17 at the Settlement Agreement, there's no time on this
18 by which Mr. Chaisson is to indicate that he needs to
19 notify you, or he has to notify you of if he's done
20 the shadowing.

21 But I take it you'd like that done
22 promptly, I would think.

23 MR. MALTESE: Yes, Your Honor. This is
24 Jim Maltese. We would like that done promptly. But
25 again, if -- until Mr. Chaisson does that, the

1 restriction on his work as a radiographer would
2 persist.

3 So, again, it's sort of Mr. Chaisson's --
4 on his own initiative to get us the information so
5 that that restriction could be lifted.

6 CHAIRMAN BOLLWERK: All right. So it's in
7 his interest to let you know promptly so that you can
8 take -- act appropriately.

9 MR. MALTESE: That's correct.

10 CHAIRMAN BOLLWERK: All right. Mr.
11 Chaisson, anything else you want to say about the
12 question I just asked? About the condition?

13 MR. CHAISSON: No, Your Honor. That's my
14 understanding too. I mean, like Mr. Maltese just
15 said, the sooner I do notify them, the better off it
16 is for me.

17 CHAIRMAN BOLLWERK: All right.

18 MR. CHAISSON: So -- and then, I think
19 that also, you know, the RSO who you shadow would --
20 I think would be, you know, signed off on it too.

21 That way the staff knows that it has been
22 performed with him. And he agrees that I followed all
23 the provisions.

24 CHAIRMAN BOLLWERK: Okay. All right.
25 Anything either of the Board Members has with respect

1 to this provision?

2 (No response)

3 CHAIRMAN BOLLWERK: All right. Let's move
4 then to Paragraph 2, which is entitled Limited Work
5 Restrictions.

6 The first Paragraph, 2(a)(i), dealing with
7 quarterly summaries. The first question that we had
8 asked about that one, what are the first and
9 subsequent due dates for Mr. Chaisson's quarterly
10 summaries required under Paragraph 2(a)(i) of the
11 Settlement Agreement?

12 MR. MALTESE: Your Honor, the first due
13 date would, I think we set that on when -- if and when
14 the Settlement is approved.

15 CHAIRMAN BOLLWERK: So, let's -- so
16 hypothetically, let's assume we were able -- if the
17 Board decided to approve the Settlement we could do so
18 by the end of this month.

19 MR. MALTESE: Okay. Then, I think then
20 we'd probably be looking into the -- we've been in
21 discussions with Mr. Chaisson. This time we know what
22 his current activities are.

23 We would then look to the third quarter of
24 the year. Between July, August, September. So,
25 September 30, 2015.

1 CHAIRMAN BOLLWERK: So at the end of the
2 quarter then. So September 30 as opposed to October
3 1? I mean, that would be the --

4 MR. MALTESE: I think for convenience
5 sake, we'd probably do it at the end of the months.
6 So, September 30.

7 CHAIRMAN BOLLWERK: All right. And is
8 that your understanding, Mr. Chaisson, are you
9 comfortable with that?

10 MR. CHAISSON: Yes, sir, Your Honor. You
11 know, I -- like I said earlier, I have already talked
12 to a company. And you know, I had explained to them
13 that, you know, I am in -- we are in the middle of the
14 Settlement Agreement between myself and the NRC.

15 And that you know, I would definitely have
16 no problem with that, sir.

17 CHAIRMAN BOLLWERK: All right. And I take
18 it you understand when they're talking about a brief
19 summary that you have to email?

20 So, both of what you've done during the
21 past quarter, which in this case will be July, August,
22 September. And what you would plan to do in the next
23 quarter, which would be October, November and
24 December.

25 MR. CHAISSON: Yes, sir. And on that part

1 of it is, the only thing on that I wanted to inform
2 the staff of is that sometimes you don't have, you
3 know, advanced notice of where you're going.

4 I mean, if a different job pops up and you
5 know, they need you there, they'll send you. And I've
6 seen that happen a lot, you know.

7 But mostly, in my case, I'm a little
8 different because I usually go to a company with my
9 own clients. So, I always -- I'm one of the rare
10 people that could know where he's at.

11 Because I pick and choose where I go and
12 who I work for due to the fact of being a single dad.
13 That I'm not going to let them just send me anywhere.

14 You know, I'll call clients that I've
15 worked for in the past and let them know I'm back in
16 the field. And they'll call the company I'm working
17 for and say hey, we want James here and this is where
18 he's going to be.

19 You know, like I was in Wyoming and here
20 in Utah.

21 CHAIRMAN BOLLWERK: All right. Anything
22 the staff wants to say about what Mr. Chaisson just
23 indicated?

24 MR. MALTESE: Yes, Your Honor. This is
25 Jim Maltese. For the notification of future

1 activities, we just expect that it's based on to the
2 best of Mr. Chaisson's knowledge at the time that he
3 sends us the notification, of what he reasonably
4 expects his work activities might include over the
5 next quarter.

6 CHAIRMAN BOLLWERK: All right. Let me ask
7 one other question about this provision. And I sort
8 of in some ways I want to ask and some I don't.

9 Is this something that you've used before
10 in terms of having these summaries done? Or is this
11 something that's new to this case?

12 MR. MALTESE: I think that we are in sort
13 of a new territory here, Your Honor. The staff sort
14 of came up with this requirement.

15 Felt that it just accomplished a goal of
16 basically keeping tabs and sort of tracking Mr.
17 Chaisson's progress in completing requirements and
18 alleviating those restrictions.

19 CHAIRMAN BOLLWERK: All right. Anything
20 you want to say about that Mr. Chaisson?

21 MR. CHAISSON: No, sir, Your Honor. I
22 mean, like I said, I don't see a problem with them
23 wanting to know where I'm at. Because, you know, if
24 they would want to come out and do an audit, or anyone
25 from the NRC, I never have a problem with it.

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1 Throughout all my years of doing it, I've
2 been audited probably 250 times. And I have never had
3 a single write up on it. So, I don't never have a
4 problem with it.

5 CHAIRMAN BOLLWERK: All right. Thank you.
6 Anything that either of the Board Members have on this
7 with respect to this provision?

8 (No response)

9 CHAIRMAN BOLLWERK: Okay. We didn't have
10 any questions on Paragraphs 2(a)(ii) through (iv) in
11 terms of the Order. Any questions that any of the
12 staff members -- or I'm sorry, that any of the Board
13 Members have about that?

14 JUDGE GIBSON: No.

15 CHAIRMAN BOLLWERK: No? Anything the
16 staff or that Mr. Chaisson wants to say about those
17 provisions?

18 MR. CHAISSON: This is James Chaisson.
19 No, sir, Your Honor.

20 CHAIRMAN BOLLWERK: Okay. The staff?

21 MR. MALTESE: Nothing from the staff, Your
22 Honor.

23 CHAIRMAN BOLLWERK: All right. Then let's
24 move to Paragraph 2(a)(v), which has specified
25 prohibited positions.

1 And let me ask my question for the staff
2 first Mr. Chaisson. And this is the one I think you
3 had something you wanted to let us know.

4 So, let's first of all, the Order said
5 whether and how does the prohibition on working for an
6 NRC licensee in certain specified position in
7 Paragraph 2(a)(v) of the Settlement Agreement differ
8 from the prohibition in Paragraph IV(c) of the staff's
9 July 2014 Enforcement Order?

10 I'll turn to the staff first.

11 MR. MALTESE: Yes, Your Honor. The
12 primary difference between these two is the time
13 frame. Whereas in the Enforcement Order from 2014,
14 this persisted for two years after the period in which
15 the staff had reached a reasonable assurance
16 determination as to Mr. Chaisson.

17 So that minimum of five years. This is --
18 this restriction is a defined period of three years.

19 CHAIRMAN BOLLWERK: All right. The -- one
20 of the terms is -- then I guess under (v), number 3,
21 instructor of industrial radiographic operations. Is
22 that -- was that a position or is that just stating
23 something in a different way?

24 MR. MALTESE: Oh, yes, Your Honor. Thank
25 you for pointing that out. That is additional

1 language.

2 During the -- under the previous Order,
3 there had been a question I think from an employer of
4 Mr. Chaisson's as to whether he could work as a
5 trainer.

6 And the staff reached the conclusion that
7 that was covered under the previous language. But,
8 this was added to make that explicit.

9 CHAIRMAN BOLLWERK: All right. Okay. So,
10 Mr. Chaisson, I'll turn to you. And I know this is
11 where you said you had an issue, or a question, I
12 should say about your -- from your potential employer.

13 And this would be the time for you to
14 raise any questions about what we talked about. Or
15 about that particular question.

16 MR. CHAISSON: Thank you, Your Honor.
17 Yes, sir, this is and like the manager that I had sent
18 this to, which is a former employer of mine, Tulsa
19 Gamma Ray, the way it is worded he said will still
20 raise a red flag to -- in these Agreement States,
21 Department of Environmental Quality or anything
22 because what like Mr. Maltese said, the status that
23 the Agreement States gives a radiographer such as
24 myself with so many years of experience, it's called
25 a trainer.

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1 It doesn't mean that I'm in the class
2 giving a training course. It means that I'm allowed
3 to work out in the field with a level 1 that has just
4 the company's safety course.

5 And you know, if he's needed to be used
6 out in the field until they can -- the company can get
7 him in to do the 40 hour radiographer safety course,
8 the in a lot of Agreement States and NRC states,
9 that's all that's required for them to be able to work
10 with the person such as I'm qualified -- certified as
11 through the state of Texas or Oklahoma and Louisiana,
12 just say examples of.

13 As I'm certified to be called a trainer
14 because of my years of experience. Under this
15 provision, because what that Agreement States, the
16 company calls the Department of Environmental Quality
17 or whomever the state calls their radiation safety
18 board that you know, oversees it at the state, that
19 they will submit my name and say we want to put Mr.
20 Chaisson on our license as a trainer.

21 Well, with the way this is worded, it will
22 cause the same red flag. Because like you said, it's
23 a problem with saying manager or area supervisor is,
24 you know, what they want me not to be able to do for
25 the three years.

1 And the RSO in the NRC jurisdictions say
2 only after I would still be not allowed to do an audit
3 so for three years in NRC jurisdiction only. And
4 where it says instructor or industrial -- of
5 industrial radiographer operations, they feel that
6 manager and area supervisor covers instructor.

7 Because that supports, like I said, when
8 I'm out in a field with a person of little knowledge
9 or who has just come into the radiography, even after
10 their 40 hour industrial radiographer safety training,
11 we call them a greenhorn. Meaning that at least a
12 year, they're very closely watched.

13 A person such as myself would limit them
14 -- their activities in the involvement of the, you
15 know, the job duties. You would -- you're basically
16 training them how to do it out in the field.

17 Because, you can read a book and
18 understand it all day long. But when you get out in
19 that field, it's a total different animal out there.

20 So, we always limit a greenhorn too
21 literally helping you carry the stuff around. We
22 don't -- I won't allow them to even crank the source
23 out. I won't even allow them to hook up a camera for
24 at least a year.

25 A lot of people are different. That's

1 just the way I was taught back in the old days. That
2 you know, you're going to show me that you are capable
3 of learning these things. And you just step them up
4 a little bit each month throughout the year until
5 you're confident that they can, you know, do the job
6 properly.

7 So, he's saying, or the manager that I
8 spoke to over there, said that the way it states right
9 here in any other position providing supervision or
10 oversight of industrial radiography operations. He
11 says manager and area supervisor covers that.

12 But this right here, the Agreement States
13 would have a problem with saying, well no, we're not
14 going to put him on there as one of your trainers due
15 to the fact of that statement. That's what we had the
16 problem with the other company.

17 Louisiana wouldn't put me on their license
18 as one -- to be able to be one of their trainers. And
19 the trainer is just teaching people out in the field.
20 It's not overseeing a whole bunch of people.

21 Which is what I understand that they
22 didn't want me to do. But, it's just -- a trainer is
23 just teaching that one person you're in the truck
24 with.

25 CHAIRMAN BOLLWERK: All right. Let me

1 turn to the staff and see if you all had any response
2 to that. Or how you'd like to approach this.

3 MR. MALTESE: Yes, Your Honor, this is Jim
4 Maltese. So, what Mr. Chaisson was referring to,
5 working out in the field with a level 1 or a greenhorn
6 as he characterized it, the staff did not intend these
7 restrictions to apply to that situation.

8 Also, I want to clarify that this
9 restriction doesn't apply at all to his work in
10 Agreement State jurisdictions, although I understand
11 Mr. Chaisson maybe concerned about, you know, what an
12 agreement license -- Agreement State licensee could
13 conclude on their own looking at the Agreement.

14 But, I would say that we would be open to
15 clarifying language to state that that situation is
16 not -- does not fall within these restrictions.

17 CHAIRMAN BOLLWERK: Okay. So you
18 mentioned that was my ques -- that's where we were
19 headed with this, I was thinking.

20 So, what you're proposing then is an
21 amendment or a codicil, or however you want to call
22 it, some kind of addition to this Settlement Agreement
23 that would redefine or further define that particular
24 paragraph?

25 MR. MALTESE: I think that a carve out

1 perhaps of number 4, or additional language that would
2 say that this -- these restrictions do not apply to
3 the situation in which Mr. Chaisson is working with a
4 radiographer's assistant in field operations.

5 Or, you know, we'd be happy to propose
6 some language in something that Mr. Chaisson feels
7 would address the issue.

8 CHAIRMAN BOLLWERK: All right. And how
9 quickly do -- between the parties do you think you
10 could get this amendment together and submitted to the
11 Board as part of the, you know, the revised Settlement
12 Agreement?

13 MR. MALTESE: I think a week would be more
14 then necessary, Your Honor.

15 CHAIRMAN BOLLWERK: All right. Judge
16 Gibson?

17 JUDGE GIBSON: Mr. Chaisson, I think it's
18 important if this language is going to be put together
19 that once you get it from the staff, you run it by
20 this potential employer you've got so that we won't be
21 basically wasting a lot of time if that's not going to
22 be acceptable to this potential employer.

23 MR. CHAISSON: This is James Chaisson,
24 Your Honor. Yes, sir, that would be no problem at
25 all. Like I said, this man is one I have worked with

1 since 1992. And I respect him very highly.

2 And yes, like he said, the only problem he
3 would have, he wants to make sure that when he turns
4 in my name, like what happened last time, that they
5 would have no problem putting me on their license as
6 a trainer.

7 Because the way that Louisiana DEQ was
8 trying to -- their understanding of it was I wasn't
9 allowed to be put on a license as a trainer even
10 though the NRC said I was.

11 And Louisiana still wouldn't do it because
12 they said well, until this should be rewritten and
13 clarified to where it doesn't have a loophole in it,
14 then we won't -- we're not going to allow you to do
15 that.

16 But there would be no problem helping them
17 word it correctly.

18 JUDGE GIBSON: Good.

19 CHAIRMAN BOLLWERK: All right. As a
20 procedural matter, let me suggest to you that while
21 you could come up with a separate agreement that has
22 a provision that says that the Agreement already
23 reached is revised in this way, you might think about,
24 it would make it easier in terms of what we're going
25 to be attaching to the Order and what goes forward, to

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1 have actually a revised Agreement that has this new
2 provision in it.

3 Where that way Mr. Chaisson's going to
4 have the whole Settlement Agreement in one place and
5 can move forward that way. Is that a problem for the
6 staff?

7 MR. MALTESE: No, Your Honor. Although,
8 I guess we'd want to talk to the Board about if there
9 were an alternative to physical signature. If the
10 Board would be satisfied with Mr. Chaisson, you know,
11 providing an electronic signature, it would, I think
12 save time with the sending of documents back and forth
13 or faxing or other situations.

14 So we wanted to get the Board's views on
15 that, on what would be necessary for this revised
16 Agreement?

17 CHAIRMAN BOLLWERK: Well, I mean was there
18 a problem last time in terms of sending it and then
19 getting him sign it and send it back to you?

20 MR. MALTESE: I wouldn't term it as a
21 problem. Although just want to make sure. I think
22 it's just a matter of the parties wanting to resolve
23 the issue and reach agreement as soon as possible.

24 CHAIRMAN BOLLWERK: Right. Well, yes, I
25 think as long as we know this is coming, and you know,

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1 if it takes you ten days versus a week, that's not a
2 problem.

3 I think having an Agreement that everybody
4 signed and you all are satisfied is the final -- the
5 real -- the final thing, is probably good for everyone
6 here. So there's no ambiguity or questions about it
7 in the future.

8 You know, if Mr. Chaisson still had access
9 to the efilng system, that might be something we
10 could work with. I'm a little concerned about kind of
11 exchanging emails and treating that as signatures in
12 the absence of something that -- absent using
13 something like a digital certificate, which we would
14 see the -- or a digital signature, which he doesn't
15 have at this point, so.

16 JUDGE GIBSON: And it does seem to me --
17 this is Judge Gibson. It does seem to me that if you
18 have a specific change to that specific language,
19 because that is the only thing that this potential
20 employer flagged, you could at least get that done.
21 Get that to that potential employer.

22 And then we can do all the things that
23 Judge Bollwerk is talking about here after that. But
24 it does seem to me that that's really the -- should be
25 the focus of your immediate attention.

1 Because while this may ultimately affect
2 Mr. Chaisson's future, he's got an immediate issue
3 right now. And that is trying to get a paycheck.

4 And to do that he's going to have to get
5 something worked out with his potential employer.

6 CHAIRMAN BOLLWERK: Right. And again, if
7 this is done say by -- certainly by the end of next
8 week, I don't anticipate it's going to cause any delay
9 in the Board getting an Order out, assuming we're
10 wanting to approve this by the end of the month.

11 So, and given in the light of, you know,
12 there seems to be some need for expedition here, we're
13 not going to sit on this. We're going to move forward
14 on it.

15 So, I think we can assure the parties of
16 that. So, all right. And bearing in mind, I don't
17 think necessarily we've come up with anything at this
18 point, but if in looking at this, and I'm not inviting
19 you to go back and review the whole thing.

20 If there's anything else we've talked
21 about today that it strikes you based on what we
22 talked about, it makes sense to put some additional
23 language in, this would be your opportunity to do so,
24 assuming both the parties agree to it. So, think
25 about that as we're -- what we talked about as well as

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1 going forward.

2 I don't know if there's anything we've
3 heard that necessarily requires that. But, if you
4 think of anything or in talking, you know, this would
5 be the opportunity to do that.

6 I just want to make Mr. Chaisson aware of
7 that as well. All right. I'm not trying to reopen
8 settlement negotiations. But if you agree that
9 something else, some language between the two of you
10 ought to be in there, this would be the time to do it,
11 so.

12 All right. Okay, well, let's assume
13 between a week and ten days, we're going to hopefully
14 be getting something from the parties, a revised
15 agreement that at a minimum it addresses what Mr.
16 Chaisson's concerned about this one provision.

17 If it looks like by the end of next week
18 that it's going to be a problem, Why don't you all --
19 someone contact Matthew Zogby and let him know by
20 email.

21 And I'm not going to necessarily issue an
22 Order that puts a deadline on this. But be aware
23 that, you know, the longer it takes the more the --
24 the further delay that provides can cause the Board in
25 terms of getting our Order out.

1 Because we not only have to draft it, but
2 it has to go through peer review and a few things here
3 too as well, so.

4 All right. Any questions about that
5 today, anyone has at staff?

6 MR. MALTESE: That all sounds fine, Your
7 Honor, thank you.

8 CHAIRMAN BOLLWERK: All right. Mr.
9 Chaisson?

10 MR. CHAISSON: No, sir, Your Honor. Like
11 I said, the last form they sent me, they had FedExed
12 to me and they had a return envelope in it. And I
13 told the driver and he was there, you know, he dropped
14 off the envelope, I read over it real fast.

15 And I signed it and gave it right back to
16 him. And as far as for me getting this to my
17 potential employer, what I did was go to a friend of
18 mine right down here in the street here, my landlord.

19 And he has a fax machine. So, that's what
20 we did. Was fax it to him and he overlooked it and
21 pointed out the things that he felt was -- needed to
22 be correct.

23 CHAIRMAN BOLLWERK: Okay. Well, again,
24 once you and the staff have agreed on the language
25 that you're going to put in the revised Settlement

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1 Agreement, you can certainly give that to the employer
2 as Judge Gibson pointed out, pronto.

3 And then that -- and then you can simply
4 wait on the total Agreement to arrive and sign it and
5 send it back. So, all right, very good.

6 We're almost. We're getting near the end.
7 But let me press forward here. In terms of Paragraph
8 3, which is the penalty provision. The Board had a
9 question about Paragraph 3.

10 How long does the penalty provision of
11 Paragraph 3 of the Settlement Agreement apply relative
12 to a purported failure by Mr. Chaisson, and then in
13 quotes "to comply with the NRC's requirements,
14 regulations or license conditions while engaged in NRC
15 licensed activities."

16 Assuming Mr. Chaisson, and then an i.e.
17 that we put in, that is, assuming Mr. Chaisson timely
18 complies with the other provisions of the Settlement
19 Agreement, what's the last date upon which this
20 provision could be the authorizing basis for the
21 staff, and then again in quotes, "to issue an order
22 prohibiting him from engaging in all NRC licensed
23 activities for a period up to a lifetime band." And
24 the quotations again that I just read are from the
25 Settlement Agreement.

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1 So let me turn to the staff first.

2 MR. MALTESE: Yes, Your Honor. This is
3 Jim Maltese. The staff understanding is that that
4 provision would last as long as any restriction of the
5 Settlement Agreement is in place.

6 So it would be the later of the three year
7 restriction period for Section 2 of the Settlement
8 Agreement. Or the time required for Mr. Chaisson to
9 complete the requirements to get out from under the
10 work restriction in Section 1.

11 So, whichever the later of those two dates
12 is. After that point, the penalty provision would no
13 longer be operative.

14 CHAIRMAN BOLLWERK: Okay. All right. Mr.
15 Chaisson, anything you want to say about that?

16 MR. CHAISSON: I'm -- this is James
17 Chaisson again. No, sir, Your Honor. I'm under the
18 same, you know, expectations that Mr. Maltese just
19 said.

20 That, you know, once I complete the 40
21 hour refresher and the 40 hours of the
22 following/shadowing the RSO, you know, like I he --
23 there is a literal way with, you know, my future, you
24 know, where I would be during the next week.

25 Because as we all know, they could tell

1 you one thing today and then tomorrow it could be
2 something totally different. You know, and they -- he
3 did tell me that they would accept, you know, saying
4 that if I said I'm going to be here.

5 But then something happens that beyond my
6 control, like a job didn't go through there, to let
7 him know immediately, you know, that hey look, I'm not
8 going to be there. And I'll let you know where I'm
9 going next when I find out.

10 CHAIRMAN BOLLWERK: All right. Given that
11 the Settlement Agreement is going to be revised, do
12 you think this is worth putting a sentence in that
13 makes this clear?

14 Again, our concern was that we didn't want
15 to seem to mess you up, but given the response we've
16 got, I think that -- the correct interpretation. But
17 we didn't want to see Mr. Chaisson all of a sudden six
18 years down the road have this particular penalty.

19 He's done everything he needs to have this
20 penalty provision suddenly applied against him for
21 whatever reason in a future instance. And that
22 becomes a major basis of an enforcement order.

23 So, do you think this is a provision or a
24 sentence that's worth adding? I'll turn to the staff
25 first.

1 MR. MALTESE: Your Honor, that sounds
2 extremely sensible. And we will add some language to
3 clarify that.

4 CHAIRMAN BOLLWERK: All right. Now, Mr.
5 Chaisson, do you have any problem with that?

6 MR. CHAISSON: No, sir. I'm glad you
7 pointed that out, Your Honor. Because yes, I didn't
8 -- yes, that would be great because, you know, that
9 three year period you mentioned in there, that if all
10 the requirements were done within them three years,
11 then yes, then this penalty state would be null and
12 void.

13 CHAIRMAN BOLLWERK: Okay. All right.
14 Very good. Then we'll expect that -- or I think you
15 all should expect afterward to work on yourselves to
16 get that in there. And we'll hopefully see that in
17 the revised Settlement Agreement that we're going to
18 received.

19 I'm going to see if any of the Board
20 Members have anything on that?

21 (No response)

22 CHAIRMAN BOLLWERK: We good? All right.
23 Paragraph 4 very briefly. That's the extension,
24 relaxation, recision provision. We didn't really have
25 any questions about that one.

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1 I just wanted to me a statement regarding
2 that. And I know there's some instances where there's
3 always an approach to ask forgiveness rather than ask
4 for permission.

5 This not that type of situation Mr.
6 Chaisson. You need, if you're having a problem, I
7 think you've made this -- you've already made
8 reference to this.

9 Tell the staff before hand. Get their
10 permission. Let them know what's going on.

11 Don't come in later and say, oh well, I
12 missed this and I'm really sorry. Because frankly,
13 the way this provision is written, that allows them to
14 basically say, we're sorry, but that doesn't make it.

15 And I just want to make sure you
16 understand that.

17 MR. CHAISSON: This is James Chaisson,
18 Your Honor. Yes, sir, I do. And like you said, from
19 the last time, yes, I've learned that.

20 Yes, I would -- I am going to keep track
21 of the dates of, you know, when this has been
22 enforced. You know, when this started and when it
23 ends.

24 And my limit, you know, to all of this.
25 And like Mr. Maltese has stated on several occasions

1 that, you know, this is now in my hands. So, the
2 sooner I do things, the better off I am.

3 CHAIRMAN BOLLWERK: All right. Okay.
4 Very good then. We're all on the same page with
5 respect to that.

6 MR. CHAISSON: Yes, sir.

7 CHAIRMAN BOLLWERK: All right. The last
8 thing specific the Board wants to raise is, I guess
9 the impact of Mr. Chaisson's incarceration.

10 And Mr. Chaisson, let me start by saying
11 that you expressed some concern about why the Board
12 had anything or cared about this at all. Let me give
13 you a -- let me sort of give you the reasons that went
14 through our mind when we first learned about this.

15 And our concern about how it might have an
16 impact here. And there's an analogy here. As Federal
17 employees, we're all -- we all have a security
18 clearance.

19 I think everybody in terms of the Board
20 Panel -- the Board Members and our administrative
21 staff, the law clerks have one. As well as probably,
22 I'm sure all the NRC folks that are on the line have
23 one.

24 And we're required under that security --
25 well, to keep that security clearance, if we have any

1 criminal problems of any type basically, other than
2 very minor traffic accidents, we're required to let
3 our security folks know about that.

4 They are then going to take a look at that
5 whatever it is, and decide whether we can keep our
6 security clearance. And if they decide that we can't,
7 then our security clearance is pulled.

8 And in fact our jobs may be in jeopardy
9 because most of the jobs that we have, you have to
10 have a security clearance to be able to do them.

11 So, it doesn't make any difference whether
12 that particular criminal matter has anything to do
13 with anything we do as NRC employees. So, we are
14 subject to that type of restriction.

15 So, that was the sort of thing that the
16 Board was concerned about. And we don't frankly know
17 if that applies here. We had no idea.

18 Which is why we raised it. And why we're
19 now going to talk with the staff a little bit about
20 this issue. And sort of see what the staff's approach
21 is relative to folks in the radiography field.

22 Before we do that, maybe it's sort of a
23 contract, in terms of the regulatory process here and
24 the licensing scheme, I know for instance, for on the
25 reactor side, for Part 50 and Part 52 licenses, which

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1 are power reactor licenses, there is a licensee that
2 is licensed to operate the facility.

3 But there are also separate licenses that
4 are issued to the operators of the plant. Which is
5 Part 55 licenses.

6 And I get the impression that that is in
7 fact not the regulatory scheme that applies relative
8 to Part 34 licensees for radiography. And the
9 radiographers that work for them.

10 And in fact, there's a sort of a different
11 -- there's no individual licenses that are listed to
12 radiographer. Although given the op -- they work for
13 someone that has a license, they have certain
14 responsibilities.

15 Is that -- am I correct in that
16 understanding?

17 MR. MALTESE: Yes, Your Honor. This is
18 Jim Maltese. And that regulatory scheme is not really
19 analogous as you mentioned.

20 CHAIRMAN BOLLWERK: All right. Are there
21 any general licenses that apply to radiographers that
22 place any restrictions or requirements on them?

23 MR. MALTESE: No, there are not, Your
24 Honor.

25 CHAIRMAN BOLLWERK: So it's basically they

1 are subject to whatever flows from the license of the
2 company for which they work, which has the individual
3 license. And any NRC regulations or statutory
4 requirements that the NRC has applied to
5 radiographers. Is that correct?

6 MR. MALTESE: That's right. The Part 34
7 requirements apply to the licensees. And those
8 requirements, you know, basically require the
9 licensees to ensure that their radiographers have met
10 those specific requirements.

11 CHAIRMAN BOLLWERK: All right. And so,
12 that would be the reason for instance for the original
13 May 2012 Order that was issue with respect to Mr.
14 Chaisson. Talking about the Texas Gamma Ray being in
15 violation of it's license because of activities that
16 Mr. Chaisson had purportedly undertaken.

17 MR. MALTESE: That's correct, Your Honor.

18 CHAIRMAN BOLLWERK: All right. And I take
19 it -- well, I should mention, I guess, even Part 50
20 and Part 52 licensees, contractors and other people
21 that work on the site, or their employees that are not
22 operators have restrictions that are applicable to
23 them, correct?

24 MR. MALTESE: That's right. That's right.
25 In addition to the deliberate misconduct provisions

1 that apply to individual employee's activities, the
2 other restrictions are sort of applied to them through
3 the licensee.

4 CHAIRMAN BOLLWERK: All right. So let me
5 ask the Board, is there any questions anybody has
6 about what we just heard?

7 (No response)

8 CHAIRMAN BOLLWERK: All right. So, then
9 let's turn to the question of Paragraph --

10 MR. CHAISSON: Uh--

11 CHAIRMAN BOLLWERK: Yes, Mr. Chaisson? Go
12 ahead, I'm sorry. I appreciate just --

13 MR. CHAISSON: Yes, Your Honor. James
14 Chaisson. I can probably help you out with this.
15 Like Mr. Maltese has stated, that the licensee is the
16 one responsible for determining if the person that
17 they hired is what we call competent to be trusted
18 with the source or not.

19 So, that's the one thing that does cause
20 that's pretty much the only responsibility that the
21 company still bears. Is, you know, they're required
22 to, you know, tell the NRC that yes, we feel
23 comfortable enough that we're going to allow this
24 person to be a trainer on our license and a competent
25 person.

1 But, you have a lot of companies that if
2 you have, you know, a felony, certain felonies, you
3 know, like anything with a gun or anything with drugs
4 or anything like that, they won't even talk to you.

5 And that's the kind of companies I've
6 tended to stay to work for because I like that
7 provision. Because then you've got a lot of companies
8 that they'll hire anybody.

9 You know, if they can deal for you,
10 they're going to put you out there. And
11 unfortunately, that's a problem out in the field.

12 You know, that you got people out there
13 that has no business being out there. I'll put it
14 nicely like that.

15 But that does, you know, fall on the
16 liability of the company. Because if the RSO is doing
17 his job properly, then people like that aren't messing
18 up out instead of doing things.

19 So, that's a liability that, you know,
20 lies onto the company due to their agreement with the
21 NRC to receive a radioactive material license.

22 CHAIRMAN BOLLWERK: All right. Thank you
23 for that information. So, let's -- having -- with all
24 that background in front of us, is there anything the
25 staff want's to say about what Mr. Chaisson just

1 mentioned?

2 MR. MALTESE: No, Your Honor, nothing
3 further.

4 CHAIRMAN BOLLWERK: All right. Okay. So
5 with that background, let's quick to the matter at
6 hand. So, right to the staff, in terms of -- well,
7 let's deal with disclosure first.

8 In terms of any requirement that the staff
9 has under the statutes, under the regulations, policy,
10 is there any kind of disclosure requirement relative
11 to a radiographer who has some kind of a criminal
12 issue?

13 MR. MALTESE: No, Your Honor.

14 CHAIRMAN BOLLWERK: None. All right.
15 Okay. So, and that doesn't matter whether it has
16 anything to do with their duties as a radiographer or
17 not dealing with their duties as a radiographer?

18 MR. MALTESE: Your Honor, could you -- the
19 staff would like to do a sidebar for a moment.

20 CHAIRMAN BOLLWERK: Okay.

21 MR. MALTESE: Thank you.

22 CHAIRMAN BOLLWERK: We hear some noise, is
23 the staff back on the line?

24 MR. CHAISSON: I don't think so, Your
25 Honor. This is James Chaisson.

1 CHAIRMAN BOLLWERK: We'll wait. Not a
2 problem.

3 MR. MALTESE: Your Honor, under the
4 regulations, licensees are required to have personnel
5 programs involving -- that may involve trustworthy,
6 reliabl -- trustworthiness and reliability issues.

7 And so, individual radiographers when
8 applying to work with that licensee, would have to
9 follow the licensee procedures, which could
10 potentially apply in Mr. Chaisson's case.

11 CHAIRMAN BOLLWERK: All right. But that
12 again is a matter of the individual licensee's
13 personnel matters. Not necessarily something the
14 staff provides or requires?

15 MR. MALTESE: That's right. It wouldn't
16 be an affirmative responsibility imposed on the
17 individuals.

18 CHAIRMAN BOLLWERK: All right. So,
19 basically we're outside the NRC regulatory frame in
20 terms of any kind of disclosure?

21 MR. MALTESE: Yes. If for example Mr.
22 Chaisson were to conceal information from a
23 perspective employer that asked about his criminal
24 history, then there might be a problem with the
25 licensee. There might be a question of deliberate

1 misconduct.

2 But that's not where we are.

3 CHAIRMAN BOLLWERK: All right. So, what
4 -- Mr. Chaisson, what we just heard is that basically
5 as long as you are doing whatever, any licensees that
6 you work for request or require in terms of disclosure
7 that you will be not in violation of anything relative
8 to the NRC.

9 MR. CHAISSON: This is Mr. Chaisson. Yes,
10 sir, Your Honor. That's part of the company's policy
11 of, you know, the FBI background check. And the
12 fingerprinting.

13 And that way, you know, they compare that
14 with what you put down on your application. And if it
15 doesn't jive, then like I said, the type of companies
16 I work for, you know, they check that.

17 But then like I said, you have the ones
18 out there that don't. So, it's a one bird in the hand
19 and the other one's empty.

20 So, it all falls back onto company and the
21 person, you know. I would like to say that if you
22 have a felony a lot of companies won't hire you.

23 But I don't have that problem because with
24 this little thing I had went through, you know, I'm
25 sure you all was probably told that it was filed as a

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1 felony. But when I went to trial over there, it was
2 reclarified as what it was, a Class A misdemeanor.

3 And I have no felonies on my background.
4 I think the only way the staff would have jurisdiction
5 over someone, again being able to refuse someone to do
6 this type of work, it's like that they had a violation
7 that increased security controls that was set forth
8 after 9/11.

9 CHAIRMAN BOLLWERK: All right. Anything
10 the staff wants to say relative to what Mr. Chaisson
11 just indicated?

12 MR. HAIR: This is Chris Hair with the
13 staff. No, I think the staff are satisfied with that
14 response.

15 CHAIRMAN BOLLWERK: All right. Now let me
16 turn to the last question relative to this. Which is,
17 having what we've just heard, what happened was -- in
18 terms of Mr. Chaisson's issue, an incarceration, does
19 that have any impact on the terms of what the staff is
20 concerned about relative to this Settlement Agreement?

21 MR. HAIR: This is Chris Hair again, Your
22 Honor. No, I think the events that occurred that
23 we're discussing now have no real relevance to our
24 actions with respect to settling this matter.

25 CHAIRMAN BOLLWERK: All right. Very good.

1 Mr. Chaisson, anything you want to say in that regard?

2 MR. CHAISSON: No, sir, Your Honor. I
3 agree with Mr. Hair that you know, that it is not
4 relevant. It's just a match up of a companion seven
5 years ago. You live and you learn.

6 CHAIRMAN BOLLWERK: All right. All right,
7 thank you, sir. All right. That sort of concludes
8 the -- at least the discussion that I had on the
9 Settlement Agreement provisions.

10 Let me turn to the Board Members.
11 Anything either of you wanted to raise about anything?
12 In terms of the Settlement Agreement? I have a couple
13 of other things that I want to go over. But that's

14 JUDGE ARNOLD: Just one thing. In --

15 CHAIRMAN BOLLWERK: This is Judge Arnold
16 by the way.

17 JUDGE ARNOLD: Judge Arnold. In Section
18 5, Board Approval, the third line says and termination
19 of this proceeding with prejudice. Mr. Chaisson, do
20 you understand the term with prejudice there?

21 MR. CHAISSON: No, sir, Your Honor. I
22 think I'd like to have that clarified.

23 MR. ARNOLD: All right. I'll let a lawyer
24 do that.

25 CHAIRMAN BOLLWERK: All right. We'll let

1 the staff say something first. And then if we have
2 anything to add, we will.

3 So, what does the staff mean with
4 prejudice?

5 MR. HAIR: Yes, this is Chris Hair. The
6 staff means that Mr. Chaisson and also the staff would
7 effectively be barred from filing new claims. Or I
8 shouldn't say new claims, but claims related to this
9 same subject matter.

10 So that once this matter is dismissed,
11 neither party is able to sort of try to relitigate
12 these issues before the Board.

13 CHAIRMAN BOLLWERK: So what Mr. Hair
14 basically said is because it's with prejudice, and it
15 could have been without prejudice, but it's with
16 prejudice. That neither you nor the staff can bring
17 this matter up again as a -- in terms for the basis
18 for an enforcement order.

19 MR. CHAISSON: Yes, sir. Now I understand
20 it. And yes, I agree with that. That once we agree
21 to this amended enforcement that that's the end of
22 this matter.

23 CHAIRMAN BOLLWERK: All right. All right,
24 anything else further the staff wants to say in that
25 regard?

1 MR. HAIR: No, Your Honor.

2 CHAIRMAN BOLLWERK: All right. Anything
3 either of the Board Members have that's relative to
4 the Settlement Agreement? Anything else Judge Arnold?

5 JUDGE ARNOLD: No. I have nothing.

6 CHAIRMAN BOLLWERK: Okay. All right. Let
7 me take a couple of seconds. And again, Mr. Chaisson,
8 because you're not an attorney, I just want to go over
9 a couple of things attorneys might or might know, I
10 would hope they do. But we'll make it clear at this
11 point.

12 So the next steps as we go forward. Per
13 Section 3 -- I'm sorry, per Section 2.338(i) the Board
14 will review and issue and order approving or
15 disapproving the settlement agreement.

16 And I've indicated, we haven't reached
17 that decision yet. One of the things we're going to
18 have to do when we get done here is talk about where
19 we're at.

20 Having said that, I think we understand
21 the need to move forward with this. And would hope to
22 do so by the end of the month assuming we receive the
23 revised Settlement Agreement in a prompt manner
24 hopefully by the end of next week.

25 And Mr. Chaisson, we're willing if you

1 want us to, if we do issue an Order approving it,
2 well, whatever Order we issue, we will certainly send
3 you a copy of that by express mail again as well as
4 emailing you, if that's all right.

5 MR. CHAISSON: Yes, sir, Your Honor. This
6 is James Chaisson. Yes, sir, I would. You know, that
7 way I always have a hard copy with me in my briefcase
8 in case I'm in a location where there is no Wifi or
9 internet.

10 I can always have the hard copy on me to
11 show to employers.

12 CHAIRMAN BOLLWERK: All right. And as
13 part of that Order, attached to it would be the
14 revised Settlement Agreement, assuming we approve it.
15 And also the chart.

16 And we will -- with respect to the chart,
17 we heard that there may be a couple of revisions to
18 the Settlement Agreement. We will go ahead and put
19 those in the chart. I will -- we will do our best to
20 stick exactly to the language the parties provide.

21 So I don't think there's going to be a
22 reason for us to send that out again for you to look
23 at. If there's any questions about that, we will
24 circulate it again.

25 But, I think we can probably move forward

1 without having to do that. And again, Mr. Chaisson,
2 our deal with the chart was simply to provide you with
3 maybe a checklist if you want to call it that, that
4 you can use in the future going forward to try to help
5 you keep things straight in terms of the Settlement
6 Agreement.

7 You should be aware that per Section
8 2.338(i) also, the Commission can review the Board
9 Order and Settlement. I should say that if the Board
10 for instance were to add provisions to the Settlement,
11 one of the parties could file an appeal if they wanted
12 to.

13 But putting aside whether there are any
14 appeals or there aren't, the Commission has the
15 authority to review this Order and Settlement. And
16 they could decide for whatever reason they don't like
17 it.

18 I hope that wouldn't happen. That the
19 Board approves it. But nonetheless, you should be
20 aware that the Commission does have that authority.

21 And so I don't want to mislead you or have
22 you not understand that there is another step to this
23 in terms of the procedures. The Commission does have
24 something, the five member, or currently four member,
25 Nuclear Regulatory Commission has something to say

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1 about this.

2 One other thing I would point out to you
3 Mr. Chaisson, is this is a Settlement Agreement. So
4 both of the parties have agreed to certain
5 requirements and provisions.

6 And in theory, if both parties do what
7 they're supposed to, then everything will move forward
8 and the restriction will be lifted eventually. And
9 you can move forward.

10 Having said that, in the future, after
11 taking reasonable steps to address any concerns by the
12 staff, if you believe that you've complied with the
13 Settlement Agreement but the staff for whatever reason
14 just doesn't feel that you have, you could go back to
15 the Commission and ask the Commission to enforce the
16 Settlement Agreement.

17 I would suggest that you not do that
18 before you've had a long -- a good long discussion
19 with the staff to make sure that you all aren't on --
20 can't get on the same page.

21 But, the Commission would be the ones that
22 you would go back to if you had any problems with the
23 way the staff is acting under the Settlement
24 Agreement.

25 Just so you'll know, once we issue an

1 Order approving the Settlement Agreement and
2 terminating the proceeding, we don't have
3 jurisdiction. We don't have the authority to have
4 anything further to do with that Settlement Agreement
5 absent the Commission sending it back to us to look at
6 it.

7 But the Commission contains continuing --
8 the Commission will have continuing jurisdiction over
9 the Settlement Agreement. So if you have any problems
10 with what's going on, the Commission would be the one,
11 and if you can't resolve them with the staff, the
12 Commission would be the one you would need to go back
13 to and talk to.

14 All right. Is that clear, sir?

15 MR. CHAISSON: This is James Chaisson,
16 Your Honor. Yes, sir, it is. And like I said, as
17 soon as this is settled, I'd like to say that through
18 this Settlement Agreement, Mr. Maltese and Mr. Hair
19 have been more than helpful to me.

20 You know, they have explained things on a
21 lawyers, to where I do understand them. And we -- I
22 felt we proceeded with the help of Judge Ryerson on
23 the parties agreement.

24 CHAIRMAN BOLLWERK: Okay. Very good. And
25 I'm glad to hear that you feel that the staff has

1 treated you fairly. I think that's very important.

2 That's been our impression. But we wanted
3 -- it's good to hear you say that, sir.

4 So, and again, if you have any reason to
5 come back to the Commission, remember the Office of
6 the Secretary that we've had interaction with from
7 time to time?

8 MR. CHAISSON: Yes, sir, Your Honor.

9 CHAIRMAN BOLLWERK: They would be the ones
10 you would probably send your concerns to. And then
11 they would make sure the Commission sees them.

12 MR. CHAISSON: Yes, sir. That's
13 understood, Your Honor.

14 CHAIRMAN BOLLWERK: Anything the staff
15 wants to say in that regard?

16 MR. MALTESE: No, Your Honor.

17 CHAIRMAN BOLLWERK: All right. At this
18 point, let me see if the parties have anything else
19 they want to bring the Board's attention?

20 MR. MALTESE: No, Your Honor. This is Jim
21 Maltese. We have nothing further.

22 CHAIRMAN BOLLWERK: All right. Anything
23 either of the Board Members want to raise at this
24 point?

25 JUDGE GEORGE: Nothing.

1 CHAIRMAN BOLLWERK: All right. Let me
2 just say a couple of things to Mr. Chaisson as we
3 close out here.

4 You have a path forward here. I know it's
5 been -- it's not necess -- you're someone with 30
6 years experience in the field. You've been an area
7 supervisor. You've been an RSO.

8 Going back to just being a radiographer's
9 assistant may not be the most pleasant thing in your
10 career path. I under -- we certainly understand that.

11 But there's a path forward for you here.
12 We hope that you will take that path and follow it.

13 As we've mentioned before, be aware that
14 the Settlement Agreement, please sir, try to stick to
15 the provisions of it. Be timely with what you're
16 doing.

17 It would be in your interest to move
18 forward with this. And to get back so that you can
19 get the position back that you want. I'm sure you
20 would love to have the additional money that will help
21 your kids outs.

22 So that's an important thing. I think
23 there's a way for you to do that. And I hope you will
24 take it sir. We don't really want to see you back
25 again.

1 We hope that, you know, that the next time
2 we hear about you, you'll be back as a radiographer
3 and doing the job that you seem to have performed over
4 the last 30 years and you seem to enjoy.

5 MR. CHAISSON: Hi, this is James Chaisson,
6 Your Honor. Yes, sir. I am totally have my focus on
7 that. I am actually in August here in Salt Lake City,
8 going to take my CWR exam, which is the next step up
9 from a radiographer to where, you know, you're not
10 messing with the radiation anymore.

11 But I will always, I want to make sure
12 that I comply with the Order. Just -- I like to have
13 what you call something in your back pocket to fall
14 back on in hard times.

15 CHAIRMAN BOLLWERK: All right. Again, I
16 think as Mr. Maltese has pointed out to you, this is
17 really with you know. So, we really wish you the best
18 of luck and hope you're successful in moving forward.

19 I should say we'd like to thank -- I've
20 mentioned this to Judge Ryerson personally, but to
21 Judge Ryerson and the law clerk Alana Wase, who helped
22 out with the Settlement Agreement. That was a major
23 effort. And we really appreciate their efforts.

24 I think it sounds like the parties were
25 happy with the way it turned out. We mentioned that

1 before. Generally, what you're going to come to an
2 agreement on is probably going to be better than
3 anything the Board will do.

4 So, again, we really appreciate their
5 efforts in working on this. Our thanks also to our
6 law clerk, Matt Zogby. He's worked on this
7 throughout.

8 And our Administrative Assistant, Tawana
9 Ellis, who had us all ready to go to hearing. But
10 fortunately we didn't have to do that. Which is a
11 good thing I think.

12 Let me see if either Judge Gibson or Judge
13 Arnold have anything they want to say at this point?

14 JUDGE GIBSON: Nothing.

15 JUDGE ARNOLD: No.

16 CHAIRMAN BOLLWERK: Nothing? All right.
17 Again, we appreciate the efforts of both the staff and
18 Mr. Chaisson to reach a settlement in this case.

19 It sounds like a good one. Not getting
20 ahead of ourselves, but I think we're on the right
21 path.

22 And we hope to issue something by the end
23 of the month that would let you all know where we're
24 at in terms of the motions you have pending in front
25 of us.

1 Well expect as I mentioned before,
2 something from you within about ten days, either the
3 revised Settlement Agreement or some indication to
4 Matt Zogby that you're going to need more time to do
5 that.

6 Before we sign off, let me see if the
7 Court Reporter has anything that he needs?

8 (Whereupon, the above-entitled matter went
9 off the record at 12:42 p.m.)
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