



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

DOCKETED  
USNRC

December 30, 1998

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OFFICE OF THE  
GENERAL COUNSEL

Thomas S. Moore, Chairman  
Administrative Judge  
Atomic Safety and Licensing Board  
Mail Stop: T-3 F23  
U.S. Nuclear Regulatory Commission  
Washington, D. C. 20555

Dr. Peter S. Lam  
Administrative Judge  
Atomic Safety and Licensing Board  
Mail Stop: T-3 F23  
U.S. Nuclear Regulatory Commission  
Washington, D. C. 20555

OFFICE OF SECRETARY  
RULEMAKING AND  
ADJUDICATIONS STAFF

Thomas D. Murphy  
Administrative Judge  
Atomic Safety and Licensing Board  
Mail Stop: T-3 F23  
U.S. Nuclear Regulatory Commission  
Washington, D. C. 20555

In the Matter of  
SPECIAL TESTING LABORATORIES, INC.  
(Docket No. 030-34318-EA)

Dear Administrative Judges:

Pursuant to the NRC staff's (Staff) statements in footnotes 3 and 4 of the NRC Staff's Response to Request For Immediate Hearing and Motion to Set Aside Immediate Effectiveness of Order Suspending License (Response), filed on December 28, 1998, enclosed please find copies of the original signed Affidavits of Nader Mamish and Eric Reber, filed in support of the Staff's Response. The original affidavits are being filed with the Office of the Secretary.

Sincerely,

Susan L. Uttal  
Counsel for NRC Staff

Enclosures: As stated

cc w/enclos: Special Testing Laboratories, Inc  
Office of the Secretary  
ASLB Panel  
OCAA  
ASLB Adjudicatory File

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UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

OFFICE OF SECRETARY  
OF RULEMAKING AND  
ADJUDICATIONS STAFF

In the Matter of

SPECIAL TESTING LABORATORIES, INC.  
Bethel, Connecticut

Docket No: 030-34318-EA  
License No: 06-30361-01  
EA 98-521

AFFIDAVIT OF NADER MAMISH IN SUPPORT OF THE NRC STAFF'S  
RESPONSE TO REQUEST FOR IMMEDIATE HEARING AND MOTION TO  
SET ASIDE IMMEDIATE EFFECTIVENESS OF ORDER SUSPENDING LICENSE

COMMONWEALTH OF MASSACHUSETTS  
COUNTY OF SUFFOLK

ss:

I, Nader Mamish, first being duly sworn, depose and state:

1. I am employed by the United States Nuclear Regulatory Commission (NRC or Commission) as a Senior Enforcement Specialist at the NRC's Office of Enforcement (OE). A statement of my professional qualifications is attached hereto as Attachment 1.
2. As Senior Enforcement Specialist, I am responsible, *inter alia*, for the implementation of the Commission's enforcement program. In performing my duties at OE, I participated in the deliberations concerning the Order Suspending License (Effective Immediately) (Order), issued on December 23, 1998, to Special Testing Laboratories, Inc. (the Licensee); and have first-hand knowledge of the reasons for the decision that public health, safety, and interest require that the Order be immediately effective.
3. The purpose of my affidavit is to provide evidence supporting this decision.
4. License No. 06-30361-01 authorizes the Licensee to possess and use up to 100 millicuries of cesium-137 and 500 millicuries of americium-241 in sealed sources for performing density measurements using portable nuclear density gauges. Misuse of these gauges can result in unnecessary radiation exposure to members of the public.

5. I have read and am familiar with License No. 06-30361-01, the facts, regulations, and violations as outlined in the Order, including the statements of Licensee employees dated October 15, and November 9, 10, and 19, 1998, the July 1, 1996 Order Suspending License issued to Testwell Craig Laboratories of Connecticut, Inc. (Testwell Craig) for non-payment of fees, and the affidavit of Eric Reber.

6. Based on the facts and violations set forth in the Order, it was necessary to make the Order immediately effective to protect public health and safety. Specifically, the Licensee's deliberate violations in directing untrained individuals to use gauges, contrary to its license conditions, in not providing these individuals with the necessary dosimetry while they were using the gauges, contrary to its license conditions, in making false statements to the NRC, contrary to regulations, and in continuing to use gauges after Testwell Craig's license had been suspended for nonpayment of fees and before Special Testing's license had been issued, contrary to regulations, provide a reasonable basis for the NRC staff to conclude that the Licensee is either unable or unwilling, or both unable and unwilling, to comply with the Commission's regulations and the license requirements so that there is no unreasonable risk to public health and safety. Therefore, the public health, safety and interest require that this Order be made immediately effective.


7. The willful violation of NRC requirements is significant because the NRC must be able to rely on the integrity of Licensee employees to comply with NRC requirements. Moreover, providing false information to the NRC is of significant regulatory concern because the Commission must be able to rely on its licensees to provide complete and accurate information.

8. Use of nuclear density gauges by individuals who have neither been provided with the required training nor with the required dosimetry have potential serious adverse consequences for public health and safety because they could directly cause, or they have caused, unnecessary radiation exposures to the public and Licensee employees.

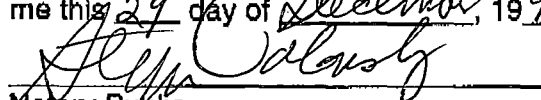
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9. In light of the above, public health, safety, and interest require that Licensee's license be suspended pending further order by the NRC, that licensed material be placed in locked, safe storage, and that all other provisions of the Order remain immediately effective.

The foregoing is true and accurate to the best of my knowledge, information and belief.

  
Nader Mamish

Subscribed and sworn to before  
me this 29 day of December, 1998

  
Notary Public

My commission expires: 8/23/02



UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

DOCKETED  
USNRC

'98 DEC 31 A8:18

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

OFFICE OF SECRETARY  
RULEMAKING AND  
ADJUDICATIONS STAFF

In the Matter of )  
 ) EA 98-521  
Special Testing Laboratories, Inc. )

**AFFIDAVIT OF ERIC H. REBER IN SUPPORT OF NRC STAFF'S RESPONSE  
TO REQUEST FOR IMMEDIATE HEARING AND MOTION TO SET ASIDE  
THE IMMEDIATE EFFECTIVENESS OF ORDER SUSPENDING LICENSE**

I, Eric H. Reber, first being duly sworn, depose and state:

1. My name is Eric H. Reber. I am employed by the U.S. Nuclear Regulatory Commission (NRC) as a Health Physicist in Nuclear Materials Safety Branch 2, Region I. A statement of my professional qualification is attached hereto.

2. In performing my duties as a Health Physicist, I am assigned to do inspections of NRC-licensed facilities. I was assigned to perform a special inspection at Special Testing Laboratories, Inc. (STL). The purpose of the inspection was to determine if two individuals had used portable gauges without required training as required by License No. 06-30361-01. Mark Mullen of the Office of Investigation accompanied me on the inspection. Mr. Mullen and myself were at the STL Bethel, Connecticut office on October 14, 15, and 16, 1998, and November 9 - 10, 1998.

3. The purpose of this affidavit is to describe the safety inspection of STL that resulted in the issuance of the Order Suspending License (Effective Immediately) dated December 23, 1998.

4. Special Testing Laboratories, Inc. is authorized by License No. 06-30361-01 to possess and use Troxler Electronics Laboratories, Campbell Pacific Nuclear, Humbolt

Scientific, Seamen Nuclear, or Soiltest nuclear gauges.

5. During the October 1998 portion of the inspection, Mr. Speciale was interviewed by Mr. Mullen and myself. In that interview, Mr. Speciale, when questioned concerning the scope of his licensed program, stated that the company possessed four Troxler portable gauges that are used by three or four authorized users, including himself. The authorized users are employed as field technicians. He also stated that he did not believe any of his field technicians were operating gauges without training. When questioned further about field technicians using the gauges without training, he stated that one individual may have used a gauge while under the supervision of an authorized user approximately three times in January 1997. He further stated that there were no other individuals besides this person that used the gauges without the required training.

6. During the November 1998 portion of the inspection, training certificates were reviewed that indicated that nine individuals had received manufacturer's training on October 29, 1998. Mr. Speciale stated, and available records (training certificates, sealed source certificates, and leak test records) showed, that STL possessed 13 gauges, and these gauges were used by as many as 14 field technicians. This information was substantially different from that which was provided in October.

7. During the November 1998 portion of the inspection, Mr. Special stated, contrary to what he told us in October 1998, that gauges were operated by individuals who had not received the required training. When questioned about why gauge users were not sent to training, Mr. Speciale stated that he was concerned about the cost of training and stated that the company has been under financial stress.

8. During the November 1998 portion of the inspection, a field technician employed by Special Testing Laboratories, Inc. was interviewed. He stated that he had been using portable gauges an average of once a week for four years prior to the inspection while working under the direction of Mr. Speciale and did not receive manufacturer's training until October 1998. A training certificate that was reviewed indicated that he received manufacturer's training on October 29, 1998.

9. During the November 1998 portion of the inspection, another field technician employed by Special Testing Laboratories, Inc. was interviewed. He stated that he had been using portable gauges an average of two times per week since March 1998 while working under the direction of Mr. Speciale and did not know that manufacturer's training was required to operate portable gauges. A training certificate that was reviewed indicated that he received manufacturer's training on October 29, 1998. He also stated that he was not issued [prior to October 1998] a TLD [personnel dosimeter] and that it was never explained to him that one was required.

10. During the November 1998 inspection, another field technician was interviewed. He stated that he is an occasional "nuke" user. He stated that there were times when he operated a gauge while working under the direction of Mr. Speciale and he didn't have a film badge [personnel dosimeter].

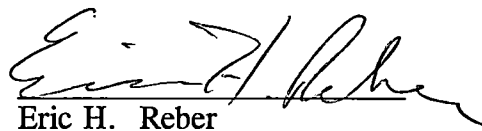
11. During the November 1998 inspection, Mr. Speciale was interviewed as to whether or not individuals wore required personnel dosimetry. He stated that every one [gauge users] was in violation at some point because of not having a badge. He stated that Troxler would not provide them dosimetry because STL did not pay them. Mr. Speciale stated that not everyone that was supposed to have a film badge had one in 1998. He stated that he knows

he did a lot of things wrong.


12. During the November 1998 inspection, Mr. Special was interviewed regarding the performance of required leak tests. He stated that there were times when Troxler would not analyze STL's leak tests because STL was not able to pay for them.

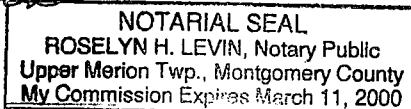
13. During the November 1998 inspection, records of leak tests for seven of the gauges possessed by STL were reviewed. Records of leak tests were not available for the gauges for periods of time ranging from 2 years 8 months to 3 years 10 months. Mr. Speciale stated, and gauge users confirmed, that leak test samples were taken of all gauges during October 1998, however, records of the analysis of these samples was not available during the November 1998 inspection.

14. The above statements are true and correct to the best of my knowledge, information and belief.

  
Eric H. Reber

Subscribed and sworn to before  
me this 28<sup>th</sup> day of Dec., 1998

  
Notary Public



My commission expires: \_\_\_\_\_



## STATEMENT OF PROFESSIONAL QUALIFICATIONS

Eric H. Reber

### Education

- B.S. Physics, Elizabethtown College, 1986
- M.Sc. Hygiene (Health Physics), University of Pittsburgh, 1988

### Experience

- Commonwealth Edison Company, Chicago, IL - 1988 to 1989

Health Physicist

- U.S. Nuclear Regulatory Commission - 1989 to present

Health Physicist