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USNRC

January 22, 1999

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of

SPECIAL TESTING LABORATORIES, INC.)

Berhel, Connecticut

) Docket No. 030-34318
) EA No. 98-521
) Order Suspending License
) (Effective Immediately)
)

JOINT MOTION TO TERMINATE PROCEEDING

The staff of the Nuclear Regulatory Commission (Staff) and Special Testing Laboratories, Inc. (Special Testing), by its Director, Richard A. Speciale, jointly move the Atomic Safety and Licensing Board to enter an order terminating this proceeding, based upon the rescission of the Order Suspending License (Effective Immediately) and Special Testing's withdrawal of its request for hearing. Attached hereto is a written withdrawal of the request for hearing in this matter signed by Richard A. Speciale on behalf of Special Testing.¹ Also attached hereto is a copy of a January 8, 1999, letter from the NRC Office of Enforcement to Richard Speciale agreeing to rescind the Order Suspending License and issue a Confirmatory Order Amending License (Immediately Effective), and Hearing Waiver signed by Richard A. Speciale and Richard C. Speciale, on behalf of Special Testing Laboratories, Inc.

¹ Please note that the written withdrawal is a facsimile. The Staff will file the original upon receipt from Special Testing.

SECY-EHD-006

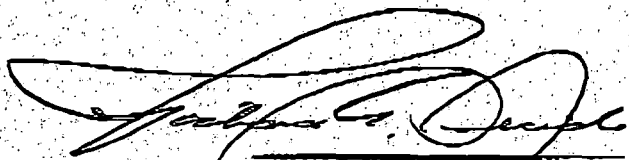
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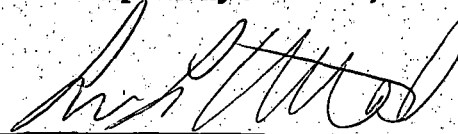
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The Staff will notify the Board upon issuance of the Confirmatory Order.

Respectfully submitted,



Richard A. Speciale
Special Testing Laboratories, Inc.



Susan L. Uttal
Counsel for NRC Staff

Dated at Rockville, Maryland
this 27th day of January 1999



SPECIAL TESTING LABORATORIES, INC.

P.O. Box 300, Bethel, Connecticut 06801 Phone (203) 744-TEST Fax (203) 791-2451
P.O. Box 31473, Hartford, Connecticut 06103 Phone (203) 563-1234 Fax (203) 563-1401

January 21, 1999

Ms. Susan Uttal
Office of General Council
015B18
US Nuclear Regulatory Commission
Washington, DC 20555-0001

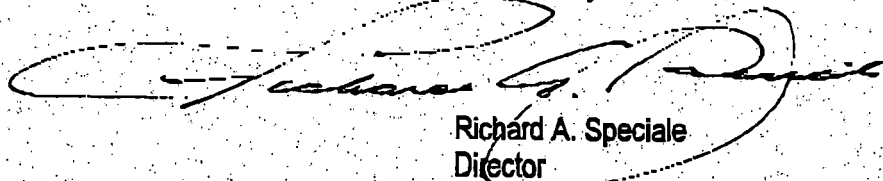
Re: Docket No. 030-34318
EA No. 98-521

Dear Ms. Uttal:

Enclosed please find signed Joint Motion To Terminate Proceedings dated January 22, 1999.

It is agreed to withdraw my hearing request relative to the suspension of license.

Respectfully submitted,



Richard A. Speciale
Director

RAS:da
Enclosure



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

January 8, 1999

EA 98-521

Mr. Richard A. Speciale, Director
Special Testing Laboratories, Inc.
Post Office Box 200
Bethel, Connecticut 06801-0200

SUBJECT: ORDER SUSPENDING LICENSE (EFFECTIVE IMMEDIATELY)

Dear Mr. Speciale:

On December 23, 1998, the NRC issued an Order Suspending License (Effective Immediately) (Order) to Special Testing Laboratories, Inc., (Licensee). By letter dated December 23, 1998, you requested an enforcement hearing and moved to set aside the immediate effectiveness of the Order. Based on several telephone conversations between you and the NRC staff, it is our understanding that you desire relaxation of the Order and resumption of NRC-licensed activities under your license as Ms. Susan Uttal informed you today. We are prepared to rescind the Order and modify the conditions of License No. 06-30361-01 (License) as specified below.

If you agree to these conditions, we will incorporate them into a Confirmatory Order Modifying License following your written consent. The conditions of the Order are:

- A. The NRC's Order Suspending License dated December 23, 1998, shall be rescinded.
- B. Mr. Richard C. Speciale shall replace Mr. Richard A. Speciale as the Licensee's Radiation Safety Officer. As evidence of this Licensee management change, the Licensee shall provide the NRC with written documentation, as follows:
 - 1. A delegation of authority from Mr. Richard A. Speciale to Mr. Richard C. Speciale, which states that Mr. Richard C. Speciale has the requisite authority to communicate with, and direct, Licensee employees regarding NRC regulations and license provisions and to enforce these requirements, including the ability to terminate any unsafe operation involving the use of NRC-licensed material or activities that violate the License or NRC requirements.
 - 2. A directive to all current employees that they are not to look for or take direction from Mr. Richard A. Speciale regarding NRC-licensed activities. Within 7 days of providing the directive, the Licensee shall confirm that all current employees have received the directive.
 - 3. A signed statement as to how Mr. Richard A. Speciale will effectively be removed from control of NRC-licensed activities.

4. A signed statement, under oath or affirmation, from Mr. Richard C. Speciale certifying that:
 - a. he will direct NRC-licensed operations independent from any involvement or interference by Mr. Richard A. Speciale;
 - b. he understands the License conditions and all NRC requirements relating to the License, including the NRC's deliberate misconduct rule;
 - c. he understands that the NRC expects meticulous compliance with its requirements; and
 - d. he intends to comply with License conditions and all NRC requirements in every respect.
 5. A signed statement describing how Mr. Richard C. Speciale will inform all gauge users of NRC and License requirements and direct them to comply with such requirements. Within 7 days of providing the signed statement, the Licensee will confirm that Richard C. Speciale has so informed and directed all employees.
- C. The Licensee shall notify the NRC immediately if Mr. Richard A. Speciale attempts to influence Mr. Richard C. Speciale or any other Licensee employee in the conduct of NRC-licensed activities.
- D. The Licensee shall fully cooperate with the NRC with regard to inspection or investigation of NRC-licensed activities, including the provision of complete and accurate records and responding to the NRC Office of Investigations subpoena dated November 18, 1998. In addition, all records related to licensed activities shall be maintained in their original form and shall not be removed or altered in any way.
- E. The Licensee shall retain the services of an independent individual or organization (consultant) to perform eight quarterly audits of the Licensee's radiation safety program. After conducting four audits, the Regional Administrator, NRC Region I, may consider, at the request of the Licensee, relief in the audit requirements based on Licensee performance. The consultant shall be independent of the Licensee's organization and is to be experienced in, or capable of, evaluating the effectiveness of management and the implementation of a radiation safety program for gauging operations. NRC has approved the use of Q/C Resource as a consultant; however, if the Licensee chooses to change the consultant, the Licensee shall notify the NRC seven days in advance of a change. At a minimum, each audit shall:
1. evaluate the effectiveness of the Licensee's radiation safety program and compliance with NRC requirements;
 2. evaluate the understanding of the Licensee's Radiation Safety Officer of radiation safety and NRC requirements;

3. evaluate the adequacy of the Licensee's corrective actions for any violations or audit findings previously identified by the NRC or consultant;
 4. make recommendations as necessary for improvements in management oversight of NRC-licensed activities;
 5. physically observe gauging operations in the field; and
 6. evaluate whether Mr. Richard A. Speciale is or has been involved in NRC-licensed activities since the effective date of this Order.
- F. Within 7 days of the date of this Confirmatory Order, the Licensee shall provide a copy of this Order to the consultant, to all current, and, for the duration of these commitments, to all future Licensee employees.
- G. Within 30 days of the date of this Confirmatory Order, the first audit shall be completed. The Licensee shall ensure that the consultant submits the results of the audit, including any deficiencies identified, to NRC Region I at the same time the consultant provides the results to the Licensee.
- H. Within every three months thereafter, an audit shall be completed. The Licensee shall ensure that the consultant submits the results of the audit, including any deficiencies identified, to NRC Region I at the same time the consultant provides the results to the Licensee.
- I. Within 30 days of the completion each audit, the Licensee shall submit to NRC Region I its corrective actions for any identified deficiencies in the audit reports. Alternatively, if the Licensee does not believe that corrective actions should be taken, the Licensee shall provide justification for its position to the NRC.
- J. For purposes of the above conditions, the Licensee shall send all documents, and provide all notifications and confirmations, required by this modification to the Director, Division of Nuclear Material Safety, NRC Region I, 475 Allendale Road, King of Prussia, PA 19406-1415.
- K. If the Deputy Executive Director for Regulatory Effectiveness concludes that a substantial breach of any conditions of the Confirmatory Order has occurred, the NRC will issue an Order Suspending License.
- L. The Regional Administrator, Region I, may relax the above conditions for good cause.

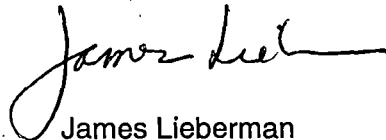
If you consent to issuance of a Confirmatory Order confirming the above commitments, you are agreeing to withdraw your request for a hearing on the Order Suspending License and waiving your right to request a hearing on all or any part of the Order. In addition, both you and Richard C. Speciale must sign the Hearing Waiver (enclosed) indicating that you agree to such commitments and are consenting to the issuance of the Confirmatory Order. You should note that issuance of the Order does not preclude the NRC from taking further enforcement action against the Licensee or you as an individual after completion of the investigation. Please return

the signed Hearing Waiver within ten business days from the date of this letter to Mr. James Lieberman, Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852-2738. In addition, please provide a copy of your written consent to Mr. George Pangburn, Director, Division of Nuclear Materials Safety, NRC Region I, 475 Allendale Road, King of Prussia, Pennsylvania 19406-1415. After receiving your written consent, the NRC will issue the aforementioned Order.

Questions concerning this letter should be addressed to Ms. Susan Uttal at (301) 415-1582.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter will be placed in the NRC Public Document Room.

Sincerely,

A handwritten signature in black ink, appearing to read "James Lieberman", with a stylized flourish at the end.

James Lieberman
Director, Office of Enforcement

Enclosure: As stated

Docket No. 030-34318
License No. 06-30361-01

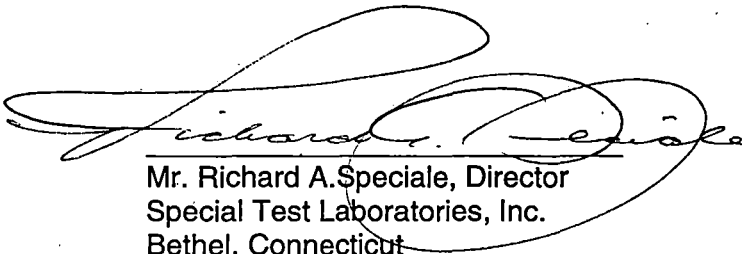
HEARING WAIVER

Special Testing Laboratories, Inc., (Licensee) hereby agrees to comply with the commitments described in the NRC's letter dated January 8, 1999, and agrees to the incorporation of these commitments into a Confirmatory Order Modifying License that will be effective upon issuance. By signing below, the Licensee consents to the issuance of a Confirmatory Order Modifying License with the commitments described on Pages 1 through 3 of the NRC's letter dated January 8, 1999, and, by doing so, pursuant to 10 CFR 2.202(d), the Licensee waives the right to request a hearing on all or any part of the Order. In addition, the Licensee agrees to withdraw its request for a hearing dated December 23, 1998.



Mr. Richard C. Speciale, President
Special Testing Laboratories, Inc.
Bethel, Connecticut

1-11-99
Date



Mr. Richard A. Speciale, Director
Special Test Laboratories, Inc.
Bethel, Connecticut

11 Jan '99
Date

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD *99 JAN 22 P3:10

In the Matter of)
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SPECIAL TESTING LABORATORIES, INC.)
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Bethel, Connecticut)
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Docket No. 030-34318
EA No. 98-521

OFFICE OF SECRETARY
RULEMAKING AND
ADJUDICATIONS STAFF

Order Suspending License
(Effective Immediately)

CERTIFICATE OF SERVICE

I hereby certify that copies of "JOINT MOTION TO TERMINATE PROCEEDING" in the above-captioned proceeding have been served on the following by deposit into the United States mail, or through deposit in the Nuclear Regulatory Commission's internal mail system as indicated with an asterisk, on this 22nd day of January 1999.

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

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

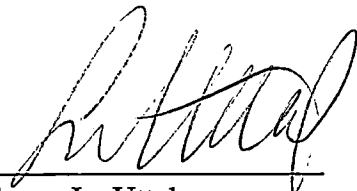
Special Testing Laboratories, Inc.
Att: Richard Speciale
P. O. Box 200
Bethel, Connecticut 06801
Fax No. 203-791-2451

Office of the Secretary (2)**
ATTN: Rulemaking and
Adjudications Staff
Mail Stop: O-16 G15
U.S. Nuclear Regulatory Commission
Washington, D. C. 20555

Office of Commission Appellate
Adjudication**
Mail Stop: O-16 G15
U.S. Nuclear Regulatory Commission
Washington, D. C. 20555

Adjudicatory File (2)*
Atomic Safety and Licensing Board
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U.S. Nuclear Regulatory Commission
Washington, D. C. 20555

Atomic Safety and
Licensing Board Panel*
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U.S. Nuclear Regulatory Commission
Washington, D. C. 20555



Susan L. Uttal
Counsel for NRC Staff