

**NUCLEAR REGULATORY COMMISSION**

[IA 98-020]

**Lourdes T. Boschuk, Canonsburg, Pennsylvania; Order Prohibiting Involvement in NRC-Licensed Activities****I**

J&L Testing Company, Inc., (Licensee or JLT) is the holder of Byproduct Nuclear Material License No. 37-28442-02 issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR part 30. The license authorizes possession and use of Troxler portable nuclear gauges containing cesium-137 and americium-241 in sealed sources. The license, originally issued on February 7, 1995, was amended on August 22, 1995, and is due to expire on February 29, 2000. The License was suspended by Order, dated September 27, 1995. Lourdes T. Boschuk is the President and owner of JLT. Concurrently with this Order, the NRC is issuing an Order Revoking License to JLT (EA 96-110).

**II**

Based on an NRC inspection and an investigation by the NRC's Office of Investigations, the NRC has determined that Ms. Boschuk, while President and owner of JLT,<sup>1</sup> engaged in a pattern and practice of willfully violating NRC requirements and otherwise violated NRC requirements. Among such violations are the following:

**A. Materially Inaccurate Statements Made to NRC**

(1) A letter accompanying JLT's Application for Material License for Troxler Nuclear Density Gauges, dated November 21, 1994, and signed by Lourdes Boschuk as President of JLT, represented to the NRC that since the revocation of J&L Engineering's License to operate the same Troxler gauges on August 30, 1993, the gauges had not been removed from storage or used in any way. In fact, JLT admittedly used a gauge on at least four occasions and invoiced customers for that use after revocation of the JLE license and before the NRC issued a license to JLT. JLT used the gauge for the following customers: DelSir Supply in December 1993, Johnson Construction in May 1994, Johnson Construction in June 1994, and PA Soil & Rock Company in

July 1994. The materially inaccurate statement in the JLT application was in violation of 10 CFR 30.9(a) and made with careless disregard for the facts by Ms. Boschuk.

(2) A letter to the NRC dated September 11, 1995, signed by Lourdes Boschuk as President of JLT, stated that the Troxler gauge that was missing at the time of the NRC inspection on August 1, 1995, was in Watertown, New York; and was returned the next day. In fact, the gauge was transferred to SE Technologies, Inc., located in Bridgeville, Pennsylvania, in July 1995 and was not returned to JLT until August 17, 1995. This statement was in violation of 10 CFR 30.9(a) and was made with careless disregard for the facts by Ms. Boschuk. In addition, the letter represented that since the NRC inspection on August 1, 1995, all three Troxler gauges were located in a locked storage cabinet at JLT's premises and would remain there until the apparent violations identified in the NRC's Inspection Report were resolved. In fact, one of the gauges had been transferred on September 6, 1995, to Cashin Associates, P.C. in New York State, and was not returned to JLT until September 19 or 20, 1995. This was an inaccurate statement in violation of 10 CFR 30.9(a) and was made by Ms. Boschuk with careless disregard for the facts.

(3) During an enforcement conference with the NRC on September 15, 1995, Lourdes Boschuk, as President of JLT, stated that JLT's operable Troxler gauge was in storage and had not been used. In fact, one of the gauges was transferred by JLT on September 6, 1995, to Cashin Associates, P.C. for use at the Brookhaven Landfill in New York State, and was not returned to JLT until September 19 or 20, 1995. This inaccurate statement was in violation of 10 CFR 30.9(a) and was made by Ms. Boschuk with careless disregard for the facts.

(4) A letter to the NRC dated September 18, 1995, signed by Lourdes Boschuk as President of JLT, and sent to the NRC in response to the September 15, 1995, NRC letter confirming JLT's commitment at the September 15, 1995, enforcement conference to refrain from using the Troxler density gauges pending resolution of the apparent violations, made several materially inaccurate statements. The letter stated that all JLT's gauges have been in the storage cabinet on the JLT premises since the visit of the NRC inspector. This was a deliberately inaccurate statement by Ms. Boschuk in violation of 10 CFR 30.9(a) and 30.10(a)(2). In fact, Ms. Boschuk knew no later than September 15, 1995, during a telephone

call with the Director of JLT, immediately after the September 15, 1995 enforcement conference, that one of JLT's Troxler gauges had been transferred on September 6, 1995 to Cashin Associates, P.C. in New York State.

In addition, the letter stated that all three JLT Troxler gauges are currently locked in the designated storage cabinet on the JLT premises. This inaccurate statement was in violation of 10 CFR 30.9(a) and was made with at least careless disregard as to its truth or falsity by Ms. Boschuk. In fact, Lourdes Boschuk sent the JLT RSO to retrieve the gauge which had been transferred to Cashin Associates, P.C., but the RSO did not return to JLT with the gauge until late in the evening of September 19 or early in the morning of September 20, 1995.

**B. Destruction of Records Relating to Gauge Usage**

According to a witness, Lourdes Boschuk and others destroyed, altered, sanitized, or otherwise disposed of business and transactional records shortly after the August 1995 NRC inspection of JLT, in order to conceal from the NRC the unauthorized use and/or transfer of Troxler gauges by JLT. Among the records destroyed or disposed of were invoices and a log documenting use of the Troxler density gauges. According to a handwritten note, created by a JLT employee immediately after the September 15, 1995 enforcement conference, although utilization records were made available to the NRC inspector, those records could not be subsequently located. The note further reflected a question whether the utilization records were "thrown away during sanitization of records?" Shortly after the August 1995 inspection, the NRC inspector requested JLT to provide a copy of a utilization record found during the inspection and which documented the rental of a gauge to SE Technologies in September 1994, when neither JLE nor JLT had a valid NRC license. JLT did not provide the invoice and claimed it could no longer find the document. Condition 19 of JLT's License requires that JLT conduct its licensed activities in accordance with its Application dated January 6, 1995. The Application mandates that JLT comply with conditions requiring the creation of a utilization log for the gauges and the maintenance of the log for audit purposes. The destruction of the utilization log was in violation of the 10 CFR 30.3 and 30.9(a). The participation of Lourdes Boschuk in the deliberate destruction of the utilization log was in violation of 10 CFR 30.10(a).

<sup>1</sup> Lourdes Boschuk is the wife of John Boschuk, Jr., President and Owner of J&L Engineering, Inc. (JLE). JLT and JLE are located at the same address and share the same telephone and facsimile numbers.

**III**

Based on the above, the NRC concludes that Lourdes Boschuk, President and owner of JLT, deliberately violated NRC requirements, and otherwise committed willful violations of NRC requirements. These violations raise a serious doubt as to whether Ms. Boschuk can be relied upon to comply with NRC requirements and to provide complete and accurate information to the NRC. The NRC must rely upon the integrity of persons involved in licensed activities, especially owners and officials of NRC licensees. Deliberate misconduct of the type demonstrated by Ms. Boschuk cannot be tolerated. Notwithstanding the revocation of the JLT license, given Ms. Boschuk's repeated failures to adhere to regulatory requirements, the NRC no longer has the necessary assurance that Ms. Boschuk's participation in licensed activities would be performed safely and in accordance with requirements.

Consequently, I lack the requisite reasonable assurance that licensed activities can be conducted in compliance with the Commission's requirements and that the health and safety of the public will be protected if Ms. Boschuk were permitted at this time to be involved in NRC-licensed activities. Therefore, the public health, safety and interest require that Ms. Boschuk be prohibited from any involvement in NRC-licensed activities for a period of five years from the date of this Order, and if she is currently involved with another licensee in NRC-licensed activities, she must immediately cease such activities, and inform the NRC of the name, address and telephone number of the licensee, and provide a copy of this Order to the licensee. Additionally, Ms. Boschuk is required to notify the NRC of her first employment or involvement in NRC-licensed activities following the prohibition period.

**IV**

Accordingly, pursuant to sections 81, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, 10 CFR 30.10, and 10 CFR 150.20, it is hereby ordered that:

1. For a period of five years from the date of this Order, Ms. Boschuk is prohibited from engaging in NRC-licensed activities. NRC-licensed activities are those activities that are conducted pursuant to a specific or general license issued by the NRC, including, but not limited to, those activities of Agreement State licensees conducted in areas of NRC jurisdiction

pursuant to the authority granted by 10 CFR 150.20.

2. For a period of five years from the date of this Order, Ms. Boschuk shall provide a copy of this Order to any prospective employer or business partner who engages in NRC-licensed activities (as described in Section IV.1 above) prior to her acceptance of any employment (whether involved in licensed activities or not) by, or partnership or ownership interest in, a licensee (as described in Section IV.1 above). The purpose of this requirement is to ensure that the licensee is aware of Ms. Boschuk's prohibition from engaging in NRC-licensed activities.

3. The first time Ms. Boschuk is employed in NRC-licensed activities, or acquires a partnership or ownership interest in a licensee (as described in Section IV.1 above), following the five year prohibition in Section IV.1, above, she shall notify the Regional Administrator, NRC Region I, 475 Allendale Road, King of Prussia, Pennsylvania 19406, prior to acquiring such an interest or prior to engaging in NRC-licensed activities, including activities under an Agreement State license when activities under that license are conducted in areas of NRC jurisdiction pursuant to 10 CFR 150.20. The notice shall include the name, address, and telephone number of the NRC or Agreement State licensee and the location where licensed activities will be performed.

The Director, Office of Enforcement, may, in writing, relax or rescind any of the above conditions upon demonstration by the Licensee of good cause.

**V**

In accordance with 10 CFR 2.202, Ms. Boschuk must, and any other person adversely affected by this Order may, submit an answer to this Order and may request a hearing on this Order, within 20 days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically admit or deny each allegation or charge made in this Order and shall set forth the matters of fact and law on which Ms. Boschuk or other person adversely affected relies and the reasons as to why the Order should not

have been issued. Any answer or request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Attn: Chief, Rulemaking and Adjudications Staff, Washington, DC 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Deputy Assistant General Counsel for Enforcement at the same address, to the Regional Administrator, NRC Region I, 475 Allendale Road, King of Prussia, Pennsylvania 19406, to Ms. Boschuk if the answer or hearing request is by a person other than Ms. Boschuk. If a person other than Ms. Boschuk requests a hearing, that person shall set forth with particularity the manner in which his or her interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by Ms. Boschuk or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received.

Dated at Rockville, Maryland, this 10th day of April 1998.

For the Nuclear Regulatory Commission.

**James Lieberman,**

*Director, Office of Enforcement.*

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## **NUCLEAR REGULATORY COMMISSION**

[Docket No. 50-440; License No. NPF-58; EA 97-430]

### **Centerior Service Company, Perry Nuclear Power Plant, Unit 1; Order Imposing Civil Monetary Penalty**

**I**

Centerior Service Company (Licensee) is the holder of Operating License No. NPF-58, issued by the Nuclear Regulatory Commission (NRC or Commission) on November 13, 1986. The license authorizes the Licensee to operate the Perry Nuclear Power Plant,