

July 19, 2000

IA 00-017

Mr. Daniel Cosentino
[HOME ADDRESS DELETED
UNDER 10 CFR 2.790(a)]

SUBJECT: NOTICE OF VIOLATION
(BYRON INSPECTION REPORTS 50-454/99020(DRP); 50-455/99020(DRP))

Dear Mr. Cosentino:

This letter refers to an inspection completed on January 18, 2000, (Inspection Report 50-454/99020(DRP); 50-455/99020(DRP)) and information provided by the Commonwealth Edison Company (ComEd) to the U.S. Nuclear Regulatory Commission (NRC) indicating that you deliberately failed to perform visual inspections of portable fire extinguishers and fire hose stations and falsified the associated data sheets. A summary of the information developed, based on the NRC inspection and information provided by ComEd, was provided to you by the NRC in a letter, dated May 1, 2000. In that letter, you were given the opportunity either to discuss this matter at a predecisional enforcement conference or reply to the NRC in writing within 30 days. You requested a predecisional enforcement conference, which was held in the NRC Region III office on June 19, 2000.

Based on the NRC inspection, the information provided by ComEd and the information that you provided during the conference, the NRC has determined that a deliberate violation of NRC requirements occurred. The violation is cited in the enclosed Notice of Violation (Notice). In summary, while you were employed as a maintenance mechanic at ComEd's Byron Nuclear Station, you deliberately failed to perform visual inspections of 15 portable fire extinguishers and 13 fire hose stations between January and November 1999, and falsified the associated visual inspection data sheets. Your deliberate actions placed ComEd in violation of the Byron Station Operating Licenses and you in violation of 10 CFR 50.5, "Deliberate Misconduct." Therefore, the violation is categorized in accordance with the "General Policy and Procedure for NRC Enforcement Actions" (Enforcement Policy), NUREG-1600, at Severity Level III.

The NRC staff considered issuing an Order prohibiting your involvement in NRC-licensed activities as a result of your actions. However, after consultation with the Director, Office of Enforcement, and after considering the circumstances of this case, including the facts that: (1) the actual safety significance was minimal, since ComEd subsequently checked the extinguishers and fire hose stations and found no problems; (2) you indicated during the conference that you understand the significance of your actions and would follow procedures and perform tasks as expected in the future; and (3) ComEd took action regarding your wrongdoing, including removing your access to the Byron Generating Station, I have decided to issue the enclosed Notice of Violation. Nevertheless, you should be aware that if you are involved in NRC licensed activities in the future, engagement in any wrongdoing could result in more significant enforcement action.

The NRC has concluded that information regarding the reason for the violation and the corrective actions taken and planned to correct the violation and prevent recurrence is adequately addressed above. Therefore, you are not required to respond to this letter unless the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice.

Please feel free to contact Mr. Ronald Gardner of my staff if you have any questions. Mr. Gardner can be contacted at telephone number (630) 829-9751.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter and its enclosures, and your response, if you choose to submit one, will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/NRC/ADAMS/index.html> (the Public Electronic Reading Room).

Sincerely,

/RA/

J. E. Dyer
Regional Administrator

Enclosures: 1. Notice of Violation
2. Notice of Violation to ComEd

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

FILE NAME:g\eics\00-017 IA SLIII.wpd *SEE PREVIOUS CONCURRENCE

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¹ OE concurrence received from **Terry Reis**, OE, on July **14**, 2000

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PUBLIC IE-01

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RI, RII, and RIV

R. Paul, OI:RIII

OE

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Docket File

Notice of Violation

Mr. Daniel Cosentino
[HOME ADDRESS DELETED
UNDER 10 CFR 2.790(a)]

IA 00-017

During an NRC inspection completed on January 18, 2000, a violation of NRC requirements was identified. In accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," NUREG-1600, the violation is listed below:

10 CFR 50.5 (a)(1) prohibits an employee of a licensee from engaging in deliberate misconduct that causes a licensee to violate any regulation or term of its NRC License.

10 CFR 50.5 (c)(2) states, in part, that for purposes of paragraph (a)(1) of this section, deliberate misconduct by a person means an intentional act or omission that the person knows constitutes a violation of a requirement, procedure or instruction of a licensee.

10 CFR 50.5(a)(2) prohibits an employee of a licensee from deliberately submitting to a licensee information that the person submitting the information knows to be incomplete or inaccurate in some respect material to the NRC.

The Byron Station Operating License for Units 1 and 2, NPF-37 and NPF-66, respectively, require, in part, that the licensee implement and maintain in effect all provisions of the approved fire protection program as described in the licensee's Fire Protection Report.

Byron Fire Protection Report, Section 3.4.b, states that department and station procedures are established to cover specific instructions such as for inspections, test administrative control, fire drills and training that govern the fire protection program.

Byron Maintenance Surveillance Requirement FP-3A and 3B, "Portable Fire Extinguisher Monthly Inspection," Revision 1, require visual inspection of portable fire extinguishers at monthly intervals in the Turbine and Auxiliary Buildings, respectively.

Byron Maintenance Surveillance Requirement 3.10.F.1, "Common Fire Hose Station 31 Day Inspection," Revision 1, requires visual inspection of fire hose stations that were common to both Units 1 and 2 at 31-day intervals.

Contrary to the above, while an employee of the licensee, you engaged in deliberate misconduct which caused the licensee to be in violation of the above cited surveillance requirements. Specifically, in January, May, July, and November 1999, you deliberately failed to perform the visual inspection of 15 portable fire extinguishers at monthly intervals in the Turbine and Auxiliary Buildings. Furthermore, in March, May, and June 1999, you failed to perform the visual inspection of 13 fire hose stations at monthly intervals in the Turbine and Auxiliary Buildings. In addition, you deliberately submitted to the licensee information that you knew to be inaccurate or incomplete in some respect material to the NRC. Specifically, you indicated on Data Sheets submitted to the licensee that the portable fire extinguishers and fire hose stations were in satisfactory condition without performing the required inspections. The

Data Sheets are material to the NRC in that they provide information on the condition of portable fire extinguishers and fire hose stations. (010103)

This is a Severity Level III violation (Supplement VII).

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken and planned to correct the violation and prevent recurrence is already adequately described in the letter transmitting this Notice of Violation. However, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201 if the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation," and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555 with a copy to the Regional Administrator, Region III, within 30 days of the date of the letter transmitting this Notice of Violation (Notice).

If you contest this enforcement action, you should also provide a copy of this response, with the basis for this denial, to the Director, Office of Enforcement, United States Nuclear Regulatory Commission, Washington, DC 20555-0001.

If you choose to respond, your response will be made available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/NRC/ADAMS/index.html> (the Public Electronic Reading Room). Therefore, to the extent possible, the response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction.

Dated this 19th day of July 2000.