

April 20, 2001

Mr. Marty Denis
Barlow, Kobata, and Denis
222 S. Riverside Plaza
Suite 1410
Chicago, IL 60606

Dear Mr. Denis:

Enclosed are copies of NUREG-1600 "General Statement of Policy and Procedure for NRC Enforcement Actions" (the Enforcement Policy) and NRC regulations 10 CFR 50.5 and 50.7. We consider the two regulations as applicable to the enforcement decisions involving Crane Nuclear and Mr. Hall. The NRC committed to provide you copies of these documents during a telephone conversation between you and Ms. Patricia Lougheed of my staff on April 3, 2001. We have marked the section of the Enforcement Policy which addresses the purpose of the predecisional enforcement conference. Additionally, we have marked the section addressing potential sanctions that could result if the NRC determines that a violation occurred. Your clients will also receive copies of these documents with the letter inviting them to the June 13th predecisional enforcement conference. We have also provided you a map and directions to the Region 3 office.

Further information about NRC regulations and policies related to enforcement are available at the NRC Web site: <http://www.nrc.gov/nrc.html> or the Office of Enforcement's home page: <http://www.nrc.gov/OE/>

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter 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 by Roy J. Caniano Acting for/

John A. Grobe, Director,
Division of Reactor Safety

Enclosures: 1. 10 CFR 50.5
 2. 10 CFR 50.7
 3. "General Statement of Policy and Procedure for NRC Enforcement Actions"
 (Enforcement Policy), NUREG
 4. Directions to RIII Office

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DOCUMENT NAME: C:\Letter to lawyer 042001drs.wpd

To receive a copy of this document, indicate in the box: "C" = Copy without attachment/enclosure "E" = Copy with attachment/enclosure "N" = No copy

OFFICE	RIII	RIII	RIII	RIII
NAME	JJacobson for PLougheed	JJacobson	BClayton	RCaniano for JGrobe
DATE	04/11/01	04/17/01	04/17/01	04/20/01

OFFICIAL RECORD COPY

Enclosure 1

§50.5 Deliberate misconduct

- (a) Any licensee, applicant for a license, employee of a licensee or applicant; or any contractor (including a supplier or consultant), subcontractor, employee of a contractor or subcontractor of any licensee or applicant for a license, who knowingly provides to any licensee, applicant, contractor, or subcontractor, any components, equipment, materials, or other goods or services that relate to a licensee's or applicant's activities in this part, may not:
 - (1) Engage in deliberate misconduct that causes or would have caused, if not detected, a licensee or applicant to be in violation of any rule, regulation, or order; or any term, condition, or limitation of any license issued by the Commission; or
 - (2) Deliberately submit to the NRC, a licensee, an applicant, or a licensee's or applicant's contractor or subcontractor, information that the person submitting the information knows to be incomplete or inaccurate in some respect material to the NRC.
- (b) A person who violates paragraph (a)(1) or (a)(2) of this section may be subject to enforcement action in accordance with the procedures in 10 CFR Part 2, Subpart B.
- (c) For the purposes of paragraph (a)(1) of this section, deliberate misconduct by a person means an intentional act or omission that the person knows:
 - (1) Would cause a licensee or applicant to be in violation of any rule, regulation, or order; or any term, condition, or limitation, of any license issued by the Commission; or
 - (2) Constitutes a violation of a requirement, procedure, instruction, contract, purchase order, or policy of a licensee, applicant, contractor, or subcontractor.

Enclosure 2

§50.7 Employee protection

- (a) Discrimination by a Commission licensee, an applicant for a Commission license, or a contractor or subcontractor of a Commission licensee or applicant against an employee for engaging in certain protected activities is prohibited. Discrimination includes discharge and other actions that relate to compensation, terms, conditions, or privileges of employment. The protected activities are established in section 211 of the Energy Reorganization Act of 1974, as amended, and in general are related to the administration or enforcement of a requirement imposed under the Atomic Energy Act or the Energy Reorganization Act.
- (1) The protected activities include but are not limited to:
- (i) Providing the Commission or his or her employer information about alleged violations of either of the statutes named in paragraph (a) introductory text of this section or possible violations of requirements imposed under either of those statutes;
 - (ii) Refusing to engage in any practice made unlawful under either of the statutes named in paragraph (a) introductory text or under these requirements if the employee has identified the alleged illegality to the employer;
 - (iii) Requesting the Commission to institute action against his or her employer for the administration or enforcement of these requirements;
 - (iv) Testifying in any Commission proceeding, or before Congress, or at any Federal or State proceeding regarding any provision (or proposed provision) of either of the statutes named in paragraph (a) introductory text.
 - (v) Assisting or participating in, or is about to assist or participate in, these activities.
- (2) These activities are protected even if no formal proceeding is actually initiated as a result of the employee assistance or participation.
- (3) This section has no application to any employee alleging discrimination prohibited by this section who, acting without direction from his or her employer (or the employer's agent), deliberately causes a violation of any requirement of the Energy Reorganization Act of 1974, as amended, or the Atomic Energy Act of 1954, as amended.
- (b) Any employee who believes that he or she has been discharged or otherwise discriminated against by any person for engaging in protected activities specified in paragraph (a)(1) of this section may seek a remedy for the discharge or discrimination through an administrative proceeding in the Department of Labor. The administrative proceeding must be initiated within 180 days after an alleged violation occurs. The

employee may do this by filing a complaint alleging the violation with the Department of Labor, Employment Standards Administration, Wage and Hour Division. The Department of Labor may order reinstatement, back pay, and compensatory damages.

- (c) A violation of paragraph (a), (e), or (f) of this section by a Commission licensee, an applicant for a Commission license, or a contractor or subcontractor of a Commission licensee or applicant may be grounds for --
 - (1) Denial, revocation, or suspension of the license.
 - (2) Imposition of a civil penalty on the licensee or applicant.
 - (3) Other enforcement action.
- (d) Actions taken by an employer, or others, which adversely affect an employee may be predicated upon nondiscriminatory grounds. The prohibition applies when the adverse action occurs because the employee has engaged in protected activities. An employee's engagement in protected activities does not automatically render him or her immune from discharge or discipline for legitimate reasons or from adverse action dictated by non-prohibited considerations.
- (e)
 - (1) Each licensee and each applicant for a license shall prominently post the revision of NRC Form 3, "Notice to Employees," referenced in 10 CFR 19.11(c). This form must be posted at locations sufficient to permit employees protected by this section to observe a copy on the way to or from their place of work. Premises must be posted not later than 30 days after an application is docketed and remain posted while the application is pending before the Commission, during the term of the license, and for 30 days following license termination.
 - (2) Copies of NRC Form 3 may be obtained by writing to the Regional Administrator of the appropriate U. S. Nuclear Regulatory Commission Regional Office listed in Appendix D to Part 20 of this chapter or by calling the NRC Information and Records Management Branch at (301) 415 - 7230.
- (f) No agreement affecting the compensation, terms, conditions, or privileges of employment, including an agreement to settle a complaint filed by an employee with the Department of Labor pursuant to section 211 of the Energy Reorganization Act of 1974, as amended, may contain any provision which would prohibit, restrict, or otherwise discourage an employee from participating in protected activity as defined in paragraph (a)(1) of this section including, but not limited to, providing information to the NRC or to his or her employer on potential violations or other matters within NRC's regulatory responsibilities.

Enclosure 4

DIRECTIONS TO REGION III

U.S. Nuclear Regulatory Commission
Region III
801 Warrenville Road
Lisle, IL 60532-4351

Switchboard Telephone Number: 630-829-9500
Switchboard Hours: 7 a.m. to 4:45 p.m., Monday through Friday (Central Time))

Directions

From O'Hare Airport

1. Exit the airport toward the city.
2. Take the Tristate (Interstate 294) south, towards Indiana (a 40-cent toll is required just after entering Interstate 294).
3. Exit onto Interstate 88 (East-West Tollway) west (Aurora/Iowa).
4. Proceed west on Interstate 88, past another 40-cent toll, to Illinois Highway 53 south (the second Illinois Highway 53 exit).
5. Move immediately to the left lane and turn left at the first traffic light intersection (Warrenville Road).
6. Proceed through two traffic light intersections and past a duck pond on the right.
7. Turn in at the next drive "Arboretum Lakes". There is no traffic light at this intersection.
8. Bear to the right to reach the 801 Warrenville Road building with a parking garage across the drive. The upper level of the parking garage is publically accessible - no key card required.
9. The Region III office reception area is on the second floor. However, on the day of the conference you may proceed directly to the 3rd floor and follow the signs directing you to the conference room.

From Midway Airport

1. Turn left (north) on Cicero Avenue when exiting the airport.
2. Proceed north to Interstate 55 (North-South Tollway) west, which is a left turn after passing under the interstate.
3. Take Interstate 55 west to Interstate 355, toward the western suburbs.
4. There is one 50-cent toll upon entering Interstate 355.
5. Exit west onto Ogden Avenue, turning left under the interstate.
6. Turn right almost immediately on Ivanhoe Rd (Gas Station on NW corner of intersection)
7. Go one block and turn left on Warrenville Rd
8. Turn into second left turn lane - first set of green buildings "Arboretum Lakes"
9. Bear to the right to reach the 801 Warrenville Road building with a parking garage across the drive. The upper level of the parking garage is publically accessible - no key card required.
10. The Region III office reception area is on the second floor. However, on the day of the conference you may proceed directly to the 3rd floor and follow the signs directing you to the conference room.

From Downtown Chicago

1. Take the Eisenhower Expressway (Interstate 290) west.
2. Take the left exit at Interstate 88 (East-West Tollway) west (towards Aurora).
3. Proceed on Interstate 88 past a 40-cent toll to the Illinois 53 south exit (the second Illinois Highway 53 exit).
4. Move immediately to the left lane and turn left at the first traffic light intersection (Warrenville Road).
5. Proceed through two traffic light intersections and past a duck pond on the right.
6. Turn in at the next drive "Arboretum Lakes". There is no traffic light at this intersection.
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