

September 16, 2013

EA-12-189

Mr. Jeffrey J. Lyash, President Power Group
Chicago Bridge and Iron
128 South Tryon Street, Suite 1000
Charlotte, NC 28202

SUBJECT: CONFIRMATORY ORDER (EFFECTIVE IMMEDIATELY) AND
WITHDRAWAL OF NOTICE OF VIOLATION AND PROPOSED IMPOSITION OF
CIVIL PENALTIES (NRC OFFICE OF INVESTIGATIONS REPORT
NO. 2-2011-047) CHICAGO BRIDGE AND IRON

Dear Mr. Lyash:

The enclosed Confirmatory Order is being issued to Chicago Bridge and Iron (CB&I) as a result of a successful alternative dispute resolution (ADR) session. The enclosed commitments were made by CB&I as part of a preliminary settlement agreement between CB&I and the U.S. Nuclear Regulatory Commission (NRC) concerning a Notice of Violation (Notice) and Proposed Imposition of Civil Penalties issued by the NRC on April 18, 2013. The violation involved employment discrimination in violation of 10 CFR 52.5, "Employee protection," of a former Shaw Power Group¹ employee.

In response to the Notice, CB&I requested the use of the NRC's alternative dispute resolution (ADR) process to resolve the issues associated with the violation. ADR mediation sessions were held in Rockville, Maryland, on June 11, 2013, and July 29, 2013, at which time the NRC and CB&I reached a preliminary settlement agreement. The terms and conditions of the settlement agreement are set forth in Section IV of the enclosed Confirmatory Order.

As a result of the settlement agreement from the ADR mediation session, CB&I agreed to take a number of actions for all persons employed by CB&I including contractors and subcontractors, excluding short term employees, who are engaged in work associated with NRC-regulated activities. Those actions include: (1) reinforcing through a written communication from CB&I's Chief Executive Officer the Company's strategy to improve its nuclear safety culture; (2) updating its nuclear safety culture and safety conscious work environment policies and documents to ensure they are consistent with and informed by NRC and industry guidance, (3) developing

¹CB&I purchased the Shaw Group in February 2013.

and/or revising the company's employee protection, nuclear safety culture and safety conscious work environment training; (4) establishing a uniform Executive Review Board process to ensure independent management review of all proposed significant adverse actions; (5) developing a single Employee Concerns Program; (6) performing tailored comprehensive nuclear safety culture assessments, including site surveys, of all CB&I nuclear business entities; and (7) sharing the company's experience and insights related to this matter at a NRC vendor workshop.

In view of the Confirmatory Order, consent by CB&I thereto as evidenced by your signed "Consent and Hearing Waiver Form" (copy enclosed) dated September 13, 2013, and subject to the satisfactory completion of the conditions of the Confirmatory Order by CB&I, the NRC is exercising enforcement discretion and withdrawing the Notice of Violation and Proposed Imposition of Civil Penalties. The Order does not affect other potential escalated enforcement actions, including ongoing investigations by the NRC's Office of Investigations. However, as part of its deliberations and consistent with the philosophy of the Enforcement Policy, Section 3.3, "Violations Identified Because of Previous Enforcement Action," the NRC will consider enforcement discretion for violations with similar root causes that occur prior to or during implementation of the corrective actions aimed at correcting that specific condition as specified in the Confirmatory Order.

Because of CB&I's broader corrective actions addressing all of CB&I's NRC-regulated activities, the NRC has concluded that the public health and safety is assured to a greater degree than it would have been pursuant to traditional enforcement. Be advised that the NRC staff will evaluate the implementation of the Confirmatory Order during future inspections to evaluate the implementation of CB&I's commitments.

We have enclosed a Confirmatory Order (effective immediately) to confirm the actions made as part of the settlement agreement. As evidenced by your signed "Consent and Hearing Waiver" Form (copy enclosed) dated September 13, 2013, you agree to the issuance of the enclosed confirmatory order.

Pursuant to Section 223 of the Atomic Energy Act of 1954, as amended, any person who willfully violates, attempts to violate, or conspires to violate, any provision of the enclosed confirmatory order shall be subject to criminal prosecution as set forth in that section. Violation of the confirmatory order may also subject the person to civil monetary penalties.

You are not required to respond to this letter. However, if you choose to provide a response, please provide it to me within 30 days at U.S. Nuclear Regulatory Commission, Mail Stop O4A15A, 11555 Rockville Pike, Rockville, MD 20852. Questions concerning the enclosed confirmatory order should be addressed to Russell Arrighi, NRC Office of Enforcement, who can be reached at 301-415-0205 or via e-mail at Russell.Arrighi@nrc.gov.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter and its enclosures will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. The NRC will also include this letter, and the enclosed confirmatory order, on its website at www.nrc.gov. Your response, if you choose to provide one, will also be made available electronically for public inspection in the NRC Public Document Room or ADAMS.

J. Lyash

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Sincerely,

/RA/

Roy P. Zimmerman, Director
Office of Enforcement

Enclosures:

1. Confirmatory Order
2. Copy of Consent and Hearing Waiver
Form dated September 13, 2013

J. Lyash

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enclosed confirmatory order, on its website at www.nrc.gov. Your response, if you choose to provide one, will also be made available electronically for public inspection in the NRC Public Document Room or ADAMS.

Sincerely,

/RA/

Roy P. Zimmerman, Director
Office of Enforcement

Enclosures:

1. Confirmatory Order
2. Copy of Consent and Hearing Waiver
Form dated September 13, 2013

cc w/out encl:

Mark McKain, Vice President & General Counsel, CB&I Power
Mr. Daryl Shapiro, Partner
Pillsbury Winthrop Shaw Pittman LLP

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