

October 6, 2015

EA-14-226

Mr. Luke Scorsone, Executive Vice President
Group President Fabrication Services
Chicago Bridge & Iron Company
2103 Research Forest Drive
The Woodlands, TX 77380

SUBJECT: U.S. NUCLEAR REGULATORY COMMISSION OFFICE OF INVESTIGATIONS
REPORT NO. 2-2013-027; EXERCISE OF DISCRETION

Dear Mr. Scorsone:

This letter refers to an investigation conducted by the U.S. Nuclear Regulatory Commission's (NRC) Office of Investigations (OI) related to work activities at the Chicago Bridge & Iron Company, Lake Charles (CB&I-LC), Louisiana facility, formerly known as Shaw Modular Solutions (SMS). This OI investigation was initiated to determine whether willful noncompliance with requirements contributed to performance deficiencies and work quality issues that occurred during the fabrication of safety related modules for the Vogtle Electric Generating Plant (Vogtle) and Virgil C. Summer Nuclear Station (V.C. Summer) new reactor construction sites. Based on its review of the OI report from this investigation, the NRC identified a violation of NRC requirements.

OI investigation 2-2013-027 was initiated to determine whether on or about May 2012, a CB&I-LC quality control (QC) manager deliberately directed subordinate CB&I-LC staff to perform visual inspections on less than 100% of tack welds, contrary to the requirement stated in the CB&I-LC inspection procedures. The NRC completed its investigation on December 2, 2014.

Based on the results of the investigation, the NRC concluded that the QC manager did deliberately direct subordinate QC staff to not conduct a visual inspection of 100% of the tack welds, contrary to CB&I-LC procedural requirements. The QC manager confirmed that the tack weld inspection requirements in the CB&I-LC procedures exceeded the American Welding Society (AWS) D1.1 code requirements. However, instead of changing the CB&I-LC procedure requirements, the QC manager deliberately directed subordinate QC supervisors and inspectors to not perform all required inspections.

The NRC identified this as a violation of Title 10 *Code of Federal Regulations* (10 CFR) 52.4, "Deliberate Misconduct," since these actions by the QC manager would have caused a licensee to be in violation of Criterion X, "Inspections," of Appendix B to 10 CFR Part 50, "Quality Assurance Criteria for Nuclear Power Plants and Fuel Reprocessing Plants." Criterion X requires, in part that examinations of material or products be performed for each work operation where necessary to assure quality. The CB&I-LC QC manager directed subordinate staff to not perform all of the visual inspections required by work procedures.

This violation would typically be considered minor since the 100% tack weld inspection criteria that was not met was more conservative than the actual AWS D1.1 code requirements. However, in accordance with section 2.2.1.d of the Enforcement Policy this violation was considered more than minor due to the willful aspect of the violation, and the position and responsibilities of the QC manager.

Willful violations of NRC requirements are of significant regulatory concern because the NRC's regulatory program is based on licensees and the employees of licensees acting with integrity and communicating with candor. Normally, the NRC would pursue this case through the issuance of a notice of violation (NOV) for this violation of its deliberate misconduct rules by vendor staff.

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 considered whether enforcement discretion would be appropriate for the violation described above. Section 3.3 states, in part that the NRC may refrain from issuing an NOV for a violation identified after the NRC has taken enforcement action if the violation has the same or similar root cause as the violation for which enforcement was previously taken. On September 25, 2014, the NRC issued a Confirmatory Order (CO) to enhance actions that CB&I had previously agreed to take to further address issues relating to willful violations of NRC requirements and deliberate misconduct (EA-12-189 and EA-13-196) (Agencywide Documents Access and Management System (ADAMS) Accession No. ML14248A445). The violation discussed in this letter occurred prior to or during implementation of the corrective actions specified in the September 2014 CO.

Based on its review, NRC staff concluded that the causes for this deliberate violation of NRC requirements, as described above are similar to the root causes of the violations that led to the issuance of the September 2014 CO. Therefore, I have been authorized, after consultation with the Director, Office of Enforcement, and the Director, Office of New Reactors, to exercise enforcement discretion in accordance with Section 3.3 of the Enforcement Policy and refrain from issuing enforcement for this violation.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosure(s), and your response will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible at <http://www.nrc.gov/reading-rm/adams.html>.

L. Scorsone

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If you have any questions concerning this matter, please contact Ms. Kerri Kavanagh, Chief, Quality Assurance Vendor Inspection Branch at (301) 415-3743 or Mr. Timothy Frye, Senior Enforcement Coordinator at (301) 415-3900.

Sincerely,

/RA/

Michael Cheok, Director
Division of Construction Inspection
and Operational Programs
Office of New Reactors

Docket No. 99901425

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Sincerely,

/RA/

Michael Cheek, Director
Division of Construction Inspection
and Operational Programs
Office of New Reactors

Docket No. 99901425

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