



May 19, 2015

Patricia K. Holahan
Director, Office of Enforcement
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

SUBJECT: REPLY TO A NOTICE OF VIOLATION; (EA-14-085)

Dear Ms. Holahan:

By letter dated April 20, 2015, the U.S. Nuclear Regulatory Commission (NRC) issued to CB&I a Notice of Violation (NOV) and Proposed Imposition of Civil Penalty associated with NRC Investigation Report No. 2-2013-024.

The attachment to this letter provides the CB&I response to the NOV.

If you have any questions regarding this letter, please contact Mr. Michael Annacone at (980) 321-8011.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Luke V. Scorson', with a stylized flourish at the end.

Luke V. Scorson
Executive Vice President, Group President
Fabrication Services
CB&I

cc: U.S. Nuclear Regulatory Commission, Document Control Desk

Attachment: Reply to a Notice of Violation; (EA-14-085)

REPLY TO A NOTICE OF VIOLATION; (EA-14-085)

This is the CB&I reply to the NRC Notice of Violation (NOV) EA-14-085, Chicago Bridge and Iron Company (Lake Charles, LA), Docket No. 99901425, dated April 20, 2015. The NOV resulted from an investigation conducted by the NRC's Office of Investigations between April 13, 2013 and May 9, 2014. The initial notification of CB&I regarding EA-14-085 was provided by the NRC in a letter dated December 15, 2014. Based on information in the December 15, 2014, letter, CB&I elected to participate in a Predecisional Enforcement Conference (PEC) on January 22, 2015. The intent of CB&I participation in the PEC was to not contest the apparent violations, but rather to provide information regarding corrective actions and to demonstrate CB&I recognition of the significance of deliberate misconduct violations. The information provided in this reply to the NOV is consistent with the information previously provided and discussed during the PEC.

VIOLATION STATES:

During an investigation conducted by the U.S. Nuclear Regulatory Commission (NRC), Office of Investigations, completed on May 9, 2014, violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the NRC proposes to impose a civil penalty pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and Title 10 of the *Code of Federal Regulations* (10 CFR) 2.205. The particular violations and associated civil penalty are set forth below:

- A. 10 CFR 52.4(c)(1) states, in part, that an employee of a contractor of any licensee may not engage in deliberate misconduct that causes or would have caused, if not detected, a licensee to be in violation of any rule, regulation, or order; or any term, condition, or limitation of any license issued by the Commission.

Criterion XVI, "Corrective Action," of Appendix B, "Quality Assurance Program Criteria for Nuclear Power Plants and Fuel Reprocessing Plants," to 10 CFR Part 50, states, in part, that "measures shall be established to assure that conditions adverse to quality, such as . . . deficiencies . . . and nonconformances are promptly identified and corrected."

Contrary to the above, between March 1 - 14, 2013, multiple Chicago Bridge and Iron Company, Lake Charles, Louisiana, facility (CB&I-LC) officials and employees engaged in deliberate misconduct that would have caused South Carolina Electric and Gas Co., the licensee for the Virgil C. Summer Nuclear Station (V. C. Summer), to be in violation of 10 CFR Part 50, Appendix B, Criterion XVI. Specifically:

1. A CB&I-LC official deliberately instructed subordinate CB&I-LC employees to knowingly omit from Incident Investigation Report statements that: (a) the V. C. Summer CA-01-20 sub-module had dropped approximately 3.5 feet; (b) improper rigging equipment (nylon slings) had been used and had broken; and (c) the sub-module had sustained damage. The CB&I-LC official also failed to promptly identify a condition adverse to quality relating to the damage that occurred to the sub-module as a result of the incident.

2. Another CB&I-LC official, with knowledge to the contrary, deliberately allowed CB&I-LC employees to knowingly omit this information from Incident Investigation Report statements after witnessing the first official's instructions. The second CB&I official also failed to promptly identify a condition adverse to quality relating to the damage that occurred to the sub-module.
3. As a result of following the CB&I-LC official's instructions, multiple CB&I-LC employees deliberately failed to promptly identify a condition adverse to quality relating to the damage that occurred to the sub-module.

The deliberate actions on the part of the CB&I-LC officials and employees resulted in a condition adverse to quality not being promptly identified and corrected.

- B. 10 CFR 52.4(c)(2) states, in part, that an employee of a contractor for any licensee may not deliberately submit to the NRC, licensee, or contractor, information that the person submitting the information knows to be incomplete or inaccurate in some respect material to the NRC.

Criterion XVI, "Corrective Action," of Appendix B, states, in part, that "measures shall be established to assure that conditions adverse to quality, such as . . . deficiencies . . . and nonconformances are promptly identified and corrected."

Contrary to the above:

1. On March 1, 2013, at least six CB&I-LC employees deliberately submitted incomplete and inaccurate information related to the dropped sub-module incident. Specifically, the employees omitted information that: (1) the V. C. Summer CA-01-20 sub-module had dropped approximately 3.5 feet; (2) improper rigging equipment (nylon slings) had been used and had broken; and (3) the sub-module had sustained damage in their original statements that supported an Incident Investigation Report. The incomplete and inaccurate information is material to the NRC because relevant facts associated with a potential nonconforming safety-related component were knowingly withheld until on or about March 14, 2013, and resulted in a condition adverse to quality not being promptly identified and corrected.
2. Between March 14 and April 4, 2013, multiple CB&I-LC officials engaged in deliberate misconduct by intentionally withholding information from other CB&I-LC employees investigating a condition adverse to quality. Specifically, the CB&I-LC officials deliberately withheld relevant information about the March 1, 2013, dropped module incident from members of a team evaluating Condition Report (CR) CR 2013-315, which was initiated, in part, to ensure appropriate corrective actions would be taken following the incident. As a result, evaluation team's April 4, 2013, report concluded that "[t]here is no evidence and no written report (other than what is stated in CR 13-315 by the initiator) that: 1) a free-fall occurred, 2) a nylon strap was used or broke during the lift, or 3) that the sub-module fell at all. (There was not a statement made in any of the incident reports that said the Module fell)." The evaluation team's report was submitted despite the fact that the CB&I-LC officials had information to the contrary and knew that these conclusions were incomplete or inaccurate in some respect material to the NRC. The incomplete and inaccurate information is material to the NRC because relevant facts associated with a nonconforming safety-related component were knowingly withheld and, if not detected,

would have resulted in a condition adverse to quality not being promptly identified and corrected.

This is a Severity Level II Problem (NRC Enforcement Policy, Sections 6.5 and 6.9)

REASON FOR THE VIOLATION:

CB&I offers the following regarding the circumstances which resulted in the violation: The reason for the identified violation is the lack of understanding and commitment to nuclear safety culture and safety conscious work environment (SCWE) behaviors. The circumstances identified in this notice of violation pre-date NRC issuance of the "Chilling Effect Letter (CEL)," EA-13-066 dated April 18, 2013, and the Confirmatory Order (CO) letter, EA-12-189 dated September 16, 2013. Additionally, the confirmatory order was reissued on September 25, 2014, to include EA-13-196. This revised CO included actions to establish stronger controls to help preclude deliberate misconduct behaviors. The causal factors of the issues described in this violation are consistent with the causal factors that led to the issuance of the CEL and CO, with the predominant cause being attributed to the lack of understanding and commitment to nuclear safety culture and SCWE behaviors due to lack of established comprehensive safety culture policies and programs. Additionally, the nuclear safety culture experience of the leadership at the facility was not sufficient to recognize the significance of issues and their impact on nuclear safety culture.

While it is known that actions to engage in deliberate misconduct are based on individual choices and decisions, CB&I has also recognized the need to strengthen the overall nuclear safety culture health and SCWE to promote and reinforce the correct behaviors at CB&I Lake Charles, and at other locations in CB&I where nuclear regulated activities are performed.

CORRECTIVE STEPS THAT HAVE BEEN TAKEN AND THE RESULTS ACHIEVED:

As noted above, on September 25, 2014, the NRC issued a revised CO to include actions for EA-13-196, which was associated with other circumstances of deliberate misconduct. The additional corrective actions in the revised CO, along with the actions that were established by the initial issuance of the CO and CB&I response to the CEL, constitute comprehensive actions to address deliberate misconduct and SCWE issues of the type identified in this NOV. Therefore, the completed actions for the revised CO and CEL have corrected the causes and conditions that resulted in the deliberate misconduct identified in this NOV.

Additionally, as discussed at the PEC and as recognized by the NRC in this NOV, specific corrective actions associated with the circumstances of the dropped module included:

- (1) A non-conformance report was initiated for the dropped sub-module. Corrective Actions included evaluation and repair, as needed, and the sub-module was re-inspected prior to being shipped and received at the construction site;
- (2) Subsequent to the dropped submodule event described in this NOV, CB&I established an "Employee Concerns Board" as an alternative process and forum to provide independent executive review of the investigation facts and resolve disagreements regarding Employee Concerns Program investigation conclusions;

- (3) Significant and substantive improvements to the CB&I Lake Charles Corrective Action Program have been made since June 2013, which have strengthened the initiation, screening, and quality reviews of completed investigations and corrective actions; and
- (4) CB&I Lake Charles has adopted improved rigging procedures that have been made available from the CB&I management system and also specific training was conducted pertaining to proper rigging for the Rigging Department employees.

Further details regarding the causes and corrective actions for the dropped module were provided to the NRC in CB&I letter L-CBILC-USNRC-000041, "Reply to a Notice of Nonconformance Letter EA-14-085," dated January 15, 2015.

Additionally, the persons identified in this NOV (the rigging manager, the safety representative, and the rigging crew members) are no longer employed by CB&I.

CORRECTIVE STEPS THAT WILL BE TAKEN:

The actions necessary to correct the causes and conditions identified in this notice of violation have been completed.

DATE WHEN FULL COMPLIANCE WILL BE ACHIEVED:

Full compliance has been achieved based on completion of the actions necessary to correct the causes and conditions identified in this notice of violation.