

August 15, 2017

EA-14-227

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. 2-2013-044; 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 CB&I-LC contract employees engaged in deliberate misconduct during the fabrication of safety-related modules destined for the AP1000 new reactor construction sites.

Specifically, OI investigation 2-2013-044 was initiated to determine whether or not three Quality Control (QC) inspectors under contract to work at CB&I-LC had willfully falsified their training records in order to gain employment at CB&I-LC. On or about August 6, 2013, CB&I-LC identified that these three QC inspectors provided falsified training certifications for the Visual Inspection (VT) of welds. The NRC completed its investigation on November 26, 2014.

Based on the results of the investigation, the NRC has identified an apparent violation of Title 10 of the *Code of Federal Regulations* (10 CFR) 52.4, "Deliberate Misconduct." The NRC has concluded that the three contract QC inspectors knowingly and deliberately falsified their training records. The NRC further substantiated that at least one of the three QC inspectors had performed numerous VT inspections on safety-related sub-module welds that he or she was not qualified for. Notwithstanding, the submodules subsequently received a 100 percent re-inspection at the site.

These deliberate actions would have caused AP1000 licensees to be in violation of Criterion IX, "Control of Special Processes," of Appendix B to 10 CFR Part 50, "Quality Assurance Criteria for Nuclear Power Plants and Fuel Reprocessing Plants." Criterion IX requires, in part, that measures be established to assure that special processes, including non-destructive testing, are accomplished by qualified personnel.

This issue would typically be considered a Severity Level IV violation due to the low safety significance of the VT inspections performed by the unqualified QC inspectors. However, in accordance with section 2.2.1.d of the Enforcement Policy, this violation was also considered for escalated enforcement due to the willful aspects of the violation, and the intent to achieve an economic gain by the three QC inspectors through employment at CB&I-LC.

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.

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 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). 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, the staff has concluded that the cause for the violation of the NRC's deliberate misconduct rules was 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 these violations.

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>.

If you have any questions concerning this matter, please contact Ms. Kerri Kavanagh, Chief, Quality Assurance Vendor Inspection Branch-3 at (301) 415-3743 or Ms. Stacy Smith, Enforcement Coordinator at (301) 415-6025.

Sincerely,

/RA Paul Krohn Acting for/

Tim J. McGinty, Director
Division of Construction Inspection
and Operational Programs
Office of New Reactors

Docket No. 99901425

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