

ENCLOSURE

NOTICE OF VIOLATION AND PROPOSED IMPOSITION OF CIVIL PENALTIES

Northeast Nuclear Energy Company
Millstone, Unit 1
Waterford, Connecticut

Docket No. 50-245
License No. DPR-21
EA 91-127

During an NRC inspection conducted on January 8-12, 1990, as well as a subsequent investigation by the NRC Office of Investigation, violations of NRC requirements were identified. In accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," 10 CFR Part 2, Appendix C, the Nuclear Regulatory Commission proposes to impose civil penalties pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205. The particular violations and associated civil penalties are set forth below:

I. Failure to Take Prompt Corrective Action

10 CFR Part 50, Appendix B, Criterion XVI, Corrective Action, requires, in part, that measures be established to assure that conditions adverse to quality such as failures, malfunctions, deficiencies and nonconformances are promptly identified and corrected. In the case of significant conditions adverse to quality, the measures shall assure that the cause of the conditions is determined and corrective actions taken to preclude repetition.

Contrary to the above, on June 15, 1989, a condition adverse to quality was identified at the Unit 1 facility concerning the operability of the Feedwater Coolant Injection (FWCI) System, and the licensee failed to take prompt action to address the condition until November 17, 1989, when FWCI was declared inoperable. This is considered to be a continuing violation.

This is a Severity Level II violation (Supplement I). (01012)
Civil Penalty - \$120,000

II. Violation Involving Discrimination Against an Engineer

10 CFR 50.7, Employee Protection, subsection (a), prohibits discrimination by a Commission licensee against any employee for engaging in certain protected activities. Discrimination includes discharge and other actions that relate to compensation, terms, conditions, and privileges of employment. Protected activities include, but are not limited to, the raising of safety concerns to licensee management.

Contrary to the above, the licensee discriminated against an employee for engaging in protected activities. During October and November 1989, the employee, Elliot Abolafia, an engineer in the licensee's organization, was engaged in a protected activity in that he raised questions with his management concerning the operability of the Feedwater Coolant Injection System (FWCI). In April 1990, the licensee's Engineering Manager, Mr. Vogel, discriminated against Mr. Abolafia by not selecting him to fill a vacancy in the Millstone Unit 1 engineering organization in retaliation for his technical evaluation and conclusion regarding the operability of the FWCI system.

This is a Severity Level II violation (Supplement VII). (02012)
Civil Penalty - \$100,000

Pursuant to the provisions of 10 CFR 2.201, Northeast Nuclear Energy Company (Licensee) is hereby required to submit a written statement or explanation to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, within 30 days of the date of this Notice of Violation and Proposed Imposition of Civil Penalties (Notice). This reply should be clearly marked as a "Reply to a Notice of Violation" and should include for each alleged violation: (1) admission or denial of the alleged violation, (2) the reasons for the violation if admitted, and if denied, the reasons why, (3) the corrective steps that have been taken and the results achieved, (4) the corrective steps that will be taken to avoid further violations, and (5) the date when full compliance will be achieved. If an adequate reply is not received within the time specified in this Notice, an order or a demand for information may be issued as to why the license should not be modified, suspended, or revoked or why such other action as may be proper should not be taken. Consideration may be given to extending the response time for good cause shown. Under the authority of Section 182 of the Act, 42 U.S.C. 2232, this response shall be submitted under oath or affirmation.

Within the same time as provided for the response required above under 10 CFR 2.201, the Licensee may pay the civil penalties by letter addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, with a check, draft, money order, or electronic transfer payable to the Treasurer of the United States in the amount of the civil penalties proposed above, or may protest imposition of the civil penalties in whole or in part, by a written answer addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission. Should the Licensee fail to answer within the time specified, an order imposing the civil penalties will be issued. Should the Licensee elect to file an answer in accordance with 10 CFR 2.205 protesting the civil penalties, in whole or in part, such answer should be clearly marked as an "Answer to a Notice of Violation" and may: (1) deny the violations listed in this Notice, in whole or in part, (2) demonstrate extenuating circumstances, (3) show error in this Notice, or (4) show other reasons why the penalties should not be imposed. In addition to protesting the civil penalties in whole or in part, such answer may request remission or mitigation of the penalties.

In requesting mitigation of the proposed penalties, the factors addressed in Section VI.B.2. of 10 CFR Part 2, Appendix C (1352), should be addressed. Any written answer in accordance with 10 CFR 2.205 should be set forth separately from the statement or explanation in reply pursuant to 10 CFR 2.201, but may incorporate parts of the 10 CFR 2.201 reply by specific reference (e.g., citing page and paragraph numbers) to avoid repetition. The attention of the Licensee is directed to the other provisions of 10 CFR 2.205, regarding the procedure for imposing civil penalties.

Upon failure to pay any civil penalties due which subsequently have been determined in accordance with the applicable provisions of 10 CFR 2.205, this matter may be referred to the Attorney General, and the penalties, unless compromised, remitted, or mitigated, may be collected by civil action pursuant to Section 234c of the Act, 42 U.S.C. 2282(c).

The response noted above (Reply to Notice of Violation, letter with payment of civil penalties, and Answer to a Notice of Violation) should be addressed to: Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, D.C. 20555 with a copy to the Regional Administrator, U.S. Nuclear Regulatory Commission, Region I, 475 Allendale Road, King of Prussia, Pennsylvania 19406 and a copy to the Senior Resident Inspector, Millstone Station.

Dated at King of Prussia, Pennsylvania
this 13th day of July 1994



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION II
101 Marietta Street, N.W., Suite 2900
Atlanta, Georgia 30323-0199

FEB 16 1994

Docket No. 50-302
License No. DPR-72
EA 93-226

Florida Power Corporation
Mr. P. M. Beard, Jr. (NA2I)
Senior Vice President
Nuclear Operations
ATTN: Manager, Nuclear Licensing
15760 West Power Line Street
Crystal River, Florida 34428-6708

Gentlemen:

SUBJECT: NOTICE OF VIOLATION
(U.S. Department of Labor Case No. 88-ERA-29)

This letter refers to the results of an administrative proceeding conducted by the U.S. Department of Labor (DOL) which involved a complaint of employee discrimination filed by a former employee of Fluor Constructors International, Inc. (Fluor), at Florida Power Corporation's Crystal River 3 Nuclear Plant under the provisions of Section 210 of the Energy Reorganization Act of 1974, as amended (ERA) (recently changed to Section 211 by the Energy Policy Act of 1992). The DOL proceedings consisted of an investigation, an administrative hearing conducted by a DOL Administrative Law Judge (ALJ) and a final order issued by the Secretary of Labor finding that discrimination occurred in the case. As a result of the DOL proceedings and findings, the Nuclear Regulatory Commission (NRC or Commission) has concluded that a violation of Section 210 and of NRC regulations occurred, specifically a violation of 10 CFR 50.7, which prohibit discrimination against an employee for engaging in activity protected by Section 210/211 of the Energy Reorganization Act (ERA). This violation, including its cause and corrective actions to preclude recurrence, was discussed with you, members of your staff and representatives of Fluor during an enforcement conference held in the Region II Office on November 22, 1993.

The violation described in the enclosed Notice of Violation (Notice) concerns the finding of discrimination in DOL Case No. 88-ERA-29, captioned Douglas A. Tritt v. Fluor Constructors, Inc. In this case, Mr. Tritt (Complainant) filed a complaint with DOL on December 17, 1987, alleging that he was laid off from his job as an electrician on December 3, 1987 because he had raised safety concerns which related to health physics requirements for work being performed in the reactor building during an outage (Refuel Cycle IV). The DOL District Director issued an initial determination in the case on May 17, 1988 finding that the Complainant was laid off because of a lack of work and that

03/5

9707280101

FEB 16 1994

discrimination was not a factor in the layoff decision. The District Director's initial determination was appealed by the Complainant on May 22, 1988 and an administrative hearing was conducted by DOL. On January 12, 1989, an ALJ issued a "Recommended Decision and Order" finding that there was no evidence to support a finding that retaliation was a factor in the actions taken against the Complainant. Finding that the Complainant was not laid off for raising safety concerns, the ALJ recommended the complaint be dismissed. On August 25, 1993, the Secretary of Labor issued a decision in which he disagreed with the ALJ and found that Complainant was discriminated against because he had engaged in protected activity and that Fluor violated the ERA by laying off Complainant on December 3, 1987 without doing an adequate investigation of the concerns raised by Mr. Tritt.

The NRC adopts the final decision of the Secretary of Labor in this case and finds that a violation of 10 CFR 50.7 occurred when the Complainant raised safety concerns and was subsequently laid off as a result of raising those concerns. Under 10 CFR 50.7, discrimination by a Commission licensee or a contractor of a Commission licensee against an employee for engaging in protected activities is prohibited. In accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," (Enforcement Policy) 10 CFR Part 2, Appendix C, the violation has been categorized as a Severity Level III violation because the discriminatory action taken against the Complainant was initiated by Fluor personnel who were at or above first-line supervisory positions.

The NRC recognizes that the discrimination involved in this case occurred in 1987 and that in the intervening years Florida Power Corporation has implemented many improvements in its programs to address employee concerns and to ensure that employees feel free to raise safety concerns without fear of discrimination. Some of these improvements include an active and aggressive employee concerns program, high visibility of corporate values and philosophy regarding open and candid communications as expressed by senior management's attitude that legitimate concerns must be welcomed and not just tolerated, administrative controls on contractors that include contractual incorporation of requirements for handling employee concerns, and training for employees, supervisors and managers. Notwithstanding these corrective actions and the time that has passed since the violation occurred, enforcement is warranted to provide a clear message that discrimination is not acceptable and that licensees are responsible for assuring that their contractors do not discriminate.

A civil penalty normally is considered for violations categorized at Severity Level III or higher. The base civil penalty for a Severity Level III violation is \$50,000. However, no civil penalty is being proposed in this case due to Statute of Limitations considerations. Therefore, I have been authorized, after consultation with the Director, Office of Enforcement, the Deputy Executive Director for Nuclear Reactor Regulation, Regional Operations and Research, and the Commission, to issue the enclosed Notice of Violation with a Severity Level III violation to emphasize the importance of ensuring

FEB 16 1994

that every effort is made to provide an environment in which all employees may freely identify safety concerns without fear of retaliation or discrimination.

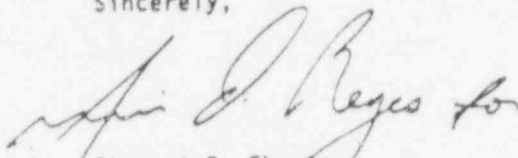
You are required to respond to this letter and should follow the instructions specified in the enclosed Notice of Violation (Notice) when preparing your response. In your response, you should document the specific actions taken and any additional actions you plan to prevent recurrence. After reviewing your response to this Notice, including any additional corrective actions and the results of future inspections, the NPC will determine whether further NRC enforcement action is necessary to ensure compliance with NRC regulatory requirements.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter and its enclosure will be placed in the NRC Public Document Room.

The responses directed by this letter and the enclosed Notice are not subject to the clearance procedures of the Office of Management and Budget as required by the Paperwork Reduction Act of 1980, Pub. L. No. 96-511.

Should you have any questions concerning this letter, please contact us.

Sincerely,



Stewart D. Ebner
Regional Administrator

Enclosure:
Notice of Violation

cc w/encl:
Gary L. Boldt
Vice President, Nuclear Production
Florida Power Corporation
15760 West Power Line Street
Crystal River, FL 34428-6708

B. J. Hickie, Director
Nuclear Plant Operations
Florida Power Corporation
15760 West Power Line Street
Crystal River, FL 34428-6708

cc w/encl (cont'd): See next page

FEB 16 1994

cc w/enc1 (cont'd):

R. C. Widell, Director
Nuclear Operations Site Support
Florida Power Corporation
15760 West Power Line Street
Crystal River, FL 34428-6708

Gerald A. Williams
Corporate Counsel
Florida Power Corporation
MAC - ASA
P. O. Box 14042
St. Petersburg, FL 33733

Ric Carter, Senior Director
Labor Relations
Fluor Constructors International, Inc.
150 Executive Center Drive
Greenville, SC 29615

George S. Renshaw, Project Manager
Fluor Constructors International, Inc.
15760 West Power Line Street
Crystal River, FL 34428-6708

James R. Wiley, Esq.
Carlton, Fields, Ward, Emmanuel,
Smith and Cutler, P.A.
One Harbour Place
Post Office Box 3239
Tampa, FL 33601

Associate Solicitor for
Fair Labor Standards
U.S. Department of Labor
Room M-2716
200 Constitution Ave., N.W.
Washington, D.C. 20210

Regional Director
U.S. Department of Labor
Employment Standards Administration
Wage and Hour Division
1371 Peachtree Street, N.E.
Atlanta, Georgia 30367

cc w/enc1 (cont'd): See next page

FEB 16 1994

cc w/encl (cont'd):

District Director
Wage and Hour Division
U.S. Department of Labor/ESA
Suite 300
4905 West Laurel St.
Tampa, Florida 33607

Attorney General
Department of Legal Affairs
The Capitol
Tallahassee, FL 32304

Bill Pasetti
Office of Radiation Control
Department of Health and
Rehabilitative Services
1317 Winewood Boulevard
Tallahassee, FL 32399-0700

Joe Myers, Director
Division of Emergency Preparedness
Department of Community Affairs
2740 Centerview Drive
Tallahassee, FL 32399-2100

Chairman
Board of County Commissioners
Citrus County
110 N. Apopka Avenue
Inverness, FL 36250

Robert B. Borsum
B&W Nuclear Technologies
1700 Rockville Pike, Suite 525
Rockville, MD 20852-1631

NOTICE OF VIOLATION

Florida Power Corporation
Crystal River Nuclear Plant
Unit 3

Docket No. 50-302
License No. DPR-72
EA 93-226

Based on the results of an investigation and administrative hearings conducted by the U.S. Department of Labor (DOL) related to DOL Case No. 88-ERA-29 that involved employee discrimination, and the resulting Order of the Secretary of Labor dated August 25, 1993, the NRC has determined that a violation of its regulations occurred. In accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," 10 CFR Part 2, Appendix C, the violation is listed below:

Section 210 (now 211) of the Energy Reorganization Act of 1974, as amended, and 10 CFR 50.7 prohibit discrimination by a Commission licensee, permittee, an applicant for a Commission license or permit, or a contractor or subcontractor of a Commission licensee, permittee, or applicant against an employee for engaging in certain protected activities. Discrimination includes discharge or other actions relating to the compensation, terms, conditions, and privileges of employment. The activities which are protected include, but are not limited to, the reporting of safety concerns by an employee to his employer or to the NRC.

Contrary to the above, as determined by the Secretary of Labor in a decision issued on August 25, 1993, Douglas A. Tritt, a former employee of the Fluor Constructors International, Inc., a contractor of the Florida Power Corporation, who was employed as an electrician at the Crystal River 3 Nuclear Plant during the 1987 outage, was discharged from his employment on December 3, 1987, by the Fluor Constructors International, Inc., for engaging in protected activities (88-ERA-29). These protected activities included reporting safety concerns to the union representative and Mr. Tritt's supervisors related to health physics requirements for work being performed in the reactor building during the outage. (01013)

This is a Severity Level III violation (Supplement VII).

Pursuant to the provisions of 10 CFR 2.201, Florida Power Corporation is hereby required to submit a written statement or explanation to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555, with a copy to the Regional Administrator, Region II, and a copy to the NRC Resident Inspector at the Crystal River 3 Nuclear Plant, within 30 days of the date of the letter transmitting this Notice of Violation (Notice). This reply should be clearly marked as a "Reply to a Notice of Violation" and should include for each violation: (1) the reason for the violation or, if contested, the basis for disputing the violation, (2) the corrective steps that have been taken and the results achieved, (3) the corrective steps that will be taken to avoid further violations, and (4) the date when full compliance will be achieved. If an adequate reply is not received within the time specified in this Notice, an order or a Demand for Information may be issued to show cause why the license should not be modified, suspended, or revoked, or why such other action as may be proper should not be taken. Where

9907280117

good cause is shown, consideration will be given to extending the response time. Under the authority of Section 182 of the Act, 42 U.S.C. 2232, this response shall be submitted under oath or affirmation.

Dated at Atlanta, Georgia
this 16th day of February 1994