

From: Thompson, Catherine
Sent: Thursday, November 12, 2020 7:08 AM
To: JSheaIA-Hearing Resource
Subject: emails and documents
Attachments: Call with Shea short version.docx; FW: TVA discrimination documents ; ADAMS links for TVA, Henderson, and Shea; recent NRC enforcement action; Joseph Shea's Motion Answer and Request for Hearing.pdf; JS - cover letter 8.24.pdf; JS - Order 8.24.pdf; Final Letter and Order; FW: Licensing Board Issuance - Joseph Shea ATTORNEY CLIENT PRIVILEGED INFORMATION

Hearing Identifier: JShea_IA_NonPublic
Email Number: 927

Mail Envelope Properties (DM6PR09MB474457542A191382C8A3B2118CE70)

Subject: emails and documents
Sent Date: 11/12/2020 7:08:28 AM
Received Date: 11/12/2020 7:08:44 AM
From: Thompson, Catherine

Created By: Catherine.Thompson@nrc.gov

Recipients:
"JSheaIA-Hearing Resource" <JSheaIA-Hearing.Resource@nrc.gov>
Tracking Status: None

Post Office: DM6PR09MB4744.namprd09.prod.outlook.com

Files	Size	Date & Time
MESSAGE	0	11/12/2020 7:08:44 AM
Call with Shea short version.docx	25545	
FW: TVA discrimination documents	232986	
ADAMS links for TVA, Henderson, and Shea recent NRC enforcement action	16434	10016
Joseph Shea's Motion Answer and Request for Hearing.pdf		3403900
JS - cover letter 8.24.pdf	339280	
JS - Order 8.24.pdf	177251	
Final Letter and Order	1713441	
FW: Licensing Board Issuance - Joseph Shea ATTORNEY CLIENT PRIVILEGED INFORMATION	383687	

Options
Priority: Normal
Return Notification: No
Reply Requested: No
Sensitivity: Normal
Expiration Date:

Skype with Shea
August 24, 2020 (TIME)

Mr. Shea, we wanted to have this call today to provide you with the decision the NRC has reached on your case.

I will read to you a portion of the letter you will receive, which will become publicly available today or tomorrow:

On January 21, 2020, the U.S. NRC Office of Investigations completed an investigation concerning your activities at TVA. The purpose of the investigation was to determine whether a former employee was the subject of employment discrimination in violation of 10 CFR 50.7, "Employee Protection." On June 25, 2020, a remote predecisional enforcement conference was conducted with you to discuss the apparent violation, the significance, the root causes, and your corrective actions.

Based on the information developed during the investigations, statements at the PEC, exhibits, and supplemental information, the NRC determined that a violation of 10 CFR 50.5, "Deliberate Misconduct," occurred.

The NRC has determined that your actions warrant issuance of an Order that prohibits your involvement in NRC-licensed activities for a period of 5 years because your actions have resulted in the loss of reasonable assurance that you may be relied upon, at this time, to comply with NRC requirements. You are required to provide a written answer to this Order. Additionally, you or any other person adversely affected by this Order, may request a hearing on this Order within 30 days of the Order's issuance.

You may request Alternative Dispute Resolution (ADR) with the NRC in an attempt to resolve this issue within 10 calendar days of the date of the letter.

I will send you an electronic version of the letter and order later today.

Do you have any questions at this time?

Thank you.



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

August 24, 2020

IA-20-008

Mr. Joseph Shea
[HOME ADDRESS DELETED
UNDER 10 CFR 2.390]

SUBJECT: ORDER PROHIBITING INVOLVEMENT IN NRC-LICENSED ACTIVITIES (NRC
OFFICE OF INVESTIGATIONS REPORT NO. 2-2019-015)

Dear Mr. Shea:

On January 21, 2020, the U.S. Nuclear Regulatory Commission's (NRC) Office of Investigations (OI) completed an investigation concerning your activities at the Tennessee Valley Authority (TVA) Corporate Office (OI report 2-2019-015). The purpose of the investigation was to determine whether a former corporate employee was the subject of employment discrimination for participating in a protected activity in violation of Title 10 of the *Code of Federal Regulations* (10 CFR) 50.7, "Employee Protection."

In a letter dated March 2, 2020, the NRC notified you of an apparent violation of 10 CFR 50.5, "Deliberate Misconduct." Based on the evidence developed during the investigation and subsequent staff analysis, it appeared that you, as the Vice President of Regulatory Affairs, engaged in deliberate misconduct that caused an NRC licensee to be in violation of 10 CFR 50.7, "Employee Protection." Specifically, the NRC determined that a former corporate employee was placed on paid administrative leave and terminated, in part, for engaging in protected activity, including raising concerns about a chilled work environment. To address this apparent violation, the NRC provided you an opportunity to participate in a closed predecisional enforcement conference (PEC). On June 25, 2020, you participated in a remote PEC with the NRC.¹

Based on the NRC OI investigation, statements at the PEC, exhibits, and supplemental information, the NRC has determined that you played a significant role in the decisionmaking process to place a former corporate employee on paid administrative leave on October 15, 2018, and terminate the former corporate employee on January 14, 2019, in part, for engaging in protected activity, including raising concerns about a chilled work environment. The former employee engaged in protected activity when expressing concerns to you regarding the chilled work environment that the former Director of Corporate Nuclear Licensing (CNL) was creating. Further, you received a copy of the TVA Office of General Counsel (OGC) draft report prepared by the TVA OGC attorney that identified the concerns of the former employee.

¹ Due to the ongoing COVID-19 pandemic, the PEC was held remotely via video teleconference.

The former employee suffered an adverse action when you played a significant role in the decisionmaking process to place the former employee on administrative leave and terminate the former employee. There is a nexus between the former employee's protected activity of raising concerns about a chilled work environment and the termination of the former employee. You stated during the PEC that you terminated the former employee for being disrespectful to the former Director of CNL. However, the examples used in the TVA OGC report as evidence that the former employee was disrespectful to the former Director of CNL were: 1) raising concerns about a chilled work environment in a TVA OGC interview; and 2) raising concerns about reprisal directly to you. You admit that you never counseled the former employee about the asserted disrespectful behavior.

The NRC determined that your actions were deliberate and in violation of the requirements in 10 CFR 50.5, "Deliberate Misconduct." The NRC considers deliberate violations of 10 CFR 50.7, "Employee Protection," significant because of the potential that individuals might not raise safety issues for fear of retaliation.

The NRC has determined that your actions warrant issuance of an Order that prohibits your involvement in NRC-licensed activities for a period of 5 years because your actions have resulted in the loss of reasonable assurance that you may be relied upon, at this time, to comply with NRC requirements. This Order, which is set forth in Enclosure 1, requires you to provide to the NRC in writing the name, address, and telephone number of the employer for your first subsequent employment in NRC-licensed activities following completion of the 5-year prohibition. You are required to provide a written answer to this Order. Additionally, you or any other person adversely affected by this Order, may request a hearing on this Order within 30 days of the Order's issuance. Please see the enclosed Order for further instructions regarding acknowledging receipt of the Order and requesting a hearing.

You may request Alternative Dispute Resolution (ADR) with the NRC in an attempt to resolve this issue. ADR is a general term encompassing various techniques for resolving conflicts using a neutral third party. The technique that the NRC has decided to employ is mediation. Mediation is a voluntary, informal process in which a trained neutral party (the "mediator") works with parties to help them reach resolution. If the parties agree to use ADR, they select a mutually agreeable neutral mediator who has no stake in the outcome and no power to make decisions. Mediation gives parties an opportunity to discuss issues, be creative, find areas of agreement, and reach a final resolution of the issues. Additional information concerning the NRC's ADR program can be found at <http://www.nrc.gov/about-nrc/regulatory/enforcement/adr.html>, as well as NRC brochure NUREG/BR-0317, "Enforcement Alternative Dispute Resolution Program," Revision 2 (ADAMS Accession No. ML18122A101).

The Institute on Conflict Resolution (ICR) at Cornell University has agreed to facilitate the NRC's program as a neutral third party. If you are interested in pursuing resolution of this issue through ADR, you must contact ICR at (877) 733-9415 within 10 calendar days of the date of this letter. Additionally, please contact Catherine Thompson at 301-287-9515 or email catherine.thompson@nrc.gov, or Ian Gifford at 301-287-9216 or email ian.gifford@nrc.gov within 10 calendar days of the date of this letter if you choose to participate in ADR. A request

to pursue resolution through ADR will extend the time period to request a hearing. If you wish to pursue ADR, the Director, OE, will consider the ADR request as good cause to relax the Order while the parties pursue resolution of the issue, as long as ADR is performed in a timely manner.

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 Order shall be subject to criminal prosecution as set forth in that section. Violation of the enclosed Order may also subject the person to civil monetary penalty.

In accordance with 10 CFR, Section 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 and from the NRC's Agencywide Document Access and Management System (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the public without redaction. The NRC also includes significant enforcement actions on its Web site at <http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions/>.

Sincerely,

**George A.
Wilson**

Digitally signed by
George A. Wilson
Date: 2020.08.24
12:06:08 -04'00'

George A. Wilson, Director
Office of Enforcement

Enclosures:

1. Order Prohibiting Involvement in
NRC-Licensed Activities
2. Notice of Violation to TVA
3. NUREG/BR-0317 Rev. 2, Enforcement
Alternative Dispute Resolution Program

cc: w/ enclosures:

States of Alabama and Tennessee

SUBJECT: ORDER PROHIBITING INVOLVEMENT IN NRC-LICENSED ACTIVITIES (NRC
OFFICE OF INVESTIGATIONS REPORT NO. 2-2019-015)
DATED: 8/24/2020

DISTRIBUTION:

- P. Moulding, OGC
- A. Shuttleworth, OI
- C. Miller, NRR
- M. Miller, RII
- S. Sparks, RII
- M. Kowal, RII
- OE ADAMS R/F

X- Public

X- Non-Sensitive

ADAMS Package: ML20219A689

Cover Letter: ML20218A595

Order: ML20219A676

Notice of Violation: ML20232B803

FRN: ML20232C770

OFFICE	OE:CRB	OE:CRB	OE: CRB/BC	OGC/NLO	OE:D
NAME	IGifford	CThompson	DSolorio	SKirkwood	GWilson
DATE	8/20/2020	8/20/2020	8/20/2020	8/19/2020	8/24/2020

OFFICIAL RECORD COPY

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of
Joseph Shea

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)
)
)

IA-20-008

ORDER PROHIBITING INVOLVEMENT IN
NRC-LICENSED ACTIVITIES
IMMEDIATELY EFFECTIVE

I.

Mr. Joseph Shea is employed as Vice President Nuclear Technology Innovation at the Tennessee Valley Authority (TVA). TVA holds Browns Ferry Units 1, 2 and 3 License Nos. DPR-33, DPR-52, and DPR-68 issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to Part 50 of Title 10 of the *Code of Federal Regulations* (10 CFR), on December 20, 1973, June 28, 1974 and July 2, 1976, respectively. The units are located on the Licensee's site in Athens, Alabama. TVA holds Sequoyah Units 1 and 2 License Nos. DPR-77 and DPR-79 issued by the NRC pursuant to 10 CFR Part 50, on September 17, 1980 and September 15, 1981, respectively. The units are located on the Licensee's site in Soddy-Daisy, Tennessee. TVA holds Watts Bar Units 1 and 2 License Nos. NPF-90 and NPF-96 issued by the NRC pursuant to 10 CFR Part 50, on February 7, 1996 and October 22, 2015, respectively. The units are located on the Licensee's site in Spring City, Tennessee. The licenses authorize the operation of these facilities in accordance with the conditions specified therein.

II.

On January 21, 2020, an investigation was completed by the U.S. Nuclear Regulatory Commission (NRC) Office of Investigations (OI) related to TVA (OI Report No. 2-2019-015). The purpose of the investigation was to determine whether a former corporate employee was the

subject of employment discrimination for engaging in a protected activity in violation of Title 10 of the *Code of Federal Regulations* (10 CFR) 50.7, “Employee Protection.”

Based on the evidence developed during the investigation and subsequent staff analysis, it appeared that Mr. Joseph Shea, as the Vice President of Regulatory Affairs at TVA, engaged in deliberate misconduct, in violation of 10 CFR 50.5, “Deliberate Misconduct,” that caused an NRC licensee to be in violation of 10 CFR 50.7, “Employee Protection.” Specifically, the NRC determined that a former corporate employee was placed on paid administrative leave on October 15, 2018, and terminated on January 14, 2019, by Mr. Joseph Shea, in part, for engaging in protected activity, including raising concerns about a chilled work environment. The former employee engaged in protected activity when expressing concerns to Mr. Joseph Shea regarding the chilled work environment that the former Director of Corporate Nuclear Licensing (CNL) was creating. Further, Mr. Joseph Shea received a copy of the TVA Office of General Counsel (OGC) draft report prepared by the TVA OGC attorney that identified the concerns of the former employee. Additionally, in a (internal TVA) complaint that the former Director of CNL provided to Mr. Joseph Shea on or about March 9, 2018, the former Director of CNL identified the former employee as the source of a chilled work environment complaint made to the NRC.

The former employee suffered an adverse action when Mr. Joseph Shea played a significant role in the decisionmaking process to place the former employee on administrative leave and terminate the former employee. There is a nexus between the former employee’s protected activity of raising concerns about a chilled work environment and the termination of the former employee. Mr. Joseph Shea stated during the predecisional enforcement conference that Mr. Joseph Shea terminated the former employee for being “disrespectful” to the former Director of CNL. However, the examples used in the TVA OGC report as evidence that the former employee was “disrespectful” to the former Director of CNL were: 1) raising concerns about a

chilled work environment in a TVA OGC interview; and 2) raising concerns about reprisal from the former Director of CNL directly to Mr. Joseph Shea. Mr. Joseph Shea admitted that he did not counsel the former employee about the asserted disrespectful behavior.

The NRC has determined that Mr. Joseph Shea played a significant role in the decisionmaking process to place the former employee on paid administrative leave on October 15, 2018 and terminate her on January 14, 2019, in part, for engaging in protected activities. Accordingly, the NRC has determined that Mr. Joseph Shea's actions were deliberate and violated the requirements in 10 CFR 50.5, "Deliberate Misconduct." The NRC considers deliberate violations of 10 CFR 50.7, "Employee Protection," significant because of the potential that individuals might not raise safety issues for fear of retaliation.

III.

Based on the above, Mr. Joseph Shea, the Vice President Nuclear Technology Innovation at TVA, engaged in deliberate misconduct, in violation of 10 CFR 50.5, "Deliberate Misconduct," that caused the Licensee to be in violation of 10 CFR 50.7, "Employee Protection." The NRC must be able to rely on TVA and its employees to comply with NRC requirements, including the requirement prohibiting discrimination against an employee for engaging in protected activities.

Consequently, given the significance of the underlying issues, Mr. Joseph Shea's position within TVA that has a very broad sphere of influence, and the deliberate nature of the actions, the NRC lacks the requisite reasonable assurance that licensed activities can be conducted in compliance with the Commission's requirements and that the health and safety of the public will be protected if Mr. Joseph Shea were permitted at this time to be involved in

NRC-licensed activities. Therefore, Mr. Joseph Shea is prohibited from any involvement in NRC-licensed activities for a period of 5 years. Furthermore, pursuant to 10 CFR 2.202, the significance of Mr. Joseph Shea's wrongdoing described above is such that this Order be immediately effective. Mr. Joseph Shea is required to notify the NRC of his first employment in NRC-licensed activities following the prohibition period.

IV.

Accordingly, pursuant to sections 103, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, and 10 CFR 50.5, IT IS HEREBY ORDERED, IMMEDIATELY EFFECTIVE UPON THE DATE OF ISSUANCE, THAT:

1. Mr. Joseph Shea is prohibited for 5 years from engaging in, supervising, directing, or in any other way conducting NRC-licensed activities. NRC-licensed activities are those activities that are conducted pursuant to a specific or general license issued by the NRC.
2. If Mr. Joseph Shea is currently involved with another licensee in other NRC-licensed activities, he must immediately cease those activities, and inform the NRC of the name, address, and telephone number of the employer, and provide a copy of this Order to the employer.
3. For a period of 1 year after the 5-year period of prohibition has expired, Mr. Joseph Shea shall, within 20 days of acceptance of his first employment offer involving NRC-licensed activities, as defined in paragraph IV.1 above, provide notice to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555-

0001, the name, address, and telephone number of the employer or the entity where he is, or will be, involved in the NRC-licensed activities. In the notification, Mr. Joseph Shea shall include a statement of his commitment to compliance with regulatory requirements and the basis why the Commission should have confidence that he will now comply with applicable NRC requirements.

The Director, Office of Enforcement, or designee, may, in writing, relax, rescind, or withdraw any of the above conditions upon demonstration by Mr. Joseph Shea of good cause.

V.

In accordance with 10 CFR 2.202, Mr. Joseph Shea must submit a written answer to this Order under oath or affirmation within 30 calendar days of its issuance. Mr. Joseph Shea's failure to respond to this Order could result in additional enforcement action in accordance with the Commission's Enforcement Policy. In addition, Mr. Joseph Shea and any other person adversely affected by this Order, may request a hearing on this Order within 30 calendar days of its issuance. Where good cause is shown, consideration will be given to extending the time to answer or request a hearing. A request for extension of time must be directed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555-001, and include a statement of good cause for the extension.

All documents filed in NRC adjudicatory proceedings, including a request for hearing and petition for leave to intervene (petition), any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities that request to participate under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77

FR 46562; August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Detailed guidance on making electronic submissions may be found in the Guidance for Electronic Submissions to the NRC and on the NRC Web site at <https://www.nrc.gov/site-help/e-submittals.html>. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by e-mail at hearing.docket@nrc.gov, or by telephone at 301-415-1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at <https://www.nrc.gov/site-help/e-submittals/getting-started.html>. Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC's public Web site at <https://www.nrc.gov/site-help/electronic-sub-ref-mat.html>. A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due

date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed so that they can obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the "Contact Us" link located on the NRC's public Web site at <https://www.nrc.gov/site-help/e-submittals.html>, by e-mail to MSHD.Resource@nrc.gov, or by a toll-free call at 1-866-672-7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) first class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing adjudicatory documents in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class

mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at <https://adams.nrc.gov/ehd>, unless excluded pursuant to an order of the Commission or the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click "cancel" when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

If a person other than Mr. Joseph Shea requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309(d) and (f).

If a hearing is requested by Mr. Joseph Shea or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearings. If

a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained. Pursuant to 10 CFR 2.202(c)(2)(i), Mr. Joseph Shea or any other person adversely affected by this Order, may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error. In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be final 30 calendar days from the date this Order is issued without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received. AN ANSWER OR A REQUEST FOR HEARING SHALL NOT STAY THE IMMEDIATE EFFECTIVENESS OF THIS ORDER.

FOR THE NUCLEAR REGULATORY COMMISSION

George A. Wilson  Digitally signed by George A. Wilson
Date: 2020.08.24 12:07:47 -04'00'

George A. Wilson, Director
Office of Enforcement

Dated this 24th day of August 2020.