

June 1, 2001

EA-01-072

Mr. R. P. Powers  
Senior Vice President  
Nuclear Generation Group  
American Electric Power Company  
500 Circle Drive  
Buchanan, MI 49107-1395

SUBJECT: PREDECISIONAL ENFORCEMENT CONFERENCE  
(OFFICE OF INVESTIGATIONS REPORT NO. 3-1999-016)

Dear Mr. Powers:

This letter refers to our telephone conversation on March 29, 2001, and to an investigation conducted by the U.S. Nuclear Regulatory Commission (NRC) Office of Investigations (OI) to determine whether Crane Nuclear Incorporated (Crane), a contractor to American Electric Power Company (AEP) at the DC Cook Nuclear Power Plant, discriminated against two mechanical maintenance technicians in violation of 10 CFR 50.7. Although enforcement action is being considered against Crane, the NRC holds AEP responsible for ensuring compliance with NRC requirements by contract personnel working at its facility. In addition, we are concerned that this apparent violation may involve deliberate misconduct.

Based on the information developed during the OI investigation, it appears that Crane may have caused AEP to violate 10 CFR 50.7, "Employee Protection," on February 10, 1999. Specifically, two mechanics employed by Crane refused to work a package based on an expressed concern that they would be violating plant or NRC requirements if they worked the package as written. The two mechanics told their immediate supervisor that the work package could not be completed unless additional work instructions were added. The supervisor and one mechanic spoke with a project coordinator who informed them that the package could be worked with "skill of the craft." The mechanic again refused to work the package unless the package was rewritten. The project coordinator terminated the two mechanics for refusing to work the package as written. The two mechanics engaged in protected activity, adverse action was taken against them by Crane, and retaliation for having engaged in the protected activity was a factor in the adverse actions. Therefore, an apparent violation of 10 CFR 50.7 is being identified to AEP, as well as to Crane. A copy of the synopsis from the OI report and a factual summary of the apparent 10 CFR 50.7 violation are enclosed with this letter.

This apparent violation of 10 CFR 50.7 is being considered for escalated enforcement action in accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," (Enforcement Policy), NUREG-1600. The NRC is not issuing a Notice of Violation at this time; you will be advised by separate correspondence of the results of our deliberations on

this matter. Also, please be aware that the characterization of the apparent violation described in this letter may change as a result of further NRC review.

A predecisional enforcement conference to discuss this apparent violation has been scheduled for Tuesday, July 24, 2001, 9 a.m. to 5 p.m., at the NRC Region III office, 801 Warrenville Road, Lisle, IL, 60532. The conference will be closed to public observation in accordance with Section V of the Enforcement Policy and will be transcribed.

The NRC's Enforcement Policy permits individuals who were subjects of the apparent discrimination to participate in the conference. Accordingly, the two mechanics will be invited to attend the conference. The mechanics may participate by observing the conference and if desired, following the presentations by AEP and Crane, the mechanics may make a presentation to address their views on why they believe discrimination occurred and on the previous presentations. Both AEP and Crane will then be afforded an opportunity to respond and the NRC may ask some clarifying questions. Under no circumstances will the NRC staff permit AEP, Crane, or the mechanics to cross-examine or question each other.

The decision to hold an enforcement conference does not mean that the NRC has made a final determination on enforcement action in this case. This conference is being held to obtain information to enable the NRC to make an enforcement decision, such as a common understanding of the facts, root cause, significance of the issue, and plans for lasting and effective corrective action. In particular, we expect you to address: (1) AEP's position on the apparent violation, the basis for this position, and the reasons for the apparent violation; (2) any involvement by AEP-employed DC Cook Nuclear Power Plant officials as related to this apparent violation; and (3) the details and results of any investigation that AEP may have conducted into this matter. In addition, the conference is an opportunity for AEP to point out any error in our findings and for you to provide perspectives on: (1) the severity level of the apparent violation; (2) the application of the factors that the NRC considers when it determines the amount of a civil penalty that may be assessed in accordance with Section VI.C of the Enforcement Policy; and (3) any other application of the Enforcement Policy to this case, including the exercise of discretion in accordance with Section VII.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter **with Enclosure 1 only** will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS) accessible from the NRC Web site at <http://www.nrc.gov/NRC/ADAMS/index.html>.

Sincerely,

**/RA/**

John A. Grobe, Director  
Division of Reactor Safety

Dockets No. 50-315; 50-316  
Licenses No. DPR-58; DPR-74

Enclosures: 1. Synopsis of OI Report

**EXEMPT FROM PUBLIC DISCLOSURE**

2. Summary of OI Report

cc w/encl 1: A. C. Bakken III, Site Vice President  
J. Pollock, Plant Manager  
M. Rencheck, Vice President, Nuclear Engineering  
R. Whale, Michigan Public Service Commission  
Michigan Department of Environmental Quality  
Emergency Management Division  
MI Department of State Police  
D. Lochbaum, Union of Concerned Scientists

cc w/o encl: C. Fregeolle, Crane Nuclear Inc.

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Sincerely,  
**/RA/**  
 John A. Grobe, Director  
 Division of Reactor Safety

Dockets No. 50-346; 50-440  
 Licenses No. NPF-3; NPF-58

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 MI Department of State Police  
 D. Lochbaum, Union of Concerned Scientists

cc w/o encl: C. Fregeolle, Crane Nuclear Inc.

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NAME	FCongel		BClayton		JGrobe			
DATE	05/ /01		05/25/01		06/01/01			

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<sup>1</sup> No legal objection received from G. Longo, OGC, on 05/21/2001.

<sup>2</sup> Concurrence received from B. Westreich, OE, on 05/25/2001.

NRC Distribution w/encl 1 and 2:

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## Enclosure 1

### SYNOPSIS

This supplemental investigation was initiated by the U.S. Nuclear Regulatory Commission, Office of Investigations, Region III, on August 2, 1999, to determine whether a contract mechanical maintenance technician (MMT) was discriminated against when terminated from the D. C. Cook Nuclear Power Plant after being directed to and refusing to falsify maintenance records. Additionally, it was alleged that the technician had been directed to falsify maintenance records.

Based upon the evidence developed during this investigation, it was concluded that the MMT was deliberately discriminated against after the contract Project Manager terminated the MMT's employment after the MMT refused to sign off on an incomplete work package for maintenance on a containment pump.

Based upon the determination that the maintenance records, which the Craft Supervisor directed the MMT to rewrite or sign off on, were not safety-related and consequently have no regulatory significance, there was insufficient evidence to substantiate the allegation regarding falsification of records.