

January 17, 2002

EA-01-073

Mr. Kirk Kelhofer
President
Crane Nuclear, Inc.
2825 Crane International Blvd.
Kennesaw, GA 30152-4352

SUBJECT: NOTICE OF VIOLATION
[NRC OFFICE OF INVESTIGATIONS REPORTS NO. 3-1999-016 *et seq*]

Dear Mr. Kelhofer:

This refers to information provided to the U.S. Nuclear Regulatory Commission (NRC) on February 10, 1999, by two former employees of Crane Nuclear, Inc., at the American Electric Power Company's (AEP) D.C. Cook Nuclear Power Plant. According to the individuals, the Crane Nuclear project manager terminated their employment after they questioned the adequacy of a maintenance work package for a pump in the Unit 2 containment annulus. The NRC Office of Investigations (OI) investigated this matter and a summary of the OI investigation was provided to AEP on June 1, 2001. On July 24, 2001, a predecisional enforcement conference was held in the NRC Region III office.¹

Based on the OI investigation and all other information, the NRC determined that a violation of 10 CFR 50.7, "Employee Protection" occurred.² The violation is fully described in the enclosed Notice of Violation (Notice). Specifically, on February 10, 1999, two pump mechanics, employed by Crane Nuclear, were assigned to perform maintenance on a pump in the annulus of Unit 2 at the D.C. Cook Plant. The mechanics requested that the work package be revised to include detailed instructions for performing the job. The concern was brought to the attention of the Crane Nuclear project manager, who stated the work could be performed using "skill of the craft." The mechanics refused to perform the work because they reasonably believed that performing the work without detailed procedures would violate NRC regulations. The project manager terminated the employment of the two pump mechanics for refusing to work the package as written. In terminating the employment of the mechanics, the project manager

¹ Additional information was submitted to the NRC following the July 24, 2001, predecisional enforcement conference, including: an undated letter from one of the pump mechanics, letters dated July 27 and September 28, 2001, from AEP, and letters dated August 23, and October 29, 2001, from Crane Nuclear, Inc.

² One employee also filed a complaint with the U.S. Department of Labor (DOL). The DOL Administrative Law Judge (ALJ) issued a Recommended Decision and Order (RD&O) on October 4, 2001, in favor of the employee (DOL No. 2001-ERA-0003). The NRC reached its conclusions independent of the RD&O.

changed the compensation, terms, conditions, or privileges of their employment on February 10, 1999, in violation of 10 CFR 50.7. The NRC concluded that the project manager's actions were not in deliberate violation of requirements because he believed that the work to be within the "skill of the craft" and that the pump mechanics were essentially being insubordinate. The project manager was considered to be a low-level manager within the Crane Nuclear organization. Therefore, the violation has been categorized in accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," NUREG-1600, (Enforcement Policy) at Severity Level III.

In determining the enforcement action for this violation, the NRC considered that the Crane Nuclear project manager notified Cook Plant management shortly after the violation occurred. At about the same time, the pump mechanics met with the NRC Resident Inspector at the Cook Plant and the NRC also notified plant management of the terminations. These notifications allowed Cook Plant management to begin an investigation and to contact the management of Crane Nuclear. As a result, the Cook Plant Employee Concerns Program began an investigation on February 10, 1999, and a representative of Crane Nuclear arrived on site the following day to begin an investigation for their company. Corrective actions by Crane Nuclear, Inc., included, but were not limited to: taking disciplinary action against the Crane Nuclear project manager; offering job reinstatement to the pump mechanics; meeting with employees to emphasize that retaliation, harassment or discrimination would not be tolerated for raising safety concerns; meeting with supervisors to delineate their roles; and updating and improving the internal complainant system. The actions of the Crane Nuclear project manager were not in deliberate violation of NRC requirements. After consulting with the Director, Office of Enforcement, I have been authorized to issue the enclosed Notice of Violation in this matter. No response to the Notice is required.

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken and planned to correct the violation and prevent recurrence are already adequately addressed, as described above. However, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201 if the above description does not accurately reflect your corrective actions or your position. In that case, or if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation, EA-01-073," and follow the directions in the enclosed Notice.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter and the enclosed Notice will be made available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC's

K. Kelhofer

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document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html> (the Public Electronic Reading Room).

Sincerely,

/RA/

J. E. Dyer
Regional Administrator

Docket Nos. 50-315; 50-316
License Nos. DPR-58; DPR-74

Enclosure: Notice of Violation

cc w/encl: M. Denis, Esq.
Barlow, Kobata & Denis
A. C. Bakken III,
Senior Vice President, AEP
J. Pollock, Plant Manager, AEP
M. Rencheck, Vice President, AEP
J. P. Hickey, Shaw Pitman
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

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NOTICE OF VIOLATION

Crane Nuclear, Inc.
Kennesaw, GA

Docket Nos. 50-315; 50-316
License Nos. DPR-58; DPR-74
EA-01-073

During an NRC investigation, completed November 30, 2000, a violation of NRC requirements was identified. In accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," NUREG-1600, the violation is listed below:

10 CFR 50.7(a) prohibits, in part, discrimination by a contractor of a Commission licensee against an employee for engaging in certain protected activities. Discrimination includes discharge and other actions that relate to compensation, terms, conditions or privileges of employment. The protected activities were established in Section 211 of the Energy Reorganization Act of 1974, as amended, and in general are related to the administration or enforcement of a requirement imposed under the Atomic Energy Act or the Energy Reorganization Act.

Contrary to the above, Crane Nuclear Inc. discriminated against two pump mechanics at the D.C. Cook Nuclear Power Station for engaging in protected activities. Protected activities include refusing to perform work if the employee reasonably believes that performing the work would violate NRC requirements. Specifically, on February 10, 1999, two pump mechanics requested that a work package be revised to include more detailed instructions for performing the job. The concern was brought to the attention of the Crane Nuclear project manager, who stated the work could be performed using "skill of the craft." The mechanics refused to perform the work because they reasonably believed that performing the work without detailed procedures would violate NRC regulations. The project manager terminated the employment of the two pump mechanics for refusing to work the package without revision. The termination was a change in the compensation, terms, conditions or privileges of the mechanics' employment.

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

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken and planned to correct the violation and prevent recurrence are already adequately addressed in the letter forwarding this Notice of Violation (Notice). However, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201 if the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation," and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555 with a copy to the Regional Administrator, Region III, and a copy to the NRC Resident Inspector at the D.C. Cook Nuclear Power Plant, within 30 days of the date of the letter transmitting this Notice.

If you contest this enforcement action, you should also provide a copy of your response, with the basis for your denial, to the Director, Office of Enforcement, United States Nuclear Regulatory Commission, Washington, DC 20555-0001.

If you choose to respond, your response will be made 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). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html> (the Public Electronic Reading Room). Therefore, to the extent possible, the response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction.

In accordance with 10 CFR 19.11, you may be required to post this Notice within two working days.

Dated this 17th day of January 2002.