

April 20, 2015

EA-14-085

Mr. Luke Scorsone, Executive Vice President,
Group President Fabrication Services
Chicago Bridge and Iron Company
4171 Essen Lane
Baton Rouge, LA 70809

SUBJECT: NOTICE OF VIOLATION AND PROPOSED IMPOSITION OF CIVIL PENALTY -
\$11,200, NRC INVESTIGATION REPORT NO. 2-2013-024

Dear Mr. Scorsone:

This refers to the investigation conducted by the U.S. Nuclear Regulatory Commission (NRC) Office of Investigations (OI) between April 13, 2013, and May 9, 2014, of activities at Chicago Bridge and Iron Company's, Lake Charles, Louisiana, facility (CB&I-LC), formerly known as Shaw Modular Solutions. The investigation was conducted to determine: (1) whether a production manager, rigging manager, and safety representative directed CB&I-LC personnel to falsify statements, and thus create a false quality record associated with a sub-module destined for the Virgil C. Summer Nuclear Station (V. C. Summer) site; and (2) whether CB&I-LC willfully failed to correct a condition adverse to quality by creating an inaccurate condition report. The results of the investigation were described in the NRC's letter transmitting the factual summary of the OI report dated December 15, 2014 (Agencywide Documents Access and Management System (ADAMS) Accession Number ML14296A036).

A Predecisional Enforcement Conference (PEC) was conducted at NRC headquarters on January 22, 2015, with members of your staff to discuss the apparent violations, their significance, their root causes, and your corrective actions. The conference was closed to public observation because we discussed the findings of an OI report that has not been publicly disclosed.

Based on the information developed during the investigation and the information that you provided during the conference, the NRC has determined that violations of NRC requirements occurred. These violations are cited in the enclosed Notice of Violation (Notice) and the circumstances surrounding them were described in the NRC letter transmitting the factual summary of the OI report, dated December 15, 2014.

The violations occurred in March 2013, when two CB&I-LC officials deliberately instructed subordinate CB&I-LC employees to knowingly omit from an Incident Investigation Report that: (1) the V. C. Summer CA-01-20 sub-module had dropped approximately 3.5 feet; (2) improper rigging equipment (nylon slings) had been used and had broken; and (3) the sub-module had sustained damage. In addition, the CB&I-LC officials deliberately failed to promptly identify that a condition adverse to quality occurred regarding the incident and resultant damage to the sub-module. When CB&I-LC subsequently opened a corrective action report, CB&I-LC officials

deliberately withheld relevant information from members of the team evaluating Condition Report (CR) 2013-315, resulting in the team concluding that there was “no evidence . . . 1) a free-fall occurred; 2) a nylon strap was used or broke during the lift; and 3) that the module fell at all” despite the fact that the CB&I-LC officials had information to the contrary.

The actions of multiple employees deliberately submitting false information or omitting information from incident investigation reports and corrective action reports are of particular concern to the NRC because our regulatory program is based on licensees, contractors, and their employees acting with integrity. Based on the above, and in light of the interrelationship of the two violations, the NRC has concluded that the violations are appropriately characterized collectively as a Severity Level II problem in accordance with the NRC Enforcement Policy.

In accordance with the Enforcement Policy, a base civil penalty in the amount of \$11,200 is considered for a Severity Level II problem. Because this action involves the willful acts of CB&I employees, the NRC considered whether credit was warranted for both *Identification* and *Corrective Actions* in accordance with the civil penalty assessment process in Section 2.3.4 of the Enforcement Policy. The NRC determined that credit was not warranted for *Identification* but it was warranted for *Corrective Actions*. Regarding the *Identification* factor, this issue was reported to the NRC as a result of concerns about the appropriateness of actions being taken by CB&I officials shortly after the incident was identified at Lake Charles. With respect to the *Corrective Action* factor, the NRC determined that credit was warranted as a result of corrective actions taken once senior CB&I managers became aware of the chilled environment at Lake Charles. As discussed during the PEC, corrective actions included the following: (1) the V.C. Summer sub-module was 100 percent re-inspected prior to being shipped and received by the licensee; (2) CB&I has established an Employee Concern Board as an alternative process to discuss disagreement between the CB&I-LC leadership and the Employee Concerns Program investigation conclusions; (3) the company has made significant and substantive improvements to its corrective action program since June 2013; and (4) the company has conducted specific training for the Rigging Department employees. As a result of these corrective actions, the actions taken as part of the September 2014 Confirmatory Order, and the observations made during an NRC inspection conducted at the Lake Charles facility in December 2014, the NRC has determined that corrective actions credit is warranted. The results of this inspection are documented in the NRC’s inspection report of Chicago Bridge & Iron No. 99901425/2014-202, dated January 15, 2015 (ADAMS Accession No. ML14352A127).

As previously noted in our December 15, 2014, letter to you, the NRC staff considered whether the apparent violations warranted enforcement discretion as described in the Confirmatory Order (CO) issued to CB&I on September 25, 2014 (EA-13-196). The NRC concluded that the examples of deliberate misconduct addressed by this CO were driven by a poor understanding of nuclear safety culture, and were the result of CB&I-LC managers and workers placing production and schedule concerns ahead of safety and quality. However, the deliberate misconduct described in the Notice appear to include an understanding of the nuclear safety implications that resulted from the mishandling and damage to the sub-module; yet, the CB&I officials and employees involved in the incident knowingly disregarded requirements designed to promptly identify and correct a condition adverse to quality. Therefore, NRC staff concluded that the violations of 10 CFR 52.4 did not warrant consideration for enforcement discretion.

Therefore, to emphasize the importance of compliance with NRC regulations, including the prompt identification of violations, I have been authorized to issue the enclosed Notice of Violation and Proposed Imposition of Civil Penalty (Notice) in the base amount of \$11,200. In addition, issuance of this Notice constitutes escalated enforcement action that may subject you to increased inspection effort.

You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. If you have additional information that you believe the NRC should consider, you may provide it in your response to the Notice. The NRC's review of your response to the Notice will also determine whether further enforcement action is necessary to ensure compliance with regulatory requirements.

In accordance with Title 10 of the *Code of Federal Regulations* 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosures, and your response will be made available electronically for public inspection in the NRC Public Document Room or in 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,

/RA/

Patricia K. Holahan, Director
Office of Enforcement

Docket No. 99901425

Enclosures:

1. Notice of Violation
2. NUREG/BR-0254, "Payment Methods"

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Docket No. 99901425

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DISTRIBUTION:

See next page

ADAMS Accession No. ML15082A130

*via e-mail

NRO-002

OFC	NRO/DCIP:ROE	NRO/DCIP:ES	NRO/DCIP:BC	OE/EB:ES	OE/EB:BC
NAME	ABelen	TFrye	KKavanagh	RFretz	NHilton
DATE	03/23/15	03/23/15	03/26/15	04/16/15	04/20/15
OFC	RII/OI	NRO/DCIP:D	OGC	OE	
NAME	RRzepka *	MCheok *	DCylkowski *	PHolahan	
DATE	03/27/15	04/07/15	04/13/15	04/20/15	

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Letter to Mr. Luke Scorsone from Patricia Holahan dated April 20, 2015

SUBJECT: NOTICE OF VIOLATION AND PROPOSED IMPOSITION OF CIVIL PENALTY -
\$11,200, NRC INVESTIGATION REPORT NO. 2-2013-024

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NOTICE OF VIOLATION
AND
PROPOSED IMPOSITION OF CIVIL PENALTY

Chicago Bridge and Iron Company (Lake Charles)
Lake Charles, LA

Docket No. 99901425
EA-14-085

During an investigation conducted by the U.S. Nuclear Regulatory Commission (NRC), Office of Investigations, completed on May 9, 2014, violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the NRC proposes to impose a civil penalty pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and Title 10 of the *Code of Federal Regulations* (10 CFR) 2.205. The particular violations and associated civil penalty are set forth below:

- A. 10 CFR 52.4(c)(1) states, in part, that an employee of a contractor of any licensee may not engage in deliberate misconduct that causes or would have caused, if not detected, a licensee to be in violation of any rule, regulation, or order; or any term, condition, or limitation of any license issued by the Commission.

Criterion XVI, "Corrective Action," of Appendix B, "Quality Assurance Program Criteria for Nuclear Power Plants and Fuel Reprocessing Plants," to 10 CFR Part 50, states, in part, that "measures shall be established to assure that conditions adverse to quality, such as . . . deficiencies . . . and nonconformances are promptly identified and corrected."

Contrary to the above, between March 1 - 14, 2013, multiple Chicago Bridge and Iron Company, Lake Charles, Louisiana, facility (CB&I-LC) officials and employees engaged in deliberate misconduct that would have caused South Carolina Electric and Gas Co., the licensee for the Virgil C. Summer Nuclear Station (V. C. Summer), to be in violation of 10 CFR Part 50, Appendix B, Criterion XVI. Specifically:

1. A CB&I-LC official deliberately instructed subordinate CB&I-LC employees to knowingly omit from Incident Investigation Report statements that: (a) the V. C. Summer CA-01-20 sub-module had dropped approximately 3.5 feet; (b) improper rigging equipment (nylon slings) had been used and had broken; and (c) the sub-module had sustained damage. The CB&I-LC official also failed to promptly identify a condition adverse to quality relating to the damage that occurred to the sub-module as a result of the incident.
2. Another CB&I-LC official, with knowledge to the contrary, deliberately allowed CB&I-LC employees to knowingly omit this information from Incident Investigation Report statements after witnessing the first official's instructions. The second CB&I official also failed to promptly identify a condition adverse to quality relating to the damage that occurred to the sub-module.
3. As a result of following the CB&I-LC official's instructions, multiple CB&I-LC employees deliberately failed to promptly identify a condition adverse to quality relating to the damage that occurred to the sub-module.

The deliberate actions on the part of the CB&I-LC officials and employees resulted in a condition adverse to quality not being promptly identified and corrected.

- B. 10 CFR 52.4(c)(2) states, in part, that an employee of a contractor for any licensee may not deliberately submit to the NRC, licensee, or contractor, information that the person submitting the information knows to be incomplete or inaccurate in some respect material to the NRC.

Criterion XVI, "Corrective Action," of Appendix B, states, in part, that "measures shall be established to assure that conditions adverse to quality, such as . . . deficiencies . . . and nonconformances are promptly identified and corrected."

Contrary to the above:

1. On March 1, 2013, at least six CB&I-LC employees deliberately submitted incomplete and inaccurate information related to the dropped sub-module incident. Specifically, the employees omitted information that: (1) the V. C. Summer CA-01-20 sub-module had dropped approximately 3.5 feet; (2) improper rigging equipment (nylon slings) had been used and had broken; and (3) the sub-module had sustained damage in their original statements that supported an Incident Investigation Report. The incomplete and inaccurate information is material to the NRC because relevant facts associated with a potential nonconforming safety-related component were knowingly withheld until on or about March 14, 2013, and resulted in a condition adverse to quality not being promptly identified and corrected.
2. Between March 14 and April 4, 2013, multiple CB&I-LC officials engaged in deliberate misconduct by intentionally withholding information from other CB&I-LC employees investigating a condition adverse to quality. Specifically, the CB&I-LC officials deliberately withheld relevant information about the March 1, 2013, dropped module incident from members of a team evaluating Condition Report (CR) CR 2013-315, which was initiated, in part, to ensure appropriate corrective actions would be taken following the incident. As a result, evaluation team's April 4, 2013, report concluded that "[t]here is no evidence and no written report (other than what is stated in CR 13-315 by the initiator) that: 1) a free-fall occurred, 2) a nylon strap was used or broke during the lift, or 3) that the sub-module fell at all. (There was not a statement made in any of the incident reports that said the Module fell)." The evaluation team's report was submitted despite the fact that the CB&I-LC officials had information to the contrary and knew that these conclusions were incomplete or inaccurate in some respect material to the NRC. The incomplete and inaccurate information is material to the NRC because relevant facts associated with a nonconforming safety-related component were knowingly withheld and, if not detected, would have resulted in a condition adverse to quality not being promptly identified and corrected.

This is a Severity Level II Problem (NRC Enforcement Policy, Sections 6.5 and 6.9)

Civil Penalty- \$11,200 (EA-14-085)

Pursuant to 10 CFR 2.201, CB&I is hereby required to submit a written statement or explanation to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, with a copy to the Document Control Desk, Washington, DC 20555-0001, within 30 days of the date of this Notice of Violation and Proposed Imposition of Civil Penalty (Notice). This reply should be clearly marked as a "Reply to a Notice of Violation; (EA-14-085)" and should include for each alleged violation: (1) the reason for the violation, or, if contested, the basis for disputing the violation or severity level; (2) the corrective steps that have been taken and the results achieved; (3) the corrective steps that will be taken; and (4) the date when full compliance will be achieved.

Your response may reference or include previous docketed correspondence, if the correspondence adequately addresses the required response. If an adequate reply is not received within the time specified in this Notice, the NRC may issue an order or a Demand for Information requiring you to explain why the NRC should not take other action as may be proper. Consideration may be given to extending the response time for good cause shown.

CB&I may pay the civil penalty proposed above in accordance with NUREG/BR-0254 and by submitting to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, a statement indicating when and by what method payment was made. Alternatively, CB&I may protest imposition of the civil penalty in whole or in part, by a written answer addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, within 30 days of the date of this Notice. Should the Licensee fail to answer within 30 days of the date of this Notice, the NRC will issue an order imposing the civil penalty. Should CB&I elect to file an answer in accordance with 10 CFR 2.205 protesting the civil penalty, in whole or in part, such answer should be clearly marked as an "Answer to a Notice of Violation" and may: (1) deny the violation(s) 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 penalty should not be imposed. In addition to protesting the civil penalty in whole or in part, such answer may request remission or mitigation of the penalty.

In requesting mitigation of the proposed penalty, the response should address the factors addressed in Section 2.3.4 of the Enforcement Policy. Any written answer addressing these factors pursuant to 10 CFR 2.205 should be set forth separately from the statement or explanation provided 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 (a) civil penalty.

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

Your response will be made available electronically for public inspection in the NRC Public Document Room or in the NRC's Agencywide Documents 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 or proprietary information. If personal privacy or proprietary information is necessary to provide an acceptable response, then please provide a bracketed copy of your response that identifies the information

that should be protected and a redacted copy of your response that deletes such information. If you request that such material is withheld from public disclosure, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.390(b) to support a request for withholding confidential commercial or financial information). If safeguards information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21.

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

Dated this the 20 day of April 2015.