



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION I
2100 RENAISSANCE BLVD.
KING OF PRUSSIA, PA 19406-2713

May 13, 2016

IA-15-079

Mr. Stephen Mick
HOME ADDRESS DELETED
UNDER 10 CFR 2.390

SUBJECT: NOTICE OF VIOLATION (NRC INVESTIGATION REPORT NO. 1-2015-004)

Dear Mr. Mick:

This letter provides you the U.S. Nuclear Regulatory Commission's (NRC's) enforcement decision for the apparent violation (AV) identified during an NRC inspection and investigation of activities at the Novelis Corporation (Novelis) site in Fairmont, West Virginia. The inspection and investigation were conducted, in part, to evaluate whether Novelis employees deliberately performed maintenance activities that were not permitted under the terms of Novelis's NRC license and whether Novelis management deliberately directed or allowed these activities to occur.

Based on the results of the investigation and inspection, the NRC preliminarily determined that you committed an AV of Title 10 of the *Code of Federal Regulations* (CFR) Section 30.10(a)(1). Namely, it appeared that, on September 12 and 13, 2014, while working as the Novelis Engineering Reliability and Automation Manager (ERAM), you deliberately directed Novelis employees to repair nuclear gauge components related to the radiological safety of the device. It also appeared that you knew that these repairs were not permitted under the terms of Novelis's NRC license, which prohibited Novelis from maintaining, repairing, or replacing such components.

In a letter dated January 27, 2016 (ML16027A248),¹ the NRC described the AV to you and informed you that the NRC was considering escalated enforcement action against you. In the letter, we also offered you the opportunity to discuss the AV during a pre-decisional enforcement conference (PEC), to engage the NRC in an alternative dispute resolution (ADR) mediation session, or to provide a written response before we made our enforcement decision. In a letter dated March 8, 2016 (ML16074A194), you provided a written response in which you acknowledged that license violations occurred, but disagreed that you engaged in deliberate misconduct. Specifically, you stated that you did not direct any actions that you believed at the

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¹ Designation in parentheses refers to an Agency-wide Documents Access and Management System (ADAMS) accession number. Unless otherwise noted, documents referenced in this letter are publicly-available using the accession number in ADAMS.

time were contrary to Novelis's NRC license or otherwise hazardous. You stated that you were faced with conflicting information from two Novelis employees. You further stated that you chose to have Novelis employees complete the first repair because it was already underway. You stated that no employees dissented to your direction to complete the second repair.

The NRC considered the information you provided and concluded that it did not change the NRC determination that the violation occurred, in part, due to your deliberate actions. In particular, you stated in your March 8, 2016, letter that you were faced with conflicting views as to whether or not the repair was acceptable under Novelis's license. However, you confirmed during the NRC investigation that you were aware that the employee who told you the repair work was not permitted was listed on Novelis's license as the RSO; the individual responsible for implementing the company radiation safety program in accordance with NRC requirements and Novelis's license. Additionally, you stated in your letter that the first repair was well underway when the RSO raised concerns about the acceptability of the work. However, the technician who performed the repair informed the NRC investigators that the meeting with you occurred before he replaced the faulty component. Therefore, the NRC has determined that there was still quite a bit of work to complete when you were informed the repairs were underway.

The NRC considered your testimony acknowledging that you were aware at the time of the repair: (1) that Novelis had an NRC license; (2) who was listed as the RSO on that license; and (3) that the RSO had advised you before the completion of the repairs that the repairs were not permitted under the terms of the NRC license. Despite knowing all of this information, you acknowledged directing the completion of the first repair and the performance of the second repair.

Based on the information developed during the inspection and investigation and the information that you provided in your March 8, 2016, letter, the NRC has determined that the violation of Novelis's license provisions occurred. Specifically, you directed the performance of activities that were prohibited by Condition 19.B of Novelis's NRC License No. 47-13348-02. The failure to restrict activities to those authorized by the NRC license is of significance to the NRC because of the potential for unintended radiation exposure when unauthorized individuals conduct work on components intended to shield a radioactive source. In addition, and as discussed above, the NRC concluded that your participation in the violation was willful and deliberate. Therefore, the NRC has categorized this violation by Novelis in accordance with the NRC Enforcement Policy, at Severity Level III (SL III). A copy of the letter and Notice of Violation issued to Novelis is enclosed for your information.

Your actions with regards to the violation described above render you in violation of 10 CFR 30.10, "Deliberate Misconduct." Given the significance of the underlying issue and the deliberate nature of your actions, your individual violation has been categorized in accordance with the NRC Enforcement Policy at SL III, and is set forth in the enclosed Notice of Violation. Since Novelis has terminated its NRC license and you are no longer involved in NRC licensed activities, you are not required to respond to the Notice of Violation at this time. However, should you become employed by, or seek employment with, an NRC licensee in the future, you may be required, pursuant to the provisions of 10 CFR 2.201, to submit a written response. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice.

If you disagree with this enforcement sanction, you may deny the violation, as described in the Notice, or you may request 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 (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, clear up misunderstandings, 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>.

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 this issue through the ADR program, please contact: (1) the ICR at (877) 733-9415; and (2) Monica Ford at 610-337-5214 within 10 days of the date of this letter. You may also contact both ICR and Ms. Ford for additional information.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosures, and your response, should you choose to provide one, will be made available electronically for public inspection in the NRC Public Document Room and from the NRC's Agency-Wide 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, proprietary, or safeguards information so that it can be made available to the Public without redactions.

Please note that final NRC investigation documents, such as the OI report described above, may be made available to the public under the Freedom of Information Act (FOIA) subject to redaction of information appropriate under the FOIA. Requests under the FOIA should be made in accordance with 10 CFR 9.23, Requests for Records. Additional information is available on the NRC website at <http://www.nrc.gov/reading-rm/foia/foia-privacy.html>.

In addition, this letter will also be maintained by the Office of Enforcement in an NRC Privacy Act system of records, NRC-3, "Enforcement Actions Against Individuals." This system, which is not publicly-accessible, includes all records pertaining to individuals who are being considered for, or have been considered for enforcement action, whether such action was taken or not. The NRC-3 system notice, which provides detailed information about this system of records, can be accessed from the NRC Web site at <http://www.nrc.gov/reading-rm/foia/privacy-systems.html>.

S. Mick

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The NRC also includes significant enforcement actions on its Web site at (<http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions/>).

Sincerely,

/RA/

David C. Lew
Acting Regional Administrator

Enclosures: As stated

S. Mick

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The NRC also includes significant enforcement actions on its Web site at (<http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions/>).

Sincerely,
/RA/
David C. Lew
Acting Regional Administrator

Enclosures: As stated

ML16133A091

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<input checked="" type="checkbox"/> <i>SUNSI Review/MMM*</i>		<input checked="" type="checkbox"/> Non-Sensitive <input type="checkbox"/> Sensitive			<input checked="" type="checkbox"/> Publicly Available <input type="checkbox"/> Non-Publicly Available	
OFFICE	RI/ORA	RI/ORA	RI/DNMS	RI/ORA	RI/ ORA	OE
NAME	M McLaughlin/ MMM*	N Warnek/ NSW*	C Cahill/ CGC	B Klukan/ BMK*	B Bickett/ BAB*	N Hilton
DATE	3/31/16	3/31/16	4/01/16	4/05/16	4/05/16	5/10/16
OFFICE	NMSS	OGC	DNMS			RA
NAME	M Burgess	S Lewman	J Trapp/JMT*			D Lew/DCL *
DATE	4/6/16	5/3/16	5/11/16			5/11/16

*See previous concurrence page OFFICIAL RECORD COPY

Letter to S. Mick from D. Lew dated May 13, 2016

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Enforcement Coordinators

RII, RIII, RIV (D Gamberoni; R Skokowski; J Kramer)

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Region I OE Files (with concurrences)

NOTICE OF VIOLATION

Stephen Mick
[HOME ADDRESS DELETED
UNDER 10 CFR 2.390]

IA-15-079

An NRC inspection was conducted on October 15, 2014, with continued in-office review through January 21, 2016, and for which a telephonic exit meeting was conducted on January 22, 2016. Additionally, an NRC investigation was conducted between November 13, 2014, and October 1, 2015. During the NRC inspection and investigation, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

10 CFR 30.10(a)(1) states, in part, that any employee of a licensee may not engage in deliberate misconduct that causes a licensee to be in violation of any term, condition, or limitation of any license issued by the Commission.

Condition 19 of NRC License No. 47-13348-02 states that:

- A. The licensee may maintain, repair, or replace device components that are not related to the radiological safety of the device and that do not result in the potential for any portion of the body to come into contact with the primary beam or in increased radiation levels in accessible areas.
- B. The licensee may not maintain, repair, or replace any of the following device components: the sealed sources, the source holder, source drive mechanism, on-off mechanism (shutter), shutter control, or shielding, or any other component related to the radiological safety of the device, except as provided otherwise by specific conditions of this license.

Contrary to the above, on two occasions, you engaged in deliberate misconduct that caused Novelis Corporation (Novelis) to be in violation of a condition of its license. Specifically, on September 12 and 13, 2014, after learning from the Novelis radiation safety officer about the license provision that prohibited Novelis employees from repairing device components that were related to the radiological safety of the device, you directed a technician to repair such components, including the on-off mechanism (shutter) and the shutter control of a fixed nuclear gauge. These repairs were not otherwise authorized by any specific conditions of the license and were, therefore, prohibited.

This is a Severity Level III violation (Enforcement Policy Section 6.3).

Since Novelis terminated its NRC license and you are no longer involved in NRC licensed activities, you are not required to respond to the Notice of Violation at this time. However, should you become employed by, or seek employment with, an NRC licensee in the future, you may be required, pursuant to the provisions of 10 CFR 2.201, to submit a written response. This response should be clearly marked as a "Reply to a Notice of Violation; IA-15-079" and

should include: (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 future violations; and (4) the date when full compliance was achieved. The reply should be addressed to the U.S. Nuclear Regulatory Commission, ATTN: Regional Administrator, Region I, 2100 Renaissance Boulevard, Suite 100, King of Prussia, 19406, and marked "Open by Addressee Only." The reply should be dated within 30 days of accepting employment with, or becoming employed by, an NRC licensee. 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.

Your response will be made available electronically for public inspection in the NRC Public Document Room and in 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. 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 withholding of such material, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (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.

This letter will be maintained by the Office of Enforcement in an NRC Privacy Act system of records, NRC-3, Enforcement Actions Against Individuals. This system, which is not publicly-accessible, includes all records pertaining to individuals who are being or have been considered for enforcement action, whether such action was taken or not. The NRC-3 system notice, which provides detailed information about this system of records, can be accessed from the NRC Web site at <http://www.nrc.gov/reading-rm/foia/privacy-systems.html>.

Dated this 13th day of May 2016.