



**UNITED STATES  
NUCLEAR REGULATORY COMMISSION**  
REGION IV  
1600 E LAMAR BLVD  
ARLINGTON, TX 76011-4511

September 25, 2015

IA-15-060

Mr. Rudy Ontiveros  
[NOTE: HOME ADDRESS DELETED  
UNDER 10 CFR 2.390]

SUBJECT: NOTICE OF VIOLATION AND INVESTIGATION REPORT 4-2014-031

Dear Mr. Ontiveros:

This letter refers to the investigation completed on April 1, 2015, by the U.S. Nuclear Regulatory Commission's (NRC) Office of Investigations, Region IV, at Columbia Generating Station. The investigation was conducted to determine whether you, as a former security officer at Energy Northwest's Columbia Generating Station in Richland, Washington, willfully attempted to subvert a fitness-for-duty test in violation of NRC regulations.

As a result of the investigation, the NRC has determined there is sufficient evidence to conclude that you deliberately submitted information to the licensee that you knew was inaccurate in some respect material to the NRC. Specifically, on May 15, 2014, you deliberately submitted inaccurate information to the licensee when completing a reinstatement personnel history questionnaire that was confirmed by signature on the form. You indicated that you had not violated the licensee's fitness-for-duty program and had not used drugs in violation of federal law since you last had unescorted access when, in fact, you had done both. In addition, on May 19, 2014, you submitted a substitute urine sample in an effort to subvert the fitness-for-duty test to avoid detection of illegal drug usage. You admitted to submitting a substituted sample and provided the device used for substitution after the testing facility collector noted that the sample was not within the acceptable temperature range.

Since your actions were deliberate, you violated the NRC's deliberate misconduct rule 10 CFR 50.5(a)(2), which prohibits employees of licensees from deliberately submitting information to the NRC or a licensee that the person submitting the information knew to be incomplete or inaccurate in some respect material to the NRC. The submittal of inaccurate information was material to the NRC because it pertained to information used to establish your trustworthiness and reliability to gain unescorted access authorization to the facility as required by NRC regulations in 10 CFR Part 26, "Fitness for Duty Programs."

During the week of September 13, 2015, the NRC made several attempts to contact you by telephone, using the numbers available to us, to discuss the investigation results and your options. All phone attempts were unsuccessful. In addition, a choice letter was issued to you on September 18, 2015 (ML15261A668), describing your options associated with the apparent violation. Since the letter was undeliverable, this letter transmits our final enforcement decision.

Accordingly, based on the evidence obtained by the NRC's Office of Investigations, the NRC has determined that a violation of NRC requirements occurred. The purpose of the Commission's fitness-for-duty requirements is to provide reasonable assurance that nuclear power plant personnel work in an environment that is free from drugs and alcohol, and the effects of the use of these substances. By attempting to subvert the fitness-for-duty program and providing inaccurate information on your personal history questionnaire, you have failed to comply with the licensee's fitness for duty program and committed a violation of NRC requirements. Because of the significance of the underlying issue, and the deliberate nature of your actions, the violation is categorized as a Severity Level III violation in accordance with the NRC Enforcement Policy. The current Enforcement Policy is included on the NRC's Web site at <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>. The violation is cited in the enclosed Notice of Violation (Notice).

Since you are no longer employed by Energy Northwest, and are no longer eligible for unescorted access authorization in accordance with 10 CFR 26.75(b), the NRC does not plan to take any additional action and, therefore, you are not required to respond to this letter. Should you chose to respond, follow the instructions specified in the Notice.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosure, and your response, if 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>. The NRC also includes significant enforcement actions on its Web site at <http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions/>.

In addition, 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 our Web site at <http://www.nrc.gov/reading-rm/foia/privacy-systems.html>.

Sincerely,

/RA/

Marc L. Dapas  
Regional Administrator

Enclosure:  
Notice of Violation

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Sincerely,

/RA/

Marc L. Dapas  
Regional Administrator

Enclosure:  
Notice of Violation

Distribution: See next page

DOCUMENT NAME: S:\RAS\ACES\ENFORCEMENT\EA CASES - OPEN\CGS EA-15-185\_subverted FFD case\Individual Action\NOV\_IA-15-060.docx

ADAMS ACCESSION NUMBER: **ML15271A042**

<input type="checkbox"/> SUNSI Review By: JK		ADAMS <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		<input checked="" type="checkbox"/> Publicly Available <input type="checkbox"/> Non-Publicly Available		<input checked="" type="checkbox"/> Non-Sensitive <input type="checkbox"/> Sensitive		Keyword:
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Letter to R. Ontiveros from M. Dapas dated September 25, 2015.

SUBJECT: NOTICE OF VIOLATION AND INVESTIGATION REPORT 4-2014-031

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## NOTICE OF VIOLATION

Rudy Ontiveros  
[HOME ADDRESS DELETED  
UNDER 10 CFR 2.390]

IA-15-060

Based on the results of an NRC investigation completed on April 1, 2015, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

10 CFR 50.5(a)(2) states, in part, that any employee of a licensee may not deliberately submit to a licensee information that the person submitting the information knows to be incomplete or inaccurate in some respect material to the NRC.

10 CFR Part 26.61(b)(1) states, in part, that the written self-disclosure must state whether the individual has violated a licensee's fitness-for-duty policy and used, sold, or possessed illegal drugs.

10 CFR 73.55(c)(3) states, in part, that the licensee shall establish, maintain, and implement a Physical Security Plan, which describes how the performance objective and requirements set forth in this section will be implemented.

10 CFR 73.55(c)(7)(i) states, in part, that the licensee shall have a management system to provide for the development, implementation, revision, and oversight of security procedures that implement Commission requirements and the security plans.

Energy Northwest's Security Procedure SPIP-SEC-65, "Access Authorization Program," Revision 004, Section 3.6.1.(c), states, in part, review the completed reinstatement personal history questionnaire (Form 26576) for unescorted access authorization and/or unescorted access.

Energy Northwest's Reinstatement (R1Y), Personal History Questionnaire and Self-Disclosure [Form 26576], Section V, states that "the information that I have provided in this personal history questionnaire is correct and complete to the best of my knowledge and belief. I make this statement with knowledge that any false or misleading statement or omission of any fact may be sufficient cause for denial of unescorted access authorization and/or unescorted access."

Contrary to the above, on May 15, 2014, you, a Columbia Generating Station employee, deliberately submitted information to the licensee that you knew was incomplete and inaccurate in some respect material to the NRC. Specifically, you deliberately submitted inaccurate information to the licensee when completing a reinstatement personnel history questionnaire that was confirmed by signature on the form. You indicated that you had not violated the licensee's fitness-for-duty program and had not used drugs in violation of federal law since you last had unescorted access when, in fact, you had done both.

Enclosure

On December 12, 2014, you stated, in sworn testimony to NRC's Office of Investigations agents, that you had used marijuana on or about May 14, 2014. In addition, on May 19, 2014, you submitted a substitute urine sample in an effort to subvert the fitness-for-duty test to avoid detection of illegal drug usage. The submittal of accurate information was material to the NRC and is required by NRC regulations in 10 CFR Part 26, "Fitness for Duty Programs."

This is a Severity Level III violation.

Since you are no longer employed by Energy Northwest, and are no longer eligible for unescorted access authorization in accordance with 10 CFR 26.75(b), the NRC does not plan to take any additional action and, therefore, you are not required to respond to this letter. Should you choose to respond, follow the instructions specified in the Notice. However, if you wish to respond, the reply should be addressed to the U.S. Nuclear Regulatory Commission, ATTN: Regional Administrator, Region IV, 1600 East Lamar Blvd, Arlington, TX 76011-4511, and marked "Open by Addressee Only - Response to a Notice of Violation; (IA-15-060)." 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.

Because 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, it 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.

Dated this 25<sup>th</sup> day of September 2015.