



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**

REGION III
2443 WARRENVILLE RD. SUITE 210
LISLE, IL 60532-4352

March 17, 2016

EA-15-215

Mr. Brian D. Boles
Site Vice President
FirstEnergy Nuclear Operating Co.
Davis-Besse Nuclear Power Station
5501 N. State Rte. 2, Mail Stop A-DB-3080
Oak Harbor, OH 43449-9760

SUBJECT: RESULTS OF NUCLEAR REGULATORY COMMISSION INVESTIGATION
(REPORT NO. 3-2015-002)

Dear Mr. Boles:

This refers to the investigation completed on October 1, 2015, by the U.S. Nuclear Regulatory Commission (NRC) Office of Investigations (OI) at the Davis-Besse Nuclear Power Station to determine, in part, whether a non-supervisory contractor deliberately subverted Davis-Besse's fitness-for-duty (FFD) drug testing program. Based on the results of the OI investigation, the NRC has concluded that the individual deliberately attempted to subvert the Davis-Besse FFD drug test.

The Davis-Besse staff requested that the individual in question provide a urine sample for FFD testing because he was involved in a motor vehicle accident that caused minor damage to the Davis-Besse vehicle inspection facility. During the collection process, the individual provided a substituted synthetic urine sample and signed a form stating that the sample was his own. This first urine sample was outside the acceptable temperature range, and, therefore, the Davis-Besse staff requested a second urine sample be collected under observation. The individual provided the second sample, but deliberately failed to fully comply with the instructions provided for the observed sample collection.

The NRC determined the contractor employee violated Title 10 of the *Code of Federal Regulations* (CFR) 50.5(a)(2) when he deliberately submitted a substituted synthetic urine sample and signed a form stating the sample was his own.

The NRC also determined that the Davis-Besse staff took appropriate actions in requesting the initial FFD urine test and subsequent observed test after determining that the original urine sample was outside the acceptable temperature range. After determining the individual failed to follow the provided directions for the observed urine sample collection, the Davis-Besse staff immediately suspended the individual's access authorization pending results of the urine tests. After receiving the urine test results indicating that one test was positive for an illegal substance and one was negative, the Davis-Besse staff concluded that the individual attempted to subvert the test and terminated the individual's access authorization to the facility and permanently

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denied future access authorization in accordance with 10 CFR 26.75(b). Therefore, the NRC determined that the Davis-Besse staff did not violate NRC requirements.

You are not required to respond to this letter. However, should you choose to respond, clearly mark your response as a "Reply to an NRC Investigation, (EA-15-215)," and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555-0001, with a copy to the Regional Administrator, Region III, and a copy to the NRC Resident Inspector at the facility that is the subject of this Notice, within 30 days of the date of this letter.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter and your response, if any, will be made available electronically for public inspection in the NRC Public Document Room and 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>. 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.

Sincerely,

/RA/

Kenneth G. O'Brien, Director
Division of Reactor Safety

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DATE	03/01/16	03/01/16	03/11/16	03/11/16	03/15/16	03/17/16

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¹OE concurrence provided via email from D. Furst on March 11, 2016

²OGC no legal objection provided via email from S. Lewman on March 11, 2016

Letter to Mr. Brian D. Boles from Mr. Kenneth G. O'Brien dated March 17, 2016

SUBJECT: RESULTS OF NUCLEAR REGULATORY COMMISSION INVESTIGATION
(REPORT NO. 3-2015-002)

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