



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
1600 EAST LAMAR BOULEVARD
ARLINGTON, TEXAS 76011-4511

January 11, 2021

IA-20-050

Mr. Brent Shoptaw
[NOTE: HOME ADDRESS DELETED
UNDER 10 CFR 2.390]

SUBJECT: NOTICE OF VIOLATION, NRC INVESTIGATION REPORT 4-2019-012

Dear Mr. Shoptaw:

This letter refers to Event Notification 53860, made by Energy Northwest on February 4, 2019, notifying the U.S. Nuclear Regulatory Commission (NRC) that you had tested positive for an illegal substance during a random fitness-for-duty (FFD) test conducted on January 30, 2019. The NRC received additional information from Energy Northwest, dated March 7, 2019, regarding your confirmed positive FFD test results and the subsequent actions that were taken. In a letter dated March 28, 2019, Energy Northwest informed us that it no longer had a need to maintain your operator license for Columbia Generating Station effective March 26, 2019. In a letter dated April 12, 2019, we notified you that your license had been terminated. Copies of the aforementioned documents have been placed in your Title 10 of the *Code of Federal Regulations* (10 CFR) Part 55 docket file.

In addition, this letter refers to the investigation completed on August 27, 2020, by the NRC Office of Investigations at the Columbia Generating Station. The investigation was conducted to determine the circumstances surrounding the FFD test administered to you on January 30, 2019, that yielded a positive result for an illegal substance. A factual summary of the investigation, as it pertains to your actions, was issued as an enclosure to our letter dated November 5, 2020, available at Agencywide Documents Access and Management System (ADAMS) Accession ML20310A346. In our November 5, 2020, letter, we provided you the opportunity to address the apparent violation identified in the letter by attending a predecisional enforcement conference or by providing a written response before we made our final enforcement decision.

During a telephone conversation with an NRC enforcement specialist on December 7, 2020, you indicated that you had considered responding to our November 5, 2020, letter but did not think you had anything to offer that would change the NRC's position. The enforcement specialist explained to you that the NRC takes licensed operator FFD requirements seriously. You acknowledged that you understood the NRC enforcement position. In addition, you indicated that you did not consider this to be the result of deliberate misconduct and maintained that you did not intentionally ingest an illegal substance.

Based on the facts of this case and your testimony, the NRC found sufficient evidence to conclude that you deliberately used an illegal substance. Therefore, the NRC has determined that a violation of 10 CFR 55.53(j) occurred. The violation is cited in the enclosed Notice of Violation (Notice). Specifically, the NRC concluded that absent a valid prescription, you

ingested codeine, a drug included in Schedules I to V of section 202 of the Controlled Substances Act, as evidenced by a positive random fitness for duty urinalysis test performed on January 30, 2019. The use of an illegal substance is a serious matter which undermines the special trust and confidence placed in you as a licensed operator. Therefore, this violation is categorized as a Severity Level III violation in accordance with the NRC Enforcement Policy. The NRC Enforcement Policy is available on the NRC's website at <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>.

Since you no longer have an NRC license, you are not required to respond to the Notice unless you contest the violation. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice.

If you reapply for an operator license at Columbia Generating Station or apply for an operator license at any other NRC licensed facility, you will need to not only satisfactorily address the requirements of 10 CFR 55.31, "How to apply" and 10 CFR 55.33, "Disposition of an initial application," but also the requirements of 10 CFR 2.201, "Notice of violation." At that time, you will need to submit a written response to this violation to address the reasons for this violation and the actions you have taken to prevent recurrence in order to ensure your ability and willingness to: (1) carry out the special trust and confidence placed in you as a licensed reactor operator; and (2) abide by all FFD and other license requirements and conditions. This response should be clearly marked as a "Reply to a Notice of Violation, (IA-20-050)," and sent to the Regional Administrator, U.S. Nuclear Regulatory Commission, Region IV, 1600 E. Lamar Blvd., Arlington, TX 76011-4511 and emailed to R4Enforcement@nrc.gov.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice and Procedure," 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 or from the NRC's ADAMS, accessible from the website at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response should not include any personal privacy information so that it can be made available to the public without redaction. The NRC will also make our letter dated November 5, 2020, publicly available. In addition, the NRC includes significant enforcement actions on its website at (<http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions/>).

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 website at <http://www.nrc.gov/reading-rm/foia/privacy-systems.html>.

Please contact Mr. John Kramer of my staff at 817-200-1121 if you have any questions.

Sincerely,

Scott A. Morris
Regional Administrator

Enclosure: Notice of Violation

NOTICE OF VIOLATION, NRC INVESTIGATION REPORT 4-2019-012 – DATED JANUARY 11, 2021

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ACCESSION NUMBER: **ML21011A054**

SUNSI Review: ADAMS: Non-Publicly Available Non-Sensitive Keyword:
 By: JGK Yes No Publicly Available Sensitive

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SIGNATURE	/RA/ E	/RA/ E	/RA/ E	/RA/ E	/RA/ E	/RA/ E
DATE	12/10/20	12/10/20	12/14/20	12/16/20	12/16/20	12/17/20
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NAME	RSusko	GWilson	RLantz	SMorris		
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DATE	01/06/21	01/06/21	01/06/21	01/11/21		

OFFICIAL RECORD COPY

NOTICE OF VIOLATION

Brent Shoptaw
[HOME ADDRESS DELETED]
UNDER 10 CFR 2.390

IA-20-050

During an NRC investigation conducted from April 3, 2019, through August 27, 2020, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

10 CFR 55.53(d) requires, in part, that operator licenses are subject to, and the licensee shall observe, all applicable rules, regulations and orders of the Commission.

10 CFR 55.53(j) requires, in part, that the licensee shall not use, possess, or sell any illegal drugs.

10 CFR 26.5 defines an "illegal drug" as any drug that is included in Schedules I to V of section 202 of the Controlled Substances Act, 21 United States Code 812, but not when used pursuant to a valid prescription or when used as otherwise authorized by law.

Contrary to the above, on or before January 30, 2019, you used an illegal drug. Specifically, absent a valid prescription, you ingested codeine, a drug included in Schedules I to V of section 202 of the Controlled Substances Act, as evidenced by a positive random fitness for duty urinalysis test performed on January 30, 2019. That urinalysis indicated the presence of opiate metabolites (codeine) at a level more than twice the cutoff limit established in NRC's regulations and Columbia Generating Station's procedures.

This is a Severity Level III violation (NRC Enforcement Policy, Section 6.4.c.3).

Since you no longer have an NRC license, you are not required to respond to the Notice of Violation (Notice) at this time. However, if you reapply for an operator license at Columbia Generating Station or apply for an operator license at any other NRC licensed facility, you will need to not only satisfactorily address the requirements of 10 CFR 55.31, "How to apply" and 10 CFR 55.33, "Disposition of an initial application," but also the requirements of 10 CFR 2.201, "Notice of violation." At that time, you will need to submit a written response to this violation to address the reasons for this violation and the actions you have taken to prevent recurrence in order to ensure your ability and willingness to: (1) carry out the special trust and confidence placed in you as a licensed reactor operator; and (2) abide by all fitness-for-duty and other license requirements and conditions.

However, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201 if the description in the Notice does not accurately reflect your position. In that case, or if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation, (IA-20-050)," send it to the Regional Administrator, U.S. Nuclear Regulatory Commission, Region IV, 1600 E. Lamar Blvd., Arlington, TX 76011-4511 and email it to R4Enforcement@nrc.gov 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.

Enclosure

If you choose to respond, 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 at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response should not include any personal privacy information so that it can be made available to the public without redaction. If personal privacy 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).

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 website at <http://www.nrc.gov/reading-rm/foia/privacy-systems.html>.

Dated this 11th day of January 2021