



UNITED STATES
NUCLEAR REGULATORY COMMISSION

REGION I
475 ALLENDALE ROAD, SUITE 102
KING OF PRUSSIA, PA 19406

June 7, 2022

IA-22-025

Mr. Matthew F. Carberry
HOME ADDRESS DELETED
UNDER 10 CFR 2.390

SUBJECT: NRC OFFICE OF INVESTIGATIONS REPORT 1-2022-007 AND NOTICE OF VIOLATION

Dear Mr. Carberry:

This letter refers to the investigation initiated on January 7, 2022, by the U.S. Nuclear Regulatory Commission's (NRC's) Office of Investigations (OI), to determine whether you, a (now-former) licensed Reactor Operator (RO) at Limerick Generating Station (LGS) deliberately performed duties at LGS Unit 2 while under the influence of alcohol. On January 3, 2022, an Event Notification (EN# 55685) was made by Constellation Energy Generation, LLC (Constellation) informing the NRC that you tested positive for alcohol during a for-cause fitness-for-duty (FFD) test conducted that morning.

From its investigation, the NRC staff confirmed that, during the relevant timeline, you performed activities authorized by your NRC license which included conducting observations and documenting readings from instruments associated with operating LGS Unit 2. The NRC staff also affirmed that you were administered two FFD tests, each of which yielded positive results for alcohol. However, based on the results of the investigation, the NRC staff determined that you did not deliberately perform licensed activities at LGS Unit 2 while under the influence of alcohol. The NRC's determination was affected by your belief that when reporting to work on January 3, 2022, that you were not under the influence of alcohol because you had stopped drinking at an appropriate time and received adequate hours of sleep. The NRC staff notes that this was your first confirmed positive test and that, in response to this event, Constellation temporarily revoked your unescorted access to the LGS protected area and terminated your operator license. The staff also notes that you participated in a treatment program to prevent recurrence of this problem.

Though not the result of deliberate misconduct, the NRC determined that your actions still resulted in a violation of Title 10 of the *Code of Federal Regulations* (CFR) Section 55.53(j), which prohibits licensees from performing activities authorized by a license while under the influence of alcohol. The term "under the influence" means the licensee exceeded, as evidenced by a confirmed test result, the lower of the cutoff levels for alcohol contained in subparts E, F, and G of 10 CFR Part 26, or as established by the facility licensee.

In an electronic mail message dated May 17, 2022, Marjorie McLaughlin of my staff, described to you the apparent violation and provided you an opportunity to accept the violation or provide any additional information in writing or through the conduct of a pre-decisional enforcement

conference (PEC). In a May 26, 2022, response, you indicated that you did not believe that either attending a PEC or submitting a written response was necessary. Accordingly, the NRC determined that the violation of 10 CFR 55.53(j) occurred due to you being under the influence of alcohol while you were performing licensed activities, as demonstrated by a confirmed positive test result for alcohol. The violation is cited in the enclosed Notice of Violation (Notice).

The purpose of the Commission's FFD 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. The use of alcohol, such that an operator exceeds the cutoff limits specified in 10 CFR Part 26, or in the licensee's FFD program, is a serious matter, which undermines the special trust and confidence placed in you as a licensed Reactor Operator. Therefore, the violation is categorized at Severity Level III 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>.

Since you no longer have an NRC license, you are not required to respond to the Notice unless you contest the violation. Should you contest the Notice, a response is required within 30 days of the date of this letter addressing the specific basis for disputing the violation. This response should be sent to the U.S. Nuclear Regulatory Commission, ATTN: Regional Administrator, NRC Region I, 475 Allendale Road, King of Prussia, PA 19406 and marked Open by Addressee Only - Response to a Notice of Violation; (IA-22-025).

If you reapply for an operator license at LGS, 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 and 10 CFR 55.33, but also the requirements of 10 CFR 2.201. 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 sent to the U.S. Nuclear Regulatory Commission, ATTN: Regional Administrator, NRC Region I, 475 Allendale Road, King of Prussia, PA 19406 and marked Open by Addressee Only - Response to a Notice of Violation; (IA-22-025). Please note that, in accordance with 10 CFR 26.75(e), future similar violations will substantially affect your authorization for unescorted access to the protected area of a licensed facility.

The NRC intends to place a copy of this letter and the enclosed Notice in your 10 CFR Part 55 docket file. Additionally, in accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," these documents, as well as any further response from you, if one is provided, 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/>.

All final NRC documents, such as the OI report described above, are official agency records and 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 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>.

If you have any further questions about this matter, you may contact Marjorie McLaughlin at 610-337-5240 or Marjorie.mclaughlin@nrc.gov.

Sincerely,

David C. Lew
Regional Administrator

Docket No. 55-63929
License No. OP-500368

Enclosure: Notice of Violation

cc: w/encl and w/HOME ADDRESS DELETED
Mr. David P. Rhoades, Senior Vice President
Constellation Energy Generation, LLC

SUBJECT: NOTICE OF VIOLATION DATED June 7, 2022

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Region I OE Files (with concurrences)

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OFFICE	RI/ORA	RI/DORS	RI/DORS	RI/DORS	RI ORA	RI/ ORA
NAME	M McLaughlin	D Jackson	J Greives	D. Collins	B Klukan/	R McKinley
DATE	05/31/22	06/01/22	06/01/22	6/01/22	06/01/22	06/01/22
OFFICE	OE					RA
NAME	D Jones					D Lew
DATE	06/06/22					06/07/22

*see previous concurrence

OFFICIAL RECORD COPY

NOTICE OF VIOLATION

Matthew Carberry
[HOME ADDRESS DELETED
UNDER 10 CFR 2.390]

Docket No. 55-63929
License No. OP-500368
IA-22-025

As a result of information provided by Constellation Energy Generation, LLC (Constellation) in an event notice dated January 3, 2022, and identified during an NRC investigation conducted between January 7, 2022, and April 6, 2022, the NRC identified a violation of NRC requirements. In accordance with the NRC Enforcement Policy, the violation is listed below:

10 CFR 55.53(j) requires, in part, that an (individual) licensee shall not perform activities authorized by a license while under the influence of alcohol. The term "under the influence" means the licensee exceeded, as evidenced by a confirmed test result, the lower of the cutoff levels for alcohol contained in subparts E, F, and G of 10 CFR Part 26, or as established by the facility licensee.

Contrary to the above, on January 3, 2022, you, the holder of an NRC-issued Reactor Operator (SRO) license (OP-500368), performed activities authorized under your NRC RO license at Limerick Generating Station Unit 2, while under the influence of alcohol. Constellation identified that you were under the influence via a for-cause test administered to you on January 3, 2022, as part of its fitness-for-duty (FFD) program. The FFD test yielded a confirmed positive result for alcohol that exceeded the cutoff level established by the facility licensee.

This is a Severity Level III violation (NRC Enforcement Policy Example Violation 6.4).

Since you no longer have an NRC license, you are not required to respond to this Notice of Violation at this time. However, should you apply for a 10 CFR Part 55 license in the future, you will be required, pursuant to the provisions of 10 CFR 2.201, to submit a written response to the violation with your application. This reply should be clearly marked as a "Reply to a Notice of Violation; IA-22-025" 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 further violations, and (4) the date when full compliance was/will be achieved.

In such case, the response should be sent to the U.S. Nuclear Regulatory Commission, ATTN: Regional Administrator, NRC Region I, 475 Allendale Rd, King of Prussia, PA 19406, and marked Open by Addressee Only – Response to a Notice of Violation; (IA-22-025). 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 Agency-wide 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 Notice of Violation 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 7th day of June, 2022