

May 8, 2003

IA-03-016

Mr. Edward Villegas
HOME ADDRESS DELETED
UNDER 10 CFR 2.790

SUBJECT: NOTICE OF VIOLATION
(NRC Office of Investigations Report 1-2002-028)

Dear Mr. Villegas:

This letter refers to an investigation conducted by the NRC's Office of Investigations (OI), Region I, between August 21, 2002, through January 31, 2003, regarding your activities at the Seabrook Station. This investigation was initiated after FPL Energy Seabrook, LLC, informed the NRC on August 12, 2002, that you, formerly employed by Burns International Security Services (BISS) as a security sergeant at Seabrook, falsified a record documenting required annual physical fitness requalification testing for a security officer (also employed by BISS).

Based on the investigative results, the NRC has concluded that you deliberately falsified the record for a security officer who failed to complete a portion of the requalification test on November 15, 2001, and the security officer continued working as an armed responder/security officer between that date and August 12, 2002, even though the officer had not fulfilled an element of his requalification. In a telephone interview conducted under oath on August 22, 2002, you also admitted to an OI investigator that you falsified the training record. You documented that the test was complete, when in fact, you allowed the security officer to skip the stair run (indoor run) portion of the test. You expressed concern that the security officer did not look physically well and might have a heart attack if the stair run was completed, or might lose his job if the stair run was not completed. In addition, you admitted to knowing that you should not have done what you did.

After considering the information developed during the investigation, the NRC concluded that you were in violation of the NRC's rule prohibiting deliberate misconduct, 10 CFR 50.5(a)(1). This rule prohibits any contractor of any licensee from engaging in deliberate misconduct that causes a licensee to be in violation of any rule, regulation, or order; or any term, condition, or limitation of any license issued by the Commission. When you deliberately falsified the "Training and Qualification Plan Performance Checklist for Physical Fitness Qualification" for the security officer on November 15, 2001, your actions placed the licensee in violation of 10 CFR 73.55 (b)(4)(i). A letter forwarding a Notice of Violation to the licensee, including a synopsis of OI Investigation 1-2002-028, is enclosed with this letter.

The NRC and its licensees must be able to rely on the integrity and trustworthiness of employees or contractor employees. Falsification of records is unacceptable behavior in the nuclear industry. As a first line contractor supervisor, you were in a position to direct or

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influence the conduct of other contractor employees. As such, your actions demonstrated a deliberate disregard for NRC requirements. Therefore, after consultation with the Director, Office of Enforcement, the NRC has decided to issue the enclosed Notice of Violation (Notice) to you based on your violation of NRC regulations regarding deliberate misconduct. In accordance with the "General Statement of Policy and Procedures for NRC Enforcement Actions," (NUREG-1600), which is available on the NRC's website at <http://www.nrc.gov/what-we-do/regulatory/enforcement.html>, this violation has been classified at Severity Level IV.

In determining the appropriate sanction to be issued, the NRC considered issuance of an Order in this case, but determined that issuance of a Notice of Violation was more appropriate because you admitted to falsifying the record and because FPL Energy Seabrook, LLC, already took disciplinary action against you. However, you should be aware that if there is similar conduct on your part in the future, you may be subject to further enforcement action that could include an Order prohibiting your involvement in NRC licensed activities for a specific period of time. A violation of 10 CFR 50.5 may also lead to criminal prosecution.

You are required to respond in writing within 30 days of the date of this letter and should follow the instructions specified in the enclosed Notice when preparing your response. In your response, you should document the specific actions taken and any additional actions you plan to prevent recurrence. In addition, please include in your response information regarding why, in light of your actions in November 2001, the NRC should have confidence that you will adhere to regulatory requirements should you currently, or in the future, be employed in the nuclear industry. If you believe any information concerning this matter is inaccurate, if you wish to provide additional information that you believe is important to our full understanding of this matter, or if you contest the violation, please include this in your response. The NRC will use your response, in part, to determine whether further enforcement action is necessary to ensure compliance with regulatory requirements.

In accordance with Section 2.790 of the NRC's "Rules of Practice," Part 2, Title 10, Code of Federal Regulations, records or documents compiled for enforcement purposes are made publicly available in the NRC public Document Room or from the NRC's document system (ADAMS). ADAMS is accessible from the NRC web site at <http://www.nrc.gov/reading-rm/adams.html>. A copy of this letter, with your address removed, and your response will be made publicly available 45 days after the date of this letter unless you provide sufficient basis to withdraw this violation within the 30 days specified above for a response to this Notice of Violation. A copy of this enforcement action will also be provided to FPL Energy Seabrook, LLC, at that time.

Please feel free to contact Mr. Richard Crlenjak, Deputy Director, Division of Reactor Safety, of my staff if you have any questions. Mr. Crlenjak can be contacted at 610-337-5128.

Sincerely,

/RA/ James T. Wiggins Acting For

Hubert J. Miller
Regional Administrator

Enclosures: 1) Notice of Violation
2) Letter and Notice of Violation to FPL Energy Seabrook, LLC

Mr. Edward Villegas

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cc w/encl 1 only (HOLD FOR 45 DAYS):

Mr. Mark E. Warner

Site Vice President

c/o James M. Peschel

FPL Energy Seabrook, LLC

Seabrook Station

P.O. Box 300

Seabrook, NH 03874

Mr. Edward Villegas

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| DATE | 4/7/03 | | 4/15/03 | | 4/16/03 | | 4/10/03 | | 4/17/03 | |
| OFFICE | RI/ORA | | RI/RC | | RI/RA | | HQ/OE | | HQ/OGC | |
| NAME | Dholody (DJH) | | Kfarrar (KLF) | | Hmiller (JTW for) | | FCongel * | | DDambly ** | |
| DATE | 4/17/03 | | 4/16/03 | | 4/22/03 | | 5/2/03 | | 5/7/03 | |

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* per e-mail from L. Trocine ** per e-mail from G. Longo

NOTICE OF VIOLATION

Mr. Edward Villegas
[HOME ADDRESS DELETED
UNDER 10 CFR 2.790(a)]

IA-03-016

During an investigation by the NRC Office of Investigations completed on January 31, 2003, a violation of NRC requirements was identified. In accordance with the "General Statement of Policy and Procedures for NRC Enforcement Actions," NUREG-1600, the violation is listed below:

10 CFR 50.5(a)(1) states, in part, that any employee of a contractor of any licensee may not engage in deliberate misconduct that causes a licensee to be in violation of any rule, regulation, or order.

10 CFR 73.55(b)(4)(i) requires, in part, that guards, watchmen, armed response personnel, and other members of the security organization requalify in accordance with Appendix B to this part at least every 12 months. In addition, the licensee must document this requalification and retain the documentation record of each requalification for three years after the requalification.

Appendix B of 10 CFR Part 73, Section II.E, "Requalification," requires, in part, requalification to be in accordance with the NRC-approved licensee training and requalification plan.

The licensee's training and qualification plan, "Performance Checklist for Physical Fitness Qualification," Revision 8, requires completion of an outdoor run, an indoor run, and a run from cover as part of a security officer's requalification.

Contrary to the above, on November 15, 2001, a security officer did not complete the indoor run portion of the requalification test administered that day, yet you falsified the requalification record when you denoted that the security officer had completed and passed the entire test. In addition, the security officer continued to function as a security officer/armed responder, even though you knew that the security officer had not fulfilled an element of his requalification. This condition was not corrected until August 12, 2002, when the security officer was decertified and disarmed.

This is a Severity Level IV violation (Supplement VII).

Pursuant to the provisions of 10 CFR 2.201, Edward Villegas is hereby required to submit a written statement or explanation to the U.S. Nuclear Regulatory Commission, ATTN: Regional Administrator, Region I, 475 Allendale Road, King of Prussia, PA, 19406, and marked "Open by Addressee Only" within 30 days of the date of the letter transmitting this Notice of Violation (Notice). This reply should be clearly marked as a "Reply to a Notice of Violation; IA-03-016" 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 will be achieved. If an adequate reply is not received within the time specified in this Notice, an Order or a Demand for Information may be issued as to why such other action

as may be proper should not be taken. Where good cause is shown, consideration will be given to extending the response time.

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 will be made available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS), 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. ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html> (the Public Electronic Reading Room). 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 2.790(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 8th day of May 2003

May 8, 2003

EA-03-045

Mr. Mark E. Warner
Site Vice President
c/o James M. Peschel
FPL Energy Seabrook, LLC
Seabrook Station
P.O. Box 300
Seabrook, NH 03874

SUBJECT: SEABROOK STATION - NOTICE OF VIOLATION
NRC OFFICE OF INVESTIGATIONS CASE NO. 1-2002-028

Dear Mr. Warner:

On January 31, 2003, the NRC's Office of Investigations (OI) completed an investigation after FPL Energy Seabrook, LLC, informed the NRC on August 12, 2002, that it had identified a security department sergeant, employed by Burns International Security Services (BISS), who had falsified a record documenting required annual physical fitness requalification testing for a security officer (also employed by BISS). Based on the OI investigation, the NRC has concluded that a single instance had occurred in which (1) the sergeant deliberately falsified a record for a security officer who failed to complete one portion of the requalification test, (2) the security officer knowingly participated in the creation of this false record when he failed to complete a portion of the requalification test, and (3) the security officer continued working as an armed responder/security officer even though both the officer and the sergeant knew that he had not fulfilled an element of his requalification.

After careful consideration of the information developed during the investigation, the NRC has concluded that a violation of NRC requirements occurred. Specifically, 10 CFR 73.55(b)(4)(i) requires guards to requalify in accordance with the NRC-approved licensee training and qualification plan at least every 12 months, and the requalification must be documented and retained as a record for 3 years. The actions taken by the sergeant and security officer described above caused you to be in violation of 10 CFR 73.55(b)(4)(i). In addition, since the sergeant and security officer knew their actions were contrary to procedural requirements, the violation was deliberate.

In accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions" (Enforcement Policy), NUREG-1600, which is available on the NRC's website at <http://www.nrc.gov/what-we-do/regulatory/enforcement.html>, the NRC has classified the violation at Severity Level IV, after considering the significance of the violation and its deliberate nature. The violation is described in the enclosed Notice of Violation. Similar violations in the future could, however, result in escalated enforcement action.

The NRC evaluated this case against the criteria in Section VI.A.1 of the Enforcement Policy, and considered issuance of a non-cited violation because: (1) you restored compliance within a reasonable time after identification, i.e., you corrected the violation on August 12, 2003, after you identified it on August 8, 2003; (2) you placed the issue in your corrective action system and your corrective actions consisted of, but were not limited to, decertifying and disarming the security officer and currently requiring more than a single supervisor to witness physical fitness testing; (3) the issue was not repetitive nor identified by the NRC; and (4) although the violation was deliberate, (a) you identified the violation and notified the NRC; (b) the violation was isolated to the two individuals; and (c) you took significant remedial action which consisted of terminating the security sergeant's employment and you suspended the security officer pending an investigation and counseled him upon his return to work. However, because the violation was caused, in part, by the security sergeant, who was a first line supervisor, and therefore a licensee official as defined within the context of the NRC Enforcement Policy, the NRC has concluded that issuance of a non-cited violation is not appropriate.

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken and planned to correct the violation and prevent recurrence, and the date when full compliance was achieved is already adequately addressed on the docket as summarized herein. Therefore, you are not required to respond to this letter unless the description herein does not accurately reflect your corrective actions or your position. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter and its enclosure will be available electronically for public inspection in the NRC Public Document Room (PDR) or from the Publicly Available Records (PARS) component of the NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html> (the Public Electronic Reading Room).

Questions concerning this matter may be addressed to Mr. Richard Crlenjak, Deputy Director, Division of Reactor Safety, at 610-337-5128. We appreciate your prompt and comprehensive actions in this matter.

Sincerely,

/RA/ James T. Wiggins Acting For

Hubert J. Miller
Regional Administrator

Docket No. 50-443
License No. NPF-86

Enclosures: (1) Notice of Violation
(2) Synopsis of NRC Investigation 1-2002-028

cc w/encls:

J. A. Stall, FPL Senior Vice President, Nuclear & CNO
J. M. Peschel, Manager - Regulatory Programs
G. F. St. Pierre, Station Director - Seabrook Station
R. S. Kundalkar, FPL Vice President - Nuclear Engineering
D. G. Roy, Nuclear Training Manager - Seabrook Station
J. Devine, Polestar Applied Technology
D. Bliss, Director, New Hampshire Office of Emergency Management
D. McElhinney, RAC Chairman, FEMA RI, Boston, Mass
R. Backus, Esquire, Backus, Meyer and Solomon, New Hampshire
D. Brown-Couture, Director, Nuclear Safety, Massachusetts Emergency Management Agency
S. McGrail, Director, Massachusetts Emergency Management Agency
R. Hallisey, Director, Dept. of Public Health, Commonwealth of Massachusetts
M. Metcalf, Seacoast Anti-Pollution League
D. Tefft, Administrator, Bureau of Radiological Health, State of New Hampshire
S. Comley, Executive Director, We the People of the United States
W. Meinert, Nuclear Engineer, Massachusetts Municipal Wholesale Electric company
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| NAME | Dholody (DJH) | Kfarrar (KLF) | Hmiller (JTW for) | FCongel * | Ddambly ** |
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* per e-mail from L. Trocine ** per e-mail from G. Longo

NOTICE OF VIOLATION

FPL Energy Seabrook, LLC
Seabrook Station

Docket No. 50-443
License No. NPF-86
EA-03-045

During an investigation by the NRC Office of Investigations completed on January 31, 2003, a violation of NRC requirements was identified. In accordance with the "General Statement of Policy and Procedures for NRC Enforcement Actions," NUREG-1600, the violation is listed below:

10 CFR 73.55(b)(4)(i) requires, in part, that guards, watchmen, armed response personnel, and other members of the security organization requalify in accordance with Appendix B to this part at least every 12 months. In addition, the licensee must document this requalification and retain the documentation record of each requalification for three years after the requalification.

Appendix B of 10 CFR Part 73, Section II.E, "Requalification," requires, in part, requalification to be in accordance with the NRC-approved licensee training and requalification plan.

The licensee's training and qualification plan, "Performance Checklist for Physical Fitness Qualification," Revision 8, requires completion of an outdoor run, an indoor run, and a run from cover as part of a security officer's requalification.

Contrary to the above, on November 15, 2001, a security officer did not complete the indoor run portion of the requalification test administered that day, yet a security sergeant falsified the requalification record when he denoted that the security officer had completed and passed the entire test. In addition, the security officer continued to function as a security officer/armed responder, even though the security sergeant knew that the security officer had not fulfilled an element of his requalification. This condition was not corrected until August 12, 2002, when the security officer was decertified and disarmed.

This is a Severity Level IV violation (Supplement VII)

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken and planned to correct the violation and prevent recurrence, and the date when full compliance was achieved is already adequately addressed on the docket as indicated in the letter transmitting this Notice of Violation (Notice). However, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201 if the description herein does not accurately reflect your corrective actions or your position. In that case, or if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation; EA-03-045," and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555, with a copy to the Regional Administrator, Region I, 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 the letter transmitting this Notice.

If you choose to respond, your response will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document 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.

In accordance with 10 CFR 19.11, you may be required to post this Notice within two working days.

Dated this 8th day of May 2003

SYNOPSIS

On August 21, 2002, this investigation was initiated by the United States Nuclear Regulatory Commission (NRC), Office of Investigations (OI), Region I, to determine whether a Seabrook Security Department Sergeant, employed by Burns International Security Services, deliberately falsified a record documenting required annual physical fitness requalification testing for an armed responder/security officer, and whether the security officer participated in the falsification.

Based on the investigative results, OI concludes that the sergeant deliberately falsified the requalification record, and that, by his deliberate participation in the non-performance of the requalification test, the security officer caused the licensee to be in violation of NRC regulations when he knowingly continued working as an armed responder/security officer even though he knew he had not completed a portion of his required annual physical fitness requalification testing.