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UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION II

245 PEACHTREE CENTER AVENUE NE, SUITE 1200
ATLANTA, GEORGIA 30303-1257

March 3, 2017

IA-16-029

Mr. Pieter van der Heide
HOME ADDRESS DELETED
UNDER 10 CFR 2.390

SUBJECT: NOTICE OF VIOLATION, NUCLEAR REGULATORY COMMISSION OFFICE
OF INVESTIGATIONS REPORT 2-2015-003

Dear Mr. van der Heide:

This letter refers to the investigation completed on October 9, 2015, by the Nuclear Regulatory Commission's (NRC's) Office of Investigations (OI), concerning your activities at the Louisiana Energy Services, LLC (LES) (d/b/a URENCO USA (UUSA)) uranium enrichment facility in Eunice, NM. The purpose of the investigation was to review your involvement in certain security-related incidents at the UUSA facility in your capacity as Director of Security and Regulatory Affairs for Enrichment Technology – United States (ETUS), a contractor to UUSA.

The details of the investigation were documented in our letter to you dated April 14, 2016, which included a Factual Summary of the OI Report and an apparent violation of NRC requirements to be considered for escalated enforcement. In the letter, we also provided you the opportunity to address the apparent violation by either attending a predecisional enforcement conference or by providing a written response before we made our final enforcement decision.

In a letter dated June 1, 2016, you provided a response to the apparent violation. In your written response, you denied that your actions represented deliberate misconduct. You also provided substantial details regarding the potential security incidents.

Based on the information developed during the investigation and the information that you provided in your written response dated June 1, 2016, the NRC has determined that a deliberate violation of NRC requirements occurred. The violation is cited in the enclosed Notice of Violation (Enclosure 1). Enclosure 2 to this letter describes the basis for determining the severity level of the violation, and the NRC's rebuttal to your written response. Your deliberate actions caused LES, the licensee, to be in violation of NRC requirements for security-related

~~Enclosures 1 and 2 transmitted herewith contain security-related information. When separated from Enclosures 1 and 2, this transmittal document is decontrolled.~~

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2

matters, and you to be in violation of 10 CFR 70.10(a)(1), the Deliberate Misconduct rule. Enclosure 3 is a copy of the cover letter issued to LES transmitting a Notice of Violation and Proposed Imposition of Civil Penalty.

In determining the appropriate sanction to be issued in this case, the NRC considered issuing an Order prohibiting your involvement in NRC-licensed activities as a result of your actions. However, after consultation with the Director, Office of Enforcement, and after considering the circumstances of this case, I have decided to issue the enclosed Notice of Violation.

You should be aware that if you are involved in NRC-licensed activities in the future, additional deliberate violations could result in more significant enforcement action or criminal action.

You are not required to respond to this letter. However, should you choose to respond, you should follow the instructions specified in the enclosed Notice when preparing your response. If you have additional information that you believe the NRC should consider, you may provide it in your response to the Notice. The NRC will use your response, in part, to determine whether further enforcement action is necessary to ensure compliance with regulatory requirements. If you disagree with this enforcement sanction, you may deny the violations, as described in the Notice, or you may request alternative dispute resolution (ADR) with the NRC in an attempt to resolve this issue. The ADR program encompasses various techniques for resolving conflicts using a neutral third party. The technique that the NRC has decided to employ is mediation. Mediation is a voluntary, informal process in which a trained neutral (the "mediator") works with parties to help them reach resolution. If the parties agree to use ADR, they select a mutually agreeable neutral mediator who has no stake in the outcome and no power to make decisions. Mediation gives parties an opportunity to discuss issues, clear up misunderstandings, be creative, find areas of agreement, and reach a final resolution of the issues. Additional information concerning the NRC's ADR program can be found at <http://www.nrc.gov/about-nrc/regulatory/enforcement/adr.html>.

The Institute on Conflict Resolution (ICR) at Cornell University has agreed to facilitate the NRC's program as a neutral third party. If you are interested in pursuing this issue through the ADR program, please contact: (1) the ICR at (877) 733-9415; and (2) Mr. Mark Lesser at 404-997-4700 within 15 days of the date of this letter. You may also contact both ICR and Mr. Lesser for additional information.

In accordance with 10 CFR 2.390, "Public inspections, exemptions, requests for withholding," a copy of this letter and your response will be made available for public inspection in the NRC Public Document Room or from the NRC's Agencywide Documents Access and Management System (ADAMS) at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response should not include any personal privacy, proprietary, safeguards or classified information so that it can be made available to the Public without redaction. 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 the NRC Web site at <http://www.nrc.gov/reading-rm/foia/privacy-systems.html>.

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3

Please feel free to contact Mark Lesser of my staff at 404-997-4700 if you have any questions.

Sincerely,

/RA/

Catherine Haney
Regional Administrator

Enclosures:

- ~~1. Notice of Violation (IA 16-029)~~
- ~~2. Severity Level Basis and NRC Rebuttal to
Written Response dated June 1, 2016~~
3. LES (d/b/a URENCO USA) - Notice of Violation
and Proposed Imposition of Civil Penalty,
NRC Inspection Report 70-3103/2017-401

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4

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