



Nuclear Employer Alert

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Digital Geocaching and Nuclear Security

If you haven't heard of Pokémon Go yet, you will soon. The digital game tops the charts for app downloads, and this week's news cycle is focusing on the Pokémon Go craze (check out this *Washington Post* [article](#), if you wish).

In a nutshell, this game app encourages players to hunt for virtual Pokémon characters and rewards scattered about in the real world. The game is similar to geocaching or scavenger hunts, but players hunt for digital rewards using GPS and smartphones.

This development is to the displeasure of many establishments. The Holocaust Museum in Washington, for example, has denounced the game developer's decision to include "PokéStops" within the museum. Some hospitals have been warning their staff about attempts by players to enter restricted areas.

With the explosion of interest in Pokémon Go, yesterday's decision by an arbitrator relating to a nuclear plant worker setting up geocaching interface locations on the plant's property is quite timely. The employee, Barnes, worked at the Columbia Generating Station. Barnes became an enthusiast of Ingress, a digital version of geocaching. Ingress players use GPS to find "portals" established by Google, and in that respect is similar to Pokémon Go.

Barnes sought and obtained approval from Google to locate Ingress portals along a walking trail used by employees for exercise. The portals were within

the owner controlled area (OCA) at Columbia, but not inside the protected area. Barnes interacted with the new portals himself, and security guards observed him walking back and forth along the trail, seemingly erratically. Things quickly took a dramatic turn for the worse when two Ingress players unaffiliated with the plant showed up at the vehicle search point and explained they were looking for the portals. Security, of course, told them they could not be on private property and made them turn around. Undeterred, the players drove along a public road to an OCA access point. One of them got out, crossed the four-foot high concrete barrier, and started searching for the GPS locations. Not surprisingly, Barnes quickly found himself in company investigations, one of which led to the revocation of his unescorted access, the other to the termination of his employment.

The IBEW grieved and arbitrated Barnes' access revocation and termination, arguing they were not for just cause. The arbitrator upheld the company's actions. The arbitrator concluded that as a matter of common sense Barnes should have known that virtual gaming was not permitted within the OCA, even though the company did not have a published rule prohibiting it. According to the arbitrator, "a reasonable employee would know and understand that introducing an element onto the nuclear site that had the potential to entice unauthorized members of the public to try and enter" the OCA was prohibited and could lead to discharge. The arbitrator further held that Barnes reasonably could have anticipated that other gamers might attempt to access the Ingress portals on site. Finally, the arbitrator found that the company reasonably concluded that Barnes' lack of judgment, leading to the risk of unauthorized access by members of the public, justified his termination and the revocation of his access. (As an aside, Energy Northwest did not contest the arbitrator's jurisdiction to address the access revocation.)

Pokémon Go is too new a phenomenon to anticipate whether so-called PokéStops will show up on the grounds of nuclear power plants or fuel cycle facilities. Certainly, it is foreseeable that that may occur. For that reason, it is not too early for licensees and other employers in the industry to make clear pronouncements that Pokémon Go is, in fact, a no-no at their locations.

If you would like a copy of the arbitration decision,
please [email us](#).

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