



Title: SAN ONOFRE NUCLEAR GENERATING STATION:
DISCRIMINATION AGAINST LABORER BY MANAGEMENT FOR
REPORTING SAFETY CONCERNS.

Licensee: Case No.: 4-2000-054
Southern California Edison Co. Report Date: May 2, 2001
San Onofre Nuclear Generating
Station
P.O. Box 128
San Clemente, California 92674-0128 Control Office: OI:RIV
Docket No.: 50-361/362 Status: CLOSED
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SYNOPSIS

This investigation was initiated on October 3, 2000, by the Nuclear Regulatory Commission (NRC), Office of Investigations, Region IV, to determine if a Bechtel Construction, Inc. (Bechtel), contract painter, who worked at Southern California Edison's (SCE) San Onofre Nuclear Generating Station was the subject of employment discrimination by Bechtel management for reporting concerns.

Based on the evidence developed, testimony, documents, and a review of the allegations by the technical staff, the allegation that the contract painter was the subject of employment discrimination by Bechtel management for reporting concerns was not substantiated.

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Case No. 4-2000-054

2

TABLE OF CONTENTS

	<u>Page</u>
SYNOPSIS.....	1
LIST OF INTERVIEWEES.....	5
DETAILS OF INVESTIGATION	7
Allegation (Discrimination Against Laborer by Management for Reporting Safety Concerns) ..	7
Applicable Regulations.....	7
Purpose of Investigation.....	7
Background.....	7
Coordination with NRC Staff.....	8
Interview of Alleger.....	9
Additional Coordination with NRC Staff.....	14
Review of Documentation.....	15
Testimony/Evidence.....	17
Agent's Analysis.....	19
Analysis of Evidence.....	20
Conclusions.....	23
LIST OF EXHIBITS.....	25

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Case No. 4-2000-054

LIST OF INTERVIEWEES

	<u>Exhibit</u>
BLUE, Sharon L., Supervisor, Fitness-For-Duty, SCE.....	26
BROWN, David W., Supervisor, Maintenance, SCE.....	25
CABRERA, Alexander, Painter, Bechtel.....	12
CAVINS, Frank J., Painter, Bechtel.....	13
CLARK, Barry, Site Manager, Bechtel.....	24
COMPTON, Susan L., Electrician, Bechtel.....	27
DEAN, Robert V., Foreman, Painters, Bechtel.....	18
DeMARSICO, David, Painter, Bechtel.....	19
FORAL, James J., Union Representative, Bechtel.....	14
GALLEGOS, Ralph R., Painter, Bechtel.....	15
GATEWOOD, Frederick K., Foreman, Painters, Bechtel.....	20
MORIARTY, Daniel, General Foreman, Painters, Bechtel...	23
PARADA, Scott, Foreman, Painters, Bechtel.....	22
PRILL, David R., Painter, Bechtel.....	16
ROCHA, Daniel P., Painter, Bechtel.....	17
WETTSTEAD, David, Painter, Bechtel.....	4
WONG, Sam D., Nuclear Oversight, SCE.....	28
ZUBER, Gary, Foreman, Painters, Bechtel.....	21

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Case No. 4-2000-054

6

DETAILS OF INVESTIGATION

Allegation

Discrimination Against Laborer by Management for Reporting Safety Concerns

Applicable Regulations

10 CFR 50.5: Deliberate Misconduct (2000 Edition)

10 CFR 50.7: Employee Protection (2000 Edition)

Purpose of Investigation

This investigation was initiated on October 3, 2000, by the Nuclear Regulatory Commission (NRC), Office of Investigations (OI), Region IV (RIV), to determine if David WETTSTEAD, Bechtel Construction, Inc. (Bechtel), contract painter at Southern California Edison's (SCE) San Onofre Nuclear Generating Station (SONGS), was the subject of employment discrimination by Bechtel management for reporting concerns (Exhibit 1).

Background

On September 22, 2000, Gregory WERNER, Operations Engineer, NRC:RIV, received a telephone call from WETTSTEAD expressing concerns about his safety when working inside containment with his supervisor, Robert DEAN, Foreman, Bechtel. WETTSTEAD stated he had smelled alcohol on DEAN's breath on several occasions and believed DEAN had the potential to make bad decisions. WETTSTEAD said he had notified Sam WONG, Quality Control Supervisor, Nuclear Oversight, SONGS, on September 14, 2000, about his concern, and later that day, Dave BROWN, Supervisor, Maintenance, SCE, discussed alcohol use with Bechtel supervisors, including their responsibility to report individuals suspected of using alcohol and possible disciplinary actions for not reporting suspected users. WETTSTEAD stated he believed he would be fired after October 7, 2000, for refusing to go into containment with DEAN. WETTSTEAD further alleged that he had not been promoted to a supervisory position in the past because he spoke out and reported concerns [NFI]. He said he was previously involved in a supervisor being fired for alcohol use while painting in the control room.

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On October 2, 2000, the RIV Allegation Review Board (ARB) discussed the information provided by WETTSTEAD and decided to refer the fitness-for-duty issue, i.e., DEAN's possible alcohol use, to SCE for review. The RIV:ARB requested that Project Branch C, Division of Reactor Projects (DRP), NRC:RIV, with assistance from OI:RIV, call WETTSTEAD to obtain additional information regarding his allegation that he was denied supervisory positions because he reported safety concerns. WETTSTEAD was the subject of a previous OI:RIV investigation, 4-1998-043, which was closed as unsubstantiated.

Coordination with NRC Staff

On October 5, 2000, Charles S. MARSCHALL, Chief, Project Branch C, DRP:RIV, and OI:RIV called WETTSTEAD in an effort to obtain additional information regarding his allegation. On this same day, MARSCHALL reported the results of the conversation with WETTSTEAD to Harry FREEMAN, Allegations Coordinator, NRC:RIV. MARSCHALL stated WETTSTEAD believed Bechtel had not promoted him to the position of foreman based on his previously reported concerns. Additionally, WETTSTEAD stated that new employees typically were promoted to foreman within a year, whereas, he [WETTSTEAD] had worked for several years. MARSCHALL also stated in his report that WETTSTEAD specifically indicated his main concern pertained to nuclear safety because he [WETTSTEAD] alleged that his current foreman, DEAN, on several occasions, had the smell of alcohol on his [DEAN's] breath while on duty. According to MARSCHALL's memorandum, WETTSTEAD related that DEAN could affect nuclear safety because he [DEAN] might trip running equipment in containment. In addition, WETTSTEAD stated that DEAN could impact safety-related equipment by providing incorrect work instructions or improper oversight while under the influence of alcohol (Exhibit 2).

On October 12, 2000, the RIV:ARB discussed the information provided by DRP and OI, RIV, on October 5, 2000, and recommended OI:RIV interview WETTSTEAD and obtain additional information regarding his allegation that he was denied supervisory positions because he reported safety concerns (Exhibit 3).

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Interview of Alleger (David WETTSTEAD) (Exhibit 4)

On January 18, 2001, WETTSTEAD was interviewed at his residence in Vista, California, by OI:RIV. Initially OI:RIV was informed that WETTSTEAD's attorney, Thomas NGUYEN, would be attending this interview; however, at the request of WETTSTEAD, NGUYEN was not present, and WETTSTEAD stated substantially as follows.

AGENT'S NOTE: On April 6, 1998, WETTSTEAD reported safety concerns to the Nuclear Safety Concerns Program (NSCP) alleging that an improper surface preparation by Bechtel painters of a condenser water box was conducted prior to applying protective coatings. On August 11, 1998, WETTSTEAD raised additional allegations that he had been retaliated against by Scott PARADA, then General Foreman, Bechtel, for raising nuclear safety concerns to management and the NSCP.

On August 16, 1998, WETTSTEAD reported his concerns to the NRC. WETTSTEAD was the subject of OI:RIV's 1998 investigation, Case No. 4-1998-043, which was closed as unsubstantiated.

WETTSTEAD explained that after the investigation in 1998, his relationship with management turned from favorable to unfavorable. WETTSTEAD said PARADA was reprimanded by Bechtel management for his personal conduct towards a subordinate.

According to WETTSTEAD, PARADA and Dan MORIARTY, General Foreman, Bechtel, have continued to discriminate against him [WETTSTEAD] because of concerns raised to the NRC in 1998. WETTSTEAD said he felt he was being blackballed by PARADA and MORIARTY because they did not want him [WETTSTEAD] to return to work [WETTSTEAD is currently on medical disability]. WETTSTEAD provided the following additional information regarding his concern as it related to nuclear safety concerns.

WETTSTEAD said that on February 8, 2000, he witnessed an incident that occurred in the Painters' Shop involving another painter whose boot, which he was wearing at the time, was set on fire as a practical joke by Rene MOSLEY, a Bechtel Painter. WETTSTEAD was angered by the incident and scolded MOSLEY, calling him "stupid" in front of other fellow employees. WETTSTEAD said a verbal altercation ensued, but nothing else happened. He said

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the next day nobody talked about the incident, but he said he believed management had already learned about it. He said he questioned why management had not brought it to his attention.

WETTSTEAD said that on February 10, 2000, MOSLEY pulled his car out in front of him [WETTSTEAD] and just missed hitting him. He said another car, driven by Susan COMPTON, contract Bechtel Electrician at SONGS, also pulled out in front of him and he almost hit her car. Resultantly, after he left the parking lot, WETTSTEAD and MOSLEY engaged in a "road rage" yelling match while on the freeway. According to WETTSTEAD, they pulled their cars over to the shoulder and engaged in a fist fight. WETTSTEAD said it was all a setup by PARADA because he [WETTSTEAD] saw PARADA and other painters watching and yelling from a distance. WETTSTEAD said MOSLEY beat him up pretty badly, leaving him [WETTSTEAD] with two black eyes. He said somehow he knew PARADA was behind all this.

WETTSTEAD said that on February 15, 2000, COMPTON reported her personal vehicle had been damaged, indicating somebody made a dent on the hood, which appeared to have been made by a claw hammer. WETTSTEAD stated COMPTON told PARADA that he [WETTSTEAD] was responsible for the dent on her car and that she claimed she was afraid for her safety due to his [WETTSTEAD's] potential violence. According to WETTSTEAD, the incident was investigated by SONGS Corporate Security as a result of a complaint filed by COMPTON. WETTSTEAD insisted that PARADA influenced COMPTON to go to management and file a complaint against him [WETTSTEAD].

AGENT'S NOTE: In an interview with OI:RIV on February 15, 2001, COMPTON provided information that she [REDACTED] and had been during the aforementioned incident. 7C

WETTSTEAD said that in May [2000], COMPTON reported to management that he "bumped" her while passing in the hallway at the Outage Control Center building. WETTSTEAD said she "bumped" into him deliberately. According to WETTSTEAD, the incident was investigated by Bechtel's union representative, Jim FORAL.

WETTSTEAD said that in June 2000, COMPTON reported to PARADA and other top BECHTEL management [NFI] that he [WETTSTEAD] "stared" [evil glance] at her [COMPTON] at the public telephone booth outside the Painters' Shop. According to WETTSTEAD, the following day COMPTON reported a second incident in which she

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alleged that WETTSTEAD again "stared" [evil glance] at her at the Outage Control Center building. WETTSTEAD said SONGS Corporate Security looked into this matter because COMPTON alleged that although he [WETTSTEAD] had not issued any verbal threats to harm her, she continued to feel unsafe in her work environment, knowing that he worked at SONGS. WETTSTEAD was adamant that PARADA had been behind all these incidents just to get him [WETTSTEAD] to quit and leave Bechtel.

WETTSTEAD said none of the investigations conducted by SONGS and/or Bechtel found sufficient evidence to support COMPTON's complaints about the aforementioned incidents, including her concern for her safety from him [WETTSTEAD] in the work environment. WETTSTEAD said he believed all the aforementioned incidents were linked to PARADA's retaliation against him [WETTSTEAD] for having reported the safety concerns in 1998.

WETTSTEAD said he was denied supervisory positions for reporting safety concerns. Currently a journeyman painter, WETTSTEAD said he had been employed by Bechtel since 1990 and was qualified to work alone without supervision on any task. Although he said he trusted management to promote whom they felt was best suited for the job, he [WETTSTEAD] could not help but feel "left out" of the promotion circle. He said he felt "left out" because he knew of three painters, Joe GIFFORD, Frank CAVINS, and David DeMARSICO, who had been promoted to foreman within a year after they were hired. He said they were qualified journeymen painters like him, but management promoted them instead of him. However, WETTSTEAD said that early in his career with Bechtel, management did give him an opportunity to take "G-22" training, which is required in order to qualify to take a foreman's position. WETTSTEAD said he felt PARADA's choice to promote other painters and bypass him was evidence of continued retaliation against him. He indicated PARADA did not want to promote him based on previous raised concerns and because of the aforementioned incidents. WETTSTEAD said he ranked high in Bechtel's October/November 2000 "force ranking" when he received a high score [20 out of 23] from Gary ZUBER, Foreman (Exhibit 5).

AGENT'S NOTE: Force ranking is a method by which Bechtel evaluates an employee's performance by assigning a numerical grade based on the sum total of points assigned to six categories. The final number is used by management to determine who will be laid off during off peak times or when economic conditions warrant a reduction in force.

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WETTSTEAD specifically stated the main concern he reported to the NRC pertained to nuclear safety. WETTSTEAD said that he and other Bechtel painters such as Alexander CABRERA, Ralph GALLEGOS, Robert HANLON, and David ROCHA had also smelled alcohol on DEAN's breath while at work. WETTSTEAD said that was the reason he did not want to work with DEAN in containment during the outage scheduled for October 4, 2000. He further said he made it known to his coworkers that he was not going to work in containment with DEAN during the upcoming outage because he was afraid DEAN could potentially have an immediate impact on nuclear safety while under the influence of alcohol.

AGENT'S NOTE: During the conduct of this investigation, CABRERA, GALLEGOS, and ROCHA were interviewed by OI:RIV from February 12, 2001, through February 16, 2001; HANLON was not available at the time. All of these individuals stated they had never observed DEAN under the influence of alcohol while on duty at SONGS, nor had they smelled alcohol on his [DEAN's] breath. The transcripts of interview of CABRERA, GALLEGOS, and ROCHA are included as exhibits to this report for review as deemed appropriate (Exhibits 12, 15, and 17).

WETTSTEAD related that during August 2000, [REDACTED] a Bechtel Painter Foreman by the name of Robert DEAN "had the smell of alcohol on his breath." WETTSTEAD said after [REDACTED] he saw FORAL and MORIARTY observing DEAN from a distance and afterwards they [FORAL and MORIARTY] engaged in a conversation with DEAN. WETTSTEAD said he believed they [FORAL and MORIARTY] were attempting to determine if DEAN was under the influence of alcohol. In addition, WETTSTEAD said he later observed security personnel around DEAN, an indication to him [WETTSTEAD] that Bechtel and SONGS management had reacted to the [REDACTED] Asked what happened to DEAN as a result of his [REDACTED] WETTSTEAD said an investigation was conducted by the licensee and Bechtel; however, according to WETTSTEAD, the investigations did not disclose that DEAN was under the influence of alcohol or that his breath smelled like alcohol. WETTSTEAD said had DEAN been under the influence of alcohol, he [DEAN] could have provided misguided and/or improper oversight. 7C

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WETTSTEAD also stated that prior to the licensee's investigation into DEAN's fitness-for-duty issue [August 2000], he [WETTSTEAD] had asked MORIARTY to let him [WETTSTEAD] work the "water boxes" during the upcoming outage [October 4, 2000]. WETTSTEAD said he talked with MORIARTY and he told him [WETTSTEAD] that he would talk to DEAN about it. According to WETTSTEAD, the "water boxes" were his "specialty" and he felt good that MORIARTY had allowed him to work the "water boxes." WETTSTEAD said the next day he checked with MORIARTY and he told him [WETTSTEAD] that it was fine. WETTSTEAD, at this point, said he thought it was all set and he would not have to work in containment with DEAN.

Resultantly, WETTSTEAD said things did not work out like he thought they would. He said he did not work the "water boxes" nor did he work in containment with DEAN because he [WETTSTEAD] walked out on his job before the outage started. WETTSTEAD said he could not take the harassment and humiliation from management anymore, so he went home on the afternoon of September 25, 2000. WETTSTEAD said Bechtel's health and safety division placed him on medical disability [stress related]. He said, "I can't return to work into the environment that I was working.... It's too hostile, too much harassment.... I just want to walk away from the job" (Exhibit 4, page 4). He said he needed the doctor's [licensee appointed] release to return to work. He also advised

[REDACTED]

When asked why he left his job prior to the commencement of the outage, WETTSTEAD said he told MORIARTY and FORAL that if they made him work in containment with DEAN during the outage, he was going to quit. He said it was mid-September 2000 when DEAN and MORIARTY told him they had changed his work assignment and he was going to have to work in containment. He said he felt that the assignment was essentially a punishment for reporting DEAN to security for having alcohol on his breath. Asked why he felt that way, WETTSTEAD said during the same time frame [on or about September 16, 2000], BROWN met with all the Bechtel supervisors, as part of the weekly staff meetings between SONGS and Bechtel management, and addressed issues regarding fitness-for-duty requirements. WETTSTEAD said ZUBER, who attended the meeting, told him that BROWN advised the foremen at the meeting that if an individual had direct knowledge or had a reason to believe that someone was unfit for duty [i.e., smell of alcohol on his breath] and did not come forward with that information, it would be

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considered as a fitness-for-duty issue on that employee also. WETTSTEAD added, the day before BROWN met with Bechtel management, he [WETTSTEAD] told WONG that he [WETTSTEAD] and his colleagues had on previous occasions smelled alcohol on their foreman. WETTSTEAD said WONG must have informed SONGS security personnel and BROWN about this conversation. Resultantly, WETTSTEAD said SONGS security personnel responded to WONG's information and subsequently advised Bechtel management about it. WETTSTEAD said he believed MORIARTY punished him [WETTSTEAD] for reporting DEAN to SONGS security.

WETTSTEAD said he had not returned to work because of his medical disability status, adding that he would still be working at the plant had it not been for his medical disability. WETTSTEAD further explained that although all he needed to return to work was the doctor's release, he felt he was never going back. Asked if he was taking [REDACTED]

[REDACTED] When asked if he walked out from his job on September 25, 2000, voluntarily, WETTSTEAD said he walked away from his job because he could not take the harassment at work anymore, adding that it was something he had to do. 70

Additional Coordination with NRC Staff

On February 1, 2001, Russ WISE, Senior Allegations Coordinator, RIV, was provided a copy of WETTSTEAD's transcript of interview. WISE was requested to provide the transcript to the RIV technical staff for review of any potential safety/health issues and provide OI:RIV with a written response (Exhibit 6).

On February 15, 2001, MARSCHALL reported the results of the review of WETTSTEAD's transcript (Exhibit 4). MARSCHALL reported that based on the review of the information provided (1) no additional safety/technical concerns were identified that were not already captured by the concerns summarized in the acknowledgment letter to WETTSTEAD; (2) no new safety/technical concerns were identified that warranted additional review by the NRC; and (3) no information was identified that indicated violations of NRC requirements may have occurred (Exhibit 7).

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Review of Documentation

During the course of this investigation, documents provided by WETTSTEAD, SONGS, Bechtel, and the NRC:RIV staff were reviewed. The documents deemed pertinent to this investigation are delineated in this section.

Bechtel's Compiled Painter's Force Ranking Report, dated October/November 2000 (Exhibit 5)

This document showed the consolidated results for the October 31, 2000, force ranking of Bechtel painters. WETTSTEAD's total score was reflected as 20 on page 7 of this exhibit.

DEAN's Verbal Counseling Notes, dated August 31, 2000 (Exhibit 8)

This documentation confirmed WETTSTEAD's verbal counseling session from DEAN on August 31, 2000, regarding an inappropriate and unprofessional behavior towards another painter during work.

Bechtel's Verbal Counseling Notice, dated August 31, 2000 (Exhibit 9)

This documentation confirmed Bechtel's verbal counseling session of WETTSTEAD's inappropriate and unprofessional behavior towards another painter during work on August 31, 2000. WETTSTEAD refused to sign this document.

BROWN's Personal Handwritten Notes, dated September 21, 2000 (Exhibit 10)

This handwritten note was documented by BROWN after engaging in a conversation with WETTSTEAD on September 21, 2000. According to BROWN, WETTSTEAD felt that his assignment to the containment during the upcoming outage was due to his reporting DEAN to security for allegedly having alcohol on his [DEAN's] breath. In addition, BROWN said WETTSTEAD indicated that he [DEAN] would not be a good foreman because of his temperament.

Bechtel Construction-SONGS Exit Interview of PARADA, dated February 16, 2001 (Exhibit 11)

This document reflects PARADA's voluntary separation from Bechtel on February 16, 2001 [Voluntary Reduction-in-Force].

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NSC Program Investigation Summaries

On January 26, 2001, SONGS responded to the NRC's January 19, 2001, verbal request for an inspection and/or review of the case files, infra, regarding WETTSTEAD's allegation that he was the subject of employment discrimination by Bechtel management for reporting concerns. These NSC documents identify specific information regarding incidents related to this investigation; however, these documents are not included as exhibits to this report due to the sensitivity and personal privacy information contained in these files.

NSC File No. NSC-00-29: (Bechtel Electrician Case-2000):

Allegation: The concernee alleged that she was being harassed and intimidated by David WETTSTEAD. In addition, the concernee expressed concern for her safety [from WETTSTEAD] in the work environment.

Conclusion: The allegation that the concernee was harassed and/or intimidated by WETTSTEAD was not substantiated. In addition, there was insufficient evidence to validate her concern for her safety in the work environment.

NSC File No. NSC-00-20 (Fitness-for-Duty Case-2000):

Allegation: A Bechtel Foreman was reporting to work under the influence of alcohol and was making bad decisions as a result of the alleged intoxication.

Conclusion: The allegation that a Bechtel Foreman was reporting to work under the influence of alcohol was not substantiated. In addition, no information was developed to support that the Bechtel Foreman made bad decisions as a result of being under the influence or related to any other fitness-for-duty issue.

NSC File No. NSC-00-20 (Violence in the Work Place Case-2000):

Allegation: The concernee alleged she did not feel safe in the work place because she feared violence against her.

Conclusion: It was determined that this concern did not fall within the NSC Program's criteria and would be more appropriately handled by the Site Investigator. A review by the Site Investigator revealed no information was developed from any available source that WETTSTEAD was a threat to the work place.

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NSC File No. EI-00-11 (Fitness-for-Duty Issue Contact Case-2000):

Allegation: The concernee [WETTSTEAD] reported that nothing had been done by NSC about his concern regarding DEAN's fitness-for-duty issue. Reportedly, WETTSTEAD had no problem working inside containment, but he refused to work with DEAN who was sometimes unfit for his [DEAN's] assignment.

Conclusion: It was determined that WETTSTEAD did not wish to continue pursuit of his NSC concern, instead he wished no further action be taken at this time.

Testimony/Evidence

The testimony was provided by the following individuals during the investigation regarding Bechtel management's discrimination against WETTSTEAD for reporting concerns. All the individuals interviewed during this investigation, from February 12, 2001, through February 16, 2001, stated they had at one time or another worked with, supervised, or interfaced with WETTSTEAD [directly or indirectly] and knew him to be a competent and knowledgeable Bechtel painter.

Testimony from Bechtel Painters (Exhibits 12-17)

All of the six Bechtel painters interviewed stated they had direct knowledge of WETTSTEAD's work habits and/or had worked with him on a day-to-day basis. On February 13 and 14, 2001, Alexander CABRERA (Exhibit 12); Frank CAVINS (Exhibit 13); Jim FORAL (Exhibit 14); Ralph GALLEGOS (Exhibit 15); David PRILL (Exhibit 16); and Daniel ROCHA (Exhibit 17) were interviewed and stated they did not feel that management discriminated against WETTSTEAD for reporting concerns. All six painters indicated WETTSTEAD would not make a good supervisor because he liked to "horseplay" a lot and almost everybody who worked or had worked with him did not take him seriously. For these reasons, the painters believed management's reason for not promoting WETTSTEAD was because the painters did not take him seriously. All but one of the six painters, GALLEGOS, indicated WETTSTEAD's progression to supervisor had not been adversely impacted because he reported safety concerns. All the painters indicated that they had never smelled alcohol on DEAN's breath while on duty and had no reason to believe that he [DEAN] was under the influence of alcohol while at work; however, GALLEGOS said that about 12 months ago, DEAN smelled like alcohol on two occasions while off duty.

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Testimony from Bechtel Management [Painters] (Exhibits 18-24)

On February 14 and 15, 2001, Bechtel foremen Robert DEAN (Exhibit 18), David DeMARSICO (Exhibit 19), Keith GATEWOOD (Exhibit 20), Gary ZUBER (Exhibit 21), Scott PARADA (Exhibit 22), Dan MORIARTY, General Foreman (Exhibit 23), and Barry CLARK, Bechtel Project Manager at SONGS (Exhibit 24), indicated that WETTSTEAD liked to play jokes on his colleagues and "act like a kid and horseplay" to the extent they did not feel he [WETTSTEAD] was taken seriously by his coworkers. In addition, all but one of the supervisors indicated WETTSTEAD was not supervisory material, and for these reasons, he had not been promoted to foreman. Only ZUBER, WETTSTEAD's former supervisor, indicated that management had discriminated against WETTSTEAD for reporting safety concerns in 1998 [OI Case No. 4-1998-043].

AGENT'S NOTE: On November 18, 1998, ZUBER was interviewed by OI:RIV [OI Case No. 4-1998-043] and stated he overheard a discussion involving Roland LaBEAF, Supervisor, SCE; Chris CATES, Supervisor, SCE; and PARADA wherein the phrase "we got him, he'll be gone Monday" was conveyed. ZUBER admitted that while he did not actually see the individuals, he heard their voices, and based on his familiarity with both LaBEAF and CATES, he [ZUBER] was certain it was LaBEAF who made the comment. ZUBER further stated he did not know whom they [LaBEAF and CATES] were speaking of; however, during a conversation with Mike MASON, Painting Supervisor, SCE, ZUBER said MASON told him there were two painters who raised nuclear safety concerns and management was going to weed them out. ZUBER said MASON did not identify the two individuals, but he [ZUBER] surmised that MASON was talking about WETTSTEAD and James RICHARDSON, former Bechtel Painter.

All of the supervisors indicated they had never smelled alcohol on DEAN's breath, and they did not believe DEAN had ever been under the influence of alcohol while at work at SONGS.

Additional Testimony from SONGS Management

BROWN (Exhibit 25), who had oversight of all Bechtel painters, was interviewed on February 15, 2001, by OI:RIV and said that on or about September 14, 2000, he held a weekly staff meeting with Bechtel management and talked about fitness-for-duty issues.

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BROWN said a week after the meeting, WETTSTEAD told him he was being intimidated by Bechtel management because he was the one who had reported DEAN to SONGS security alleging that he [DEAN] was under the influence of alcohol. BROWN said it was the first time he had heard about WETTSTEAD'S allegation. When asked if WONG had talked to him about this matter, BROWN said he had not. He said he became concerned and documented the conversation between him and WETTSTEAD on September 21, 2000 (Exhibit 10). BROWN said WETTSTEAD told him that he [WETTSTEAD] was leaving [Bechtel] because he [WETTSTEAD] had told one of the Bechtel supervisors that he would quit if they assigned him to work in containment during the outage, adding that they [Bechtel management] were punishing him for reporting DEAN. BROWN said he had no reason to believe DEAN would be under the influence of alcohol while on duty. BROWN advised that he tried to explain to WETTSTEAD that containment was the primary focus during the outage and he [BROWN] had just asked MORIARTY to add three more people per shift for the containment area. BROWN said WETTSTEAD also told him he [WETTSTEAD] knew he would not make a good foreman because of his temperament, but that he was a good painter and they [management] knew it. BROWN said he did not believe WETTSTEAD was discriminated against by management for reporting safety concerns.

Additional Testimony from Bechtel and SONGS Personnel

Three individuals interviewed by OI:RIV during this investigation (from February 12, 2001, through February 16, 2001) provided testimony not deemed pertinent to the specific allegations mentioned above. These interviewees' transcripts are included as exhibits to this report for review as deemed appropriate:

Sharon BLUE, Fitness-For-Duty Supervisor, SONGS (Exhibit 26);
Susan COMPTON, Electrician, Bechtel (Exhibit 27); and
David WONG, Quality Control Supervisor, SONGS (Exhibit 28).

Agent's Analysis

Regarding WETTSTEAD'S concern that DEAN allegedly worked under the influence of alcohol, an internal investigation was conducted by SCE Corporate Security at the request of NSCP. That investigation developed no information to substantiate the allegation that DEAN reported to work smelling like alcohol or that DEAN made bad decisions as a result of being under the influence, or because of any other fitness-for-duty concern.

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There were no observations, comments, or suspicions that related to any unprofessional conduct or questionable fitness-for-duty on DEAN's part. In addition, OI:RIV interviewed 15 management and nonmanagement personnel from Bechtel and SONGS, and none of the individuals interviewed indicated they had ever smelled alcohol on DEAN's breath nor had they at any time observed DEAN to be under the influence of alcohol while on duty at SONGS. Also, MORIARTY and FORAL (Exhibits 14 and 23) testified that when they were sent by CLARK to observe DEAN, they "absolutely" did not smell any alcohol on DEAN's breath nor did they observe any abnormal behavior by DEAN [according to SONGS' Access Authorization records, both MORIARTY and FORAL had been trained in the Continual Behavior Observation Program at the supervisory level]. On September 29, 2000, DEAN successfully participated in an SCE random drug and alcohol screening. For these reasons, the evidence did not support the allegation that DEAN worked on several occasions under the influence of alcohol.

Analysis of Evidence

An analysis of evidence was performed to examine the factors involved to determine if WETTSTEAD was the subject of employment discrimination by management for reporting safety concerns.

1. Protected Activity

In accordance with 10 CFR 50.7, an employee engages in protected activity if he/she raises an issue within NRC jurisdiction.

WETTSTEAD said his management bypassed him for supervisory positions because he previously reported safety concerns and management continued to harass and intimidate him. He added he was the subject of a previous OI:RIV investigation in which he alleged he was discriminated against by management for reporting safety concerns. He said his career progression had been adversely impacted by raising safety concerns. WETTSTEAD indicated that DEAN, while working in containment, reported to work smelling like alcohol and potentially could make bad decisions as a result of being under the influence or because of any other fitness-for-duty concern. It appeared WETTSTEAD was engaged in protected activity.

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DIRECTOR, OFFICE OF INVESTIGATIONS, REGION IV**

2. Management's Knowledge of Protected Activity

WETTSTEAD reported his concerns to MORIARTY, his supervisor, that he [WETTSTEAD] did not want to work in containment with DEAN during the outage. MORIARTY, by his own testimony, admitted he was aware of WETTSTEAD's reported concerns (Exhibit 23). According to WETTSTEAD, MORIARTY told him he could work the "water boxes," and MORIARTY was supposed to have informed DEAN about it. It appeared that management was aware of WETTSTEAD's protected activity.

3. Adverse Action

WETTSTEAD claimed he was punished by MORIARTY for reporting DEAN to SONGS security and for that reason was reassigned to work in containment. WETTSTEAD said MORIARTY reassigned him only after he [MORIARTY] learned that it was him [WETTSTEAD] who reported DEAN to SONGS security. WETTSTEAD said management continued to harass him and single him out for reporting concerns. On September 25, 2000, WETTSTEAD voluntarily left SONGS and went home because of a stress-related condition. He said he was placed on medical disability and had not returned to work because he had to have the doctor's release that he was medically fit to return. Although WETTSTEAD was not laid off, according to Bechtel's Craft Force Ranking, dated October 31, 2000, WETTSTEAD was classified as a "RIF" (reduction-in-force) because he was on medical disability (Exhibit 5).

4. Did the Adverse Action Result from WETTSTEAD Engaging in Protected Activity?

WETTSTEAD's conduct in the work environment, according to individuals interviewed, was considered unprofessional and childish. According to painters and foremen, he liked to horseplay a lot, causing distrust among his peers and supervisors. On August 31, 2000, DEAN documented in his personal notes (Exhibit 8) that WETTSTEAD was verbally counseled by MORIARTY about his [WETTSTEAD's] conduct. In addition, on that same day, MORIARTY verbally counseled WETTSTEAD about horseplay involving WETTSTEAD and a coworker (Exhibit 9). Although WETTSTEAD admitted his involvement in that incident, he refused to sign the Bechtel Verbal Counseling Notice. MORIARTY said WETTSTEAD told him that he [WETTSTEAD] knew he would never be a foreman because of his temperament, adding that he [WETTSTEAD] admitted to

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DIRECTOR, OFFICE OF INVESTIGATIONS, REGION IV**

MORIARTY that he [WETTSTEAD] "knew how he was, and for this reason he knew that he would not be foreman material in this environment" (Exhibit 23, page 17).

According to PARADA, WETTSTEAD lacked leadership skills, as far as being able to interact with other craftsmen on a professional level and earn their respect and trust. PARADA said that was the main reason why he never promoted WETTSTEAD to a foreman. PARADA indicated he never based his decision not to promote WETTSTEAD to foreman because he [WETTSTEAD] had reported safety concerns in the past, stating "absolutely not."

AGENT'S NOTE: During the conduct of this investigation, OI:RIV learned that PARADA planned to resign from Bechtel. His reason for leaving was that he was going to pursue a new career in construction with his brother, something he had been thinking about for some time. Asked if his departure from Bechtel had anything to do with management's dissatisfaction over the NRC investigation(s) regarding the allegations by WETTSTEAD that he [PARADA] retaliated against him for reporting safety concerns, he said "no." The licensee provided OI:RIV with PARADA's exit interview (Exhibit 11).

MORIARTY indicated WETTSTEAD approached him about 4 weeks before the outage and asked to be assigned to the "water boxes" detail because he did not want to work in containment. MORIARTY said he told WETTSTEAD it would not be a problem. About a week before the outage began, MORIARTY informed WETTSTEAD that he had been assigned to work in containment because of the tremendous work load. MORIARTY said he did not have the manpower to address all the work scheduled for the upcoming outage. MORIARTY said Bechtel had to subcontract a lot of the work because Bechtel did not have enough painters. MORIARTY said WETTSTEAD responded saying he was not going to work containment and that he [MORIARTY] would have to fire him. MORIARTY told WETTSTEAD if he did not work in containment, he would have to go to the "mesa" [where final body counts were taken] and he would have to discuss that with human relations personnel. MORIARTY said WETTSTEAD turned around, walked away, and he never saw WETTSTEAD again. MORIARTY said WETTSTEAD did not tell anyone he was leaving; the next thing he knew, WETTSTEAD was placed on medical disability. When asked if he would rehire WETTSTEAD after the doctors release

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DIRECTOR, OFFICE OF INVESTIGATIONS, REGION IV**

him, MORIARTY said, although WETTSTEAD was a very good painter and delivered a good product, he [MORIARTY] would not rehire WETTSTEAD because he was very confrontational and had a tendency to disrupt the work environment. MORIARTY said he never based his decision to assign WETTSTEAD to work in containment because he reported safety concerns or because he reported DEAN to security, stating "absolutely not." MORIARTY said he assigned WETTSTEAD to work in containment because he needed the experienced painters to work in containment, adding that he did not have enough painters. It appears that WETTSTEAD was assigned to work in containment for legitimate, nondiscriminatory purposes.

Conclusions

Based on the evidence developed, testimony, documents, and a review of the allegations by the technical staff, the allegation that WETTSTEAD was the subject of employment discrimination by management for reporting concerns was not substantiated.

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LIST OF EXHIBITS

<u>Exhibit No.</u>	<u>Description</u>
1	Investigation Status Record, dated October 3, 2000.
2	NRC Memorandum, dated October 5, 2000.
3	NRC Allegation Assignment Form, dated October 12, 2000.
4	Transcript of Interview with WETTSTEAD, dated January 18, 2001.
5	Bechtel's Compiled Painter's Force Ranking Report, dated October/November 2000.
6	NRC Memorandum, dated February 1, 2001.
7	NRC Memorandum, dated February 15, 2001.
8	Bechtel, DEAN's Personal Counseling Notes, dated August 31, 2000.
9	Bechtel's Verbal Counseling Notice, dated August 31, 2000.
10	BROWN's Personal Handwritten Notes, dated September 21, 2000.
11	Bechtel Construction-SONGS Exit Interview, dated February 16, 2001.
12	Transcript of Interview with CABRERA, dated February 13, 2001.
13	Transcript of Interview with CAVINS, dated February 14, 2001.
14	Transcript of Interview with FORAL, dated February 13, 2001.

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- 15 Transcript of Interview with GALLEGOS, dated February 13, 2001.
- 16 Transcript of Interview with PRILL, dated February 14, 2001.
- 17 Transcript of Interview with ROCHA, dated February 14, 2001.
- 18 Transcript of Interview with DEAN, dated February 14, 2001.
- 19 Transcript of Interview with DeMARSICO, dated February 14, 2001.
- 20 Transcript of Interview with GATEWOOD, dated February 14, 2001.
- 21 Transcript of Interview with ZUBER, dated February 14, 2001.
- 22 Transcript of Interview with PARADA, dated February 15, 2001.
- 23 Transcript of Interview with MORIARTY, dated February 15, 2001.
- 24 Transcript of Interview with CLARK, dated February 13, 2001.
- 25 Transcript of Interview with BROWN, dated February 15, 2001.
- 26 Transcript of Interview with BLUE, dated February 15, 2001.
- 27 Transcript of Interview with COMPTON, dated February 15, 2001.
- 28 Transcript of Interview with WONG, dated February 15, 2001.

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