

~~OFFICIAL USE ONLY - OI INVESTIGATION INFORMATION~~

Title: CALLAWAY NUCLEAR PLANT:

DISCRIMINATION AGAINST (b)(7)(c)
RAISING SAFETY CONCERNS

FOR

Licensee:

Union Electric Company
P.O. Box 620
Fulton, MO 65251

Case No.: 4-2006-035

Report Date: February 5, 2007

Control Office: OI:RIV

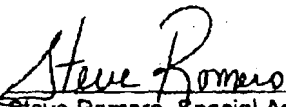
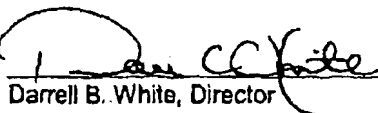
Docket No.: 50-483

Status: CLOSED

Allegation No.: RIV-2006-0033

Reported by:

Reviewed and Approved by:


Steve Romero, Special Agent
Office of Investigations
Field Office, Region IV
Darrell B. White, Director
Office of Investigations
Field Office, Region IV**WARNING**

DO NOT DISSEMINATE, PLACE IN THE PUBLIC DOCUMENT ROOM, OR DISCUSS
THE CONTENTS OF THIS REPORT OF INVESTIGATION OUTSIDE NRC WITHOUT
AUTHORITY OF THE APPROVING OFFICIAL OF THIS REPORT. UNAUTHORIZED
DISCLOSURE MAY RESULT IN ADVERSE ADMINISTRATIVE ACTION AND/OR

~~OFFICIAL USE ONLY - OI INVESTIGATION INFORMATION~~

Information in this record was deleted in
accordance with the Freedom of Information Act.
Exemptions 7C
FOIA/PA 2007-335

All

OFFICIAL USE ONLY - OI INVESTIGATION INFORMATION

SYNOPSIS

This investigation was initiated on June 8, 2006, by the Nuclear Regulatory Commission (NRC), Office of Investigations (OI), Region IV (RIV), to determine if a (b)(7)(C) [redacted] employed by AmerenUE's Callaway Nuclear Plant (Callaway), was discriminated against for raising safety concerns.

Based on the evidence developed during the investigation, OI:RIV determined the allegation that a (b)(7)(C) [redacted] employed by AmerenUE, Callaway, was discriminated against for raising safety concerns was not substantiated.

**NOT FOR PUBLIC DISCLOSURE WITHOUT APPROVAL OF FIELD OFFICE
DIRECTOR, OFFICE OF INVESTIGATIONS, REGION IV**

Case No. 4-2006-035

1

OFFICIAL USE ONLY - OI INVESTIGATION INFORMATION

~~OFFICIAL USE ONLY - OI INVESTIGATION INFORMATION~~

THIS PAGE LEFT BLANK INTENTIONALLY

~~NOT FOR PUBLIC DISCLOSURE WITHOUT APPROVAL OF FIELD OFFICE
DIRECTOR, OFFICE OF INVESTIGATIONS, REGION IV~~

Case No. 4-2006-035

2

~~OFFICIAL USE ONLY - OI INVESTIGATION INFORMATION~~

~~OFFICIAL USE ONLY - OI INVESTIGATION INFORMATION~~

TABLE OF CONTENTS

	<u>Page</u>
SYNOPSIS	1
LIST OF INTERVIEWEES	5
DETAILS OF INVESTIGATION	7
Applicable Regulations	7
Purpose of Investigation	7
Background	7
Interview of Allegor	8
Coordination with NRC Staff	12
Evidence	13
Document Review	13
Allegation No. 1	18
Analysis of Evidence	18
Agent's Analysis	24
Conclusions	26
LIST OF EXHIBITS	27

~~NOT FOR PUBLIC DISCLOSURE WITHOUT APPROVAL OF FIELD OFFICE
DIRECTOR, OFFICE OF INVESTIGATIONS, REGION IV~~

Case No. 4-2006-035

3

~~OFFICIAL USE ONLY - OI INVESTIGATION INFORMATION~~

~~OFFICIAL USE ONLY - OI INVESTIGATION INFORMATION~~

THIS PAGE LEFT BLANK INTENTIONALLY

~~NOT FOR PUBLIC DISCLOSURE WITHOUT APPROVAL OF FIELD OFFICE
DIRECTOR, OFFICE OF INVESTIGATIONS, REGION IV~~

Case No. 4-2006-035

4

~~OFFICIAL USE ONLY - OI INVESTIGATION INFORMATION~~

~~OFFICIAL USE ONLY - OI INVESTIGATION INFORMATION~~

LIST OF INTERVIEWEES

(b)(7C)c		<u>Exhibit</u>
	Callaway	13
HOLLABAUGH, David S., Superintendent, Employee Concerns, Callaway		16
(b)(7C)c	Callaway]	15
(b)(7C)c	Callaway]	2
(b)(7C)c	Callaway] ...	12
YOUNIE, Chris R., Business Operations Manager, Callaway		14

~~NOT FOR PUBLIC DISCLOSURE WITHOUT APPROVAL OF FIELD OFFICE
DIRECTOR, OFFICE OF INVESTIGATIONS, REGION IV~~

Case No. 4-2006-035

5

~~OFFICIAL USE ONLY - OI INVESTIGATION INFORMATION~~

~~OFFICIAL USE ONLY - OI INVESTIGATION INFORMATION~~

THIS PAGE LEFT BLANK INTENTIONALLY

~~NOT FOR PUBLIC DISCLOSURE WITHOUT APPROVAL OF FIELD OFFICE
DIRECTOR, OFFICE OF INVESTIGATIONS, REGION IV~~

Case No. 4-2006-035

6

~~OFFICIAL USE ONLY - OI INVESTIGATION INFORMATION~~

OFFICIAL USE ONLY - OI INVESTIGATION INFORMATION

DETAILS OF INVESTIGATION

Applicable Regulations

10 CFR 50.5: Deliberate Misconduct (2005 and 2006 Editions) (Allegation No. 1)

10 CFR 50.7: Employee Protection (2005 and 2006 Editions) (Allegation No. 1)

Purpose of Investigation

This investigation was initiated on June 8, 2006, by the Nuclear Regulatory Commission (NRC), Office of Investigations (OI), Region IV (RIV), to determine if a (b)(7)(C)c employed by AmerenUE's Callaway Nuclear Plant (Callaway), was discriminated against for raising safety concerns [Allegation No. RIV-2006-A-0033] (Exhibit 1).

Background

On April 13, 2006, Michael S. PECK, Senior Resident Inspector, RIV, NRC, assigned to Callaway received information from (b)(7)(C)c Callaway, that he had been the target of employment discrimination for reporting safety concerns to the licensee's Employee Concerns Coordinator, David S. HOLLABAUGH.

(b)(7)(C)c advised he was approached by (b)(7)(C)c Callaway, in June 2005 regarding (b)(7)(C)c Callaway. (b)(7)(C)c reported the (b)(7)(C)c Callaway, disclosed members of (b)(7)(C)c unit reactor operator crew reported (b)(7)(C)c was sleeping on watch. According to (b)(7)(C)c the crew members were afraid of getting in trouble if (b)(7)(C)c was caught sleeping.

(b)(7)(C)c reported he spoke to (b)(7)(C)c a number of times over the summer of 2005 and believed (b)(7)(C)c sleeping issues had been resolved. However, prior to an outage at Callaway in September 2005, he spoke with (b)(7)(C)c and was told a priority was to get (b)(7)(C)c off shift and out of the control room. (b)(7)(C)c revealed (b)(7)(C)c continued to work in the control room throughout the 2005 outage.

(b)(7)(C)c recalled he attended shift turnover regularly throughout the outage with (b)(7)(C)c as his work shift followed (b)(7)(C)c shift. According to (b)(7)(C)c (b)(7)(C)c would discuss the off-going shift activities, and then "his head would be down on his chest, his eyes were shut." (b)(7)(C)c related he discussed his concerns about (b)(7)(C)c sleeping during turnover with (b)(7)(C)c and was told, "Oh hell, he does that in the control room, too."

**NOT FOR PUBLIC DISCLOSURE WITHOUT APPROVAL OF FIELD OFFICE
DIRECTOR, OFFICE OF INVESTIGATIONS, REGION IV**

OFFICIAL USE ONLY - OI INVESTIGATION INFORMATION

(b)(7C)c reported he discussed the sleeping issue with (b)(7C)c on several occasions and he (b)(7C)c did not do anything about it. (b)(7C)c reported his concern to HOLLABAUGH in January 2006 and (b)(7C)c after an Employee Concerns Program (ECP) investigation.

(b)(7C)c advised that after he reported his concern to the ECP manager, he was subjected to an adverse action. (b)(7C)c reported that in February 2006 he was told he was getting a full pay bonus and pay raise. Approximately 6 weeks after (b)(7C)c was taken off shift, he was told he was not getting a pay raise and only half of the pay bonus because of poor performance.

Interview of Allegor (b)(7C)c (Exhibit 2).

On August 9, 2005, OI:RIV conducted an interview of (b)(7C)c in Columbia, Missouri, and he related the following information in substance.

(b)(7C)c

(b)(7C)c According to (b)(7C)c he receives training 5 to 6 weeks on a yearly basis on topics related to operating a nuclear reactor.

(b)(7C)c

(b)(7C)c He added he also supervised other support personnel that are on-site. According to (b)(7C)c he is responsible for safe operation of Callaway while he is on duty.

(b)(7C)c stated he engaged in protected activity when he went to the ECP and submitted a concern regarding (b)(7C)c (Exhibit 2, p. 6). (b)(7C)c indicated he was initially made aware by his superior (b)(7C)c in the summer of 2005 that there were potential problems with (b)(7C)c in the control room (Exhibit 2, pp. 7 and 17). (b)(7C)c advised he personally observed (b)(7C)c falling asleep at turnover meetings, but not in the control room (Exhibit 2, pp. 7, 9, and 10). (b)(7C)c stated he went to (b)(7C)c and informed him he had concerns with (b)(7C)c staying awake on his shift. According to (b)(7C)c responded by telling him (b)(7C)c "Oh, hell, he does that in the control room, too. I thought you were going to tell me (b)(7C)c something real bad (Exhibit 2, p. 8)." (b)(7C)c advised he could not imagine anything worse occurring in the control room than

**NOT FOR PUBLIC DISCLOSURE WITHOUT APPROVAL OF FIELD OFFICE
DIRECTOR, OFFICE OF INVESTIGATIONS, REGION IV**

OFFICIAL USE ONLY - OI INVESTIGATION INFORMATION

having a shift manager unable to stay awake (Exhibit 2, p. 8). (b)(7C)c stated he felt (b)(7C)c ignored his concern regarding (b)(7C)c. He added, he felt he had no other recourse but to report his concern to the ECP because (b)(7C)c was two levels up his management chain and had not addressed his concern (Exhibit 2, p. 8). (b)(7C)c reported he observed (b)(7C)c fall asleep at turnover meetings while he (b)(7C)c was still on duty as the shift manager. (b)(7C)c stated that on a daily basis in the conference room (b)(7C)c would sit down and within 30 seconds his eyes were shut and his head was down. He added (b)(7C)c would sit in the same position for a couple of minutes (Exhibit 2, pp. 9, 10, and 13). (b)(7C)c advised the hours of operation during the instances he observed (b)(7C)c were at 6:15 p.m., when he (b)(7C)c reported to work after (b)(7C)c shift was near completion. (b)(7C)c added (b)(7C)c would have been at work since 7 a.m. and finished his shift at 7 p.m. (Exhibit 2, pp. 10-11). (b)(7C)c stated that for the benefit of (b)(7C)c he speeded up the turnover meetings in order to get (b)(7C)c out of the area, relieved, and offsite. (b)(7C)c considered (b)(7C)c condition a major problem (Exhibit 2, p. 12). (b)(7C)c related he never asked (b)(7C)c if he was asleep.

(b)(7C)c contended (b)(7C)c both brought to his attention that (b)(7C)c was having problems with staying awake (Exhibit 2, p. 15).

(b)(7C)c reiterated that the first time he informed (b)(7C)c was sometime in October 2005, and (b)(7C)c led him to believe he was going to take care of the problem with (b)(7C)c (Exhibit 2, p. 18).

(b)(7C)c recounted that in July 2005 he and his crew were in training when he went to the service building during lunch break and (b)(7C)c asked to meet with him. (b)(7C)c added, he met with (b)(7C)c asked if he knew about (b)(7C)c problem. (b)(7C)c stated he had no idea what (b)(7C)c was referring to. (b)(7C)c remarked (b)(7C)c told him (b)(7C)c had met with him (b)(7C)c and informed him the (b)(7C)c (b)(7C)c on (b)(7C)c shift were concerned with (b)(7C)c staying awake (Exhibit 2, p. 20). (b)(7C)c related he asked (b)(7C)c what he intended to do with (b)(7C)c and he (b)(7C)c responded he was not going to take (b)(7C)c off the shift but was going to talk with him (b)(7C)c to find out what the problem was (Exhibit 2, p. 22). (b)(7C)c asserted he told (b)(7C)c that (b)(7C)c should be removed from the shift because of safety issues (Exhibit 2, p. 22). (b)(7C)c explained, based on his conversation with (b)(7C)c he felt (b)(7C)c was going to take care of the problem with (b)(7C)c. According to (b)(7C)c he had several conversations with (b)(7C)c between July 2005 to September 2005 in which (b)(7C)c stated he had no concerns with (b)(7C)c status (Exhibit 2, pp. 23-24).

**NOT FOR PUBLIC DISCLOSURE WITHOUT APPROVAL OF FIELD OFFICE
DIRECTOR, OFFICE OF INVESTIGATIONS, REGION IV**

~~OFFICIAL USE ONLY - QI INVESTIGATION INFORMATION~~

(b)(7C)c advised that in September 2005 he went to (b)(7C)c and asked to be taken off shift for personal reasons and (b)(7C)c told him his top priority was to get (b)(7C)c off the shift (Exhibit 2, p. 24). (b)(7C)c disclosed he identified three individuals that could replace (b)(7C)c informed him that it was nonsense because he needed everyone for the outage and after the outage he would remove (b)(7C)c from the shift (Exhibit 2, pp. 24-25). (b)(7C)c indicated that in October 2005 he started seeing (b)(7C)c on a daily basis and he began informing (b)(7C)c condition (Exhibit 2, p. 25).

(b)(7C)c related he did not bring forth his concerns about (b)(7C)c to his first line supervisor, (b)(7C)c Callaway, because he did not have anything that resembled a good working relationship with him (Exhibit 2, p. 26). (b)(7C)c added, he went to (b)(7C)c with his concerns about (b)(7C)c because he considered (b)(7C)c a (b)(7C)c (Exhibit 2, pp. 26-27). (b)(7C)c further stated since (b)(7C)c had initially brought it to his attention, he felt comfortable with discussing the (b)(7C)c issue with him (b)(7C)c (Exhibit 2, p. 28).

(b)(7C)c advised management had knowledge of (b)(7C)c problem of staying awake because (b)(7C)c had brought it to his (b)(7C)c attention initially and subsequently he (b)(7C)c had brought it to (b)(7C)c attention on several occasions (Exhibit 2, pp. 31-32 and 38). (b)(7C)c reported that in January 2006 he brought his concern about (b)(7C)c to HOLLABAUGH. (b)(7C)c advised that sometime between January 31, 2006, and February 1, 2006, (b)(7C)c was taken off shift (Exhibit 2, pp. 32 and 39). (b)(7C)c recalled that on the day (b)(7C)c was removed (b)(7C)c approached him (b)(7C)c and made the comment he had no idea about (b)(7C)c problem (Exhibit 2, p. 33). (b)(7C)c advised he reminded (b)(7C)c he (b)(7C)c had conversations with him about (b)(7C)c problem, and so had (b)(7C)c (Exhibit 2, pp. 33-34). (b)(7C)c declared that around March 10, 2006, he had a conversation with (b)(7C)c about him (b)(7C)c not getting a raise or a bonus, and he also pointed out to (b)(7C)c that he (b)(7C)c was the one that had gone to the ECP about (b)(7C)c (Exhibit 2, p. 35). (b)(7C)c remarked that an ECP investigation was initiated based on his concern and the outcome of the investigation was (b)(7C)c removal from the shift until they could do a medical evaluation, among other things (Exhibit 2, pp. 39-42).

(b)(7C)c stated no one at Callaway ever told him they saw (b)(7C)c asleep in the control room (Exhibit 2, p. 42). According to (b)(7C)c the operations department procedures state watch-standers (control room personnel) will not place themselves in a position where it appears they are asleep or inattentive to their duties (Exhibit 2, p. 43-44). (b)(7C)c stated that after the investigation began, (b)(7C)c was removed from the shift and a meeting took place with all the shift managers. (b)(7C)c advised he attended a meeting with managers

NOT FOR PUBLIC DISCLOSURE WITHOUT APPROVAL OF FIELD OFFICE
DIRECTOR, OFFICE OF INVESTIGATIONS, REGION IV

~~OFFICIAL USE ONLY - OI INVESTIGATION INFORMATION~~

(b)(7C)c

(b)(7C)c and Ludwig E. THIBAUT, Director Plant Operations, Callaway. During the meeting, (b)(7C)c stated that on four to five times while describing (b)(7C)c behavior he used the expression "sleeping on watch" and "sleeping in the control room" and THIBAUT corrected him by stating the correct term was inattentive on duty (Exhibit 2, p. 45).

(b)(7C)c advised the bonus system for management was explained to him by (b)(7C)c and also was provided in writing (Exhibit 2, p. 46). (b)(7C)c contended the bonus program required Callaway to meet a half dozen goals for the year in order for management personnel to get a bonus. (b)(7C)c added, there is an earnings per share target that AmerenUE has to meet for the year for management personnel to get a bonus. (b)(7C)c also remarked a department must meet certain goals in order to get a bonus. (b)(7C)c mentioned there was a portion of the bonus program which related to a certain number of management observations of employees (Exhibit 2, p. 47). (b)(7C)c reported that in February 2006, an electronic calculator was sent out to all employees stating "... Hey, congratulations management employees. We've met all these goals ... plug the numbers into here and figure out what your bonus is going to be" (Exhibit 2, p. 48)."

(b)(7C)c reported that in mid-February 2006, he met with (b)(7C)c and discussed his appraisal. (b)(7C)c stated (b)(7C)c explained that his job performance had been rated as (b)(7C)c. According to (b)(7C)c, (b)(7C)c apologized to him and made it clear to him that he did evaluate him (b)(7C)c at that level but that he (b)(7C)c was told by senior management to evaluate him (b)(7C)c at (b)(7C)c. (b)(7C)c mentioned that (b)(7C)c stated his bonus would probably be around (b)(7C)c. (b)(7C)c added that (b)(7C)c said the rating would have no impact on his bonus payout and he would probably get an increase in salary of (b)(7C)c (Exhibit 2, pp. 48-52 and 54-58). (b)(7C)c advised he spoke with (b)(7C)c and he reiterated the same things that (b)(7C)c had told him about his rating and bonus payout (Exhibit 2, pp. 50 and 58). (b)(7C)c also recalled (b)(7C)c told him he would have rated him as (b)(7C)c but he was not present when managers rated him and he had nothing to do with his evaluation.

(b)(7C)c reported no one from management told him he would be getting (b)(7C)c (b)(7C)c for bringing forth his concern with (b)(7C)c. (b)(7C)c advised that his job performance rating had nothing to do with him submitting an allegation to management or going to ECP. (b)(7C)c explained no one ever came to him and promised him a certain amount he would be receiving as a bonus payout. (b)(7C)c related that he received an e-mail sent to all management employees stating "... Congratulations. We've met our goals. Plug in your salary to figure out what your bonus is going to be ... (Exhibit 2, pp. 53-54)." (b)(7C)c remarked that he received a bonus payout of approximately (b)(7C)c which he characterized was half a bonus (Exhibit 2, pp. 55-56). (b)(7C)c reiterated he

~~NOT FOR PUBLIC DISCLOSURE WITHOUT APPROVAL OF FIELD OFFICE
DIRECTOR, OFFICE OF INVESTIGATIONS, REGION IV~~

OFFICIAL USE ONLY - OI INVESTIGATION INFORMATION

should have received a (b)(7C)c which was approximately (b)(7C)c based on the February 2006 e-mail sent out to all management employees (Exhibit 2, p. 59). (b)(7C)c stated that the performance evaluation rating would have no bearing on the bonus payout based on what he was told by (b)(7C)c Exhibit 2, pp. 59-60). (b)(7C)c recalled that on March 10, 2006, he had a conversation with (b)(7C)c and he informed him that since he was evaluated as (b)(7C)c he (b)(7C)c would only be getting half a bonus (Exhibit 2, p. 60-61).

(b)(7C)c recounted that (b)(7C)c had a discussion with him about his (b)(7C)c evaluation and informed him he (b)(7C)c (Exhibit 2, pp. 61-62). (b)(7C)c added that in July 2006 (b)(7C)c and he had a detailed meeting concerning his evaluation and pointed out the areas that he needed to improve.

(b)(7C)c contended he was the victim of adverse action by not receiving a full bonus or raise (Exhibit 2, p. 67). (b)(7C)c asserted he had lengthy conversations sometime around March 10 and 11, 2006, with (b)(7C)c regarding him receiving a raise or full bonus, and during the conversations, (b)(7C)c informed (b)(7C)c he was the person that had gone to ECP with the allegation about (b)(7C)c. (b)(7C)c added that (b)(7C)c acted surprised and stated he had no idea that he (b)(7C)c had gone to ECP (Exhibit 2, pp. 68-69). (b)(7C)c recounted that (b)(7C)c stated, "... I really didn't know who it was that went and talked to Dave [HOLLABAUGH] until now. I wish you wouldn't have told me because now I know. You know, now I have to be careful whenever I deal with you ... (Exhibit 2, p. 69)." (b)(7C)c advised that (b)(7C)c never stated to him (b)(7C)c that he did not get a full raise or a full bonus because he had raised the allegation regarding (b)(7C)c (Exhibit 2, pp. 69-71).

Coordination with NRC Staff

On April 25, 2006, a RIV Allegation Review Board discussed (b)(7C)c discrimination allegation and determined he had articulated a prima facie showing of discrimination and would be offered access to the Alternative Dispute Resolution (ADR) process. Subsequently, (b)(7C)c declined to participate in the ADR process.

On June 8, 2006, Harry FREEMAN, Senior Allegations Coordinator, RIV, requested the Office of Investigations, RIV, conduct an investigation to determine whether (b)(7C)c was discriminated against for reporting a safety concern.

**NOT FOR PUBLIC DISCLOSURE WITHOUT APPROVAL OF FIELD OFFICE
DIRECTOR, OFFICE OF INVESTIGATIONS, REGION IV**

~~OFFICIAL USE ONLY - OI INVESTIGATION INFORMATION~~

Evidence

Document Review

During the course of this investigation, OI:RIV reviewed and evaluated documents obtained from (b)(7C)c Callaway, and/or the NRC staff. The documents deemed pertinent to this investigation are represented in this section:

E-mail from (b)(7C)c to OI:RIV, Subject: 2005 Ops [Operations] KPI [Key Performance Indicators] Payout, dated August 14, 2006 (Exhibit 3)

This e-mail explained to AmerenUE employees at Callaway the anticipated KPI bonus payout calculations for 2005 for each division and for individual employees for 2005.

AmerenUE Management Performance Appraisal 2004 for (b)(7C)c dated February 2, 2005 (Exhibit 4)

This document is (b)(7C)c Management Performance Appraisal for 2004. The performance appraisal showed (b)(7C)c received (b)(7C)c
(b)(7C)c

AmerenUE Management Performance Appraisal 2005 for (b)(7C)c dated January 19, 2006 (Exhibit 5)

This document is (b)(7C)c Management Performance Appraisal for 2005. The performance appraisal showed that (b)(7C)c
(b)(7C)c

AmerenUE Mid-Cycle Performance Appraisal Review for (b)(7C)c dated August 29, 2006 (Exhibit 6)

This document is (b)(7C)c Mid-Cycle Performance Appraisal Review, dated August 29, 2006, Management Performance Appraisal for 2006. The performance appraisal showed
(b)(7C)c

~~NOT FOR PUBLIC DISCLOSURE WITHOUT APPROVAL OF FIELD OFFICE
DIRECTOR, OFFICE OF INVESTIGATIONS, REGION IV~~

~~OFFICIAL USE ONLY - OI INVESTIGATION INFORMATION~~

E-mail from J. Patrick HICKEY, Attorney, Pillsbury Winthrop Shaw Pittman, LLP, to OI:RIV
Regarding the AmerenUE Bonus Program, dated November 6, 2006 (Exhibit 7)

This e-mail explained how AmerenUE's bonus program has two elements: the business line (Nuclear Division) performance, and the individual performance. The business line performance is weighted at 50 percent and the remaining 50 percent is placed in a pool and used to award individual performance on a discretionary basis.

Letter from HICKEY, Attorney and Legal Representative for Callaway, to OI:RIV, dated
November 13, 2006 (Exhibit 8)

This letter was included with documents marked confidential and provided by HICKEY on behalf of Callaway to OI:RIV. During interviews of Callaway personnel during November 2006, OI:RIV identified and requested the following documents:

In this document, titled "Second Line Supervisor Performance Appraisal Calibration Meeting, 01/10/06 (Ops.)," management stated during the meeting with all managers that the previous year's performance appraisal rating were not aligned with Callaway's performance. Management directed all managers and supervisors "... to put the right people in the right place in relation to their performance ..." and management set ground rules for employee ratings.

A table of supervisor ratings showed that 6 were rated in the "Needs Improvement" category, 12 were rated in the "Meets Expectations" category, and 4 were rated in the "Exceeds Expectations" category.

In the document which was generated based on the Second Line Supervisor Performance Appraisal Calibration Meeting document dated January 10, 2006, shift supervisors were tracked individually and positive and negative comments were notated concerning their performance.

(b)(7C)c

(b)(7C)c

(b)(7C)c

on their 2005 Performance Appraisals.

(b)(7C)c

was rated as (b)(7C)c

(b)(7C)c

(b)(7C)c

~~NOT FOR PUBLIC DISCLOSURE WITHOUT APPROVAL OF FIELD OFFICE
DIRECTOR, OFFICE OF INVESTIGATIONS, REGION IV~~

~~OFFICIAL USE ONLY - OI INVESTIGATION INFORMATION~~

(b)(7C)c

(b)(7C)c

(b)(7C)c

(b)(7C)c

(b)(7C)c

(b)(7C)c

(b)(7C)c

(b)(7C)c

(b)(7C)c

(b)(7C)c

(b)(7C)c

~~NOT FOR PUBLIC DISCLOSURE WITHOUT APPROVAL OF FIELD OFFICE
DIRECTOR, OFFICE OF INVESTIGATIONS, REGION IV~~

Case No. 4-2006-035

15

~~OFFICIAL USE ONLY - OI INVESTIGATION INFORMATION~~

OFFICIAL USE ONLY - OI INVESTIGATION INFORMATION

(b)(7C)c

Callaway's ECP Investigation and File No. 20060123, dated April 27, 2006 (Exhibit 9)

This file, ECP File No. 20060123, contained the investigative findings of Callaway's investigation into (b)(7C)c allegation that (b)(7C)c was observed sleeping on duty. Specifically, on the ECP's Employee Concerns Initial Intake Form, dated January 23, 2006 (Exhibit 11, p. 8) (b)(7C)c reported, (b)(7C)c is having problems with alertness/attentiveness to duty on shift in the control room." The form was also annotated to reflect (b)(7C)c had forwarded his concerns about (b)(7C)c to (b)(7C)c and (b)(7C)c (b)(7C)c Callaway, but did not have any supporting documentation or evidence to provide to the ECP.

Page 24: E-mail from (b)(7C)c to HOLLABAUGH, dated January 23, 2006. (b)(7C)c requested a meeting with HOLLABAUGH.

Page 25: E-mail from (b)(7C)c to THIBAUT and Keith D. YOUNG, Manager Regulatory Affairs, Callaway, dated January 23, 2006. In this e-mail (b)(7C)c stated he met with PECK and David DUMBACHER, RI, NRC, to discuss the removal of a shift manager from shift due to concerns about his alertness and attentiveness.

Pages 26-27: E-mail from Anna M. LEE, Supervisor Access Authorization, Callaway, to HOLLABAUGH, dated February 14, 2006. In this e-mail LEE stated that (b)(7C)c did not go over his allotted working hours limit.

Page 28: E-mail from HOLLABAUGH to (b)(7C)c dated March 2, 2006. In this e-mail HOLLABAUGH informed (b)(7C)c that the attached e-mail from him (b)(7C)c was acceptable format for him to use to file a concern. In the attached e-mail, (b)(7C)c filed his concern that (b)(7C)c was inattentive in the control room.

Page 29: E-mail from (b)(7C)c to HOLLABAUGH, dated April 20, 2006. In this e-mail (b)(7C)c responded to an earlier e-mail from HOLLABAUGH which HOLLABAUGH asked (b)(7C)c what his (b)(7C)c plans were in addressing the survey results.

**NOT FOR PUBLIC DISCLOSURE WITHOUT APPROVAL OF FIELD OFFICE
DIRECTOR, OFFICE OF INVESTIGATIONS, REGION IV**

~~OFFICIAL USE ONLY - OI INVESTIGATION INFORMATION~~

- Page 30: E-mail from YOUNG to HOLLABAUGH, dated April 26, 2006. In this e-mail YOUNG stated in response to an NRC request that a signed confidentiality agreement was not required.
- Pages 31-32: A letter from (b)(7C)c to HOLLABAUGH, dated February 6, 2006. In this letter (b)(7C)c provided additional comments regarding his concern with (b)(7C)c inattentiveness in the control room.
- Pages 33-37: A letter signed by Sharon MCLAUGHLIN, Superintendent of Administration, Callaway, dated February 25, 2006. This letter was generated in response to an e-mail received on February 20, 2006, from (b)(7C)c regarding her MCLAUGHLIN's review of the Safety-Conscious Work Environment survey. MCLAUGHLIN stated she made changes to the survey.

E-mail from William B. BOBNAR, Associate General Counsel, Ameren Services Company, to OI:RIV Regarding Supervisors 2004 Performance Appraisal Ratings, dated January 19, 2007 (Exhibit 10)

This e-mail explained that the 2004 performance appraisal ratings for supervisors were ranked as follows: The lowest rating was "Unsatisfactory," and each of the following ratings showed an increase in job performance, "Needs Improvement," "Meets Expectations," "Effective Performer," and the highest rating was "High Performer." The following supervisors received an overall rating on their 2004 performance appraisals: (b)(7C)c

(b)(7C)c

E-mail from BOBNAR to OI:RIV Regarding Supervisors 2004 and 2005 Performance Appraisal Ratings, dated January 26, 2007 (Exhibit 11)

This e-mail showed the names of the supervisors that rated (b)(7C)c on their 2004 and 2005 performance evaluations.

The e-mail also disclosed that (b)(7C)c was the rating supervisor for both (b)(7C)c performance evaluations in 2004 and 2005. (b)(7C)c were rated by other rating supervisors in 2004 and 2005.

~~NOT FOR PUBLIC DISCLOSURE WITHOUT APPROVAL OF FIELD OFFICE
DIRECTOR, OFFICE OF INVESTIGATIONS, REGION IV~~

OFFICIAL USE ONLY - OI INVESTIGATION INFORMATION

Allegation No. 1: Discrimination Against (b)(7C)c For Raising Safety Concerns.

Analysis of Evidence

An analysis of the evidence was performed to determine if (b)(7C)c was subjected to discrimination for raising safety concerns.

1. Protected Activity

In or about the months of July through September 2005, on three separate occasions, (b)(7C)c raised a safety concern regarding (b)(7C)c being inattentive in the control room to (b)(7C)c.

Further, in January 2006 (b)(7C)c formally filed a nuclear safety concern in writing with the ECP at Callaway (Exhibit 11, p. 8).

2. Management's Knowledge of Protected Activity

(b)(7C)c reported his safety concern to (b)(7C)c his second line supervisor; therefore, management was aware of his safety concern.

(b)(7C)c reported a safety concern to Callaway management, and the ECP was subsequently investigated by Callaway.

3. Adverse Actions

On February 16, 2006, (b)(7C)c was given his performance appraisal for 2005 by his supervisor (b)(7C)c and he received an overall rating of (b)(7C)c.

(b)(7C)c was informed by management he would receive a full bonus, but he only received a partial bonus payout.

4. Nexus: Was the Adverse Action a Result of (b)(7C)c Engaging in Protected Activity?

**NOT FOR PUBLIC DISCLOSURE WITHOUT APPROVAL OF FIELD OFFICE
DIRECTOR, OFFICE OF INVESTIGATIONS, REGION IV**

~~OFFICIAL USE ONLY - OL INVESTIGATION INFORMATION~~

Interview of (b)(7C)c (Exhibit 12)

On October 18, 2006, (b)(7C)c was interviewed by OI:RIV in Columbia, Missouri, and related the following information.

(b)(7C)c

(b)(7C)c indicated (b)(7C)c stated there is nobody he would rather have in the control room if something was going on than (b)(7C)c (Exhibit 12, p. 42). (b)(7C)c related he was contacted by the ECP on approximately January 26, 2006, and was interviewed by HOLLABAUGH concerning (b)(7C)c staying alert. He recounted he laid out the series of events and conversations he had with various individuals for HOLLABAUGH. He further stated that, off the record, he was asked about the seriousness of staying alert in the control room, to which he replied everyone remembered the Peach Bottom incident regarding personnel sleeping in the control room (Exhibit 12, p. 53). (b)(7C)c advised (b)(7C)c was taken off shift sometime in February 2006, and he felt there was relief among several crews (Exhibit 12, p. 56). He also related (b)(7C)c told him in February 2006, after the ECP interview, that he (b)(7C)c had gone to the ECP regarding (b)(7C)c (Exhibit 12, pp. 59 and 63) and that he also went to (b)(7C)c and told him the same in February or March 2006 (Exhibit 12, p. 64).

(b)(7C)c advised (b)(7C)c relayed to him that he (b)(7C)c had not gotten the same bonus or pay raise everyone else received for 2005 work (Exhibit 12, pp. 64 and 67). He also stated (b)(7C)c told him that (b)(7C)c did not know that his (b)(7C)c crew was the best performing crew for the past 2 years until after he (b)(7C)c had already not gotten his bonus (Exhibit 12, pp. 65 and 68-69). (b)(7C)c relayed (b)(7C)c told him he (b)(7C)c was being overly scrutinized for little things on his quarterly performance appraisal (Exhibit 12, pp. 77-79). (b)(7C)c contended he felt as though (b)(7C)c was discriminated against because he persisted in bringing up the (b)(7C)c situation to management (Exhibit 12, pp. 65, 68, 70, 72, and 76).

Interview of (b)(7C)c (Exhibit 13)

On November 1, 2005, (b)(7C)c was interviewed by OI:RIV in Fulton, Missouri, and related the following information in substance. Also present during the interview of (b)(7C)c was HICKEY.

(b)(7C)c

~~NOT FOR PUBLIC DISCLOSURE WITHOUT APPROVAL OF FIELD OFFICE
DIRECTOR, OFFICE OF INVESTIGATIONS, REGION IV~~

OFFICIAL USE ONLY - OF INVESTIGATION INFORMATION

(b)(7C)c

(b)(7C)c (Exhibit 13, p. 7).

(b)(7C)c confirmed his (b)(7C)c is (b)(7C)c. He stated he has known (b)(7C)c since 1988-1989 and (b)(7C)c. He asserted (b)(7C)c never told him about an allegation concerning (b)(7C)c being inattentive in the control room (Exhibit 13, p. 10). (b)(7C)c contended HOLLABAUGH and (b)(7C)c separately brought the allegation to his attention (Exhibit 13, p. 10).

(b)(7C)c reported he was interviewed in January 2006 by HOLLABAUGH and he told HOLLABAUGH he was made aware of (b)(7C)c inattentiveness by (b)(7C)c who brought it to his attention in December 2005 (Exhibit 13, pp. 12-13). According to (b)(7C)c he told (b)(7C)c he would look into the matter and he discussed it with (b)(7C)c (b)(7C)c Callaway. (b)(7C)c stated he told (b)(7C)c in December 2005, that (b)(7C)c had informed him (b)(7C)c that he (b)(7C)c had not seen any behaviors that caused him to be concerned with (b)(7C)c (Exhibit 13, p. 15). (b)(7C)c disclosed he provided (b)(7C)c follow-up information in January 2006 (Exhibit 13, p. 17).

(b)(7C)c stated he and (b)(7C)c had conversations regarding (b)(7C)c inattentiveness prior to December 2005, possibly some time in the latter part of 2005 (Exhibit 13, pp. 19-20). He recounted he was informed by the training staff that (b)(7C)c had trouble remaining alert in training and relayed this information to (b)(7C)c (Exhibit 13, pp. 23-24). (b)(7C)c declared (b)(7C)c never told him he (b)(7C)c had received complaints about (b)(7C)c (Exhibit 13, p. 27). (b)(7C)c remarked he was not aware (b)(7C)c had gone to (b)(7C)c specifically regarding (b)(7C)c inattentiveness. He stated he heard scuttlebutt but no supervisor or anyone else ever came directly to him (Exhibit 13, p. 29).

(b)(7C)c confirmed (b)(7C)c. He reported he did not receive negative input about (b)(7C)c from (b)(7C)c (Exhibit 13, pp. 30 and 41). (b)(7C)c explained a performance bonus is awarded on the basis of performance of the company [AmerenUE], the division, the department and the individual. He further explained the bonus was not a promise. According to (b)(7C)c one part of the bonus reflected on corporate performance and the other part reflected on divisional and individual performance (Exhibit 13, p. 57). (b)(7C)c acknowledged he told (b)(7C)c he would receive a bonus during his initial discussion with (b)(7C)c even though (b)(7C)c received an overall rating of (b)(7C)c on his 2005 evaluation (Exhibit 13, pp. 36 and 38). He stated the corporation later changed the bonus structure and did not award a full bonus to individuals rated at "Needs Improvement" (Exhibit 13, pp. 37 and 39).

(b)(7C)c admitted he initially rated (b)(7C)c as (b)(7C)c when (b)(7C)c the reviews for the 2005 performance appraisals in December 2005-January 2006, although he felt (b)(7C)c was borderline (Exhibit 13, p. 42). He also admitted he was influenced by a

NOT FOR PUBLIC DISCLOSURE WITHOUT APPROVAL OF FIELD OFFICE
DIRECTOR, OFFICE OF INVESTIGATIONS, REGION IV

OFFICIAL USE ONLY - OI INVESTIGATION INFORMATION

January 10, 2006, performance appraisal calibration meeting. At this meeting managers were challenged to raise the performance evaluation bar, to be more critical and objective with employees due to Callaway's poor overall performance (Exhibit 13 p. 43). (b)(7C)c recalled that during a group discussion (b)(7C)c as well as others, were discussed and other people voiced concerns about (b)(7C)c performance level. (b)(7C)c related he felt (b)(7C)c did not meet the minimum requirements discussed, so based on the meeting and concerns raised by other managers, he revised (b)(7C)c. He advised he submitted the evaluation to (b)(7C)c for review and after some adjustments, he submitted it to (b)(7C)c (Exhibit 13, pp. 44-45). (b)(7C)c acknowledged that several of (b)(7C)c peers, which had previously been rated positive, were also rated overall as (b)(7C)c.

(b)(7C)c confirmed that on February 16, 2006, (b)(7C)c his performance evaluation. He reported (b)(7C)c knew the outcome of the evaluation because (b)(7C)c had previously informed (b)(7C)c of his rating (Exhibit 13, p. 49). He remarked (b)(7C)c was not happy about the evaluation and suggested he take his copy, digest it, and they could discuss it at a later date. (b)(7C)c also stated he had a discussion with (b)(7C)c regarding the bonus and told him as far as he knew, being rated as (b)(7C)c would not affect the KPI bonus (Exhibit 13, p. 58). (b)(7C)c advised he was on vacation and due to shift rotations, he did not speak to (b)(7C)c until March 13, 2006, when (b)(7C)c told him he and (b)(7C)c had a major blowout about the performance evaluation and (b)(7C)c needed to talk to (b)(7C)c (Exhibit 13, p. 50). (b)(7C)c recounted he talked to (b)(7C)c the next day having a good, open, frank conversation (Exhibit 13, p. 51). He stated he and (b)(7C)c have progressed in their conversations and he has moved up in some individual areas; however, he rated (b)(7C)c overall on his interim appraisal as (b)(7C)c (Exhibit 13, p. 53).

(b)(7C)c contended (b)(7C)c did not receive any adverse action for bringing forth the ECP allegation on (b)(7C)c (Exhibit 13, pp. 53-54). He asserted (b)(7C)c performance evaluation was based on his job performance and had nothing to do with him raising any allegations. (b)(7C)c stated he did not know (b)(7C)c made any allegation until March 2006, which was after (b)(7C)c 2005 performance evaluation (Exhibit 13, p. 63).

Interview of YOUNIE (Exhibit 14)

On November 1, 2006, OI RIV interviewed, Chris R. YOUNIE, Business Operations Manager, Callaway, in Fulton, Missouri, and he related the following information in substance. Also present during the interview of YOUNIE was HICKEY.

YOUNIE reported he has been in the nuclear industry over 25 years but had not obtained a college degree. He related he obtained his senior reactor operator's license and is currently manager of business operations at Callaway (Exhibit 14, p. 5).

**NOT FOR PUBLIC DISCLOSURE WITHOUT APPROVAL OF FIELD OFFICE
DIRECTOR, OFFICE OF INVESTIGATIONS, REGION IV**

~~OFFICIAL USE ONLY - OI INVESTIGATION INFORMATION~~

YOUNIE stated he was not aware of any allegations that (b)(7C)c was unable to stay awake or was not attentive at the control room (Exhibit 14, pp. 6 and 15). YOUNIE stated he was told he would be interviewed by OI concerning a claim of retaliation against (b)(7C)c (Exhibit 14, p. 7). He asserted he was previously manager of operations for Callaway and supervised (b)(7C)c (Exhibit 14, p. 8).

YOUNIE recalled that during bonus payout discussions (b)(7C)c peers provided feedback that (b)(7C)c and (b)(7C)c (b)(7C)c (Exhibit 14, p. 11). YOUNIE recounted he did not give any specific feedback regarding (b)(7C)c or his performance during the bonus payout discussions (Exhibit 14, pp. 8-10). YOUNIE advised that previously managers would have received a bonus even if their performance review stated (b)(7C)c however, in 2005 the practice was realigned during the bonus payout discussions due to the plant [Callaway] being rated the lowest performer in the industry (Exhibit 14, pp. 12-13).

Interview of (b)(7C)c (Exhibit 15)

On November 2, 2006 (b)(7C)c was interviewed by OI:RIV in Fulton, Missouri, and related the following information. Also present during the interview of (b)(7C)c was HICKEY.

(b)(7C)c

(b)(7C)c remarked (b)(7C)c came to him during refuel sometime in September-November 2005 and told him that (b)(7C)c was very upset about something and wanted to talk to him. (b)(7C)c contended he approached (b)(7C)c who voiced his concern about (b)(7C)c attentiveness (Exhibit 15, p. 12). He stated he only recalled one conversation with (b)(7C)c regarding (b)(7C)c and he never told (b)(7C)c he already knew about (b)(7C)c (Exhibit 15, pp. 13 and 16).

(b)(7C)c related (b)(7C)c came to him before a 2005 refuel outage, sometime around July-August 2005, and told him of another employee's concern regarding (b)(7C)c attentiveness (Exhibit 15, pp. 14-15). He reported he talked to (b)(7C)c (b)(7C)c Callaway, regarding (b)(7C)c and was told there were no issues regarding (b)(7C)c attentiveness. (b)(7C)c stated he did not recall telling (b)(7C)c he was planning on removing (b)(7C)c from the shift; however, he was planning on removing (b)(7C)c for lack of leadership and moving him to project-type work, recalling it had nothing to do with any allegations of inattentiveness (Exhibit 15, pp. 16-17). (b)(7C)c advised he was interviewed by ECP regarding (b)(7C)c who was removed from shift as a result of the investigation (Exhibit 15, pp. 21-22).

~~NOT FOR PUBLIC DISCLOSURE WITHOUT APPROVAL OF FIELD OFFICE
DIRECTOR, OFFICE OF INVESTIGATIONS, REGION IV~~

~~OFFICIAL USE ONLY - OF INVESTIGATION INFORMATION~~

(b)(7)(C) asserted he did not know who reported the allegation concerning (b)(7)(C) until a heated discussion with (b)(7)(C) occurred on March 9, 2006, when (b)(7)(C) stated to him (b)(7)(C) that he (b)(7)(C) had provided the initial concern to ECP (Exhibit 15, pp. 22-23 and 29). He relayed (b)(7)(C) had already been told on February 16, 2006, that he was rated as (b)(7)(C) by (b)(7)(C) who completed the review on January 19, 2006 (Exhibit 15, pp. 25-27 and 35-36). (b)(7)(C) further indicated (b)(7)(C) was unhappy about the performance evaluation and said he felt compared to (b)(7)(C) as a standard for a (b)(7)(C) also got the impression (b)(7)(C) made a link between his lower performance appraisal and his report to ECP on (b)(7)(C) (Exhibit 15, pp. 28-29). (b)(7)(C) contended (b)(7)(C) did not know (b)(7)(C) had made the ECP allegation until he told him a week or two after the March 9, 2006, heated discussion between himself and (b)(7)(C) (Exhibit 15, p. 31).

(b)(7)(C) relayed no individual information was sent to (b)(7)(C) informing him exactly what his bonus would be nor was a definitive promise of a bonus made every year (Exhibit 15, pp. 33-34). He stated that on January 10, 2006, a performance evaluation meeting was held to rate supervisors and that notes from the meeting indicate (b)(7)(C) was rated as (b)(7)(C) along with several other peers based on performance and not on any adverse actions from any allegations brought forth (Exhibit 15, pp. 42-43). He further stated initially that on February 16, 2006, as (b)(7)(C) received an overall rating of (b)(7)(C) on his performance evaluation, (b)(7)(C) understanding was that the bonus would not be affected by the evaluation (Exhibit 15, p. 36). However, on February 27, 2006, (b)(7)(C) declared, senior management decided anyone rated as (b)(7)(C) overall would not receive their entire bonus potential (Exhibit 15, p. 37).

Interview of HOLLABAUGH (Exhibit 16)

On November 2, 2006, HOLLABAUGH was interviewed by OI:RIV in Fulton, Missouri, and related the following information. Also present during the interview of HOLLABAUGH was HICKEY.

HOLLABAUGH advised he has a bachelor's degree in electrical engineering and a master's degree in nuclear engineering from the University of Missouri-Columbia. He stated he previously held a senior reactor operator's license, has had training in Employee Concerns, and is a registered professional engineer with the State of Missouri. He reported his title is currently Superintendent, Employee Concerns.

HOLLABAUGH disclosed he received an allegation from (b)(7)(C) on January 24, 2006, regarding inattentiveness by (b)(7)(C). He related (b)(7)(C) told him he had previously had discussions with (b)(7)(C) regarding the allegation (Exhibit 16, p. 7). HOLLABAUGH remarked he interviewed (b)(7)(C)

**NOT FOR PUBLIC DISCLOSURE WITHOUT APPROVAL OF FIELD OFFICE
DIRECTOR, OFFICE OF INVESTIGATIONS, REGION IV**

OFFICIAL USE ONLY - OI INVESTIGATION INFORMATION

(b)(7C)c

(b)(7C)c (Exhibit 16, pp. 14-15). HOLLABAUGH stated that through his investigation he learned that (b)(7C)c said (b)(7C)c first approached him regarding (b)(7C)c and later (b)(7C)c approached (b)(7C)c about (b)(7C)c (Exhibit 16, pp. 9-11). HOLLABAUGH contended (b)(7C)c told him he did not approach (b)(7C)c about the allegation and (b)(7C)c made no reference to (b)(7C)c during the allegation interview (Exhibit 16, pp. 11-13).

HOLLABAUGH reported that based on discussions with (b)(7C)c knew of (b)(7C)c inattentiveness since mid-2005 and he (b)(7C)c had discussed it with (b)(7C)c (Exhibit 16, p. 16). He asserted (b)(7C)c were (b)(7C)c (b)(7C)c (Exhibit 16, p. 17). HOLLABAUGH recounted he identified three issues from his investigation about the allegation: the question of alertness of (b)(7C)c what management knew and when did they know it, and thirdly, how many individuals had observed similar behaviors and had not reported it (Exhibit 16, p. 14).

HOLLABAUGH stated he was not aware of any adverse action taken against (b)(7C)c for bringing forth his concern about (b)(7C)c (Exhibit 16, p. 18-19). He disclosed (b)(7C)c did check the box for confidentiality on the intake form; however, (b)(7C)c mentioned it was alright to identify him if his name came up, but HOLLABAUGH said he never disclosed (b)(7C)c name (Exhibit 16, pp. 20-21). He further indicated that (b)(7C)c contacted the NRC regarding the allegation and his file was turned over to the NRC after April 20, 2006, and (b)(7C)c evaluation and performance review would have been performed and received well before that date (Exhibit 16, pp. 22-23).

Agent's Analysis

This investigation was initiated to determine if a (b)(7C)c was subjected to discrimination by Callaway management for raising safety concerns. The evidence developed during this investigation disclosed that (b)(7C)c was not subjected to discrimination because of his participation in protected activities.

During the interview of (b)(7C)c he stated that beginning on or about July 2005 through September 2005, April 2005, and through September 2005, on three separate occasions, he raised a safety concern to (b)(7C)c regarding (b)(7C)c being inattentive in the control room. In January 2006, (b)(7C)c formally filed a nuclear safety concern in writing with the ECP at Callaway regarding (b)(7C)c inattentiveness in the control room. (b)(7C)c alleged that as a result of raising a concern regarding (b)(7C)c he was subjected to adverse actions by receiving a lower performance evaluation and subsequently not receiving a full bonus and pay raise for 2005.

**NOT FOR PUBLIC DISCLOSURE WITHOUT APPROVAL OF FIELD OFFICE
DIRECTOR, OFFICE OF INVESTIGATIONS, REGION IV**

OFFICIAL USE ONLY - OI INVESTIGATION INFORMATION

During the interview of (b)(7C)c he reported he was (b)(7C)c and rated (b)(7C)c on his 2005 performance appraisal evaluation as (b)(7C)c. (b)(7C)c contended he initially rated (b)(7C)c as (b)(7C)c but revised (b)(7C)c rating after attending a January 10, 2006, performance appraisal calibration meeting. At this meeting managers were challenged to raise the performance evaluation bar, to be more critical and objective with employees due to Callaway's poor overall performance. (b)(7C)c recalled that during a group discussion (b)(7C)c as well as other supervisors, were discussed, and other managers voiced concerns about (b)(7C)c performance level. Management's concerns regarding (b)(7C)c performance were recorded in official documentation provided to OI:RIV by the licensee. (b)(7C)c felt (b)(7C)c did not meet the minimum requirements discussed, and based on the meeting and concerns raised by other managers, he revised (b)(7C)c performance evaluation's overall rating to (b)(7C)c as (b)(7C)c supervisor, concurred with (b)(7C)c rating. (b)(7C)c stated other supervisors and peers of (b)(7C)c that had previously received higher performance ratings were also given overall ratings of (b)(7C)c on their 2005 performance evaluations as a result of the management performance appraisal calibration meeting.

Documentary evidence reviewed showed that on their 2004 performance evaluations

(b)(7C)c
" (b)(7C)c in the 2005 performance evaluations (b)(7C)c

(b)(7C)c Out of the four supervisors that received a lower performance evaluation (b)(7C)c previous performance was the least affected by the new performance measure. (b)(7C)c was the rating supervisor for both (b)(7C)c performance evaluations in 2004 and 2005; however, (b)(7C)c were rated by other rating supervisors, respectively. The performance rating given to (b)(7C)c compared to (b)(7C)c showed a further decrease in performance.

During the interview of (b)(7C)c he stated that no individual information was sent to (b)(7C)c informing him exactly what his bonus would be nor was a definitive promise of a bonus made. He stated that on January 10, 2006, a performance evaluation meeting was held to rate supervisors, and notes from the meeting indicated (b)(7C)c along with several other peers, based on performance and not on any adverse actions from any allegations brought forth.

Based on documentary evidence, the AmerenUE bonus program had two elements: the business line performance and the individual performance. The business line performance is weighted at 50 percent and the remaining 50 percent is placed in a pool and used to award individual performance on a discretionary basis. The records showed that (b)(7C)c did receive a bonus payout of (b)(7C)c but did not receive a Business Line Award. The other

**NOT FOR PUBLIC DISCLOSURE WITHOUT APPROVAL OF FIELD OFFICE
DIRECTOR, OFFICE OF INVESTIGATIONS, REGION IV**

OFFICIAL USE ONLY - OI INVESTIGATION INFORMATION

supervisors, (b)(7C)c received partial bonus payouts which were lower than (b)(7C)c and also they did not receive Business Line Awards. (b)(7C)c did not receive any bonus payout.

(b)(7C)c contended that prior to giving (b)(7C)c his 2005 performance evaluation, he was never told by (b)(7C)c that (b)(7C)c had raised the concern with (b)(7C)c inattentiveness in the control room. (b)(7C)c reported he was aware of a report that (b)(7C)c was allegedly inattentive in the control room. However, evidence supported that (b)(7C)c did not have any knowledge prior to doing (b)(7C)c performance evaluation that (b)(7C)c had gone to the ECP to submit a concern. (b)(7C)c rated (b)(7C)c solely on input from other managers and the performance he felt that (b)(7C)c maintained during the 2005 evaluation period. Evidence showed (b)(7C)c was not singled out due to the fact that three other supervisors were rated the same as (b)(7C)c on the 2005 evaluations and the other three supervisors had higher evaluation ratings in 2004 than (b)(7C)c. (b)(7C)c did receive a partial bonus payout which was the highest of the supervisors that had received the same rating on their 2005 performance evaluations. There was no evidence to support (b)(7C)c claim that he was subjected to adverse actions for raising safety concerns.

Conclusions

Based on the evidence developed during the investigation, OI:RIV determined the allegation that a (b)(7C)c employed by AmerenUE, Callaway, was discriminated against for raising safety concerns was not substantiated.

**NOT FOR PUBLIC DISCLOSURE WITHOUT APPROVAL OF FIELD OFFICE
DIRECTOR, OFFICE OF INVESTIGATIONS, REGION IV**

~~OFFICIAL USE ONLY - OI INVESTIGATION INFORMATION~~

LIST OF EXHIBITS

<u>Exhibit No.</u>	<u>Description</u>
1	Investigation Status Record, dated June 8, 2006 (2 pages).
2	Transcript of Interview with (b)(7C)c dated August 9, 2006 (82 pages).
3	E-mail from (b)(7C)c to OI:RIV, dated August 14, 2006 (2 pages).
4	(b)(7C)c Management Performance Appraisal 2004, dated February 2, 2005 (4 pages).
5	(b)(7C)c Management Performance Appraisal 2005, dated January 19, 2006 (4 pages).
6	(b)(7C)c Mid-Cycle Performance Appraisal Review, dated August 29, 2006 (4 pages).
7	E-mail from HICKEY to OI:RIV, dated November 6, 2006 (1 page).
8	Letter from HICKEY to OI:RIV, with attachments, dated November 13, 2006 (11 pages).
9	Callaway's ECP Investigation and File No. 20060123, dated April 27, 2006 (37 pages).
10	E-mail from BOBNAR to OI:RIV, dated January 19, 2007 (2 pages).
11	E-mail from BOBNAR to OI:RIV, dated January 26, 2007 (2 pages).
12	Transcript of Interview with (b)(7C)c dated October 18, 2006 (85 pages).
13	Transcript of Interview with (b)(7C)c dated November 1, 2006 (65 pages).
14	Transcript of Interview with YOUNIE, dated November 1, 2006 (18 pages).
15	Transcript of Interview with (b)(7C)c dated November 2, 2006 (45 pages).
16	Transcript of Interview with HOLLABAUGH, dated November 2, 2006 (25 pages).

~~NOT FOR PUBLIC DISCLOSURE WITHOUT APPROVAL OF FIELD OFFICE
DIRECTOR, OFFICE OF INVESTIGATIONS, REGION IV~~