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Title: COLUMBIA GENERATING STATION:

DISCRIMINATION AGAINST A FORMER CONTRACT SUPERVISOR FOR RAISING
SAFETY CONCERNS

Licensee:

Energy Northwest
P.O. Box 968 (Mail Drop 1023)
Richland, WA 99352-0968

Docket No.: 50-397

Allegation No.: RIV-2007-A-0039

Reported by:



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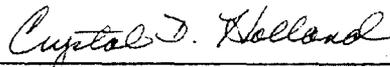
Case No.: 4-2008-016

Report Date: June 30, 2008

Control Office: OI:RIV

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Reviewed and Approved by:



Crystal D. Holland, Director
Office of Investigations
Field Office, Region IV

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SYNOPSIS

This investigation was initiated by the Nuclear Regulatory Commission (NRC), Office of Investigations, Region IV (RIV), on December 5, 2007, to determine if a former contract (b)(7)(C) employed by Williams Plant Services (WPS) at Energy Northwest's Columbia Generating Station (CGS) was discriminated against for raising safety concerns involving the conduct of cooling tower fan blade maintenance.

Based on the evidence developed during this investigation, the allegation that a former contract (b)(7)(C) at CGS was discriminated against for raising safety concerns involving the conduct of cooling tower fan blade maintenance was not substantiated.

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TESTIMONIAL EVIDENCE

Exhibit

(b)(7)(C)	WPS, CGS.....	2, 11
(b)(7)(C)	WPS, CGS.....	7
(b)(7)(C)	WPS, CGS.....	3
(b)(7)(C)	WPS, CGS.....	4
(b)(7)(C)	WPS, CGS.....	5
(b)(7)(C)	WPS, CGS.....	6
(b)(7)(C)	WPS, CGS.....	8
(b)(7)(C)	WPS, CGS.....	12
(b)(7)(C)	WPS, CGS.....	9
(b)(7)(C)	WPS, CGS.....	10

7c

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DOCUMENTARY EVIDENCE

Energy Northwest (b)(7)(C) dated March 8, 2007 (Exhibit 13).

Handwritten Statement by (b)(7)(C) dated March 21, 2007 (Exhibit 14).

7c
Energy Northwest Letter to Harry FREEMAN, Senior Allegations Coordinator, Allegation Coordination and Enforcement Staff, NRC:RIV, dated May 23, 2007 (Exhibit 15).

Handwriting Exemplars from (b)(7)(C) undated (Exhibit 16).

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DETAILS OF INVESTIGATION

Applicable Regulations

10 CFR 50.7: Employee Protection (2007 Edition)

10 CFR 50.5: Deliberate Misconduct (2007 Edition)

Purpose of Investigation

This investigation was initiated by the Nuclear Regulatory Commission (NRC), Office of Investigations (OI), Region IV (RIV), on December 5, 2007, to determine if (b)(7)(C) (b)(7)(C) for Williams Plant Services (WPS) at Energy Northwest's Columbia Generating Station (CGS), was discriminated against for raising safety concerns involving the conduct of cooling tower fan blade maintenance [Allegation No. RIV-2007-A-0039] (Exhibit 1).

Background

7c
On March 23, 2007, Judith W. WALKER, Allegation Coordinator, Allegation Coordination and Enforcement Staff (ACES), NRC, RIV, was notified by (b)(7)(C) that he had been the subject of discrimination for reporting safety concerns and that he had been terminated from his employment on (b)(7)(C). According to (b)(7)(C) on (b)(7)(C) he was working at CGS on Cooling Tower Fans No. 7 and No. 11, when he noticed that the work package had discrepancies with the angle degree of the fan blade. He reported that 8 of the 10 as-left entries for Tower No. 7 were unverifiable. (b)(7)(C) mentioned the discrepancy to (b)(7)(C) (b)(7)(C) WPS, CGS, although (b)(7)(C) instructed him (b)(7)(C) to sign the work package anyway and that on Monday morning an engineer would make revisions to the work package. (b)(7)(C) stated he questioned (b)(7)(C) about signing an inaccurate document and was told by (b)(7)(C) "you do it or I'll get another craft to do it." (b)(7)(C) reported he took (b)(7)(C) statement as a threat to his job and signed the inaccurate work package. (b)(7)(C) noted he did not enter as-found data in the work package and left that portion of the work package blank.

(b)(7)(C) stated that on (b)(7)(C) he met with (b)(7)(C) (b)(7)(C) WPS, CGS, and (b)(7)(C) reported (b)(7)(C) denied directing him to falsify the work package. According to (b)(7)(C) his employment was terminated at the conclusion of the meeting for falsification of a document.

On April 9, 2007, a RIV Allegation Review Board (ARB) met to discuss (b)(7)(C) allegation. The ARB (b)(5)

(b)(5)

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(b)(7)(C) his supervisor. (b)(7)(C) was offered participation in the agency's Alternative Dispute Resolution (ADR) process.

On December 5, 2007, WALKER contacted OI:RIV and reported ADR had failed to resolve (b)(7)(C) concern and that (b)(7)(C) requested OI initiate an investigation into his claim of discrimination.

Agent's Analysis

Protected Activity

7c (b)(7)(C) stated that on (b)(7)(C) he was (b)(7)(C) for cooling tower fan maintenance under (b)(7)(C) (Exhibit 13). (b)(7)(C) recalled that, as (b)(7)(C) that day, he reviewed and signed off on work order packages for the cooling tower fan maintenance. (b)(7)(C) advised that when he reviewed the work order package for cooling tower fan 1B, he found that the WPS contract millwrights who had worked on the cooling tower fan during the week, (b)(7)(C) had not dated and initialed the work order package for work they had completed. (b)(7)(C) said that since (b)(7)(C) and (b)(7)(C) were not present on (b)(7)(C) he (b)(7)(C) dated and initialed the work order package indicating the work had been completed. (b)(7)(C) admitted he did not know whether or not (b)(7)(C) and (b)(7)(C) had completed the maintenance steps in the work order package, but he signed off on them anyway because (b)(7)(C) instructed him to do so. According to (b)(7)(C) when he questioned (b)(7)(C) regarding the accuracy of the as-found data entered under step 4.7 of the work order package (Exhibit 13, p. 7), (b)(7)(C) told him, "That's what we're going with" (Exhibit 2, p. 13). (b)(7)(C) added that (b)(7)(C) stated "you gotta sign it off or I'm going to find somebody else to sign it off" (Exhibit 2, p. 13). (b)(7)(C) initially stated that the only information that was already entered into the work order package when he reviewed it was the as-found data in step 4.7. He subsequently stated (b)(7)(C) provided him with the data to enter into the as-found section and that, although he protested, he eventually entered the data himself so he would not be terminated (Exhibit 2, pp. 7-18).

(b)(7)(C) claims he raised an issue with (b)(7)(C) regarding the accuracy of the as-found data in the cooling tower fan work order package. This activity would constitute protected activity.

Management Knowledge

(b)(7)(C) alleged (b)(7)(C) was aware of his (b)(7)(C) reluctance to enter questionable data in the as-found block in the work order package because he discussed it with (b)(7)(C) on March 17, 2007 (Exhibit 2, pp. 12-15).

Adverse Act

(b)(7)(C) stated he was directed by (b)(7)(C) to enter the questionable as-found data in the work order package. (b)(7)(C) stated (b)(7)(C) told him, "... you gotta sign it off or I'm going to find

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somebody else to sign it off" (Exhibit 2, p. 13). If true, the threat by (b)(7)(C) to (b)(7)(C) would constitute an adverse action.

(b)(7)(C) was requested to provide handwriting exemplars for comparison with the questioned writing in the cooling tower fan work order package (Exhibit 16). A comparison of the exemplars obtained from (b)(7)(C) with the questioned writing in steps 4.7 and 4.9 in the work order package revealed distinct similarities between the handwriting exemplars obtained from (b)(7)(C) and the data in step 4.9. There are no obvious similarities in (b)(7)(C) writing and the data in step 4.7. When shown the similarities between the writing in step 4.9 and the handwriting exemplars, (b)(7)(C) admitted he had most likely authored the information in step 4.9, not step 4.7 (Exhibit 17).

7c (b)(7)(C) WPS, CGS, testified that on (b)(7)(C) he assisted (b)(7)(C) in signing off on the cooling tower fan maintenance work order packages. According to (b)(7)(C) when he and (b)(7)(C) reached the as-found data section of the work order package for fan 1B (Exhibit 13, p. 7), there was no information entered. (b)(7)(C) said he had a conversation with (b)(7)(C) in the presence of (b)(7)(C) regarding the missing data. He said (b)(7)(C) stated, "But as we take them, we write the readings on the blades so we have a record if we need to go back and look at them. We know what it was . . ." (Exhibit 3, p. 14). Regarding the missing as-found data (b)(7)(C) said (b)(7)(C) added, "Don't worry about it. We'll take care of it on Monday" (Exhibit 3, p. 19). (b)(7)(C) advised he and (b)(7)(C) entered the as-left data in step 4.9 of the work order package. He explained that when he and (b)(7)(C) completed step 4.9, they used the numbers written on the cooling tower fan blades as well as the pitch information they obtained when they installed two new fan blades. (b)(7)(C) stated that when he reviewed the work order package on March 19, 2007, the as-found data was still missing (Exhibit 3, pp. 14-19).

(b)(7)(C) denied he instructed (b)(7)(C) to enter incorrect information in the as-left section of the cooling tower fan maintenance work order package. (b)(7)(C) stated, "I never told him about him signing nothing. He's to confirm that the work is done and if it's not been done, need to do it and then sign it" (Exhibit 12, p. 11; Exhibit 14).

Based on (b)(7)(C) testimony and (b)(7)(C) admission that he was in error regarding what information he entered in the work order package, the alleged threat of termination by (b)(7)(C) to (b)(7)(C) cannot be considered an adverse action since there is insufficient evidence that the threat was made. The witness testimony suggests that (b)(7)(C) was not directed to enter questionable data in the as-found section of the work order package under threat of termination as (b)(7)(C) originally claimed.

(b)(7)(C) was confronted by WPS management on (b)(7)(C) regarding potential falsification of a work order package. Following a meeting with WPS management and craft personnel, including (b)(7)(C) WPS, CGS; (b)(7)(C) WPS, CGS; (b)(7)(C) WPS, CGS; and (b)(7)(C) WPS, CGS;

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(b)(7)(C) employment at CGS was terminated (Exhibit 15). (b)(7)(C) termination constitutes an adverse employment action.

Nexus: Was (b)(7)(C) Discriminated Against as a Result of Engaging in a Protected Activity?

(b)(7)(C) originally stated (b)(7)(C) forced him to enter data in the as-found section of the work order package. Subsequent testimony from (b)(7)(C) and (b)(7)(C) as well as the handwriting exemplars, indicate (b)(7)(C) was in error regarding what information he entered into the work order package, and that (b)(7)(C) most likely entered the as-left data. The question remaining is: why was (b)(7)(C) terminated? (b)(7)(C) as the (b)(7)(C) was responsible for ensuring the work order package was complete prior to signing it off. According to (b)(7)(C) obtained the pitch information for blades 1, 3, 4, 6, 7, 8, 9, and 10 from the fan blades and the pitch information for blades 2 and 5 from the data obtained when he and (b)(7)(C) installed new blades. The information entered for blades 1, 3, 4, 6, 7, 8, and 9 was outside the acceptable range called for in step 4.9 of the work order package (Exhibit 13, p. 8). (b)(7)(C) subsequently identified that these seven blades were outside the acceptable range during a review on Monday (b)(7)(C) and requested (b)(7)(C) look into it. Furthermore (b)(7)(C) pointed out that if (b)(7)(C) had been involved in misconduct on Saturday in directing (b)(7)(C) to enter incorrect data in the work order package, it is unlikely he would then identify the problem a few days later and ask (b)(7)(C) to determine how the erroneous data was entered into the work order package (Exhibit 5, p. 14). It appears more likely that (b)(7)(C) in order to sign off the work order package on (b)(7)(C) entered the pitch information left on the fan blades by (b)(7)(C) and (b)(7)(C)

On (b)(7)(C) (b)(7)(C) was questioned by (b)(7)(C) and (b)(7)(C) regarding the as-left data. According to (b)(7)(C) initially denied entering the data in the as-left section of the work order but had signed his name to the step, then he (b)(7)(C) claimed he had not entered anything into step 4.9 (b)(7)(C) claimed that when (b)(7)(C) was confronted regarding the as-left data, he changed his story several times (b)(7)(C) said (b)(7)(C) also claimed he had signed for step 4.7, even though the as-found data was not entered (Exhibit 4, pp. 23-24) (b)(7)(C) believed (b)(7)(C) was terminated for falsifying the work order package (Exhibit 4, p. 32).

(b)(7)(C) WPS, CGS, advised she was present on (b)(7)(C) and worked on the cooling tower fan work order package. (b)(7)(C) recalled (b)(7)(C) was working in the cooling tower office most of the day, but she did not recall seeing (b)(7)(C) in the area that day. (b)(7)(C) stated that on (b)(7)(C) she overheard (b)(7)(C) state he did not "have a problem with . . ." entering erroneous numbers in the work order package (Exhibit 7, p. 12). She said that later, when the work order package became an issue, (b)(7)(C) claimed he had not entered the numbers. (b)(7)(C) stated (b)(7)(C) ultimately claimed that he had been directed by (b)(7)(C) to enter the as-left numbers in the work order package. (b)(7)(C) related she informed (b)(7)(C) of these conversations (Exhibit 7, pp. 11-17).

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(b)(7)(C) advised he worked on the cooling tower fan maintenance in March 2007 with (b)(7)(C) recalled he and (b)(7)(C) obtained the as-found data for the fan blades on fan 1B and recorded the information on a "field copy" of the work order package kept on a clipboard in the cooling tower office (Exhibit 8, pp. 10-11).

(b)(7)(C) recalled that (b)(7)(C) informed him of a problem with the recorded data in a cooling fan tower maintenance work order package. (b)(7)(C) said he met with (b)(7)(C) and (b)(7)(C) to discuss the problem. He recalled that (b)(7)(C) initially stated (b)(7)(C) had instructed him to enter the incorrect data in the as-left section of the work order package, although (b)(7)(C) subsequently stated he had, in fact, falsified the document by entering the incorrect as-left data (Exhibit 9, p. 13). According to (b)(7)(C) told him that he had obtained the pitch data for the as-left section from the data written on the fan blades (Exhibit 9, pp. 17-18). (b)(7)(C) stated he informed (b)(7)(C) that he would be terminated for the falsification. (b)(7)(C) advised that after he left the meeting with (b)(7)(C) and (b)(7)(C) contacted him (b)(7)(C) and said (b)(7)(C) had additional information regarding the incident. (b)(7)(C) said (b)(7)(C) subsequently stated to him that he (b)(7)(C) had not entered any information in the as-left section, but had only initialed that the step had been completed (Exhibit 9, pp. 13-14). (b)(7)(C) said he discussed his intention to terminate (b)(7)(C) with (b)(7)(C) and (b)(7)(C) agreed that termination was appropriate for (b)(7)(C) falsification (Exhibit 9, pp. 20-21).

(b)(7)(C) advised he was informed by (b)(7)(C) and (b)(7)(C) that (b)(7)(C) had entered incorrect information in the as-left section of a work order package and then had signed for the step. (b)(7)(C) believed this constituted falsification of the work order package, which in his opinion, was a trustworthiness issue. (b)(7)(C) said (b)(7)(C) also changed his story several times regarding what occurred on (b)(7)(C). (b)(7)(C) said he met with (b)(7)(C) and (b)(7)(C) WPS, CGS, and the decision was made to terminate (b)(7)(C) employment for falsifying information in the work order package (Exhibit 5, pp. 8-9, 11-19).

(b)(7)(C) recalled that (b)(7)(C) and possibly (b)(7)(C) informed him of an incident involving (b)(7)(C) where it appeared that (b)(7)(C) had falsified data in a cooling tower fan maintenance work order package. (b)(7)(C) said he learned that during a meeting between (b)(7)(C) and (b)(7)(C) admitted that he had falsified the as-left data. (b)(7)(C) stated he determined that termination of (b)(7)(C) employment was appropriate (Exhibit 10, pp. 5-11).

(b)(7)(C) denied he instructed (b)(7)(C) to enter incorrect information in the as-left section of the cooling tower fan maintenance work order package. (b)(7)(C) stated, "I never told him about him signing nothing. He's to confirm that the work is done and if it's not been done, need to do it and then sign it" (Exhibit 12, p. 11; Exhibit 14). (b)(7)(C) advised that on Monday (b)(7)(C) during a review of the cooling tower fan maintenance work order package, he discovered that the as-left data was not within tolerance. He said he asked (b)(7)(C) to look into the situation and on Wednesday (b)(7)(C) he learned from (b)(7)(C) that (b)(7)(C) had claimed that he (b)(7)(C) had instructed him to enter the incorrect data in the as-left section. (b)(7)(C) said he subsequently met with (b)(7)(C) and (b)(7)(C) to discuss the issue and (b)(7)(C) again accused (b)(7)(C) of directing him (b)(7)(C) to enter the incorrect data. (b)(7)(C)

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denied he instructed (b)(7)(C) to enter incorrect information in the work order package. (b)(7)(C) said (b)(7)(C) was subsequently terminated for falsifying the work order package (Exhibit 12, pp. 11-20).

Although (b)(7)(C) claimed that (b)(7)(C) directed him to enter the incorrect data in the as-left section of the work order package, there is insufficient evidence to support this claim. On the contrary, the evidence revealed that (b)(7)(C) on his own, decided to enter the as-found data from the fan blades in the as-left section of the work order package and initial the step as being complete. The evidence clearly demonstrates that the decision to terminate (b)(7)(C) was based on a compelling business reason (falsification of a work order package) and not on any retaliatory animus.

Conclusion

Based on the evidence developed during the investigation, the allegation that (b)(7)(C) was discriminated against for raising safety concerns involving the conduct of cooling tower fan blade maintenance was not substantiated.

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LIST OF EXHIBITS

<u>Exhibit No.</u>	<u>Description</u>
1	Investigation Status Record, dated December 5, 2007 (1 page).
2	Interview of (b)(7)(C) dated February 6, 2008 (51 pages).
3	Interview of (b)(7)(C) dated February 6, 2008 (45 pages).
4	Interview of (b)(7)(C) dated April 7, 2008 (51 pages).
5	Interview of (b)(7)(C) dated April 8, 2008 (23 pages).
6	Interview of (b)(7)(C) dated April 8, 2008 (18 pages).
7	Interview of (b)(7)(C) dated April 8, 2008 (21 pages).
8	Interview of (b)(7)(C) dated April 8, 2008 (15 pages).
9	Interview of (b)(7)(C) dated April 8, 2008 (26 pages).
10	Interview of (b)(7)(C) dated April 8, 2008 (14 pages).
11	Interview Report of (b)(7)(C) dated April 9, 2008 (1 page).
12	Interview of (b)(7)(C) dated May 12, 2008 (24 pages).
13	Energy Northwest (b)(7)(C) (23 pages).
14	Handwritten Statement by (b)(7)(C) dated March 21, 2007 (2 pages).
15	Energy Northwest Letter to Harry FREEMAN, Senior Allegations Coordinator, ACES, NRC:RIV, dated May 23, 2007 (9 pages).
16	Handwriting Exemplars from (b)(7)(C) undated (3 pages).
17	Report of Handwriting Exemplars of (b)(7)(C) undated (1 page).

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