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UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
611 RYAN PLAZA DRIVE, SUITE 400
ARLINGTON, TEXAS 76011-4005

November 9, 2007

(b)(7)(C)

SUBJECT: CLOSURE OF ALLEGATION NO. RIV-2006-A-0081

Dea (b)(7)(C)

This refers to my April 3, 2007, letter which provided you our resolution of your concern related to a (b)(7)(C) not possessing adequate knowledge to fulfill the job requirements on security related computer systems and to your concern related to the (b)(7)(C) creating a chilled work environment. In my letter, I acknowledged that the Columbia Generating Station (CGS) had withdrawn from the Early Alternative Dispute Resolution process and that the NRC's Office of Investigation had opened an investigation into your discrimination complaint.

The NRC has completed its investigation into your complaint of employment discrimination. The enclosure documents your concern and summarizes the NRC resolution. In summary, the NRC was not able to substantiate that you had been subjected to employment discrimination for having raised safety concerns. If you wish to see the complete investigation report, you may request a copy under the Freedom of Information Act (FOIA) by requesting OI Report No. 4-2007-015.

Thank you for informing us of your concerns. We believe that our actions in this matter have been responsive to your concerns. We take our safety responsibilities to the public very seriously and will continue to do so within the bounds of our lawful authority. Unless the NRC receives additional information that suggests that our conclusions should be altered, we plan no further action and we consider this case closed.

Should you have any additional questions regarding our resolution of your technical concerns please contact Mr. Michael P. Shannon, Chief, Plant Support Branch, at 800-952-9677 Extension 215, or if I can be of further assistance in this matter, please call me on the NRC Safety Hotline at 800-695-7403 Monday - Friday between 8:00 a.m. and 4:30 p.m. Central time.

Sincerely,

Harry A. Freeman

Harry A. Freeman
Senior Allegation Coordinator

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Enclosure:
Resolution of Concerns

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Concern 1

You were subjected to employment discrimination for raising a concern about the qualifications of a (b)(7)(C). Because you raised the concern (b)(7)(C) had rated your performance evaluation poor when it had previously been rated excellent, and he ranked your performance at the very bottom of the (b)(7)(C) group when it had previously been ranked within the top three. These adverse actions will result [resulted] in you not receiving a raise this year.

Resolution 1

The NRC Office of Investigations (OI) has completed its investigation into your discrimination concern. Based on a review of the OI investigation and all other pertinent information, the NRC could not substantiate that your lowered performance evaluation was a result of you having engaged in a protected activity (such as raising safety concerns).

(b)(7)(C) testified that when he took over, part of his assessment was that the (b)(7)(C) department did not do well at performance management and that he put out new expectations dealing with performance appraisals. He explained that he "couldn't get that manager (b)(7)(C) to put his employees into a bucket and say you're either exceptional, satisfactory, needs improvement." (b)(7)(C) (b)(7)(C) explained that he was instructed by (b)(7)(C) to determine how to best manage the organization going forward. (b)(7)(C) testified that he based your performance rating on written objectives he had developed from items in a Price Waterhouse Coopers audit and from the (b)(7)(C) responsibilities at CGS that you had in your program management role. The Special Agent noted you were the only employee to be rated by both (b)(7)(C) and therefore, making any comparison was difficult.

The investigation revealed that there was neither testimonial nor documentary evidence to support your assertion that you received lower performance ratings as a result of raising concern about the hiring of (b)(7)(C) While you did provide an e-mail in which it appeared that (b)(7)(C) may have made disparaging comments concerning your raising a concern, your unwillingness to provide the name of the author of the e-mail made it impossible to verify the information. Investigational evidence did support that the (b)(7)(C) (b)(7)(C) at Columbia Generating Station had undergone a change in philosophy in regards to documenting performance of individuals. Therefore, your claim of employment discrimination for having raised a safety concern could not be supported.

This concern could not be substantiated.

Concerns 2 -3

The resolutions of these concerns were addressed in Mr. Harry Freeman's letter dated April 3, 2007. If you need a copy of the resolution, please contact Mr. Freeman.

bcc w/Resolution of Concerns:
Allegation File

(b)(7)(C)

(b)(7)(C)

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DATE	10/16/2007	11/08/2007	11/08/2007	11/08/2007

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UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
611 RYAN PLAZA DRIVE, SUITE 400
ARLINGTON, TEXAS 76011-4005

April 3, 2007

(b)(7)(C)

SUBJECT: ALLEGATION NO. RIV-2006-A-0081

Dea (b)(7)(C)

This letter is in regard to my September 12, 2006, letter which acknowledged your concerns involving issues within (b)(7)(C) at the Columbia Generating Station. In my letter I advised that the NRC would refer your technical concerns to the licensee for resolution and offered you the opportunity to participate in Early Alternative Dispute Resolution to resolve your discrimination complaint.

The NRC staff has reviewed the licensee's response to your technical concerns. The technical staff's assessment and resolution of your concerns has been provided in the enclosed "Resolution of Concerns." In summary, the technical staff found that the licensee adequately addressed the concerns in their response, and that while a portion of one concern was substantiated, that the concern did not represent a violation of any NRC regulation or licensee commitment.

In addition, we understand that the licensee withdrew from the Early Alternative Dispute Resolution process and that the NRC's Office of Investigation has opened an investigation into your discrimination complaint. When we have completed our review, I will provide you our resolution of this matter.

Should you have any additional questions regarding our resolution of your technical concerns, please contact Mr. Michael P. Shannon, Chief, Plant Support Branch, at 800-952-9677 Extension 215, or Ms. Linda J. Smith, Chief, Engineering Branch 2, at Extension 137, or you can me on the NRC Safety Hotline at 800-695-7403 Monday - Friday between 8:00 a.m. and 4:30 p.m. Central time.

Sincerely,

Harry A. Freeman
Senior Allegation Coordinator

Enclosure:
Resolution of Concerns

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Concern 1

You were subjected to employment discrimination for raising concerns about the qualifications of a (b)(7)(C) Because you raised these concerns, (b)(7)(C) (b)(7)(C) has rated your performance evaluation poor when it had previously been rated excellent, and he ranked your performance at the very bottom of the (b)(7)(C) group when it had previously been ranked within the top three. These adverse actions will result in you not receiving a raise this year.

Status 1

The NRC's Office of Investigations, Region IV Field Office opened an investigation into your complaint of discrimination after the licensee withdrew from the Early Alternative Dispute Resolution process. When completed, the NRC will advise you of the resolution of this concern.

Concern 2

You are concerned that the recently hired (b)(7)(C) does not possess adequate knowledge or skill-of-the-craft (because of a lack of experience) to fulfill the job requirements on (b)(7)(C) for which he was hired. You believe that this could result in a negative safety or security issue.

Resolution 2

A Plant Support Branch inspector evaluated the licensee's response to the referred technical concerns. The concerns identified in the Allegation Evaluation response, were addressed by an individual appointed by the licensee to conduct an investigation. It was determined that the individual conducting the investigation was independent of the organization affected by the concern, possessed adequate investigative experience for this type of investigation, however did not appear to have been knowledgeable and practiced in the specific functional area. The inspector determined that the methodology used by the investigator was of sufficient depth and scope and concluded there were no additional generic implications.

Licensee's Evaluation

Energy Northwest (EN) investigator addressed this concern in two separate areas: (1) whether the personnel selection was in conformance with EN's procedure; and (2) if the selection conformed with any relevant NRC requirements. It was determined the investigator conducted a thorough review of the licensee's selection process for this personnel action. Further, the inspector also noted the investigator had not identified any specific requirements identified in the position description (PD) used by the licensee in the selection process. The information provided demonstrated the only requirements for the position was possessing valid access authorization to safeguards information and receiving periodic training. Additionally, it was noted the licensee assigned a more seasoned individual to shadow the person selected to assist him in performing his duties, with no restrictions preventing this.

NRC Inspector Review

The inspector noted that the investigator readily admitted they were not qualified to determine the qualifications and skills of the person selected for the position. It was however determined that the investigative methodology used was sufficient to determine licensee restrictions or other regulatory requirements for the position in question. It was also determined there were no regulatory, nuclear safety or additional security concerns identified with this concern.

This concern was not substantiated.

Concern 3

(As acknowledged) You were concerned that you had raised your concerns to the Nuclear Safety Issues Program with an agreement of confidentiality, and yet, somehow Human Resources told (b)(7)(C) that you had raised these concerns. This, in conjunction with the (b)(7)(C) has created a chilled work environment within the (b)(7)(C) group.

Concern 3

(As referred to licensee) (b)(7)(C) has created a hostile work environment within the (b)(7)(C) organization. Within 6 months of filling this position, (b)(7)(C) have left the organization and (b) individuals have filed complaints against (b)(7)(C) When (b)(7)(C) raised a concern regarding an individual's qualifications to the Nuclear Safety Issues Program, he had an agreement of confidentiality; however, the concern and the specialist's identity were revealed to (b)(7)(C) by Human Resources. (b)(7)(C) confronted the specialist about raising the concern and, during an (b)(7)(C) at the specialist. (b)(7)(C) in conjunction with Human Resources/Nuclear Safety Issues Program revealing the identity of the individual to the department manager responsible for the concern could impact the organization's willingness to raise and pursue resolution of safety concerns.

In your response, please address whether the events occurred and whether there is an impact on the safety-conscious-work-environment.

Resolution 3

Engineering Branch 2 evaluated the licensee response submitted on November 29, 2006. The inspector determined that: (1) the investigator was independent of the organization affected, (2) the investigator was competent in the areas evaluated, (3) the investigator performed an evaluation of sufficient depth and scope for these concerns, and (4) the investigator recommended an appropriate course of action for the identified concerns related to a safety conscious work environment. The inspector performed this evaluation by reading the licensee response, requesting specific documents listed and by interviewing licensee personnel.

Licensee Evaluation

Individual incidents

The investigator reviewed documentation and interviewed 49 individuals (including 44 of 50 individuals in (b)(7)(C) organization, personnel associated with the Employee Concerns Program and Human Resources personnel). The investigator defined the terms "hostile work environment," "safety conscious work environment," and a "chilled environment."

The investigator discussed the following specific items in order to address Concern 2. The investigator evaluated the allegations related to: (1) departures and complaints, (2) (b)(7)(C) and (3) the confidentiality incident.

(b)(7)(C) The investigator concluded that individuals leaving the department was not unusual. From discussions with the Employee Concerns Program staff and Human Resources, the investigator identified 11 complaints with some of them overlapping among the departments. Interviews with supervisors revealed some complaints regarding (b)(7)(C) however, the investigator could (b)(7)(C) not conclude that individuals filed complaints.

The investigator determined that two other individuals were in (b)(7)(C) (b)(7)(C) From interviews with the four individuals, the investigator concluded that (b)(7)(C) may have (b)(7)(C) However, the investigator could not determine that (b)(7)(C) had occurred.

The investigator determined that the alleger had talked to human resources and the employee concerns program separately. The individual in human resources admitted to talking to (b)(7)(C) (b)(7)(C) The investigator further determined that there existed a training issue or protocol/procedural issue as far as how to treat an individual in human resources who has been to the employee concerns program.

The investigator substantiated this concern; however, the investigator could not determine if the name was revealed as alleged.

Hostile work environment

The investigator evaluated whether a hostile work environment existed against the alleger and against the work group. To determine whether a hostile work environment existed for the individual, the investigator evaluated concerns expressed by the alleger that a hostile work environment was established. Specifically, the alleger indicated: (1) (b)(7)(C) (b)(7)(C) (2) treatment of him related to his responsibilities for PwC (PricewaterhouseCoopers) action items, (3) the change in title, (4) the performance appraisal, and (5) generally abusive working conditions. The investigator evaluated each of these incidents against the criteria that establishes a hostile work environment.

The investigator concluded for each of the individual assertions:

- If presumed to occur, the (b)(7)(C) failed to meet several of the criteria. It was not threatening, as supported by the alleger's viewpoint. At most the incident could be considered insulting and a poor management style.

- The deadlines required of the alleger related to the PwC action items (15 - 20 days to develop plan mandating that it be completed by September 1, 2006; and subsequent comments in the alleger's appraisal for not meeting the deadline) were not that different than other employees. had levied similar criticism against other individuals in their appraisal if they did not meet his expectations. This indicates did not single out the alleger for this type of unreasonable expectation and treatment.

(b)(7)(C) (b)(7)(C) (b)(7)(C)

- The alleger indicated the title change was so that no other person in had the word in their title. indicated the change in title was to be more consistent with other departments. Further, the individual lost no change in pay grade. The alleger continued to remain responsible for most of Based upon this, the title change did not have a 'measureable' impact on the alleger.

(b)(7)(C) (b)(7)(C) (b)(7)(C) (b)(7)(C) (b)(7)(C) (b)(7)(C) (b)(7)(C)

- Although the alleger had an overall appraisal that indicated he "needs improvement," numerous other employees had negative comments inserted into their appraisals. The negative comments were widespread, different from prior appraisals and affected many personnel within the department. These widespread comments indicate that no employees were singled out and, as such, does not support a hostile work environment.

- The allegation regarding generally abusive working conditions were no more so than that of other employees.

The investigator concluded for department that:

- Prior to the arrival of the department was the target of downsizing. Personnel understood that the department would be reduced from personnel.

- The current approach to managing differed from the previous in two very important aspects: First - he brought the "nuclear" focus and customer service orientation to supporting the line organization to the department. Second - the current is described as Whereas his predecessor was

(b)(7)(C) (b)(7)(C) (b)(7)(C) (b)(7)(C) (b)(7)(C)

- The substantive differences have created an environment of increased pressure and general dissatisfaction because they are outside of their comfort zone. The increased accountability standards have many wondering if they can meet these standards.

- Most employees do not believe that a hostile work environment exists, rather they characterize it as very critical, high pressured, and stressful. Many personnel fee

(b)(7)(C)

exhibits inconsistency in his decision making and ambiguous answers. Several incidents related to these views including: (1) recent hiring decisions, (2) (b)(7)(C) (b)(7)(C)

- Major contributor to the stressful environment is the workload and pace of change being directed at employees.

Most employees perceptions derive from (1) their concern over potential downsizing and (2) the management style of (b)(7)(C) The investigator concluded the style may be poor but it does not establish a hostile work environment.

Safety conscious work environment

The investigator determined that a substantive number of (b)(7)(C) department employees would feel uncomfortable raising concerns in general. When asked to distinguish safety concerns from other concerns only a few indicated they would feel uncomfortable raising either type.

The investigator concluded that, given a substantive number of (b)(7)(C) department employees would not raise concerns in general to their management, given the feedback on (b)(7)(C) management style and demeanor, and given that there is insufficient or inadequate communications about critical activities, the health of the safety conscious work environment is being challenged.

An example that prevented licensee management from promoting employee confidence involved the (b)(7)(C) Because of a large number of Employee Concerns Program complaints, the (b)(7)(C) department conducted (b)(7)(C) with employees and received The concerns involved generally:

- Fear of retribution
- Senior Management wants to dismantle (b)(7)(C)
- Expression of disagreement
- Mutual respect through open, honest communication
- Morale and coping
- Not just an (b)(7)(C) priority/pre-dated (b)(7)(C)
- (b)(7)(C) managerial style, and
- Positive reinforcement.

Management indicated in an August 22, 2006, e-mail that they will communicate the action plan within 2 weeks (Sometime the week of September 4, 2006). However, the plan was changed when this investigation began (note it began the week of September 25). This was a missed opportunity since (b)(7)(C) management did not timely address employees concerns.

Conclusions

The investigator made the following conclusions and recommendations.

Only the breach of confidentiality incident was substantiated in support of a hostile work environment. However, the evidence indicates the breach was unintentional and likely resulted from procedural and/or training short comings. The investigation did not support that a hostile work environment exists as far as the alleger or as to the (b)(7)(C) department generally.

There is evidence to support that the safety conscious work environment withing the department is being challenged.

Based upon the above, the investigator recommended:

- Prompt action should be taken to address the issues raised during the (b)(7)(C) as supported by the information gathered during this investigation. Senior management should monitor the corrective measures developed to assure that challenges to the SCWE of the (b)(7)(C) department are eliminated. The monitoring effort need not be permanent, but should include objective criteria that will allow a reasoned decision as to when monitoring may be discontinued. Any lessons learned should be discussed with managers and supervisors throughout EN.

- Senior management should provide feedback to the employees on the investigation, at appropriate level to protect the confidentiality of the investigation process. Similarly, given that the CI has made himself known to the Investigator and a number of EN managers, senior management should consider appropriate feedback to the CI as well.

- Because there is evidence that the challenge to the SCWE is resulting from the actions of (b)(7)(C) as well as from other externalities (e.g., concerns resulting from the prior RIF), senior management should consider, as a proactive measure the following:

  - Re-aquainting (b)(7)(C) (and arguably his supervisors) with EN's SCWE policies, with a particular focus on the underlying purposes of these policies.

  - Counseling (b)(7)(C) regarding his management style and demeanor. To the extent that additional specialized training would assist (b)(7)(C) in demonstrating greater sensitivity to employee concerns, this too should be considered.

- As discussed in the body of the Investigation Report, the interface between the ECP and HR regarding referral of concerns should be examined to ensure that confidentiality is not inadvertently breached in the future due to procedural and/or training shortcomings.

NRC Evaluation

The inspector reviewed the licensee response to assess the thoroughness of the investigation related to assessing the ***safety conscious work environment*** in (b)(7)(C) department at Columbia Generating Station. The inspector reviewed and considered the entire allegation response since the investigator's assessment of the safety conscious work environment considered (1) many factors from the investigation of both concerns and (2) the details related to whether a hostile work environment existed relative to the alleger and to the (b)(7)(C) department generally.

The inspector concluded the investigation approach, which involved interviewing a large number of persons in (b)(7)(C) department, to be appropriate and resulted in a more accurate determination of the (b)(7)(C) department work environment.

The inspector reviewed Letter (b)(7)(C) which documented planned actions to address the challenges and recommendations described in the Investigation Report." The inspector found the planned corrective actions to be appropriate to address the report recommendations. Further, the inspector concluded that if the communication strategies are fully implemented the challenges to the safety conscious work environment will be addressed.

Conclusion

The inspector divided the concern into several sentences in order to address whether it was substantiated. Overall, the inspector determined that the allegation was substantiated in part. Specifically, the inspector has the following conclusions:

- (b)(7)(C) *has created a negative safety conscious work environment within* *organization.* Although NRC had the licensee also answer the question related to a hostile work environment, the licensee had addressed the conditions of a safety conscious work environment - as originally expressed as a concern by the alleger.

  As discussed in the "NRC Evaluation," above, the inspector agreed that the behaviors of the (b)(7)(C) had some impact on the safety conscious work environment. However, once the corrective actions are fully implemented the challenges to the safety conscious work environment will be addressed. Further, as described in the last bullet below: The inspector concluded that this allegation was substantiated, in that (b)(7)(C) combined with the changes in (b)(7)(C) department established an environment that, in fact, challenged the safety conscious work environment of the (b)(7)(C) department.

- *Within 6 months of filling his position* (b)(7)(C) *have left the organization and* (b)(7)(C) *individuals have filed complaints against* (b)(7)(C) The inspector determined that the allegation regarding (b)(7)(C) individuals have filed complaints against (b)(7)(C) is not substantiated. However, the inspector agreed with the investigator that (b)(7)(C) had

established a high pressure, high stress work environment that personnel did not like working in.

- *When the* (b)(7)(C) *raised a concern regarding the individual's qualifications to the Nuclear Safety Issues Program, he had an agreement of confidentiality; however, the concern and the* (b)(7)(C) *identity were revealed to* (b)(7)(C) *by Human Resources.* The inspector determined that this concern was substantiated, in that, human resources personnel informed (b)(7)(C) following discussions within Human Resources and not as a result of discussions with the Employee Concerns Program.

- (b)(7)(C) *confronted the specialist about raising the concern and, during an* (b)(7)(C) (b)(7)(C) The inspector determined that this concern was not substantiated. Specifically, although some (b)(7)(C) and management style issues were identified, the investigator could not definitively determine that any (b)(7)(C)

- (b)(7)(C) *in conjunction with Human Resources/Nuclear Safety Program revealing the identity of the individual to the department manager responsible for the concern could impact the organizations willingness to raise and pursue resolution of safety concerns.* The inspector concluded that this allegation was substantiated, in that (b)(7)(C) (b)(7)(C) combined with the changes in the (b)(7)(C) department established an environment that, in fact, challenged the safety conscious work environment of the (b)(7)(C) department.

The inspector determined that the licensee took appropriate corrective actions.

bcc: Allegation file

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