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Title: SAN ONOFRE NUCLEAR GENERATING STATION

DISCRIMINATION AGAINST A (b)(7)(C) FOR REPORTING
NUCLEAR SAFETY CONCERNS TO THE NRC

Licensee:

Southern California Edison
2244 Walnut Grove Avenue
Rosemead, CA 91770

Docket No.: 05000206

Allegation No.: RIV-2010-A-0169

Reported by:

(b)(7)(C)

Office of Investigations
Field Office, Region III


Case No.: 4-2011-059

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Reviewed and Approved by:


Robert C. Goetz, Director
Office of Investigations
Field Office, Region III

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FOIA- 2012-00238

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SYNOPSIS

This investigation was initiated on July 25, 2011, by the U.S. Nuclear Regulatory Commission, Office of Investigations, Region IV, to determine whether a [REDACTED] (b)(7)(C) at Southern California Edison's San Onofre Nuclear Generating Station (SONGS) was subjected to discrimination by management for raising nuclear safety concerns.

Based on the evidence developed, this investigation did not substantiate the allegation that a [REDACTED] (b)(7)(C) at SONGS was subjected to discrimination by management for raising safety concerns.

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TESTIMONIAL EVIDENCE

Exhibit

(b)(7)(C)	San Onofre Nuclear Generating	
Station (SONGS)		22
(b)(7)(C)	SONGS	3, 9
(b)(7)(C)	SONGS	6
(b)(7)(C)	SONGS	21
(b)(7)(C)	SONGS	23
(b)(7)(C)	Southern California	
Edison (SCE)		20
(b)(7)(C)	SONGS	7
(b)(7)(C)	SONGS	12
(b)(7)(C)	SCE	5
(b)(7)(C)	SONGS	8
(b)(7)(C)	SONGS	14
(b)(7)(C)	SONGS	4
(b)(7)(C)	SONGS	11
(b)(7)(C)	SONGS	13

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DOCUMENTARY EVIDENCE

Exhibit

(b)(7)(C) for (b)(7)(C)	
(b)(7)(C) dated (b)(7)(C) San	
Onofre Nuclear Generating Station (SONGS)	10
Notes concerning (b)(7)(C) timeline," by (b)(7)(C)	
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Memorandum from (b)(7)(C) to File, dated (b)(7)(C) regarding a meeting with	
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DETAILS OF INVESTIGATION

Applicable Regulations

10 CFR 50.7: Employee Protection (2011 Edition)
10 CFR 50.5: Deliberate Misconduct (2011 Edition)

Purpose of Investigation

This investigation was initiated on July 25, 2011, by the U.S. Nuclear Regulatory Commission (NRC), Office of Investigations (OI), Region IV (RIV), to determine if (b)(7)(C) for Southern California Edison's (SCE's) San Onofre Nuclear Generating Station (SONGS), was subjected to discrimination by management for raising nuclear safety concerns.

Background

On October 15, 2010, Judith WALKER, RIV Allegations Coordinator, received an allegation from (b)(7)(C) who reported that he had been subjected to discrimination for reporting nuclear safety concerns to the NRC. Specifically (b)(7)(C) alleged that he had been subjected to discrimination by SCE management after he reported nuclear safety concerns to the NRC, on August 27, 2010 (Allegation No. RIV-2010-A-0141). (b)(7)(C) reported that SONGS management instructed employees in the (b)(7)(C) group to report their concerns through the chain of command, and were told not to report concerns to the NRC or the Employee Concerns Program (ECP), at SONGS. (b)(7)(C) advised that SONGS management told employees that they wanted an opportunity to address their concerns before the concerns were reported to the ECP and/or NRC.

(b)(7)(C) stated that his employment was terminated by SCE on (b)(7)(C) however, he believes that his termination was in retaliation by SCE for his reporting concerns to the NRC. (b)(7)(C) added that prior to his termination, he discussed his concerns with (b)(7)(C) and notified SCE supervisors that he intended to report his concerns to the NRC. (b)(7)(C) stated he reported his concerns to (b)(7)(C) and (b)(7)(C). (b)(7)(C) and (b)(7)(C).

On October 28, 2010, and again on November 2, 2010, an Allegation Review Board (ARB), RIV, convened to discuss (b)(7)(C) allegation that he had been subjected to discrimination and subsequently terminated for reporting nuclear safety concerns. It was determined that the NRC's Alternative Dispute Resolution (ADR) process would be offered and, if rejected, would result in an OI investigation.

On November 2, 2010, (b)(7)(C) was contacted by the NRC and offered an opportunity to participate in the ADR process in an attempt to resolve his dispute with the licensee. On

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July 1, 2011, Peter JAYROE, Allegations Coordinator, RIV, notified OI that ADR failed and requested that OI initiate an investigation to determine whether (b)(7)(C) was subjected to discrimination for raising nuclear safety concerns.

Agent's Analysis

Protected Activity

(b)(7)(C) related that on August 27, 2010, he informed his manager, (b)(7)(C) that (b)(7)(C) advised employees in the (b)(7)(C) group on or about August 24, 2010 that they needed to raise any concerns first through their management's chain of command. (b)(7)(C) argued that this conflicted with site and regulatory guidelines, which allowed raising concerns to anyone. According to (b)(7)(C) he told (b)(7)(C) that he was going to the ECP, and then to the NRC with his concerns. (b)(7)(C) added that on that same date, he raised this issue to the site's ECP, namely (b)(7)(C) and (b)(7)(C). After meeting with the ECP (b)(7)(C) met with the NRC Resident Inspector, Greg WARNICK, to reference his concerns (Exhibit 3, pp. 59-66; Exhibit 9).

Agent's Note: The case agent acknowledges the distinction between (b)(7)(C) Protected activity in his OI testimony and his description of same to RIV staff in the initial stages of NRC involvement (Exhibit 1; Exhibit 2; Exhibit 3, pp. 59-66). Subsequent witness testimony will corroborate (b)(7)(C) OI testimony concerning his protected activity.

Knowledge of (b)(7)(C) Protected Activity

(b)(7)(C) recalled a complaint made by (b)(7)(C) about (b)(7)(C) advising (b)(7)(C) employees that they should first raise concerns through management's chain of command before doing so elsewhere. However, (b)(7)(C) stated that she had not been aware that (b)(7)(C) reported his concern to either the ECP or the NRC (Exhibit 14, pp. 60-63, 65-66).

(b)(7)(C) is a former (b)(7)(C) at SONGS; he held that position from (b)(7)(C). (b)(7)(C) related that he was not aware that (b)(7)(C) raised a concern about employees being told to raise issues first through their chain of command instead of reporting them elsewhere. (b)(7)(C) added that he did not know that (b)(7)(C) actually reported the matter to the ECP or the NRC (Exhibit 12, pp. 4, 22-27).

(b)(7)(C) SONGS (b)(7)(C) stated that sometime in the fall of 2010, (b)(7)(C) visited the ECP office and met with himself and (b)(7)(C) regarding a concern. According to (b)(7)(C) concern was "very general" in nature and involved employees being told not to report concerns to him personally. (b)(7)(C) recalled that (b)(7)(C) felt "restricted or left out of the process" as a result. When asked whether (b)(7)(C) concern also included a restriction on raising concerns to either the ECP or the NRC (b)(7)(C) related that (b)(7)(C) did not mention these in his complaint. (b)(7)(C) added that (b)(7)(C) did not indicate that he was going to the NRC with his concern (Exhibit 11, pp. 7-12).

(b)(7)(C) stated that he did not recall actually meeting with (b)(7)(C) regarding any concerns, but he was aware that (b)(7)(C) raised a concern during the August 2010, time frame. (b)(7)(C) could not initially remember exactly what that concern was, but after he consulted ECP records he was able to confirm that (b)(7)(C) raised concerns to the ECP on (b)(7)(C), regarding a supervisor directing employees to raise concerns within the chain of command (Exhibit 21, pp. 7-13).

(b)(7)(C) the SONGS (b)(7)(C) related that he was not aware of (b)(7)(C) raising any sort of concern at the site prior to (b)(7)(C) termination (Exhibit 22, pp. 5-6, 9).

(b)(7)(C) for SCE, stated that it was not until after (b)(7)(C) was terminated that she became aware of the ECP issue involving (b)(7)(C) directing employees to bring concerns through the chain of command. She added that she learned about the issue itself, but did not know that the issue had been initiated by (b)(7)(C) Exhibit 20, pp. 6-7, 28-32).

(b)(7)(C) is a (b)(7)(C) SONGS employee and had been the (b)(7)(C) during the (b)(7)(C) time frame. (b)(7)(C) related that he was aware of an issue involving (b)(7)(C) advising employees to raise concerns through the chain of command; however, he did not know that the matter originated from (b)(7)(C) Exhibit 23, pp. 6, 36-37).

Unfavorable Action Taken Against (b)(7)(C)

(b)(7)(C) testified that he was terminated from his position on (b)(7)(C) (Exhibit 3, pp. 77-79).

Agent's Note: (b)(7)(C) testified that (b)(7)(C) was told that he was terminated on (b)(7)(C) although the official date of termination was (b)(7)(C) (Exhibit 1; Exhibit 2; Exhibit 14, pp. 64-65).

Did the Unfavorable Action Result from (b)(7)(C) Engaging in a Protected Activity?

This investigation examined whether (b)(7)(C) was discriminated against for engaging in a protected activity. Specifically, whether he was terminated for reporting to (b)(7)(C) the ECP and the NRC, that (b)(7)(C) directed her employees to report any concerns through management's chain of command. Although not clearly stated, there was a perception that (b)(7)(C) statements precluded employees from reporting concerns elsewhere. The events and circumstances in this case involve (b)(7)(C) of employment with SCE at SONGS. (b)(7)(C) worked at SONGS from (b)(7)(C), in various capacities before (b)(7)(C). According to (b)(7)(C) in (b)(7)(C) (b)(7)(C) contacted him and offered him a (b)(7)(C) position in the (b)(7)(C) at SONGS. (b)(7)(C) accepted and began working at the site shortly thereafter. (b)(7)(C) related that he was called on to assist on several projects during the subsequent months and his performance in these areas was later the focus of tension between himself and (b)(7)(C) (Exhibit 3, pp. 4-12).

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(b)(7)(C) stated that initial events that later contributed to problems with (b)(7)(C) occurred in (b)(7)(C) when he was acting in place of (b)(7)(C). He recalled resolving a work hour issue raised by members of the (b)(7)(C) who were complaining of excessive working hours. (b)(7)(C) specifically recalled meeting with (b)(7)(C) and a few rank in file staff employees afterward and advising them of the problem resolution. According to (b)(7)(C) he did not receive any significant feedback on the event until several months later when he was given his performance appraisal. In the interim, on (b)(7)(C) he attended a (b)(7)(C) "stand-up" meeting and learned of additional concerns of employees (b)(7)(C) stated that he committed to look into their concerns, however, he was told by (b)(7)(C) later not to address those concerns. (b)(7)(C) recalled that on (b)(7)(C) he met with (b)(7)(C) regarding his (b)(7)(C). In that meeting (b)(7)(C) was criticized for his "poor judgment" in resolving the (b)(7)(C) with (b)(7)(C) employees since he did not follow up with (b)(7)(C) management. (b)(7)(C) contested that assertion, and (b)(7)(C) advised that (b)(7)(C) told her that she had not been informed of the issue and its resolution. (b)(7)(C) related that he continued to challenge (b)(7)(C) on that point, and she relented and deleted the statement from the (b)(7)(C). (b)(7)(C) recounted other statements made by (b)(7)(C) which he contested, but the most significant involved a discussion about another employee's appraisal. (b)(7)(C) explained that he attended a "calibration meeting," which is designed as an open forum for supervisors and managers to discuss employees who do not report to them. (b)(7)(C) mentioned that during one of those meetings, he pointed out that one particular employee deserved an "E," or "exceptional," rating. (b)(7)(C) interjected and disagreed. The employee was given a lesser rating. (b)(7)(C) stated that (b)(7)(C) used this event against him during his mid-year evaluation, using it as another example of "poor judgment." (b)(7)(C) related that he later met with (b)(7)(C) the supervisor for the employee, who mentioned he also recommended an "E" for the same employee, but he did not receive any negative feedback from (b)(7)(C). (b)(7)(C) stated that these issues resulted in an (b)(7)(C) rating in his (b)(7)(C) (Exhibit 3, pp. 28-32, 42-58, 69-70; Exhibit 10).

(b)(7)(C) also recalled receiving an email on (b)(7)(C) from (b)(7)(C) and (b)(7)(C) regarding a meeting she attended. According to (b)(7)(C) emailed that (b)(7)(C) indicated during the meeting that the employees needed to give the supervisors and managers a chance to fix problems and not approach (b)(7)(C) about any issues. (b)(7)(C) related that on (b)(7)(C) he met with (b)(7)(C) and complained about what (b)(7)(C) reportedly told her subordinates. (b)(7)(C) argued that the employees should have been told that they can raise an issue with anyone. He also complained about (b)(7)(C) advising him earlier that summer about addressing concerns raised by employees. (b)(7)(C) stated that (b)(7)(C) just blew me off." (b)(7)(C) then informed her that he was going to complain to the NRC about the issue. (b)(7)(C) stated that he visited the ECP and met with (b)(7)(C) in the ECP office, advising them of the issue involving (b)(7)(C). He told them he was also going to raise the issue with the NRC (Exhibit 3, pp. 58-66; Exhibit 9).

(b)(7)(C) related that in mid-September of 2010, he was approached by (b)(7)(C) the (b)(7)(C) (b)(7)(C) at the time, and told that (b)(7)(C) was "bashing" him (b)(7)(C) and "talking very poorly" about him (b)(7)(C) in (b)(7)(C) meetings. According to (b)(7)(C) promised him that he would get (b)(7)(C) back to work in the (b)(7)(C) "before (b)(7)(C) ruins your career." (b)(7)(C) also learned that (b)(7)(C) defended him during that particular meeting and provided

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examples of (b)(7)(C) good character. (b)(7)(C) stated that on either (b)(7)(C) he contacted (b)(7)(C) at the time a (b)(7)(C) representative, and explained the issues he was having with (b)(7)(C) particularly with his (b)(7)(C). (b)(7)(C) added that he was inquiring about utilizing the site's "Focus on Resolution" process to resolve the issues he was having with (b)(7)(C). (b)(7)(C) related that (b)(7)(C) promised to contact him after she consulted with her supervisor; however, (b)(7)(C) never heard from her again and repeated phone messages went unanswered (Exhibit 3, pp. 71-77).

(b)(7)(C) admitted that over a period of several months he experienced stress in his personal life. This affected his work performance, although he asserted that he was still able to complete the numerous tasks and projects he was assigned. (b)(7)(C) stated that he went on (b)(7)(C) from (b)(7)(C) and when he returned to work on (b)(7)(C) he was called to (b)(7)(C) office. (b)(7)(C) recalled (b)(7)(C) also being present in (b)(7)(C) office. (b)(7)(C) recalled (b)(7)(C) advising him that he was being terminated since she did not see any improvement in his performance. (b)(7)(C) then escorted him off site. (b)(7)(C) maintained that the disciplinary procedure in effect at the time required a review by a disciplinary review board, however, (b)(7)(C) was the (b)(7)(C) of that board. (b)(7)(C) argued that he filed a complaint with (b)(7)(C) in the ECP and felt that because of this perceived conflict of interest, the process was flawed (Exhibit 3, pp. 73, 78-82).

Agent's Note: The review board that (b)(7)(C) referred to was actually the Safety Conscious Work Environment Review Board (SCWERB). According to (b)(7)(C) the SCWERB is a meeting of members from several different departments whose purpose is to consider the SCWE impact of a proposed disciplinary action. It is not designed to make any decisions concerning discipline itself, but to ensure that the disciplinary action was not related to a safety concern. During this particular meeting, (b)(7)(C) was representing the ECP and testified to OI that he was satisfied that (b)(7)(C) termination was unrelated to a protected activity (Exhibit 21, pp. 13-20).

While the distinction was earlier acknowledged between (b)(7)(C) original stated protected activity to RIV staff and the protected activity he articulated in his OI interview, witness testimony corroborated (b)(7)(C) OI testimony. The circumstances associated with the allegation start with (b)(7)(C) and occurred during a weekly "standup" meeting she attended with other (b)(7)(C) employees. (b)(7)(C) was uncertain exactly when the meeting took place and figured that it could have occurred in late spring or early summer of 2010. When pressed on the time, she conceded that it could have happened later in the year, possibly August 2010. According to (b)(7)(C) during the course of that particular meeting, she made a reference to management following up and providing feedback to employees about issues and concerns. (b)(7)(C) singled out (b)(7)(C) and credited him with how he had been giving her feedback on an issue (b)(7)(C) previously raised about the (b)(7)(C). (b)(7)(C) recalled that (b)(7)(C) appeared to get upset at her reference to (b)(7)(C) and remembered (b)(7)(C) claiming that (b)(7)(C) isn't your savior. He can't fix everything." (b)(7)(C) characterized it as "a normal (b)(7)(C) comment" and dismissed it. (b)(7)(C) believed that it was during that same meeting that (b)(7)(C) informed the group that they could "feel free to bring up issues, but bring them up in your own chain of command. Let your managers attempt to deal with them before going up elsewhere." When asked about whether she interpreted this to mean that they

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should not report concerns to the ECP or even to the NRC. (b)(7)(C) replied that the perception was "go to management first, let them handle it, and then go to the outside resource, if necessary, but to always go to management first, is the way I heard it." (b)(7)(C) stated that (b)(7)(C) name was not mentioned nor were they told specifically not to go to (b)(7)(C) anymore, but she perceived that what was meant by (b)(7)(C) again referenced the occasion when she went to (b)(7)(C) with a concern about (b)(7)(C). She related that she went to (b)(7)(C) with the matter after she informed (b)(7)(C) about the problem, and (b)(7)(C) did not do anything about it. (b)(7)(C) promised her he would resolve the issue. (b)(7)(C) added that she sensed "some sort of tension" between (b)(7)(C) and (b)(7)(C) at the time. She recalled (b)(7)(C) later emailing her after that meeting and advising her that they could not talk about the matter anymore, and that she needed to stay within her formal chain of command (Exhibit 8, pp. 13-20, 23-27).

(b)(7)(C) corroborated every detail of (b)(7)(C) testimony, including the meeting where (b)(7)(C) employees were told by (b)(7)(C) to allow management within our department to handle (b)(7)(C) issues," and implied that they should no longer approach (b)(7)(C) with resolving any of their concerns (Exhibit 6, pp. 7, 9-15, 20-26).

(b)(7)(C) recalled the meeting that (b)(7)(C) described and, like (b)(7)(C) believed that the meeting likely took place earlier than August, 2010. Her recollection was largely consistent with (b)(7)(C) account, although a little more nuanced. According to (b)(7)(C) the staff was very forthright and honest during the meeting, providing a long list of reasons why they did not trust the supervisory team. (b)(7)(C) explained that she informed the group that they should be able to tell the supervisory team members when they are not meeting their expectations, and they are free to go to any supervisor. (b)(7)(C) recalled that someone asked about whether they could go to the site's ECP, and she replied, "I would prefer that you would come to us first. Just give us a chance to handle it first here. If you can do that, I will really appreciate it, because we can get you an answer quicker than if you go anywhere else." (b)(7)(C) added that the staff was told that if they were not comfortable seeing any particular supervisor or manager, they were free to see other members of the management team. She emphasized that management wanted the first opportunity to fix the problem. (b)(7)(C) emphatically denied telling staff members that they could not report an issue somewhere else and asserted that she purposely used the word "preferred" in her statement (Exhibit 7, pp. 33-37).

Although (b)(7)(C) did not attend the meeting in question, he heard from those who did attend that the perception was employees could not go to (b)(7)(C) specifically with any more issues, and instead they needed to go to (b)(7)(C). According to (b)(7)(C) during such meetings managers normally advise employees of an "almost standard communication" that they do not have to use the chain of command to report concerns or raise issues, but "[i]t would be nice" if they did so. (b)(7)(C) mentioned that there was no restriction placed on the employees in that regard (Exhibit 13, pp. 22-25).

(b)(7)(C) related that while he was employed at SONGS, it was always stressed by management that it was preferred that employees bring concerns to their direct supervisor first. He added that if the supervisor was not able to resolve the issue satisfactorily, then employees should feel free to talk with the manager. According to (b)(7)(C) employees were

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informed that they could speak to the NRC at any time, but the message communicated was that management preferred they used the management channels so they could hear the concerns and try to address them (Exhibit 12, pp. 22-26).

(b)(7)(C) recalled learning of the meeting involving (b)(7)(C) and (b)(7)(C) and mentioned that it had been the latest in a series of occurrences in which (b)(7)(C) made a statement that was misinterpreted by her employees. According to (b)(7)(C) was encouraging her employees to stay within the chain of command when reporting issues, and not discouraging them from reporting concerns to either the NRC or the ECP. (b)(7)(C) opined that this event had as much to do with (b)(7)(C) relationship with (b)(7)(C) as what was actually being communicated. She added that because this event was only the latest occurrence in which information was not properly conveyed by (b)(7)(C) she was forced to take action and remove (b)(7)(C) from her position (Exhibit 14, pp. 60-63).

Agent's Note: It was clear to the case agent, after interviewing (b)(7)(C) and (b)(7)(C) that there was some animosity between the two individuals. This was confirmed in (b)(7)(C) and (b)(7)(C) testimony, and undoubtedly played a role in (b)(7)(C) statements in the stand-up meeting, as well as (b)(7)(C) subsequent allegation.

Although it has been established that (b)(7)(C) allegation was based primarily on a perception of statements made by (b)(7)(C) for the purposes of this investigation neither the perception nor the intention of (b)(7)(C) statements are as important as whether management used (b)(7)(C) concerns as reason for retaliating against him. Whether these concerns were causal factors in (b)(7)(C) termination will determine whether (b)(7)(C) was discriminated against by management. (b)(7)(C) arguments involving discrimination were compared against the licensee's assertions about legitimate business practices, and both were placed in their proper context within the timeline of events.

(b)(7)(C) related that she actually hired (b)(7)(C) for the (b)(7)(C) position and recalled experiencing "performance issues" as early as within the first month of his hiring. (b)(7)(C) stated that (b)(7)(C) appeared distracted and she attributed this initially to (b)(7)(C) struggling with his relocating from outside the area. (b)(7)(C) stated that (b)(7)(C) was picked by senior management to participate in multiple special projects, which included a (b)(7)(C). According to (b)(7)(C) by supporting these projects, (b)(7)(C) was not providing sufficient oversight of the two groups for which he was responsible, and she provided several examples of work that failed to meet deadlines as well as assignments that were not properly completed. (b)(7)(C) recalled one example when (b)(7)(C) failed to consult with the Employee Relations department in issuing a required disciplinary procedure, and it resulted in complaints from that department. (b)(7)(C) recalled another example occurring on (b)(7)(C) in which employees complained about the management style of one of (b)(7)(C) supervisors. After discussing the matter with the supervisor and then sending her home, (b)(7)(C) (b)(7)(C) related that she had to coach him on his own management style and informed him that he handled the situation inappropriately. Perhaps the most egregious example (b)(7)(C) mentioned was that on two occasions she provided inaccurate information developed by (b)(7)(C) to (b)(7)(C) then the (b)(7)(C) (b)(7)(C) described (b)(7)(C) as "unfocused and really wasn't paying attention" to his

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duties. There were also relatively simple administrative responsibilities, like completing his timecards that were not done properly. (b)(7)(C) asserted that (b)(7)(C) performance never (b)(7)(C) through the summer of 2010. She recalled meeting with (b)(7)(C) on several occasions about his (b)(7)(C) (b)(7)(C) mentioned that while (b)(7)(C) was usually defensive and not receptive to her coaching, he nevertheless acknowledged on occasion that he was not putting in the time and the effort required for his position (Exhibit 14, pp. 8-18, 28-48, 53, 67-68; Exhibit 16; Exhibit 17; Exhibit 18).

Agent's Note: During her OI interview, (b)(7)(C) referred to contemporaneous notes that outlined (b)(7)(C) performance (b)(7)(C). According to (b)(7)(C), she kept a running chronological log in her computer for continuing problematic issues for particular employees. These notes, titled, (b)(7)(C) were nine pages long (Exhibit 14, p. 39; Exhibit 15).

(b)(7)(C) recalled meeting with (b)(7)(C) in June 2010, regarding his addressing concerns brought forward by (b)(7)(C) employees during a stand-up meeting. According to (b)(7)(C), she learned from employees that (b)(7)(C) spoke to the employees and mentioned that now that he was there, he was going to resolve their issues. (b)(7)(C) contended that this statement was an affront to (b)(7)(C) the employees' supervisor, since (b)(7)(C) had been present during the meeting. (b)(7)(C) added that (b)(7)(C) also failed to include the other supervisors when he tried to resolve the concerns. She recognized that there were "some issues" between (b)(7)(C) and (b)(7)(C) and this incident "seemed to be adding fuel to the fire" (Exhibit 14, pp. 18-22).

During her testimony, when (b)(7)(C) was describing (b)(7)(C) shortcomings, she mentioned the calibration meeting that took place on (b)(7)(C) in which a particular employee's evaluation was discussed between managers. According to (b)(7)(C) prior to the meeting, (b)(7)(C) the employee's supervisor rated the employee an "EE" for "exceeds, exceeds." (b)(7)(C) related that she advised (b)(7)(C) that such a rating was not appropriate given the employee's experience and asked him to change the rating. During the meeting itself, (b)(7)(C) was present, but did not participate. (b)(7)(C) also suggested that the same employee deserved an "EE" rating, and there was a discussion about the rating. (b)(7)(C) argued that (b)(7)(C) did not use good judgment in that situation since he did not have direct supervision over that employee and "continued to argue with the other managers" (Exhibit 14, pp. 48-52).

(b)(7)(C) confirmed that he was told by (b)(7)(C) that he could not award the employee an "EE" rating on her mid-year appraisal, and was informed to give the employee an "M" instead, which means "meets expectations." (b)(7)(C) added that the reason given by (b)(7)(C) for not giving the "EE" rating was because of the employee's short time on her position. (b)(7)(C) contended that he was not criticized as having bad judgment, as (b)(7)(C) had been, for arguing that the employee deserved a better rating. He did, however, acknowledge that he had his discussion one on one with (b)(7)(C) and not during the meeting (Exhibit 13, pp. 7-14).

(b)(7)(C) related that on (b)(7)(C) she met with (b)(7)(C) regarding his mid-year (b)(7)(C). She recalled (b)(7)(C) being silent for the most part and admitting that he (b)(7)(C). (b)(7)(C) remembered (b)(7)(C) asserting that he was accustomed to having good people working underneath him and not having to provide a high level of oversight. According to (b)(7)(C) after

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her meeting with (b)(7)(C) concerning the (b)(7)(C) she had discussions with (b)(7)(C) about issuing a (b)(7)(C) or placing (b)(7)(C) on a (b)(7)(C). A (b)(7)(C) document was drafted, and (b)(7)(C) stated she was intending to give it to (b)(7)(C) when two incidents took place that impacted (b)(7)(C) credibility. (b)(7)(C) recalled advising (b)(7)(C) on how to manage a disciplinary suspension for an employee within the (b)(7)(C) department. The supervisor for that particular employee was inexperienced in such situations, and (b)(7)(C) asked (b)(7)(C) to prepare the supervisor for the disciplinary meetings that followed. After informing (b)(7)(C) on two occasions that he had prepped the supervisor, (b)(7)(C) later admitted to (b)(7)(C) that he had not done so. (b)(7)(C) added that she directed (b)(7)(C) to mediate the disciplinary meeting himself and later learned that (b)(7)(C) did so, but only (b)(7)(C) attempting to pressure the supervisor into doing so instead. (b)(7)(C) maintained that (b)(7)(C) was not truthful with her, and she consequently no longer trusted him. (b)(7)(C) also referred to another situation in which (b)(7)(C) was told by (b)(7)(C) that (b)(7)(C) had entered some personal information against him in his (b)(7)(C). (b)(7)(C) complained to (b)(7)(C) who made an inquiry into the matter and discovered that it was unfounded (Exhibit 10; Exhibit 14, pp. 53-60, 63-64, 67, 70-71; Exhibit 19; Exhibit 24).

Agent's Note: While (b)(7)(C) assertions to (b)(7)(C) that (b)(7)(C) used personal information against him in his (b)(7)(C) was not true, this is not the only information that was refuted. Contrary to (b)(7)(C) testimony, (b)(7)(C) strongly denied telling (b)(7)(C) that (b)(7)(C) was "bashing" him during management meetings. (b)(7)(C) stated he was aware that (b)(7)(C) was having (b)(7)(C) for his position and promised (b)(7)(C) that he would meet with (b)(7)(C) to discuss any problem issues. (b)(7)(C) related that he did not observe any actions on the part of (b)(7)(C) to be retaliatory in nature (Exhibit 4, pp. 11-24).

(b)(7)(C) was interviewed concerning her interaction with (b)(7)(C) and she recalled being contacted by (b)(7)(C) around the mid-year 2010 time frame. According to (b)(7)(C) she had a short conversation with (b)(7)(C) and remembered that he complained about his (b)(7)(C) "not being very good." (b)(7)(C) related that (b)(7)(C) did not go into a lot of detail about the (b)(7)(C), and the conversation ended with her suggesting that he use the Focus on Resolution program to resolve the conflict. (b)(7)(C) stated that she did not know if (b)(7)(C) ever used the Focus on Resolution, and that was the last time she spoke with (b)(7)(C). She added that, contrary to (b)(7)(C) testimony, she did not promise to speak to anyone else about (b)(7)(C) circumstances and mentioned she did not subsequently receive any voicemail messages from (b)(7)(C). (Exhibit 5, pp. 9-13, 15-18).

(b)(7)(C) contended that after she lost trust in (b)(7)(C) she made the decision to terminate him, citing his (b)(7)(C). According to (b)(7)(C) was one of three employees she had terminated in 2010, for either not meeting expectations or for some kind of misconduct. She added that (b)(7)(C) as well as the SCE Law Department concurred with her decision (Exhibit 14, pp. 64-65, 74-75).

(b)(7)(C) recalled advising (b)(7)(C) that she supported the decision to terminate (b)(7)(C). She added that a (b)(7)(C) was being considered for (b)(7)(C) however, when some issues involving trustworthiness came to light, the (b)(7)(C) process was set aside (Exhibit 19; Exhibit 20, pp. 26-28, 35-37; Exhibit 24).

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(b)(7)(C) related that he concurred with (b)(7)(C) recommendation that (b)(7)(C) be terminated for (b)(7)(C) and mentioned that he briefed (b)(7)(C) on this action (Exhibit 23, pp. 33-36).

(b)(7)(C) testified that he had been aware of (b)(7)(C) performance shortcomings and participated in discussions with (b)(7)(C) and (b)(7)(C) about (b)(7)(C) termination. Although (b)(7)(C) maintained that he was not actually the final decision-maker in the termination process--either (b)(7)(C) had been--he did concur with the decision (Exhibit 22, pp. 7-12).

(b)(7)(C) was familiar with (b)(7)(C) frustration with (b)(7)(C) being "a difficult supervisor" and was aware that others at SONGS considered (b)(7)(C) difficult to get along with. According to (b)(7)(C) he was asked by (b)(7)(C) to sit in on the meeting when (b)(7)(C) was advised he was being terminated. He recalled escorting (b)(7)(C) off site, and remembered (b)(7)(C) being very nonchalant about the circumstances and saying very little (Exhibit 12, pp. 6-9, 17-22).

The evidence in this investigation is clear in establishing that (b)(7)(C) work performance did not meet expectations for his (b)(7)(C) position and each shortcoming and liability was documented and supported by credible testimony. (b)(7)(C) actions leading to (b)(7)(C) termination were based on legitimate business practices, and there is no evidence to suggest that (b)(7)(C) was discriminated against in any way. As far as the allegation is concerned, it was very apparent that the relationship between (b)(7)(C) and (b)(7)(C) played a key role since (b)(7)(C) statements to (b)(7)(C) employees were more designed to exclude (b)(7)(C) from interacting with (b)(7)(C) direct reports and not from avoiding the reporting of regulatory concerns. Conversely, (b)(7)(C) concerns expressed to RIV staff were exaggerated, making it appear that (b)(7)(C) was directing employees to avoid the ECP and the NRC. All of these statements were undoubtedly influenced by (b)(7)(C) and (b)(7)(C) apparent dislike for each other.

The most important factor nevertheless in this investigation is that (b)(7)(C) performance issues had been taking place long before his protected activity. Testimony and documentary evidence show that (b)(7)(C) began work at SONGS in early (b)(7)(C) and as early as (b)(7)(C) (b)(7)(C) began observing (b)(7)(C). This performance gradually (b)(7)(C) through the summer of 2010, and it was not until late August 2010, when (b)(7)(C) actually engaged in his protected activity, which involved complaining to (b)(7)(C) the ECP and the NRC about (b)(7)(C) comments to staff. By that time, a (b)(7)(C) if not outright termination, was already being considered. Furthermore, it is also important to note that among the primary decision-makers, (b)(7)(C) were unaware of (b)(7)(C) reporting any kind of a concern. (b)(7)(C) was aware of (b)(7)(C) concern, but the testimony is clear that this concern played no role in her thought process in the termination proceedings. Given the evidence gathered from witnesses in this investigation, the events and circumstances involved in (b)(7)(C) protected activity and his eventual termination are mutually exclusive. The evidence demonstrably shows that there is no nexus between (b)(7)(C) protected activity and his termination, and that (b)(7)(C) was terminated based on his (b)(7)(C) and nothing else.

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Conclusion

Based on the evidence developed, this investigation did not substantiate the allegation that (b)(7)(C) was subjected to discrimination by management for raising safety concerns.

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SUPPLEMENTAL INFORMATION

(b)(7)(C) filed a federal civil rights lawsuit against Southern California Edison for Retaliation and Discrimination in Violation of Title VII of the Civil Rights Act of 1964. The case is currently pending in the United States District Court, Central District of California, under Case Number (b)(7)(C). There is no record of (b)(7)(C) filing a complaint with the Department of Labor's Occupational Safety and Health Administration.

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LIST OF EXHIBITS

<u>Exhibit No.</u>	<u>Description</u>
1	Investigative Status Record, OI Case No. 4-2011-059, dated July 25, 2011 (1 page).
2	Allegation Review Board Summary and related follow-up, dated July 1, 2011 (6 pages).
3	Interview transcript of (b)(7)(C) dated August 11, 2011 (106 pages).
4	Interview transcript of (b)(7)(C) dated August 30, 2011 (27 pages).
5	Interview transcript of (b)(7)(C) dated September 7, 2011 (27 pages).
6	Interview transcript of (b)(7)(C) dated September 7, 2011 (36 pages).
7	Interview transcript of (b)(7)(C) dated September 7, 2011 (40 pages).
8	Interview transcript of (b)(7)(C) dated September 7, 2011 (29 pages).
9	Report of Contact with (b)(7)(C) dated September 8, 2011 (1 page).
10	Performance and Development Plan 2010, dated (b)(7)(C) (18 pages).
11	Interview transcript of (b)(7)(C) dated September 22, 2011 (22 pages).
12	Interview transcript of (b)(7)(C) dated October 26, 2011 (29 pages).
13	Interview transcript of (b)(7)(C) dated November 2, 2011 (42 pages).
14	Interview transcript of (b)(7)(C) dated November 3, 2011 (77 pages).
15	Notes from (b)(7)(C) concerning (b)(7)(C) timeline, undated (9 pages).
16	Memorandum from (b)(7)(C) to File, dated May 27, 2010 (1 page).
17	Memorandum from (b)(7)(C) to File, dated June 24, 2010 (2 pages).
18	Memorandum from (b)(7)(C) to File, dated July 16, 2010 (1 page).
19	(b)(7)(C) unsigned, dated (b)(7)(C) (3 pages).
20	Interview transcript of (b)(7)(C) dated January 11, 2012 (46 pages).

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- 21 Interview transcript of (b)(7)(C) dated January 11, 2012 (22 pages).
- 22 Interview transcript of (b)(7)(C) dated January 12, 2012 (14 pages).
- 23 Interview transcript of (b)(7)(C) dated January 12, 2012 (43 pages).
- 24 Email from (b)(7)(C) dated (b)(7)(C) (1 page).

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