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Description of document:	Closing documents for 30 Nuclear Regulatory Commission (NRC) Inspector General (OIG) investigations, 2013-2014
Request date:	2014
Released date:	15-September-2014
Posted date:	12-October-2015
Source of document:	US Nuclear Regulatory Commission Mail Stop T-5 F09 Washington, DC 20555-0001 Fax: 301-415-5130 E-mail: FOIA.resource@nrc.gov

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**RESPONSE TO FREEDOM OF
INFORMATION ACT (FOIA) / PRIVACY
ACT (PA) REQUEST**

2014-0329

2

RESPONSE
TYPE



FINAL



PARTIAL

REQUESTER

DATE

SEP 15 2014

PART I. -- INFORMATION RELEASED



No additional agency records subject to the request have been located.



Requested records are available through another public distribution program. See Comments section.



GROUP

Agency records subject to the request that are identified in the specified group are already available for public inspection and copying at the NRC Public Document Room.



GROUP

Agency records subject to the request that are contained in the specified group are being made available for public inspection and copying at the NRC Public Document Room.



GROUP

B

Agency records subject to the request are enclosed.



Records subject to the request that contain information originated by or of interest to another Federal agency have been referred to that agency (see comments section) for a disclosure determination and direct response to you.



We are continuing to process your request.



See Comments.

PART I.A -- FEES

AMOUNT*

\$ 0.00

* See comments
for details



You will be billed by NRC for the amount listed.



None. Minimum fee threshold not met.



You will receive a refund for the amount listed.



Fees waived.

PART I.B -- INFORMATION NOT LOCATED OR WITHHELD FROM DISCLOSURE



No agency records subject to the request have been located. For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. See 5 U.S.C. § 552(c) (2006 & Supp. IV (2010)). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.



Certain information in the requested records is being withheld from disclosure pursuant to the exemptions described in and for the reasons stated in Part II.



This determination may be appealed within 30 days by writing to the FOIA/PA Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Clearly state on the envelope and in the letter that it is a "FOIA/PA Appeal."

PART I.C COMMENTS (Use attached Comments continuation page if required)

SIGNATURE - ASSISTANT INSPECTOR GENERAL

Joseph McMillan

**RESPONSE TO FREEDOM OF INFORMATION
ACT (FOIA) / PRIVACY ACT (PA) REQUEST**

DATE

SEP 15 2014

PART II.A -- APPLICABLE EXEMPTIONS

GROUP

B

Records subject to the request that are contained in the specified group are being withheld in their entirety or in part under the Exemption No.(s) of the PA and/or the FOIA as indicated below (5 U.S.C. 552a and/or 5 U.S.C. 552(b)).

- ☐ Exemption 1: The withheld information is properly classified pursuant to Executive Order 12958.
- ☐ Exemption 2: The withheld information relates solely to the internal personnel rules and practices of NRC.
- ☐ Exemption 3: The withheld information is specifically exempted from public disclosure by statute indicated.
- ☐ Sections 141-145 of the Atomic Energy Act, which prohibits the disclosure of Restricted Data or Formerly Restricted Data (42 U.S.C. 2161-2165).
- ☐ Section 147 of the Atomic Energy Act, which prohibits the disclosure of Unclassified Safeguards Information (42 U.S.C. 2167).
- ☐ 41 U.S.C., Section 4702(b), prohibits the disclosure of contractor proposals in the possession and control of an executive agency to any person under section 552 of Title 5, U.S.C. (the FOIA), except when incorporated into the contract between the agency and the submitter of the proposal.
- ☐ Exemption 4: The withheld information is a trade secret or commercial or financial information that is being withheld for the reason(s) indicated.
- ☐ The information is considered to be confidential business (proprietary) information.
- ☐ The information is considered to be proprietary because it concerns a licensee's or applicant's physical protection or material control and accounting program for special nuclear material pursuant to 10 CFR 2.390(d)(1).
- ☐ The information was submitted by a foreign source and received in confidence pursuant to 10 CFR 2.390(d)(2).
- ☐ Disclosure will harm an identifiable private or governmental interest.
- ☐ Exemption 5: The withheld information consists of interagency or intraagency records that are not available through discovery during litigation. Applicable privileges:
- ☐ Deliberative process: Disclosure of predecisional information would tend to inhibit the open and frank exchange of ideas essential to the deliberative process. Where records are withheld in their entirety, the facts are inextricably intertwined with the predecisional information. There also are no reasonably segregable factual portions because the release of the facts would permit an indirect inquiry into the predecisional process of the agency.
- ☐ Attorney work-product privilege. (Documents prepared by an attorney in contemplation of litigation)
- ☐ Attorney-client privilege. (Confidential communications between an attorney and his/her client)
- ☐ Exemption 6: The withheld information is exempted from public disclosure because its disclosure would result in a clearly unwarranted invasion of personal privacy.
- ☒ Exemption 7: The withheld information consists of records compiled for law enforcement purposes and is being withheld for the reason(s) indicated.
- ☒ (A) Disclosure could reasonably be expected to interfere with an enforcement proceeding (e.g., it would reveal the scope, direction, and focus of enforcement efforts, and thus could possibly allow recipients to take action to shield potential wrong doing or a violation of NRC requirements from investigators).
- ☒ (C) Disclosure could constitute an unwarranted invasion of personal privacy.
- ☐ (D) The information consists of names of individuals and other information the disclosure of which could reasonably be expected to reveal identities of confidential sources.
- ☒ (E) Disclosure would reveal techniques and procedures for law enforcement investigations or prosecutions, or guidelines that could reasonably be expected to risk circumvention of the law.
- ☐ (F) Disclosure could reasonably be expected to endanger the life or physical safety of an individual.
- ☐ OTHER (Specify)

PART II.B -- DENYING OFFICIALS

Pursuant to 10 CFR 9.25(g), 9.25(h), and/or 9.65(b) of the U.S. Nuclear Regulatory Commission regulations, it has been determined that the information withheld is exempt from production or disclosure, and that its production or disclosure is contrary to the public interest. The person responsible for the denial are those officials identified below as denying officials and the FOIA/PA Officer for any denials that may be appealed to the Executive Director for Operations (EDO).

DENYING OFFICIAL	TITLE/OFFICE	RECORDS DENIED	APPELLATE OFFICIAL		
			EDO	SECY	IG
Joseph A. McMillan	Assistant Inspector General, OIG	Group B, C	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Appeal must be made in writing within 30 days of receipt of this response. Appeals should be mailed to the FOIA/Privacy Act Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, for action by the appropriate appellate official(s). You should clearly state on the envelope and letter that it is a "FOIA/PA Appeal."

~~OFFICIAL USE ONLY - OIG INVESTIGATION INFORMATION~~



OFFICE OF THE
INSPECTOR GENERAL

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555-0001

December 30, 2013

MEMORANDUM TO:

(b)(7)(C)

Office of Nuclear Reactor Regulation

FROM:

Hubert T. Bell
Hubert T. Bell
Inspector General

SUBJECT:

NOTICE OF CASE CLOSING (OIG CASE NO. 12-060)

The Office of the Inspector General has concluded an investigation of an allegation that you created a chilled work environment and retaliated against staff due to technical disagreements pertaining to a Tennessee Valley Authority plant.

This memorandum is to inform you that our investigation of the alleged misconduct described above is complete. Our investigation did not corroborate the allegation and the case is closed.

The purpose of this memorandum is to provide closure for you. This memorandum does not grant immunity to you for any future investigation of this allegation.

Agency management has been advised of this case closing.

If you have any questions regarding this matter, please contact (b)(7)(C)

(b)(7)(C)

cc. Mark A. Satorius, EDO

~~OFFICIAL USE ONLY - OIG INVESTIGATION INFORMATION~~

13/1

~~OFFICIAL USE ONLY - OIG INVESTIGATION INFORMATION~~

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(b)(7)(C)

(b)(7)(C)

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(b)(7)(C)

cc: Mark A. Satorius, EDO

Distribution:

File Location: (b)(7)(E)

OIG Case No. 12-060

Historical File

OIG/AIGI	Editor	OIG/AIGI	OIG	OIG	OIG
	(b)(7)(C)		J. Whitten	D. Lee	H. Bell
12/6/13	12/6/13	12/20/13	12/20/13	12/26/13	12/30/13

Official File Copy

~~OFFICIAL USE ONLY - OIG INVESTIGATION INFORMATION~~

MEMORANDUM TO: Concur: Case Closed _____
Joseph A. McMillan
Assistant Inspector General
for Investigations

THRU: (b)(7)(C) _____
Team Leader (b)(7)(C) _____

FROM: (b)(7)(C) _____
Special Agent (b)(7)(C) _____

SUBJECT: ALLEGED CHILLED WORK ENVIRONMENT AND
RETALIATION BY NRR MANAGEMENT DUE TO TECHNICAL
DISAGREEMENTS PERTAINING TO TENNESSEE VALLEY
AUTHORITY PLANTS (OIG CASE NO. 12-060)

Allegation

This Office of the Inspector General (OIG), U.S. Nuclear Regulatory Commission (NRC), investigation was initiated based on a referral to OIG from the (b)(7)(C) and an anonymous allegation concerning the same issue. The allegations conveyed that Office of Nuclear Reactor Regulation (NRR) staff felt that NRR management actions related to the handling of their safety concerns pertaining to a potential flooding event at a Tennessee Valley Authority's (TVA) Watts Bar Nuclear Plant had been retaliatory and had created a chilled and hostile work environment within their division. During the course of OIG's investigation, two NRR staff members (b)(7)(C) sent a memorandum to the Assistant Inspector General for Investigations (AIGI) reiterating the information provided by (b)(7)(C) and anonymous allegation. The memorandum stated they (1) were constantly challenged and obstructed for raising a safety concern, (2) were constrained for having a questioning attitude, and (3) faced hostility and threat of retaliation for their persistence.

Findings

OIG did not substantiate retaliation against the staff of the former Watts Bar Special Projects Branch (WBSP), Division of Operating Reactor Licensing (DORL), NRR, by (b)(7)(C). OIG found that two of seven NRC staff who had been assigned to WBSP prior to its dissolution disagreed with and expressed concerns related to NRR management's handling of their safety concerns relative to a potential flooding event at TVA plants, a third (b)(7)(C) reported being denied another (b)(7)(C).

(b)(7)(C) position because [redacted] could not control [redacted] and four stated they did not perceive any retaliation or a chilled working environment.

OIG found that the [redacted] instructed [redacted] not to send a 50.54(f) letter to TVA after learning there was no immediate safety concern. OIG also found that DORL management decided to dissolve WBSP when the effort on the project reduced significantly in scope, at which point WBSP staff were transferred to other NRR divisions or branches, and that the decision to dissolve the branch preceded the disagreement over the 50.54(f) letter.

Basis of Findings

Background

At the time of the allegation [redacted] worked for WBSP, which was established to produce and review portions of the Safety Evaluation Report (SER) for proposed new reactors to be situated at two TVA sites (Watts Bar and Bellefonte). The branch consisted of five to six technical staff who conducted reviews and prepared chapters for the Watts Bar Unit 2 and Bellefonte Units 3 and 4 SERs. [redacted]

[redacted]

In February 2012, an email was sent to all DORL branches concerning the future DORL staffing plan strategy. Based on the plan, WBSP would no longer exist after FY 2013 and would merge with Plant Licensing Branch II-2 (LPL2-2). OIG learned that by the end of FY 2012, all WBSP staff had already been reassigned to other divisions and branches within NRR, and DORL management formally dissolved WBSP. DORL managers attributed the timing of WBSP's dissolution to a decrease in the branch's workload after TVA announced a 2- to 3-year change in the Watts Bar schedule (to June/December 2015) and construction was halted on Bellefonte.

OIG learned that between April 6 and May 29, 2012, DORL management and WBSP staff were trying to resolve an issue of whether a supplemental 50.54(f) letter to the "Fukushima letter"¹ was needed to obtain information from TVA regarding hydrology issues on Watts Bar Unit 1. DORL management felt that whatever information WBSP staff sought from TVA could be obtained through the Fukushima letter. However, WBSP staff had authored a supplemental draft 50.54(f) letter to TVA that was being circulated for concurrence without DORL management's knowledge. WBSP staff

¹ On March 12, 2012, a document referred to as the Fukushima letter was sent to all power reactor licensees and holders of construction permits in active or deferred status. The letter informed them that NRC would be issuing 10 CFR 50.54(f) letters to all licensees requesting that they reevaluate the seismic and flooding hazards at their sites using updated seismic and flooding hazard information and present daily regulatory guidance and methodologies and, if necessary, a request to perform a risk evaluation.

(b)(7)(C) notified DORL management on April 6, 2012, that their supplemental letter was in concurrence. In an April 9, 2012, email from (b)(7)(C) DORL (b)(7)(C) informed WBSP staff that (b)(7)(C) instructed (b)(7)(C) WBSP, to pull the supplemental letter out of concurrence because (b)(7)(C) (b)(7)(C) DORL, and (b)(7)(C) NRR, were not in alignment that a supplemental 50.54(f) letter was needed.

On May 1, 2012 (b)(7)(C) WBSP requested permission from (b)(7)(C) to have the Office of the General Counsel (OGC) review their draft 50.54(f) letter for TVA. (b)(7)(C) informed (b)(7)(C) was meeting with OGC later that day to discuss the concept of a supplemental 50.54(f) letter. Afterwards (b)(7)(C) informed (b)(7)(C) via email that OGC stressed that DORL needed to get alignment with the Fukushima Steering Committee before moving forward with any action like this for any specific plant because the Fukushima 50.54(f) letters represented a global NRC decision on how to handle these issues at all plants.

OIG noted that at the time (April 9) (b)(7)(C) directed the supplemental 50.54(f) letter be pulled from concurrence, there was no indication in any email traffic that the staff proposing the letter had characterized the matter as an "immediate safety concern." However, in a May 29, 2012, email to (b)(7)(C) (b)(7)(C) said there was an immediate safety concern and (b)(7)(C) laid out questions that DORL management and staff was going to pose to TVA in a May 31, 2012, meeting to resolve the issue of "reasonable assurance of adequate safety."

Interviews of WBSP Staff

OIG interviewed seven NRC staff members who had been assigned to WBSP before its dissolution. Of the seven, two (b)(7)(C) used the term "chilled" to describe the DORL work environment, two (b)(7)(C) disagreed with management's handling of their safety concerns, and four others did not perceive any retaliation by DORL management or a chilled working environment.

(b)(7)(C) felt there was a chilled work environment due to actions by (b)(7)(C) (b)(7)(C) over issues concerning a safety issue at Watts Barr Unit 1, which had a direct effect on the licensing of Watts Barr Unit 2. (b)(7)(C) said that on April 9, 2012, during a (b)(7)(C) meeting (b)(7)(C) became very upset after (b)(7)(C) told (b)(7)(C) that a 50.54(f) letter for TVA had been forwarded to OGC for review (b)(7)(C) told (b)(7)(C) to go to OGC and retrieve the letter and to bring it to (b)(7)(C) and that no DORL correspondence was allowed to leave DORL until (b)(7)(C) was in agreement (b)(7)(C) said that after the April 9 meeting, (b)(7)(C) was called into (b)(7)(C) office where (b)(7)(C) suggested (b)(7)(C) had worked on the Watts Barr Unit 2 project for too long and asked what branches (b)(7)(C) had not been assigned to in DORL (b)(7)(C) said the implication was that (b)(7)(C) would be moved to another branch (b)(7)(C) also said (b)(7)(C) had been chastised by (b)(7)(C) for bringing issues directly to (b)(7)(C) instead of going through (b)(7)(C) chain of command and that a manager in the Office of Nuclear Regulatory Research told (b)(7)(C) had heard people talking about (b)(7)(C) and

(b)(7)(C) in a derogatory manner (b)(7)(C) also said that (b)(7)(C) told (b)(7)(C) should take the initiative to find another position within NRC or (b)(7)(C) might find (b)(7)(C) someplace (b)(7)(C) did not like but that this statement was made in a friendly manner and that (b)(7)(C) had a good working relationship with (b)(7)(C) (b)(7)(C)

(b)(7)(C) was aware of the February 2012 future DORL staffing plan strategy memo that showed that WBSP would be part of LPLII-2 beginning at the start of FY 2014 (b)(7)(C) said that in May 2012 (b)(7)(C) came to (b)(7)(C) office to discuss a transfer position for (b)(7)(C) and when (b)(7)(C) questioned (b)(7)(C) as to why DORL would not give (b)(7)(C) a DORL branch chief position (b)(7)(C) responded that DORL would not do this because (b)(7)(C) and divisions outside DORL felt (b)(7)(C) was unable to control WBSP staff. (b)(7)(C) said the work environment felt chilled to (b)(7)(C) on two occasions. The first was a May 9, 2012, meeting during which a DORL safety culture representative told (b)(7)(C) (b)(7)(C) was on management's "hit list." The second was a May 11, 2012, meeting with (b)(7)(C) when (b)(7)(C) told (b)(7)(C) a stronger manager was needed to control WBSP, and (b)(7)(C) asked (b)(7)(C) about (b)(7)(C) last performance appraisal and said when (b)(7)(C) got transferred (b)(7)(C) would see what could be worked out regarding (b)(7)(C) performance appraisal. (b)(7)(C)

Although (b)(7)(C) the memorandum sent to the AIGI (see Allegation (b)(7)(C)) told (b)(7)(C) was not retaliated against, harassed, or bullied by (b)(7)(C) (b)(7)(C) noted that the memorandum was written to include the perspectives of (b)(7)(C) and (b)(7)(C) said (b)(7)(C) told (b)(7)(C) that (b)(7)(C) had told (b)(7)(C) to find another job within NRC and that (b)(7)(C) that WBSP was a "rogue" branch, but that no one personally told (b)(7)(C) that (b)(7)(C) needed to find a job elsewhere or have they made any derogatory comments to (b)(7)(C) said on one occasion (b)(7)(C) felt intimidated by (b)(7)(C) (b)(7)(C) when (b)(7)(C) took over the duties of the WBSP (b)(7)(C) was reassigned to the (b)(7)(C) (b)(7)(C) stated that (b)(7)(C) was told by (b)(7)(C) was setting standards in the branch and that (b)(7)(C) could not sent anything out of the branch without (b)(7)(C) approval and that (b)(7)(C) would not hesitate to write anyone up for insubordination. (b)(7)(C)

Four other former WBSP staff told OIG they did not perceive any retaliation by (b)(7)(C) (b)(7)(C) or that there was a chilled working environment

Interviews of NRR Managers

(b)(7)(C) told OIG there was initially some tension between (b)(7)(C) and WBSP staff when (b)(7)(C) took over as (b)(7)(C) because (b)(7)(C) was trying to understand what was going on in the branch and its workload to assess the manpower assigned to the project. Also, there was a view that WBSP staff were circumventing DORL management and going directly to (b)(7)(C) with issues pertaining to the project (b)(7)(C) recalled first hearing about a supplemental 50.54(f) letter during a March 28, 2012, meeting and that (b)(7)(C) specifically said the issue was not an immediate safety concern because the licensee had an operability decision in place (b)(7)(C) was surprised they wanted to issue a supplemental letter at that point in time because NRC had just issued the Fukushima

50.54(f) letters on March 12, 2012. After (b)(7)(C) learned from (b)(7)(C) on April 9 that WBSP staff had provided a supplemental letter to OGC for concurrence, (b)(7)(C) told (b)(7)(C) to take it out of concurrence because (b)(7)(C) were not in alignment with the issuance of an additional letter.

(b)(7)(C) said the branch was dissolved at the end of September 2012 because the branch's workload had diminished significantly due to TVA's suspension of construction on Bellefonte and a 3-year delay to 2015 in the operation of Watts Bar Unit 2 (with 95 percent of the licensing work completed) and Watts Bar Unit 1 being the only operating plant. (b)(7)(C) recalled that at some point (b)(7)(C) had asked (b)(7)(C) for a strategy on closing out the branch but that a write-up that was prepared did not include (b)(7)(C). However, after realizing this oversight, the managers considered where (b)(7)(C) would go. (b)(7)(C) heard that (b)(7)(C) perceived (b)(7)(C) had been told (b)(7)(C) needed to leave. (b)(7)(C) but that (b)(7)(C) never said this to (b)(7)(C). (b)(7)(C) also said no one ever told (b)(7)(C) had a bunch of rogue employees in (b)(7)(C). (b)(7)(C) never characterized them as such. (b)(7)(C) recalled (b)(7)(C) once mentioning a "hit list" to (b)(7)(C). (b)(7)(C) did not know what (b)(7)(C) was talking about because (b)(7)(C) had no such list.

(b)(7)(C) told OIG that WBSP was already established when (b)(7)(C) took over as (b)(7)(C). (b)(7)(C) Although it was initially expected the branch would exist until NRC made a decision on the licensing of Watts Bar Unit 2, it was (b)(7)(C) understanding that the licensing schedule had slipped considerably since (b)(7)(C) left the division. (b)(7)(C) said there were people in WBSP with strong personalities who bypassed their immediate management chain and went directly to (b)(7)(C) to discuss an issue related to Watts Bar Unit 2. (b)(7)(C) thought they did this because they felt their project was so important, they should report directly to that level. (b)(7)(C) did not recall ever describing WBSP staff as rogue employees but said (b)(7)(C) probably expressed concern to (b)(7)(C) when (b)(7)(C) was taking over as (b)(7)(C) about some staff bypassing the management chain.

(b)(7)(C) recalled that in January/February 2012, a decision was made to start eliminating WBSP because 90 to 95 percent of the work was completed and TVA recognized they were delayed in their construction plans. (b)(7)(C) said the concept was for WBSP to be disbanded by the end of 2012. (b)(7)(C) further stated (b)(7)(C) had a conversation with (b)(7)(C) and asked (b)(7)(C) to lay out a transition plan to handle the remaining work on Watts Bar 2 and that in early or mid-April (b)(7)(C) discussed the plan with (b)(7)(C). (b)(7)(C) said (b)(7)(C) had several conversations with (b)(7)(C) regarding the transition path and worked with (b)(7)(C) to get (b)(7)(C) a position where (b)(7)(C) wanted to go.

(b)(7)(C) recalled that sometime before (b)(7)(C) acquired the (b)(7)(C) spoke with (b)(7)(C) regarding (b)(7)(C) staff and how to get them to complete assignments. (b)(7)(C) said (b)(7)(C) approached (b)(7)(C) for advice and (b)(7)(C) told (b)(7)(C) staff could not choose not to do assigned tasks and that (b)(7)(C) had tools as a manager to change the situation, up to and including charging staff with insubordination. However (b)(7)(C) said such a charge would always be the last recourse and that (b)(7)(C) has never managed a branch under that type of threat. (b)(7)(C) said (b)(7)(C) advice was taken out of context by (b)(7)(C) in an email (b)(7)(C) had sent to (b)(7)(C). (b)(7)(C) said when (b)(7)(C) first heard about the alleged

(b)(7)(C) statement "that [redacted] was going to straighten WBSP staff out and would use charges of insubordination if staff failed to comply with [redacted] expectation." it bothered [redacted] sought [redacted] out to inform [redacted] had never said what [redacted] claimed in [redacted] email. (b)(7)(C) said [redacted] confronted [redacted] about the email and told [redacted] that [redacted] conversation with [redacted] had been taken out of context.

(b)(7)(C) told OIG [redacted] was aware that [redacted] was not happy with [redacted] over the 50.54(f) letter that was pulled from the concurrence process and that [redacted] felt that [redacted] should have signed that 50.54(f) letter that was in the concurrence process. (b)(7)(C) told OIG that the 50.54(f) letter that [redacted] was unrealistic in requesting information from TVA that had already been requested in the March 12, 2012, Fukushima letter which was sent out to all licensees. [redacted] also said that [redacted] concern was not an immediate safety concern regarding the operational safety of the plant, but rather a concern that the licensee's licensing and design basis had changed due to a change in the hydrology calculations for Unit 1. With regard to the shutdown of WBSP, [redacted] was aware that [redacted] had already decided in late 2011 or early 2012 to close out the branch in the near future.

Because OIG did not identify any evidence substantiating retaliation by [redacted] or indication of misconduct, it is recommended that this case be closed to the files of this office.

Distribution:

File Location: (b)(7)(E)

Case No. 12-060 Historical File Magnum

OIG/AIGI	OIG/AIGI	Editor	OIG/AIGI	OIG/AIGI	OIG	OIG
(b)(7)(C)				J. McMillan	D. Lee	H. Bell

Official File Copy

Referral, Actions & Follow-Up

Prepared by: (b)(7)(C)

Case Title: Pertinent OGC Analyses Allegedly Withheld from Commission Case Number: C 12 061
Program Office: (b)(7)(C) Classification: (b)(7)(E)

Origination Doclink: 1
Subject's Last Name / Company Name: (b)(7)(C)
Subject's First Name: (b)(7)(C)

Agency Referral & Follow-up

PFCRA Referral: Yes ☒ No
Referred to Agency Action: ☒ Yes No Date: 06/07/2013
Referred to (Office): Office of the Commission
Contact Person: Chairman McFarlane
Follow-Up Assigned To: (b)(7)(C)

Expected Completion Date: 06/07/2013
Revised Completion Date:
Actual Completion Date: 11/14/2013
Completion Status: Open ☒ Closed
Comments: Although OIG did not substantiate the allegation, the Chairman has spoken with OGC. Together an discussions have begun to develop better communication between the Commission and OGC. See Response Memo

Administrative Action

PFCRA: Accepted Declined Date:
Agency Action: Other (Specify Date: 11/14/2013
Comments: Although OIG did not substantiate the allegation, the Chairman has spoken with OGC. Together an discussions have begun to develop better communication between the Commission and OGC. See Response Memo

Prosecution Referral

Federal Referral Date:

~~OFFICIAL USE ONLY~~

Prosecution Status: Pending Date:
Accepted
Declined

AUSA Office
State/Local Referral
Date:

Prosecution Status: Pending Date:
Accepted
Declined

Office:
Comments:

LE/Judicial Action

Actions: Arrest Date:
Arraignment Date:
Charges Dropped Date:
Indictment Date:
Information Date:
Level: Jurisdiction:

Statute(s)/
Violation(s):
Court Action: Date:
Sentence: Details:
Comments:

Recoveries

Amount Recovered: Type:
Recovery Date:
Comments:

Potential Losses

Amount:
Description:
Comment:

Status: Closed

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OFFICE OF THE
INSPECTOR GENERAL

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

March 7, 2013

MEMORANDUM TO: Chairman Macfarlane

FROM:

Hubert T. Bell
Hubert T. Bell
Inspector General

SUBJECT:

PERTINENT OFFICE OF THE GENERAL COUNSEL
ANALYSIS ALLEGEDLY WITHHELD FROM THE
COMMISSION (OIG CASE NO. 12-61)

This report conveys the results of an Office of the Inspector General (OIG), U.S. Nuclear Regulatory Commission (NRC) investigation into an allegation that (b)(7)(C)

(b)(7)(C) performed confidential legal analysis for Gregory Jaczko, then NRC Chairman, and this analysis was not shared with the other Commissioners.

Although neither (b)(7)(C) nor Jaczko still hold the positions of NRC (b)(7)(C) and Chairman, this report will refer to them as such because they held these positions during the period of time under review.

Allegation

(b)(7)(C)

OIG initiated this investigation following an allegation from an Office of the General Counsel (OGC) staff attorney that (b)(7)(C) conducted legal analysis on recent Supreme Court rulings and opinions that (b)(7)(C) shared with Chairman Jaczko but not with the other Commissioners. The staff attorney, assigned to OGC's (b)(7)(C)

(b)(7)(C) believed that the legal analysis (b)(7)(C) conducted should have been provided to the full Commission because of its relevance to Commission duties and governance. The staff attorney provided seven examples of documents that (b)(7)(C) prepared and thought should have been shared, but were not. The staff attorney believed that the Commission was OGC's client, and all of the Commissioners, as policymakers, needed complete information to be kept fully and currently informed of matters.

(b)(7)(C)

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Findings

OIG found no evidence that the seven draft documents prepared by the OGC staff attorney were shared with the Chairman and not with the Commission.

OIG found one instance (not one of the seven examples prepared by the staff attorney) where (b)(7)(C) at the request of Chairman Jaczko's office, wrote an analysis pertaining to the Chairman's emergency authority following the nuclear incident in Fukushima. The analysis, dated March 17, 2011, was provided to the Chairman's office that same day. A formal memorandum to file, also dated March 17, 2011, was created but not provided to the other Commissioners until July 1, 2011, after it was referenced at a hearing and requested by Congress.

OIG found that the position of the General Counsel routinely directs Legal Counsel, Legislation and Special Projects staff to conduct legal analysis on Supreme Court rulings and opinions and other matters; however, that analysis is not always shared with the Commission and does not necessarily represent the General Counsel's position. Absent a specific request for a formal written opinion from a Commissioner, the General Counsel, as NRC's chief legal officer, has discretionary authority on what legal analysis and viewpoint should be documented in formal memoranda under his/her signature and shared with the Commission.

Basis for Findings

OIG reviewed agency guidance on OGC's organization and responsibilities and noted that the documents describe the office's responsibility to provide interpretations of law to its client – the Commission – but the documents do not describe a process for responding to requests from individual Commissioners for legal interpretations, reviews, or guidance, or for sharing self-generated OGC analysis or information documents.

Title 10, Code of Federal Regulations, Section 1.23 (10 CFR 1.23), Office of the General Counsel, provides high level information on OGC's responsibilities. According to 10 CFR 1.23 (a), (c), and (e), OGC:

- Directs matters of laws and legal policy, providing opinions, advice, and assistance to the agency with respect to all of its activities.
- Provides interpretations of law, regulations, and other sources of authority.
- As requested, provides the agency with legal advice and opinions on acquisition matters and prepares or concurs in all other interagency agreements, delegations of authority, regulations, orders, licenses, and other legal documents and prepares legal interpretations thereof.

NRC Management Directive (MD) 9.7, *Organization and Functions, Office of the General Counsel*, describes how OGC is organized and its function. MD 9.7 states that each Assistant General Counsel has authority to take final action on all legal matters arising in the areas of assigned responsibility, except that all matters to be referred to the Commission will be subject to review by the General Counsel, Deputy General Counsel, or an Associate General Counsel. Specifically, the Assistant General Counsel for Legal Counsel, Legislation and Special Projects "[p]rovides legal advice and assistance to the Commission" and "[h]andles special projects raising challenging legal issues."

The OGC *Operating Manual, Policy and Procedures* states the General Counsel is the Commission's chief legal officer and directs the performance of all legal and administrative functions necessary to carry out the office's assigned responsibilities, including the establishment of its internal organization and policies and procedures. The manual states that OGC's client is the NRC and not any particular agency official. It also stipulates that OGC attorneys are to notify the General Counsel of their contacts with any Commissioner's office, including any requests for information or advice by a Commissioner or Commissioner's office. The manual states that the Legal Counsel Division provides the Commission with analyses of newly enacted statutes and, upon request, provides interpretations of existing statutes bearing on NRC responsibilities.

NRC's *Internal Commission Procedures* (ICP) state that "significant individual Commissioner requests for information or analysis from the NRC staff shall be directed by Commissioners to the Chairman, EDO, CFO, or Commission-level offices (action offices) with copies to the Chairman and SECY." It is the Chairman's responsibility to resolve any questions from the staff pertaining to the priority or nature of the significant request. OIG notes that while this notification requirement directs the Commissioners to notify the Chairman with a copy to the Office of the Secretary of significant information requests, it does not require them to notify the other Commissioners. It also does not require the Chairman to notify the Commissioners of Chairman-initiated requests.

OIG learned that in March 1979, several years after NRC was established, the General Counsel at the time instructed OGC staff, by memorandum, that all memoranda to a Commissioner must be copied to the other Commissioners. The memorandum directed OGC staff to inform the General Counsel if they were ever "disposed to furnish anything in writing to a Commissioner" that they believed should be exempt from this requirement.

Staff Interviews

- (b)(7)(C) The OGC staff attorney told OIG that [] researched and provided legal analysis on Supreme Court rulings and opinions for OGC management review. In some cases, the
(b)(7)(C) controversial aspects of [] analysis were rewritten and/or portions were deleted by management before the analysis was provided to the Commission in a final memorandum.

In other cases, (b)(7)(C) analysis was entered into the OGC database¹ as background research. The staff attorney claimed that (b)(7)(C) shared some of the legal analysis with Chairman Jaczko and not with the Commission, although the staff attorney had no direct knowledge that this had, in fact, occurred. (b)(7)(C) also believed that the analysis (b)(7)(C) conducted on certain issues should have been provided to the Commission because it was relevant to their duties. The staff attorney related that in one case, a Commissioner's legal assistant was aware of and expressed interest in a particular analysis that the staff attorney had conducted, however, there was never a Commission request for it. The staff attorney was also aware that on March 17, 2011, (b)(7)(C) provided a memorandum to the Chairman's office regarding the Chairman's emergency authority following the nuclear incident in Fukushima. (b)(7)(C) believed that this memorandum was not provided to the Commission until sometime after March 17, 2011. The staff attorney told OIG that the memorandum should have been provided to the Commission sooner because invoking emergency authority takes power away from the Commission to act with respect to the incident. (b)(7)(C)

The staff attorney also believed that the ICP should be changed to require the General Counsel to inform the full Commission upon receipt of individual Commissioner requests and to provide the subsequent analysis to the full Commission. Although (b)(7)(C) had no proof, the staff attorney suspected that (b)(7)(C) circumvented the current ICP at the time by providing oral advice instead of a written document to the requesting Commissioner and did not verbally provide the same information to the Commission. (b)(7)(C)

The staff attorney provided seven specific examples of draft legal analysis that (b)(7)(C) prepared and subsequently provided to the four Commission offices. (b)(7)(C) did not share the draft analysis with the Chairman's office. The staff attorney believed the analysis (b)(7)(C) prepared was relevant and should have been shared with the Commission and that the General Counsel should not act as a gatekeeper and decide what is important enough for the Commission to know. Two examples pertained to Supreme Court cases, one pertained to the Commission's authority to determine their staff size, two pertained to interpretations of the Chairman's authority under the Reorganization Plan No. 1 of 1980, one pertained to the reorganization of NRC's Office of Nuclear Material Safety and Safeguards, and one pertained to the Yucca Mountain affirmation vote. (b)(7)(C)

OIG interviewed (b)(7)(C) about each of these seven examples and (b)(7)(C) approach to sharing information with the Commission. (b)(7)(C) claimed each matter identified by the staff attorney was handled appropriately in terms of the recipients and the use of the material, and that these decisions are (b)(7)(C) to make as General Counsel for the agency. In some cases, (b)(7)(C) recalled the analysis was provided to the full Commission. In another case, (b)(7)(C) recalled the analysis was provided but in a revised and shortened (b)(7)(C)

¹ OGC maintains an internal database of legal memoranda, briefs, letters, and other legal documents as a research tool for OGC staff.

form. In one case (b)(7)(C) recalled discussing the topic with the Chairman and Commissioners. Some of the examples were developed as background, at (b)(7)(C) request, and not relayed to the Commission or Chairman but maintained in OGC's database for possible future use as background information.

(b)(7)(C) denied conducting analysis on behalf of the Chairman's office that had direct relation to the other Commission offices but was not shared with those offices, or that (b)(7)(C) had not kept the Commission informed. (b)(7)(C) staff was responsible for researching and providing legal analysis on matters, but that did not necessarily mean that a formal memorandum would be provided to the Commission. In the absence of a particular request for information from a Commissioner, (b)(7)(C) uses judgment and management discretion in determining which information should be provided to the Commission and which is unnecessary or inappropriate to share.

(b)(7)(C) told OIG that individual Commissioners and their staff ask for and receive advice or analysis on certain matters. It was (b)(7)(C) opinion that individual Commissioners should have the ability and the freedom to ask questions if they are deciding on a policy matter.

Burns recalled receiving requests from individual Commissioners for a memorandum on a particular issue that was not provided to the other Commissioners. This legal advice was provided with some confidentiality. The Commissioners have to be able to ask questions to assist them in their responsibilities. (b)(7)(C) asserted that there is also some room for confidential discussions about matters.

(b)(7)(C) described to OIG one memorandum that, in hindsight, (b)(7)(C) believed (b)(7)(C) should have shared sooner with the full Commission. (OIG notes that this was not one of the seven examples prepared by the staff attorney.) (b)(7)(C) recalled receiving a request from Chairman Jaczko's office regarding the Chairman's emergency authority following the Fukushima nuclear incident. (b)(7)(C) documented (b)(7)(C) analysis and provided that analysis to the Chairman's office on March 17, 2011. A formal memorandum to file dated March 17, 2011, was created for (b)(7)(C) files and the OGC database. The analysis was not initially provided to the Commissioners; however, (b)(7)(C) verbally informed the Commissioners and their staff of (b)(7)(C) view and provided the Commission staff a copy of a November 7, 2001, memorandum from (b)(7)(C) at the time, to then-Chairman Richard Meserve regarding the Chairman's emergency authority following the September 11, 2001, terrorist attacks. (b)(7)(C) noted to OIG that Chairman Meserve had requested the legal analysis, and that analysis was not shared with the Commission at that time either. (b)(7)(C) said that sometime in June 2011, (b)(7)(C) provided the March 17, 2011, memorandum to the Commission. (b)(7)(C) asserted it was a mistake not to provide the March 17 memorandum to the Commission sooner.

⁷ OIG notes that the General Counsel provided the memorandum to the Commissioners on July 1, 2011. The memorandum communicated that (b)(7)(C) was providing the analysis to the Commission offices because it had been referenced at a recent hearing and had been requested by Congress.

(b)(7)(C) told OIG that formal OGC memoranda are disseminated to the full Commission, and the general rule is that anything given to one Commission office is given to all. However, although OGC reports to and serves all five Commissioner offices, there are occasions when an individual Commissioner makes a request for information and asks that the information not be shared with the rest of the Commission.

In addition, (b)(7)(C) stated there are many instances where internal memoranda are developed and not shared with the Commission. (b)(7)(C) acknowledged some of those items are controversial and the General Counsel does not want to issue a memorandum unless there is a specific request for it. The General Counsels have always preferred to let the Commissioners work an issue out among themselves because frequently the governing statutes and legislative history do not provide a clear-cut, indisputable answer. However, the General Counsel has provided written views when requested. In anticipation of receiving such a request, OGC staff have, at times, prepared internal memoranda so that OGC is prepared to address an issue should there be a Commission request to resolve the dispute. In other cases, the internal memoranda are not directly applicable to the NRC, but contain information that OGC needs to be aware of. Many of these memoranda are not forwarded to the Commission because they may be of little relevance.

(b)(7)(C) was aware of six out of the seven examples provided by the staff attorney and said that these were handled appropriately. (b)(7)(C) was not familiar with the seventh example. (b)(7)(C) said that there are differing legal views on matters, but the General Counsel is ultimately the decisionmaker for the office position.

OIG interviewed (b)(7)(C) after (b)(7)(C) retired, about the General Counsel's authority over OGC positions. While in the (b)(7)(C) told OIG that staff analysis goes through a drafting and review process, and then it is provided to (b)(7)(C) for review. (b)(7)(C) has the option to ask further questions, raise concerns, make comments, request more research, or rewrite the analysis. Once the analysis represents (b)(7)(C)'s best views and (b)(7)(C) decides to inform the Commission, a memorandum is sent under (b)(7)(C)'s signature to the full Commission. In some cases, (b)(7)(C) disagrees with the staff's legal analysis; in those cases, the analysis is not endorsed and a memorandum is not prepared. (b)(7)(C) exercises judgment as to what memoranda are appropriate to send to the full Commission.

(b)(7)(C) told OIG that there are many legal issues that warrant a memorandum from (b)(7)(C) staff, but do not warrant Commission review. (b)(7)(C) does not send everything to the Commission and the Commission is aware of this. (b)(7)(C) staff also prepares memoranda for information purposes that are not disseminated to the Commission.

(b)(7)(C) related if a Commissioner requested an analysis on a matter that (b)(7)(C) believed would be beneficial to the full Commission, (b)(7)(C) would discuss releasing it with the requesting Commissioner. (b)(7)(C) would inform the Commissioner that if (b)(7)(C)

(b)(7)(C) wanted a memorandum, then [redacted] would provide it to the full Commission in an effort to keep them fully informed. (b)(7)(C) did not have a situation where this had occurred.

(b)(7)(C) However, [redacted] said that when the matter pertains to a personal ethics question, a memorandum is provided to that individual Commissioner. Also, when OGC staff assist Commission legal assistants in drafting language for a vote, that deliberative information is not shared with the Commission.

(b)(7)(C) [redacted] informed OIG that the OGC database is a knowledge management tool containing legal analysis memoranda. It is not the official repository of OGC opinions, and many of the memoranda in the database are not final documents or endorsed by management. The database is a place to store information so that when an attorney is tasked to do research they have some background already available.

OIG interviewed representatives from the four Commissioner offices (three Commissioner Chiefs of Staff, one Commissioner's legal assistant, and one Commissioner). All had received the seven draft analysis documents from the OGC staff attorney. Commissioner Ostendorff disclosed that his office received a memorandum concerning one of the examples provided by the OGC staff attorney pertaining to a Supreme Court decision although he did not personally recall receiving it. He also recalled one discussion concerning a different topic of the staff attorney's analysis. Commissioner Ostendorff felt that (b)(7)(C) March 17, 2011, memorandum concerning the Chairman's emergency authority should have been provided to the Commission before July 2011. The Commissioner felt it was a critical topic for the Commission, and it dealt with the core of how the Commission was functioning during the Fukushima incident and afterwards.

Three Commissioner office representatives interviewed recalled these topics were discussed among the Commission staff and OGC. However, none of those interviewed recalled any formal requests made for written analysis on any of these topics even though the topics were of interest. Some agreed that some matters of particular interest to a Commissioner should not be shared with the Commission.

One legal assistant told OIG that the General Counsel decides what formal work products are provided to the Commission. However, the Commission staff can informally contact OGC staff to discuss matters of interest before deciding whether to request a formal written opinion from the General Counsel. OGC shares information if it is a generic issue and if there is more than individual Commissioner interest. The General Counsels in the past were somewhat reluctant to provide a legal opinion unless requested. The attorney told OIG that it is partly the responsibility of the Commission to ask for an analysis if the Commission has an interest in a matter. Absent a Commission request, you cannot fault the General Counsel for not providing it.

A retired OGC staff attorney who worked in the Legal Counsel, Legislation and Special Projects told OIG that the Chairman has more responsibilities and authorities than the rest

(b)(7)(C)

of the Commission and therefore consults with the General Counsel's office more frequently. [redacted] asserted that the advice does not always need to be provided to the other Commissioners unless it involves line-drawing between the Commissioners' authorities and the Chairman's authority. However, the attorney said that the Commissioners need to receive the information they need to make fully informed decisions.

Please notify this office within 90 days of what, if any, action you intend to take with regard to this report. If you have any questions, contact Joseph A. McMillan, Assistant Inspector General for Investigations, at (b)(7)(C) [redacted]

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(b)(7)(C)

of the Commission and therefore consults with the General Counsel's office more frequently. [redacted] asserted that the advice does not always need to be provided to the other Commissioners unless it involves line-drawing between the Commissioners' authorities and the Chairman's authority. However, the attorney said that the Commissioners need to receive the information they need to make fully informed decisions.

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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

February 20, 2013

MEMORANDUM TO FILE: Concur: Case Closed
Joseph A. McMillan
Assistant Inspector General
for Investigations

THRU:

(b)(7)(C)

Team Leader (b)(7)(C)

FROM:

(b)(7)(C)

Senior Special Agent (b)(7)(C)

SUBJECT

POSSIBLE RETALIATION BY THE OFFICE OF NEW
REACTORS MANAGEMENT FOR RAISING A SAFETY
CONCERN (OIG CASE NO. 12-63)

Allegation

This Office of the Inspector General (OIG), U.S. Nuclear Regulatory Commission (NRC), investigation was initiated based on an allegation by (b)(7)(C)

(b)(7)(C) Division of Engineering (DE), Office of New Reactors (NRO), that (b)(7)(C) was retained against for using the Open Door Policy to bring a safety issue to a higher level of management. According to (b)(7)(C) disagreed with the (b)(7)(C) DE, NRO, to remove the topic of safety system software from the USAPVVR licensing review and raised it with (b)(7)(C) through the Open Door Policy. (b)(7)(C) allegedly agreed with (b)(7)(C) however (b)(7)(C) later notified (b)(7)(C) that because (b)(7)(C) is a GG-14, and not a GG-15, (b)(7)(C) would no longer be the (b)(7)(C) on the project, a role (b)(7)(C) had held since the project's inception in 2008.

Findings

OIG did not find evidence of retaliation against (b)(7)(C) for using NRC's Open Door Policy to raise concerns (b)(7)(C) replacement as (b)(7)(C) by a GG-15 from ICB

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B/3

had been discussed in previous months between (b)(7)(C) and (b)(7)(C). (b)(7)(C) had wanted to replace (b)(7)(C) (GG-14) with a GG-15 as the project lead, but all GG-15s were previously assigned to other tasks. Once (b)(7)(C) (GG-15) had become available, (b)(7)(C) assumed the position of (b)(7)(C).

OIG found that (b)(7)(C) lower performance appraisal score for FY 2011 was attributable to the change in the nature of (b)(7)(C) work on the project (no longer (b)(7)(C) and not to (b)(7)(C) job performance.

Basis of Findings

(b)(7)(C) told OIG (b)(7)(C) has been with NRC since 2005 and had worked for the industry for (b)(7)(C). (b)(7)(C) was assigned as the (b)(7)(C) by (b)(7)(C) ICE, and this project was later transferred to (b)(7)(C) branch. (b)(7)(C) remained as the (b)(7)(C) for this project while assigned to ICE until (b)(7)(C) was replaced by (b)(7)(C). (b)(7)(C) stated that (b)(7)(C) was still supervised by (b)(7)(C) but reported to (b)(7)(C) for USAPWR project purposes.

(b)(7)(C) said that (b)(7)(C) had a major safety issue with the USAPWR in that it did not adequately address guidance for safety system software. (b)(7)(C) said this was an issue of contention because (b)(7)(C) disagreed with (b)(7)(C) on the seriousness of (b)(7)(C) safety concern. After trying to resolve this issue with (b)(7)(C) and not getting anywhere, (b)(7)(C) decided to utilize the Open Door Policy and went to (b)(7)(C) NRO, to discuss (b)(7)(C) safety concern about the safety system software. (b)(7)(C) stated that this Open Door discussion with (b)(7)(C) took approximately 3 months (concluding with a meeting with (b)(7)(C) on August 25, 2011) and involved a number of meetings due to the complexity of the topic and the availability of both (b)(7)(C) and (b)(7)(C).

(b)(7)(C) stated that on the week of September 18, 2011, (b)(7)(C) was replaced as the (b)(7)(C) on this project by (b)(7)(C) at the direction of (b)(7)(C). (b)(7)(C) stated that once this occurred, (b)(7)(C) was no longer included in any meetings that dealt with this project. (b)(7)(C) stated that the project's Safety Evaluation Report (SER) was submitted approximately 1 week after (b)(7)(C) took over as (b)(7)(C) and that (b)(7)(C) safety concern was not included in this draft SER.

(b)(7)(C) told OIG that (b)(7)(C) main concern was that the Open Door Policy does not work because even after having discussions with (b)(7)(C) and (b)(7)(C) agreeing with (b)(7)(C) safety concern, this concern was not included in the draft SER that was submitted. (b)(7)(C) stated that (b)(7)(C) believes that (b)(7)(C) was removed as (b)(7)(C) on this project because (b)(7)(C) chose to use the Open Door Policy and that this retaliation continued thereafter when (b)(7)(C) was not included in any of the meetings associated with this project.

(b)(7)(C) [redacted] stated that when [redacted] received [redacted] performance appraisal in October 2011 [redacted] (b)(7)(C)
(b)(7)(C) was surprised to see [redacted] overall numerical score drop from 3.75 to 3.0 and attributed (b)(7)(C)
this change to retaliation for using the Open Door Policy. [redacted] told OIG that [redacted] (b)(7)(C)
(b)(7)(C) did not question or challenge [redacted] overall numerical rating at the time of [redacted] performance (b)(7)(C)
(b)(7)(C) appraisal because [redacted] thought that it was due to budget constraints and that the agency (b)(7)(C)
was cutting down on bonuses.

(b)(7)(C) [redacted] told OIG that the USAPWR project came to [redacted] branch after [redacted] and [redacted] (b)(7)(C)
(b)(7)(C) looked at their branch workloads and decided that [redacted] had too many projects (b)(7)(C)
(b)(7)(C) and it would make more sense to split the workload. [redacted] stated that they both agreed on (b)(7)(C)
(b)(7)(C) transferring this project to [redacted] branch with [redacted] continuing as [redacted] on the (b)(7)(C)
(b)(7)(C) USAPWR project. [redacted] stated that at the time all of his GG-15s were already involved (b)(7)(C)
(b)(7)(C) in other projects; therefore, [redacted] had no one available to lead this project.

(b)(7)(C) [redacted] said [redacted] was aware that [redacted] had an issue with the safety system software (b)(7)(C)
(b)(7)(C) but thought that [redacted] had resolved that issue when [redacted] went to JAPAN in (b)(7)(C)
(b)(7)(C) November 2011 as part of the audit/inspection team that inspected MHI. [redacted] stated that (b)(7)(C)
(b)(7)(C) [redacted] had every opportunity to resolve any issues [redacted] had with the safety system (b)(7)(C)
(b)(7)(C) software while at MHI.

(b)(7)(C) [redacted] stated that [redacted] was aware that [redacted] was discussing this issue with (b)(7)(C)
(b)(7)(C) [redacted] because [redacted] was informing [redacted] of the meetings [redacted] was having with (b)(7)(C)
(b)(7)(C) [redacted] said that [redacted] had no issues with [redacted] using the Open Door Policy (b)(7)(C)
(b)(7)(C) because it was a tool that the agency offered and encouraged staff to use. [redacted] stated (b)(7)(C)
(b)(7)(C) that [redacted] would never retaliate against any employee for using any of the processes or (b)(7)(C)
(b)(7)(C) tools that this agency afforded its employees.

(b)(7)(C) [redacted] related that [redacted] replaced [redacted] because [redacted] became fully available and (b)(7)(C)
(b)(7)(C) [redacted] was more technically knowledgeable and had more experience. Furthermore, [redacted] (b)(7)(C)
(b)(7)(C) wanted a GG-15 to lead the project. It was [redacted] view that GG-15s should be (b)(7)(C)
(b)(7)(C) responsible for the bigger projects.

(b)(7)(C) [redacted] was not sure whether [redacted] personally told [redacted] was no longer going to be (b)(7)(C)
(b)(7)(C) the technical lead on this project because the project was transferred to [redacted] branch (b)(7)(C)
(b)(7)(C) [redacted] recalled having a one-on-one conversation with [redacted] about taking over as (b)(7)(C)
(b)(7)(C) technical lead for the project, but did not recall [redacted] had the same conversation (b)(7)(C)
(b)(7)(C) with [redacted] about reassigning the [redacted] to [redacted]. However, [redacted] said (b)(7)(C)
(b)(7)(C) there had been discussions during branch meetings that there was going to be a (b)(7)(C)
(b)(7)(C) technical lead transition and that [redacted] had the opportunity to attend the branch (b)(7)(C)
(b)(7)(C) meetings, but only attended occasionally. [redacted] said that if [redacted] had a desire to (b)(7)(C)
(b)(7)(C) continue as technical lead, [redacted] never expressed it to [redacted].

(b)(7)(C) [redacted] stated that [redacted] and does [redacted] performance (b)(7)(C)
(b)(7)(C) appraisals. [redacted] said [redacted] provided feedback to [redacted] on [redacted] while (b)(7)(C)
(b)(7)(C) [redacted] was on the project under [redacted] branch. [redacted] stated that, overall, (b)(7)(C)

(b)(7)(C) performance as a technical lead for this project was good and that (b)(7)(C) rating reflected that in both FY 2010 and 2011 (b)(7)(C) stated that (b)(7)(C) set in on (b)(7)(C) performance appraisal in October 2011, and that (b)(7)(C) questioned why (b)(7)(C) rating had gone down from the previous year (b)(7)(C) recalled that (b)(7)(C) responded that there were more staff helping with the project and (b)(7)(C) responsibilities were not as great.

(b)(7)(C) (b)(7)(C) told OIG that (b)(7)(C) branch was assigned to do the instrumentation and control (I&C) review for the USAPWR when they initially started the application review in December 2007 (b)(7)(C) stated that (b)(7)(C) was assigned as the (b)(7)(C) from the beginning in December 2007 and that (b)(7)(C) was primarily the only (b)(7)(C) associated with the review at that time (b)(7)(C) said that this project transitioned to (b)(7)(C) in the early part of 2010 and that (b)(7)(C) stayed on as the (b)(7)(C) since (b)(7)(C) had the technical knowledge and expertise, but that (b)(7)(C) remained (b)(7)(C)

(b)(7)(C) (b)(7)(C) stated that (b)(7)(C) had very little involvement on this project or with (b)(7)(C) except when it came time to do (b)(7)(C) performance appraisals and (b)(7)(C) would provide (b)(7)(C) input about (b)(7)(C) accomplishments for that project. (b)(7)(C) stated that (b)(7)(C) performance appraisal was lowered in FY 2011 because (b)(7)(C) was no longer managing a contractor and working on the project by (b)(7)(C) Also, the nature of the work had changed where (b)(7)(C) was not doing work on the project that could be justified as being "Outstanding" based on Federal rating guidelines. (b)(7)(C) said the primary reason for the change to an "Excellent" rating in FY 2011 was that (b)(7)(C) was being assisted on the project by other NRC staff who were technical experts in their field and (b)(7)(C) no longer had to provide the same type of work (b)(7)(C) provided when (b)(7)(C) was overseeing the contractors (b)(7)(C)

(b)(7)(C) (b)(7)(C) further stated that (b)(7)(C) discussed with (b)(7)(C) changing (b)(7)(C) role from being the lead because (b)(7)(C) had some senior technical reviewers that were available from other projects, and (b)(7)(C) was going to bring them into the project (b)(7)(C) advised that (b)(7)(C) never told (b)(7)(C) that (b)(7)(C) was removed as the technical lead on this project, and (b)(7)(C) only became aware that (b)(7)(C) had an issue with it when (b)(7)(C) told (b)(7)(C) that (b)(7)(C) had filed a complaint against (b)(7)(C)

(b)(7)(C) OIG compared (b)(7)(C) FY 2010 performance appraisal against his FY 2011 performance appraisal and noted that for FY 2010 (b)(7)(C) received three "O's" and one "E" for an overall Outstanding rating of 3.75. For FY 2011 (b)(7)(C) received four "E's" for an overall Excellent rating of 3.0. Although both appraisals contained some similar language, the descriptions in the FY 2010 appraisal were more positive than the FY 2011 appraisal. As an example, the narrative for Element 1 of his FY 2010 appraisal stated (b)(7)(C) work was "of very high quality, was of significant quantity, always on schedule and required little to no supervision . . ." In comparison, his FY 2011 appraisal said (b)(7)(C) work was "generally of high quality, was of high quantity, was generally on schedule and required less than normal supervision . . ." In addition, his FY 2010 appraisal reflected that (b)(7)(C) which included

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management of contractor support," with little to no help from other technical reviewers and little to no supervisory input. In comparison, his EY 2011 appraisal reflected the transfer of the project to the ICE2 branch and notes (b)(7)(C) support to other members of the review team.

Because OIG did not identify evidence to indicate that (b)(7)(C) was retaliated against by management for using the Open Door Policy, it is recommended that this case be closed to the office files.

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management of contractor support," with little to no help from other technical reviewers and little to no supervisory input. In comparison, his FY 2011 appraisal reflected the transfer of the project to the ICE2 branch and notes (b)(7)(C) support to other members of the review team.

Because OIG did not identify evidence to indicate that (b)(7)(C) was retaliated against by management for using the Open Door Policy, it is recommended that this case be closed to the office files.

Distribution: (b)(7)(E)
File Location: [Redacted]

Case No.12-063 Historical File Magnum

OIG/AIG	(b)(7)(E)	[Redacted]	OIG/AIG	OIG	OIG
[Redacted]	[Redacted]	[Redacted]	J. McMillan	D. Lee	H. Bell
2/12/13	2/12/13	2/12/13	2/12/13	2/12/13	2/12/13

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INSPECTOR GENERAL

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UNITED STATES

NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

January 24, 2013

MEMORANDUM TO:

Concur: Case Closed
Joseph A. McMullan
Assistant Inspector General
for Investigations

THRU:

(b)(7)(C)

Team Leader, (b)(7)(C)

FROM:

(b)(7)(C)

Senior Special Agent (b)(7)(C)

SUBJECT:

NRC REGION 1 HANDLING OF ALLEGED RADIOACTIVE
SPILL AT LIMERICK POWER PLANT, LIMERICK,
PENNSYLVANIA (CASE NO. 12-064)

Allegation

This Office of the Inspector General (OIG), U.S. Nuclear Regulatory Commission (NRC), investigation was based on an allegation from a concerned citizen that a March 2012 radioactive spill at Limerick Generating Station Plant was due to gross negligence and could have exposed the community to dangerous or long-term health problems. The alleged questioned what actions the NRC had taken in response to the alleged spill and asked that the spill be fully investigated, as this totaled the fourth spill in 4 years. The alleged also requested that Limerick's request to extend the operating license be denied.

OIG's investigation examined the NRC's response to the alleged radioactive spills.

Findings

OIG found that an alleged radioactive spill on March 19, 2012, at Limerick Generating Station was a spill of water bearing tritium resulting from an authorized and permitted radioactive effluent discharge.

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B/C

OIG determined NRC Region I handled this issue in accordance with NRC policy and that the region concluded, in a May 7, 2012 integrated inspection report, the radiological consequences of the inadvertent release were minor.

Basis for Findings

OIG determined the March 19, 2012, the spill at Limerick Generating Station occurred due to the overflow of water being blown down from a cooling tower backing up into and out through manhole 023 due to clogging of the normal discharge path. Limerick Generating Station utilizes the cooling tower blow down feature to help remove non-condensable materials such as solids during the evaporative cooling process. Blow down is a continuous process to maintain cooling tower chemistry using a flow rate of 3,000 – 4,000 gallons per minute (gpm). To support Exelon's (licensee for Limerick) offsite dose minimization program, the effluent from the liquid radioactive waste effluent discharge line is directed to this blow down line for dilution and release, which is permitted by the State of Pennsylvania. During dilution and release, the cooling tower blow down flow rate is increased to an administrative limit of 10,000 gpm to prevent unexpected releases from the cooling tower blow down emergency overflow vent (outfall/manhole 023.) The blow down line extends into the Schuylkill River and has a 141 foot length of perforated pipe at the end to act as a diffuser. The process for releasing radioactive effluents via the blow down pathway is controlled by Exelon's Limerick Station Offsite Dose Calculation Manual including the minimum flow rate for dilution. The blow down flow for this release was approximately 6,000 gpm.

OIG learned the March 19, 2012 spill was discovered by security personnel who saw excess water by manhole 023 and reported it to control room staff who reduced the excessive flow that caused the spill, stopping it. Exelon voluntarily reported the spill to State and other officials 18 hours after the event as a courtesy, and similarly reported the spill to the Limerick Resident Inspectors, 24-hours after the event, on March 20, 2012. However, 10CFR50.72(b)(2)(xi) requires that NRC be notified within 4 hours, when any event or situation related to the health and safety of the public or onsite personnel, or protection of the environment, for which a news release is planned or notification to other government agencies has been or will be made. Based on this requirement not being met, NRC issued Limerick a severity level IV, non-cited violation (NCV 05000352, 05000353/2012002-1.)

Spills similar to the one that occurred on March 19, 2012, had occurred three times in the past on March 20, 2008, April 25, 2009, and August 9, 2008. The discharge of blow down water from Limerick's cooling towers is sometimes used to dilute discharges of radioactive effluent by injecting the radioactive effluent into the blow down water. When this occurs, the amount of tritium in the blow down water is elevated. Two of the four cooling water blow downs that overflowed from manhole 023 included a radioactive effluent discharge; one that occurred on April 25, 2009, and one that occurred on March

19, 2012. After the spill occurred on April 25, 2009, Limerick staff sampled the adjacent test well and found tritium concentration in well number 5 to be elevated to a concentration of approximately 800-900 picocuries/liter according to the documentation provided by Limerick staff. The tritium concentration in the well gradually decreased to 159 picocuries/liter in October 2009.

Samples taken and analyzed for tritium subsequent to the overflow events on March 20, 2008, and August 9, 2009, indicated no increase in tritium concentration (minimum detectable levels.)

Exelon took several samples at multiple locations on March 19, 2012, following the spill. One sample was taken from a puddle in the area where the spill overflowed. The results of this sample indicated a tritium concentration was 113,000 picocuries per liter. This was the highest concentration of tritium found in any of the post-spill samples.

Limerick Generating Station's discharge limits contained within the Offsite Dose Calculation Manual provided by Exelon disclosed the tritium concentration limit for discharging to the environment is one million picocuries per liter, which is much greater than the 113,000 picocuries per liter, found in the puddle, indicating that the discharge was well within NRC limits for the discharge of tritium.

The NRC integrated inspection report dated May 7, 2012, states that samples were taken from "... various onsite ground water monitoring wells and drainage points between (b)(7)(C) Water sample results from the days after the release showed the (b)(7)(C) tritium levels at the lower limit of detection (amounts less than 2,000 pico Curies per liter)." The spilled blow down water flows into the (b)(7)(C) which flows into the (b)(7)(C). The NRC report also states that Exelon sampled water pooled near the spill location and found elevated levels of tritium. Further, the report states that Exelon sampled "tank water" (of the tank containing the radioactive effluent to be discharged) prior to discharge and that the water was within State and Federal permitted guidelines.

OIG learned that after the March 19, 2012, overflow incident, a Region I spokesman stated that a puddle of water (b)(7)(C) was sampled and the results showed a tritium concentration of about 113,000 picocuries/liter. The May 7, 2012, Limerick Generating Station - NRC Integrated Inspection Report 05000352/2012002 and 05000353/2012002 and NRC Office of Investigations Report 1-2011-033 stated that Exelon did a calculation based on the data they had that bounded the release and indicated to them that dose projections due to the release were well below regulatory limits. Finally, the NRC May 7, 2012, report states that the failure of Exelon to correct the problem with the discharge overflow was a "performance deficiency."

OIG did not find deficiencies in the way NRC handled this issue or the conclusion reached in the May 7, 2012, integrated report that the radiological consequences of the inadvertent release were minor.

NRC concluded that Exelon had established primary controls over the tank releases that would limit doses to a member of the public. The controls over tank discharges included: (1) use of station radioactive waste processing equipment to limit radioactivity concentrations within the tank; (2) conduct of dose projections to ensure doses were well below 10 CFR 50, Appendix I, ALARA¹ requirements; (3) placement of administrative limits on tank activity; and (4) use of in-line radioactivity monitoring instrumentation for the liquid radwaste discharge line to stop potential unplanned releases above elevated levels. Onsite NRC inspectors concluded there was reasonable assurance that releases did not and were not likely to have resulted in a dose to a member of the public exceeding a small fraction of 10 CFR 50, Appendix I, ALARA limits.

Because Exelon operators at Limerick Generating Station were conducting a permitted discharge when the overflow 023 incident occurred on March 19, 2012, during a cooling tower blow down procedure, the consequences of this incident did not exceed and were not likely to have exceeded a fraction of regulatory limits, and Exelon has established controls to prevent a future occurrence, it is recommended that this case be closed to the files of this office.

¹ (ALARA) - As low as is reasonably achievable

OIG did not find deficiencies in the way NRC handled this issue or the conclusion reached in the May 7, 2012, integrated report that the radiological consequences of the inadvertent release were minor.

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Because Exelon operators at Limerick Generating Station were conducting a permitted discharge when the overflow 023 incident occurred on March 19, 2012, during a cooling tower blow down procedure; the consequences of this incident did not exceed and were not likely to have exceeded a fraction of regulatory limits, and Exelon has established controls to prevent a future occurrence, it is recommended that this case be closed to the files of this office.

Distribution:

Location of file: (b)(7)(E)

MAGIUM Case File 12-64 Historical File

OIG	(b)(7)(C)	OIG	OIG	OIG
1/16/13	1/16/13	1/16/13	1/16/13	1/16/13
		McMullen	D Lee	H Bell

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² (ALARA) - As low as is reasonably achievable



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20545-0001

OFFICE OF THE
INSPECTOR GENERAL

MEMORANDUM TO R. William Borchardt
Executive Director for Operations

FROM Joseph A. McMillan
Assistant Inspector General
for Investigations

SUBJECT REQUEST FOR ASSISTANCE FROM THE DIVISION OF
FACILITIES AND SECURITY OFFICE OF ADMINISTRATION
(OIG CASE NO. 12-87)

The Office of the Inspector General (OIG), U.S. Nuclear Regulatory Commission (NRC), recently completed its assistance to the NRC Office of Administration (ADM) in obtaining information concerning the arrest of an NRC senior resident inspector. This memorandum conveys relevant details from this support investigation. There is no need to respond to this office.

Allegation

On July 7, 2012, (b)(7)(C) Region II (b)(7)(C) was arrested at home in (b)(7)(C) for the crime of "taking inherent liberties with a child," a felony in the State of Virginia. On July 13, 2012, (b)(7)(C) attorney contacted (b)(7)(C) (b)(7)(C) July 14, 2012, and reported the arrest. On July 16, 2012, (b)(7)(C) provided an e-mail statement to (b)(7)(C) regarding the arrest. (b)(7)(C) requested OIG's assistance in communicating with the (b)(7)(C) regarding the arrest and to determine if there was any information on (b)(7)(C) Government-issued computer(s) related to the crimes. (b)(7)(C) was charged with

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relating to pornography for sale on the eBay Web site. No information was found related to (b)(7)(C) arrest. OIG initiated a separate investigation. OIG Case No. (b)(7)(C) regarding misuse of two Government computers.

OIG contacted (b)(7)(C) regarding the criminal case against (b)(7)(C) and learned that the criminal case against (b)(7)(C) had been dismissed with a "nolle prosequere" meaning the State can reinstate the charges at a later time. (b)(7)(C) explained that the decision was based primarily on the lack of cooperation the State was receiving from the victim's family.

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relating to pornography for sale on the eBay Web site. No information was found related to (b)(7)(C) arrest. OIG initiated a separate investigation. OIG Case No. (b)(7)(C) regarding misuse of two Government computers.

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Distribution

File Location: (b)(7)(C) 2013 memo to the EDO 12-67 memo to EDO 04-22-13 M/G

Case No. 12-67

Historical File

Magnum

OIG/AIGI	OIG/AIGI	Editor	OIG/AIGI	OIG/AIGI	OIG	OIG
(b)(7)(C)	M. Bartley	J. Gordon	R. Raspa	J. McMillan	D. Lee	H. Bell
5/15/13	5/15/13	5/15/13	5/15/13	5/15/13	5/15/13	5/15/13

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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

OFFICE OF THE
INSPECTOR GENERAL

December 30, 2013

MEMORANDUM TO: Concur: Case Closed
Joseph A. McMillan
Assistant Inspector General
for Investigations

THRU:

Team Leader, (b)(7)(C)

FROM:

Special Agent (b)(7)(C)

SUBJECT: POTENTIAL MISCONDUCT BY NRC MANAGER (OIG CASE
NO. 12-70)

Allegation

This Office of the Inspector General (OIG), U.S. Nuclear Regulatory Commission (NRC), investigation was based on an allegation from (b)(7)(C) Office of Investigations (OI), NRC, that (b)(7)(C) Region IV, NRC, attempted to establish a communication or signal with OI that let them know when not to initiate a case or not continue investigative activities. OIG also learned that in 2010, (b)(7)(C) informed (b)(7)(C) wanted to establish a signal with (b)(7)(C) that would get the Region IV OI agent in charge not to open a case.

Finding

OIG found that although (b)(7)(C) made a comment that (b)(7)(C) wanted to establish a communication with OI regarding when not to open an investigation, (b)(7)(C) never established such a communication. In addition, OIG did not identify any evidence suggesting that (b)(7)(C) attempted to influence any specific decisions by OI to open or not open an investigation.

Basis for Findings

OIG learned that in June 2012 (b)(7)(C) met with (b)(7)(C) OI, NRC, as part of the OI Field Office Review Visit (FORV). During

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(b)(7)(C) this meeting, (b)(7)(C) told (b)(7)(C) (b)(7)(C) wished they could establish a communication between them that would let OI know when it was okay not to open an investigation. (b)(7)(C) said that (b)(7)(C) believed (b)(7)(C) was well aware of OI's roles and responsibilities and may have been suggesting to try to work around the rules set forth giving OI the independence to open low priority investigations when needed. (b)(7)(C) informed (b)(7)(C) that the Region IV (b)(7)(C) would not be establishing any communication with (b)(7)(C) suggested this may be an effort by (b)(7)(C) to reduce the extra work low priority investigations can cause (b)(7)(C) staff.

(b)(7)(C) told OIG that although there was a shared opinion with all RAs that they prefer OI not open certain low level investigations, (b)(7)(C) who had attempted to interfere with the process, (b)(7)(C) said that in 2010 (b)(7)(C) made a similar comment directly to (b)(7)(C) stating that (b)(7)(C) wanted to establish a signal with (b)(7)(C) OI, that would let (b)(7)(C) know not to open a case. In April of 2010, (b)(7)(C) had met with the RAs of all four regions and (b)(7)(C) reminded them that OI had discretion on when to open investigations on low level licensee employees and would continue to use it. In September 2010, (b)(7)(C) met with (b)(7)(C) raised the question of establishing a signal between (b)(7)(C) and OI regarding when not to open an investigation. (b)(7)(C) old (b)(7)(C) refused to establish such a signal. OIG learned NRC recognizes a low level employee as any licensee employee who is not a licensee official. In most cases, this is a person who does not have significant safety impact, sphere of influence, or expertise. The facts of any specific case can determine if a person is considered a low level employee or not and, if deemed necessary, NRC can take enforcement action on a low level employee. Typically NRC would allow the licensee to be responsible and take their own reasonable action with an allegation involving a low level employee.

(b)(7)(C) and (b)(7)(C) who supervised (b)(7)(C) and (b)(7)(C) received a memorandum from (b)(7)(C) in 2011 titled "OI Roles and Responsibilities." OIG reviewed (b)(7)(C) memorandum as well as the November 2011 response from the (b)(7)(C) memorandum contained a historical overview of why OI was created. The memorandum reinforced their independence and referenced 10 CFR 1.36, which is the regulation giving OI its authority to conduct investigations of licensees. In the memorandum, (b)(7)(C) stated that during (b)(7)(C) tenure (b)(7)(C) has been forced to "repeatedly defend and justify OI decision making to NRC senior leadership officials regarding the initiation and conduct of wrongdoing investigations, including but not limited to investigations involving 'low level' licensee employees." The (b)(7)(C) responded with a memorandum to (b)(7)(C) and the RAs. It stated that they supported (b)(7)(C) position and that in a November 2011 meeting, all RAs were reminded and recognized that OI had the necessary discretion to determine whether or not to initiate an investigation.

(b)(7)(C) from NRC, told OIG that (b)(7)(C) comments to (b)(7)(C) were aimed at process improvement to better use agency resources. (b)(7)(C) said that the process could be improved with better communication between the Allegation Review Board and OI on what the agency feels the priorities are. (b)(7)(C) stated that there have been cases in the past where (b)(7)(C) felt OI should not have spent time investigating because the outcome of the investigation was predictable. (b)(7)(C) also said that (b)(7)(C) recognized OI could, and should, do whatever it needed to do because that was its authority. (b)(7)(C) said that (b)(7)(C) had accused (b)(7)(C) of trying to get OI to not open certain cases, and (b)(7)(C) told (b)(7)(C) directly, "That is not happening." (b)(7)(C) said that (b)(7)(C) misunderstood any feedback (b)(7)(C) had ever provided regarding "process improvement," but admitted (b)(7)(C) used poor choice of words when (b)(7)(C) stated there should be a "signal" regarding case openings. (b)(7)(C) stated some cases will have the same enforcement action if OI investigates or not, and if OI were to close with no investigation, it would help them (OI). (b)(7)(C) said that there was not one case where (b)(7)(C) tried to influence opening or closing or any decision OI has made.

OIG interviewed the (b)(7)(C) along with all (b)(7)(C) including the current (b)(7)(C) said that they had a very professional working relationship with their respective RA and that there had never been a time when the RA tried to influence them to open or not open an investigation.

(b)(7)(C) confirmed that historically there had been some conflict between (b)(7)(C) and the RAs regarding the handling of investigations on low level licensee employees; however, the primary conflict was between (b)(7)(C) and (b)(7)(C). Both (b)(7)(C) said they support (b)(7)(C) and OI in their roles and responsibilities and believe that it has been made clear that the RAs will honor these roles and responsibilities.

Because OIG did not develop any information to indicate that (b)(7)(C) influenced or attempted to influence any OI decision to open or not open a specific investigation, it is recommended this case be closed to the files of this office.

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Because OIG did not develop any information to indicate that (b)(7)(C) influenced or attempted to influence any OI decision to open or not open a specific investigation, it is recommended this case be closed to the files of this office.

File Location:

Distribution: (b)(7)(E)					
Case File 12-70	Historical File		Magnum		
OIG	OIG	OIG	OIG	OIG	OIG
	(b)(7)(C)		A. McMillan	D. Lee	H. Bell
10/12/13	12/30/13	1/1	12/30/13	12/30/13	12/30/13

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Referral, Actions & Follow-Up

Prepared by: SA/Asst. Counsel 09/17/2012

Case Title: Misuse of Government Computer by Region II Employee Case Number: C 12 074

Program Office: (b)(7)(C) Classification: (b)(7)(E)

Origination Doclink: 1
Subject's Last Name / Company Name: (b)(7)(C)
Subject's First Name: (b)(7)(C)

Agency Referral & Follow-up

PFCRA Referral: Yes ☒ No
Referred to Agency: ☒ Yes No Date: 02/15/2013

Action: Office of the Executive Director for Operations
Contact Person: William Borchardt
Follow-Up Assigned To: (b)(7)(C)

Expected Completion Date: (b)(7)(E)

Revised Completion Date:

Actual Completion Date: (b)(7)(E)

Completion Status: Open ☒ Closed

Comments: On June 10, 2013, a decision was issued mitigating the penalty to a 21 day suspension. This proposed action was coordinated with, and under the advice of the Office of the Chief Human Capital Officer and the Office of the General Counsel.

Administrative Action

PFCRA: Accepted Declined Date:
Agency Action: Suspension Date: 06/12/2013
Comments: A 30 day suspension was initially issued but on June 10, 2013 a decision was issued, mitigating the penalty to a 21 day suspension. This proposed action was coordinated with and under the advice of the Office of the Chief Human Capital Officer and the Office of the General Counsel.

Prosecution Referral

Federal Referral Date: 09/17/2012

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Prosecution Status: Pending Date: 09/17/2012
Accepted
☒ Declined

AUSA Office:
State/Local Referral
Date:

Prosecution Status: Pending Date:
Accepted
Declined

Office:

Comments:

Blanket Declaration for Out of State of Blanket Declaration Email of

LE/Judicial Action

Actions: Arrest Date:
Arraignment Date:
Charges Dropped Date:
Indictment Date:
Information Date:
Level: Jurisdiction:
Statute(s)/
Violation(s):
Court Action: Date:
Sentence: Details:
Comments:

Recoveries

Amount Recovered: Type:
Recovery Date:
Comments:

Potential Losses

Amount:
Description:
Comment:

Status: Open

Allow Other Policies:

Edit Authorization:
(Management), (im-Analyst)

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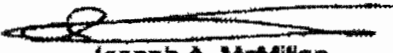
UNITED STATES

NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

February 15, 2013

MEMORANDUM TO: R. William Borchardt
Executive Director for Operations

FROM: 
Joseph A. McMillan
Assistant Inspector General
for Investigations

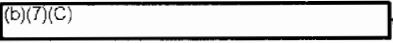
SUBJECT: MISUSE OF GOVERNMENT COMPUTER BY A REGION II
EMPLOYEE (CASE NO. 12-74)


Attached is an Office of the Inspector General (OIG), U.S. Nuclear Regulatory Commission (NRC), Report of Investigation pertaining to misuse of Government computers by a Region II employee.

This report is furnished for whatever action you deem appropriate. Please notify this office within 120 days of what action you take based on the results of this investigation. Contact this office if further assistance is required.

The distribution of this report should be limited to those NRC managers required for evaluation of this matter. Neither the Report of Investigation nor its exhibits may be placed in ADAMS without the written permission of the OIG.

Attachment: Report of Investigation w/ exhibits

cc: (b)(7)(C)  w/o exhibits

CONTACT: (b)(7)(C)  OIG

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**Misuse of Government Computer by
a Region II Employee**

Case No. 12-74

February 15, 2015

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STATUTES, REGULATIONS, AND POLICY

5 CFR, Sec. 2635.704 - Use of Government Property

(a) An employee has a duty to protect and conserve Government property and shall not use such property, or allow its use, for other than authorized purposes.

(b) Government property includes any form of real or personal property in which the Government has an ownership, leasehold, or other property interest as well as any right or other intangible interest that is purchased with Government funds, including the services of contractor personnel. The term includes office supplies, telephones and other telecommunications equipment and services, the Government mails, automated data processing capabilities, printing and reproduction facilities, Government records, and Government vehicles.

(c) Authorized purposes are those purposes for which Government property is made available to members of the public or those purposes authorized in accordance with law or regulation.

NRC Agency-wide Rules of Behavior for Authorized Computer Use, May 19, 2009¹

2. Scope

The rules of behavior apply to all NRC employees and support contractors at their primary workplace and at any alternative workplaces (e.g., teleworking from home or from a satellite site) and to users on official travel. This document refers to these persons as non-public users.

3. Rules of Behavior for Non-public Users

The following rules apply to all NRC non-public users of NRC computing resources. These rules are based on and are consistent with policy and procedures in NRC MD 2.7, "Personal Use of Information Technology," and MD 12.5, "NRC Automated Information on Security Program."

3.8 Internet and E-mail Use

Users of the NRC Internet and e-mail services and resources shall:

¹ The NRC Agency-wide Rules of Behavior for Authorized Computer Use has since been updated to version 1.1, dated October 2, 2012.

- Not use Internet and electronic mail for fraudulent or harassing messages or for sexual remarks or the downloading of illegal or inappropriate materials (e.g., pornography). Additionally, users shall not send or retain any such material on any Government system. Inappropriate usage includes providing illegal copies of software to others through file-sharing services, and making threats to another person via e-mail.

NRC Management Directive 12.5, "NRC Automated Information Security Program," Part 2.6.6, "Use of the Internet"

NRC staff may use the NRC LAN/WAN to access the Internet. This access may be for official business or personal business in accordance with the NRC minimum personal use policy in MD 2.7. When using the Internet, users shall practice "safe surfing." Specifically, users shall—

- Avoid accessing pornographic or other sites that provide content that is incompatible with the NRC work environment. NRC uses software to block access to sites that provide content that is incompatible with the NRC work environment or that might present a security risk. These sites offer content relating to criminal skills, gambling, hate speech, and pornography or other sexually oriented material. These sites are blocked on the basis of a characterization by the commercial provider of the blocking software, not an analysis of the site content. Thus, other sites may provide similar content but are not blocked. It is the user's responsibility to avoid such sites and to immediately terminate access to such sites that are reached unintentionally.

NRC Management Directive 2.7, "Personal Use of Information Technology," Handbook Section (D), "Inappropriate Personal Uses"

Employees are expected to conduct themselves professionally in the workplace and to refrain from using agency information technology for activities that are inappropriate. Misuse or inappropriate personal use of agency information technology includes –

- Use of information technology, including telephone or facsimile service, to create, download, view, store, copy, transmit, or receive sexually explicit or sexually oriented materials or materials related to illegal gambling, illegal weapons, terrorist activities, and any other illegal activities or activities otherwise prohibited.

SUBJECT

(b)(7)(C)

Region II
U.S. Nuclear Regulatory Commission (NRC)

ALLEGATION

The Office of the Inspector General (OIG), NRC, initiated this investigation based upon information received from the NRC Personnel Security Branch regarding the July 7, 2012, arrest of (b)(7)(C) for a felony violation of "Taking Indecent Liberties with a Child."² OIG reviewed NRC computers assigned to (b)(7)(C) to determine if there was any workplace connection for the crimes he was accused of in (b)(7)(C). During a review of the Government-issued computers assigned to (b)(7)(C), OIG identified sexually explicit thumbnail images saved on the computers.

FINDINGS

OIG found (b)(7)(C) NRC log-on ID was used on two NRC computers located at different nuclear power plant sites to view explicit or sexually oriented images on the eBay Web site. OIG also identified sexually explicit thumbnail images in folders in (b)(7)(C) user profile on both computers and pictures in the unallocated space on one computer's hard drive. OIG also found (b)(7)(C) had saved sexually explicit images on (b)(7)(C) NRC network drive. (b)(7)(C) admitted (b)(7)(C) has been viewing pornography while at work for a long time. (b)(7)(C) also admitted going through the eBay Web site in an attempt to avoid detection by the NRC network content filters.

² On February 13, 2013, OIG learned from the (b)(7)(C) that the case was nolle prossed, but could be brought back.

BASIS FOR FINDINGS

Examination of NRC Computers

On July 24, 2012, the OIG Cyber Crimes Unit (CCU) obtained a forensic image of the NRC computer located in the senior resident inspector's office at Surry Power Station bearing NRC computer asset tag No. (b)(7)(C). This computer was assigned to and used by (b)(7)(C) while at the (b)(7)(C). An analysis of the media identified a thumbnail of a pornographic image saved in a folder in (b)(7)(C) user profile. The analysis also identified 42 pornographic images in the unallocated space of the hard drive and numerous entries in the Internet History files relating to pornography for sale on the eBay Web site.

A search for the origin of the pornographic image saved in a folder in (b)(7)(C) user profile identified that it came from the Auctiva.com Web site. This Web site provides image file hosting for sellers on the eBay Web site. This thumbnail image was identified at the file path (b)(7)(C). This thumbnail image was created in the thumbs.db file when (b)(7)(C) downloaded, saved, and viewed the image in thumbnail format within the My Pictures folder.

A search of the hard drive identified 42 images of a pornographic nature in the unallocated space of the hard drive. The unallocated space of the hard drive is all the space on the hard drive that is not used by the operating system. When files are deleted or purged by the operating system they become unallocated, meaning the space the files occupied on the hard drive can be reused by the operating system. The files will remain in the unallocated space until such time as they are overwritten.

An analysis of the files relating to Internet History identified numerous entries showing (b)(7)(C) viewed pornography that was offered for sale on the eBay Web site for the time period of August 9, 2011, to July 6, 2012. These entries contained explicit language describing the pornographic material that was advertised for sale.

On August 2, 2012, OIG CCU obtained a forensic image of an NRC computer located in the (b)(7)(C) bearing NRC computer asset tag No. (b)(7)(C). An analysis of the media identified 21 pornographic thumbnail images in (b)(7)(C) user profile and a folder labeled (b)(7)(C) identified on the root directory. The analysis also identified numerous entries in the Internet History files relating to pornography for sale on the eBay Web site.

³ During the investigation, OIG learned (b)(7)(C) had transferred to (b)(7)(C) in July 2011. Based on the type of activity identified at Surry, OIG also examined the NRC computer used by (b)(7)(C) prior assignment (St. Lucie Plant) to determine if any pornographic material was accessed, viewed, or stored by (b)(7)(C) while assigned there.

The 21 pornographic thumbnail images were in two Thumbs.db files. The Thumbs.db files were identified at the file path (b)(7)(C)

(b)(7)(C)
(b)(7)(C) These thumbnail images were created when (b)(7)(C) downloaded, saved, and viewed the images in thumbnail format within the folders.

The OIG CCU recovered and analyzed the Internet History records for (b)(7)(C) and identified numerous entries showing (b)(7)(C) viewed pornography for sale on the eBay Web site for the time period of November 2010 through June 2011. These entries contained explicit language describing the pornographic material that was advertised for sale.

(For further details, see Exhibit 1.)

Review of (b)(7)(C) NRC Network Drive

On August 1, 2012, OIG requested from the Office of Information Services the contents of the network drive assigned to (b)(7)(C). A review of the files stored on the NRC network drive assigned for use to (b)(7)(C) identified 7 sexually explicit images, and 11 other images that appeared inappropriate for the Government workplace but were not sexually explicit in nature. Information identified in five of the pictures indicates they were taken with a Blackberry cell phone with the latest pictures taken on June 22, 2012.

(For further details, see Exhibit 2.)

Interview of (b)(7)(C) Region II

(b)(7)(C) told OIG that in approximately 2001 or 2002, while (b)(7)(C) was on detail to the Turkey Point Nuclear Power Plant, (b)(7)(C) walked into the (b)(7)(C) and observed (b)(7)(C) viewing pornography on the secretary's computer. (b)(7)(C) described the image as a nude woman with large breasts. When (b)(7)(C) observed that (b)(7)(C) had come in, (b)(7)(C) quickly cleared the screen. (b)(7)(C) stated the secretary's computer faces the entrance door and anyone coming into the office would have been able to see what (b)(7)(C) was looking at. (b)(7)(C) did not report the incident to anyone as work at the (b)(7)(C) Nuclear Power Plant was quite hectic and (b)(7)(C) believed it might have been a momentary lapse in judgment on the part of (b)(7)(C).

(For further details, see Exhibit 3.)

Interview of (b)(7)(C)

(b)(7)(C) informed OIG (b)(7)(C) has completed the annual Computer Security Awareness training and is aware of what activities are permitted and prohibited on NRC computers. (b)(7)(C) told OIG (b)(7)(C) has viewed adult pornography on the NRC computer while at work and has done

(b)(7)(C) this for "a long time." (b)(7)(C) stated (b)(7)(C) would go to the eBay Web site to look for
(b)(7)(C) pornography because (b)(7)(C) knew that the eBay Web site was not blocked by the NRC filters and
(b)(7)(C) that (b)(7)(C) would be able to view pornography using this site. (b)(7)(C) stated (b)(7)(C) would also
occasionally get an e-mail that might have pornography in it. (b)(7)(C) admitted to OIG (b)(7)(C)
(b)(7)(C) saved a dozen or more pornographic images onto (b)(7)(C) NRC work computer.

(b)(7)(C)

According to (b)(7)(C) looking at pornography while at work did not distract (b)(7)(C) from (b)(7)(C)
duties. (b)(7)(C) denied ever using licensee computers to look for pornography.

(b)(7)(C)

(For further details, see Exhibit 4.)

Department of Justice Coordination

(b)(7)(C) U.S. Attorney's Office, Southern District of
Maryland, has provided a blanket declination pertaining to misuse of a Government computer
by Federal employees to view adult pornography, in lieu of administrative action.

EXHIBITS

1. Memorandum to File, Subject: Computer Forensic Report, NRC Dell Optiplex 755, NRC Asset Tags No. (b)(7)(C) dated September 17, 2012.
2. Memorandum to File, Subject: Review of Network (b)(7)(C) Region II, dated November 29, 2012.
3. Memorandum of Interview (b)(7)(C) dated August 8, 2012.
4. Transcript of Interview of (b)(7)(C) dated October 12, 2012.

MEMORANDUM TO: R. William Borchardt
Executive Director for Operations

FROM: Joseph A. McMillan
Assistant Inspector General
for Investigations

MEMORANDUM TO: R. William Borchardt
Executive Director for Operations

FROM: Joseph A. McMillan
Assistant Inspector General
for Investigations

SUBJECT: MISUSE OF GOVERNMENT COMPUTER BY A REGION II
EMPLOYEE (CASE NO. 12-74)

Attached is an Office of the Inspector General (OIG), U.S. Nuclear Regulatory Commission (NRC), Report of Investigation pertaining to misuse of Government computers by a Region II employee.

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Attachment: Report of Investigation w/ exhibits

cc: (b)(7)(C) w/o exhibits

CONTACT: (b)(7)(C) OIG

Distribution:

File Location: (b)(7)(E)

Case File 12-74 Historical File MAGNUM

OIG/AIGI	OIG/AIGI	OIG/AIGI	OIG/AIGI	OIG	OIG
(b)(7)(C)			J. McMillan	D. Lee	H. Bell
2/14/13	2/16/13	2/15/13	2/17/13	2/19/13	2/15/13

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INSPECTOR GENERAL

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UNITED STATES

NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

January 7, 2013

MEMORANDUM TO FILE:

Concur: Case Closed
Joseph A. McMillan
Assistant Inspector General
for Investigations

THRU:

(b)(7)(C)

Team Leader (b)(7)(C)

FROM:

(b)(7)(C)

Senior Special Agent (b)(7)(C)

SUBJECT:

ABUSE OF POWER BY AN OFFICE OF NEW
REACTORS DIVISION DIRECTOR (OIG CASE NO.
12-78)

Allegation

The Office of the Inspector General (OIG), U.S. Nuclear Regulatory Commission (NRC), received an allegation from (b)(7)(C)

(b)(7)(C) Division of Engineering (DE), Office of Nuclear Reactor Regulation (NRR), that

(b)(7)(C)

(b)(7)(C) Office of New Reactors (NRO), abused authority. (b)(7)(C) alleged that

(b)(7)(C) delayed the issuance of NRC Bulletin (b)(7)(C) to reactor licensees on design vulnerabilities in electric power system designs by refusing to concur on the bulletin.

Findings

OIG found that (b)(7)(C) and (b)(7)(C) NRR, were the (b)(7)(C)

(b)(7)(C) did not immediately concur and co-sign the

bulletin because (b)(7)(C) had questions about the accuracy of information in the bulletin

concerning the four new reactor licensees using the AP1000 reactor design and sought to have an Office of the General Counsel (OGC) attorney for new reactors address (b)(7)(C)

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10/8

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(b)(7)(C) concern before [redacted] would co-sign the document. OIG found that after (b)(7)(C) learned
(b)(7)(C) that OGC understood and addressed [redacted] specific concern and had no legal objection to
(b)(7)(C) the document, (b)(7)(C) had (b)(7)(C) [redacted] concur and
(b)(7)(C) sign the bulletin on [redacted] behalf.

Basis for Findings

(b)(7)(C) [redacted] an (b)(7)(C) [redacted]
(b)(7)(C) [redacted] told OIG that it had been [redacted] branch's intention to (b)(7)(C)
release the document by May 25, 2012. However, (b)(7)(C) [redacted] said the date was
"pushed back" due to (b)(7)(C) [redacted] refusal to concur on the document based on (b)(7)(C)
concerns about the bulletin that (b)(7)(C) [redacted] believed had little or no value. (b)(7)(C)
(b)(7)(C) [redacted] said [redacted] discussed (b)(7)(C) [redacted] non-concurrence with (b)(7)(C) [redacted]
(b)(7)(C) [redacted] said (b)(7)(C) [redacted] told [redacted] that (b)(7)(C) [redacted] told (b)(7)(C) [redacted] that (b)(7)(C) [redacted] had questions about
(b)(7)(C) the document that needed to be answered before [redacted] would concur.

OIG's review of e-mail records from (b)(7)(C) [redacted] disclosed that on May 24, 2012, (b)(7)(C) [redacted]
(b)(7)(C) [redacted] NRR, sent an e-mail to
NRR staff and (b)(7)(C) [redacted] stating that NRO will be "co-signing" the bulletin and concurring
on the memorandum informing the Commission of NRR's intent to issue the bulletin.
On May 25, 2012, (b)(7)(C) [redacted] NRO, e-mailed (b)(7)(C) [redacted] stating that
NRO requested NRR's DE to explain why the bulletin should apply to AP1000 combined
operating license (COL) holders. Later that day, (b)(7)(C) [redacted] sent another e-mail to (b)(7)(C) [redacted]
(b)(7)(C) stating that [redacted] received (b)(7)(C) [redacted] input regarding [redacted] question and would review the
bulletin with (b)(7)(C) [redacted] and "hopefully" get NRO's concurrence. (b)(7)(C)

On June 25, 2012, (b)(7)(C) [redacted] e-mailed (b)(7)(C) [redacted] requesting that [redacted] and OGC explain
how the bulletin could request a formal response from reactor licensees on the issue,
(b)(7)(C) and why it pertained to AP1000 reactor licensees. (b)(7)(C) [redacted] apologized for the delay,
and stated that [redacted] just wants to make sure we [NRC] have a legal and regulatory
basis for our [NRC's] request." Among those copied on the e-mail were (b)(7)(C) [redacted]
(b)(7)(C) [redacted] and an attorney in OGC.

On July 20, 2012, (b)(7)(C) [redacted] NRR, sent a memorandum to the NRC
Commissioners to inform them of the staff's intention to issue Bulletin (b)(7)(C) [redacted] by July
27, 2012, requesting information from all holders of operating licenses and COLs for
nuclear power reactors information about their facilities' electric power system design,
considering recent operating experience involving the loss of one of the three phases of
the offsite power circuit at Byron Station, to determine if further regulatory action is
warranted. In the memorandum, it stated that the Committee to Review Generic
Requirements (CRGR) was briefed by NRC staff on May 2, 2012, on the proposed
bulletin and that NRC staff addressed the CRGR's comments.

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Bulletin (b)(7)(C) was issued (b)(7)(C) had projected in (b)(7)(C) memorandum to the Commissioners. OIG reviewed the concurrence chain for Bulletin (b)(7)(C) and noted that (b)(7)(C) concurred on the document the day after OGC gave its second indication of "NLO" (no legal objection) on the concurrence chain. In the second indication of NLO, it was noted in the concurrence block that it was for new reactors only.

Concurrence Chain for Bulletin 2012-01

3/12/12	(b)(7)(C)	Tech
3/15/12		NRR
3/15/12		NRR
3/22/12		NRR
4/2/12		OGC ¹
4/4/12		NRR
4/4/12		NRR
4/9/12		NRR
4/20/12		Office of Information Services
4/24/12		NRR
5/23/12		NRR
7/18/12		OGC (for new reactors only)
7/19/12		NRO
7/25/12		NRR
7/27/12		NRR

(b)(7)(C) (b)(7)(C) told OIG that (b)(7)(C) believed in May 2012, NRR sent NRO a draft of Bulletin (b)(7)(C) for (b)(7)(C) co-signature and concurrence. (b)(7)(C) believed the bulletin was initially reviewed by (b)(7)(C) staff; and when (b)(7)(C) received it to review in June 2012, (b)(7)(C) had a concern regarding the accuracy of the information as it applies to the four new reactor licenses using AP1000 design. (b)(7)(C) said the bulletin drafted by NRR did not recognize that AP1000 is a passive design without AC power. (b)(7)(C) said (b)(7)(C) main concern was that the agency was factually correct on its design knowledge of AP1000s. (b)(7)(C) stated that although an OGC attorney knowledgeable of operating reactors had already concurred on the bulletin, (b)(7)(C) wanted an OGC attorney knowledgeable of new reactors to review the bulletin and also concur. (b)(7)(C) stated that (b)(7)(C) worked with the OGC attorney for new reactors and NRR management to re-word the language in the bulletin for new reactors, and once the OGC attorney for new reactors had no legal objection to the document, (b)(7)(C) had (b)(7)(C) sign on (b)(7)(C) behalf. (b)(7)(C) also stated that NRR and NRO did a joint lessons learn review of the incident which concluded that

¹ OGC provided an "NLO," for no legal objection, on the document

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when there is a document to be co-signed by the two offices, if one office is drafting the document, the other office should be brought in early into the review process while it is being drafted instead of waiting until after it is drafted for signature.

Because OIG did not find any evidence to suggest that (b)(7)(C) delayed concurring on Bulletin (b)(7)(C) for other than reasonable, professional questioning about the Bulletin's content, it is recommended this case be closed to the files of this office.

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Distribution

File Location

(b)(7)(E)

Case No 12-76

Historical File

Magnum

OIG/AIGI	OIG/AIGI	O	OIG/AIGI	OIG	OIG
	(b)(7)(G)		J. McMillan	D. Lee	H. Bell
1/7/13	1/7/13	1/7/13	1/8/13	4/8/17	1/7/13

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OFFICE OF THE
INSPECTOR GENERAL

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20585-0001

January 14, 2013

MEMORANDUM TO:

(b)(7)(C)

Office of New Reactors

FROM:

Hubert T. Bell
Hubert T. Bell
Inspector General

SUBJECT:

NOTICE OF CASE CLOSING (OIG CASE NO. 12-076)

The Office of the Inspector General has concluded an investigation into an allegation that you abused your authority as a (b)(7)(C) by delaying and refusing to concur on the issuance of (b)(7)(C)

(b)(7)(C)

This memorandum is to inform you that our investigation of the misconduct described above is complete. Our investigation did not corroborate the alleged misconduct and the case is closed.

The purpose of this memorandum is to provide closure for you. This memorandum does not grant immunity to you for any future investigation of this allegation.

Agency management has been advised of this case closing.

If you have any questions regarding this matter, please contact (b)(7)(C)

(b)(7)(C)

cc: R. William Borchardt, EDO

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MEMORANDUM TO:

(b)(7)(C)

Office of New Reactors

FROM:

Hubert T. Bell
Inspector General

SUBJECT:

NOTICE OF CASE CLOSING (OIG CASE NO 12-076)

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(b)(7)(C)

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If you have any questions regarding this matter, please contact (b)(7)(C)

(b)(7)(C)

cc: R. William Borchardt, EDO

Distribution

File Location (b)(7)(E)

OIG Case No 12-076

Historical File

OIG/AIGI	OIG/AIGI	OIG/AIGI	OIG/AIGI	OIG	OIG
(b)(7)(C)	(b)(7)(C)	(b)(7)(C)	(b)(7)(C)	D Lee	H Bell
1/7/13	1/7/13	1/8/13	1/8/13	1/8/13	1/7/13

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OFFICE OF THE
INSPECTOR GENERAL

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

December 30, 2013

MEMORANDUM TO:

Concur: Case Closed
Joseph A. McMillan
Assistant Inspector General
for Investigations

THRU:

Team Leader

FROM:

Special Agent,

SUBJECT:

MISUSE OF FREEDOM OF INFORMATION ACT
EXEMPTION BY NRC (OIG CASE NO. 12-79)

Allegation

The Office of the Inspector General (OIG), U.S. Nuclear Regulatory Commission (NRC), initiated this investigation based on an allegation received from NRC employee (b)(7)(C) (b)(7)(C) Division of Risk Analysis (DRA), Office of Nuclear Regulatory Research (RES), NRC, that NRC staff intentionally engaged in an effort to mischaracterize safety information as "sensitive security information" in an effort to conceal the information from the public and violated law in doing so. (b)(7)(C) alleged that this action occurred in anticipation of and as part of the NRC's response to a Freedom of Information Act (FOIA) request for information concerning NRC Generic Issue (GI) 204 (Flooding of U.S. Nuclear Power Plants Following Upstream Dam Failure). (b)(7)(C) alleged that information redacted was cited as security sensitive but maintained that the information redacted is of a general descriptive nature and is strictly relevant to the safety of U.S. nuclear power plants and should not have been redacted.

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B/9

Findings

OIG found that NRC staff redacted GI 204 report for security-based reasons after considering the views of various parties within NRC and external entities that contributed to the report. OIG found the FOIA exemptions used to justify the redactions were consistent with an Office of the General Counsel (OGC) interpretation of the use of FOIA exemptions to protect security related information and that OGC reviewed and concurred with the exemptions used in the GI 204 report.

Basis of Findings

OIG found that RES initiated GI 204 as a potential generic issue in August 2010. In July 2011, RES issued "Screening Analysis Report for the Proposed Generic Issue on Flooding of Nuclear Power Plant Sites Following Upstream Dam Failures." The report was (b)(7)(C) and with participation from and information gathered by NRC divisions and external public and Government sources. The report (unredacted) was first entered into non-public ADAMS on March 15, 2011, where it was reviewed and revised by NRC staff on an ongoing basis while still in draft form. The final report (unredacted) was made non-publicly available in ADAMS on August 31, 2011, and made publicly available (redacted) in ADAMS on December 16, 2011.

NRC received FOIA request 2012-0106 on January 4, 2012 (after the redacted version entered on December 16, 2011), from (b)(7)(C) a reporter from the Cascadia Times, Portland, Oregon, for access to and copies of all documents that pertained to GI 204. On January 23, 2012, (b)(7)(C) amended his request to include the unredacted version of GI 204. Because a FOIA request was submitted, RES was tasked with applying exemptions to the information that had already been redacted for the publicly available report. The exemptions and redacted information were then reviewed by the FOIA staff and OGC, which concurred with the redactions and justifications on May 24, 2012. The redacted and exempted report was posted to ADAMS in response to the FOIA request on July 6, 2012.

OIG reviewed the redacted report and found that the following exemptions were used: Exemption 4 – "trade secrets and commercial or financial information," and Exemption 7 – protects from disclosure "records or information compiled for law enforcement purposes."

(b)(7)(C) (b)(7)(C) told OIG (b)(7)(C) disagreed with NRC's decision to withhold the information from the public. (b)(7)(C) did not consider much of the information to be security related because it was of a general nature, to include aerial photographs, and (b)(7)(C) maintained that anyone could access Google and Bing Maps to find the information. (b)(7)(C) understood the argument that nuclear power plants are susceptible to dam failure and that such information could be used by a terrorist to cause a catastrophe; however, (b)(7)(C) did not believe that the information in the GI 204 report provided any advantage to someone who

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would use the information for harm. (b)(7)(C) told OIG (b)(7)(C) was aware there had been considerable deliberation concerning the decision to exempt certain information from the report and that no single individual made the exemption determination. (b)(7)(C) was unable to provide any specific information other than (b)(7)(C) opinion that the information was not security related and informed OIG that (b)(7)(C) was not involved in the redaction process.

(b)(7)(C) told OIG that (b)(7)(C) was responsible for deciding what information in the report would be determined sensitive and that he along with NRC staff reviewed guidance from SECY 04-191 (established the NRC Sensitive Unclassified Non-Safeguard Information (SUNSI) policy) in making this decision. (b)(7)(C) told OIG that the Office of Nuclear Reactor Regulation (NRR) would not offer its concurrence with the report until they were satisfied that security information was withheld. (b)(7)(C) told OIG that there were communications between NRC staff to include the Offices of NRR and Nuclear Security and Incident Response and outside entities to include the Department of Homeland Security, Duke Energy, Federal Energy Regulatory Commission, and the Army Corps of Engineers, which contributed information to the report, and these groups provided criteria to (b)(7)(C) as to what information they viewed as security sensitive and warranting redaction. According to (b)(7)(C) GI 204 was the first report RES produced that contained sensitive or Official Use Only (OUO) information. (b)(7)(C) did not consider the individual pieces of the report to be security sensitive, but said the mosaic painted by bringing the information together in one report made it sensitive. (b)(7)(C) told OIG that there were different opinions from NRC staff on the amount of information that needed to be withheld, but ultimately it was (b)(7)(C) decision to make the redactions. (b)(7)(C) said (b)(7)(C) was fully aware of the rationale used to justify the redactions but did not agree. (b)(7)(C) told OIG that (b)(7)(C) was not aware that NRC had received an actual FOIA request prior to January 2012. (b)(7)(C) did tell OIG that based on the amount of attention and deliberation between NRC staff regarding GI 204, (b)(7)(C) believed at some point there could be a FOIA request. (b)(7)(C) told OIG that (b)(7)(C) was not negatively influenced by the thought that there might be a FOIA request, but that the possibility of a FOIA request made (b)(7)(C) more aware and thorough when making redactions by considering how the redactions aligned with the FOIA exemptions.

(b)(7)(C) Division of Risk Analysis, RES, told OIG that the Generic Issues Program is intended to put out into the public domain questions that need further analysis and further action by the NRC. Further, that this report was unique that it dealt with as much sensitive information or OUO or security related information from internal and external sources and compiled it in a single place; that determining the security of information is not clear in all cases and that pieces of information in isolation may not be sensitive, but bringing them together can create a set of information that becomes sensitive. (b)(7)(C) told OIG that (b)(7)(C) were aware of the redactions in the final release of the report and that (b)(7)(C) had no issues with the amount of information redacted as part of a collaboration process that the NRC staff followed. (b)(7)(C) told OIG that there was no intentional effort by anyone at the NRC to withhold information from the public which had been identified as security information.

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(b)(7)(C) RES, who (b)(7)(C) told OIG that 90 percent of the information in the report was derived from internal NRC documents from public and non-public ADAMS. (b)(7)(C) stated that between March 2011 and July 2011 the report's main work was completed but that between July 2011 and February 2012 discussions focused on numerous NRC staff and divisions and opinions on what material should be non-public and public. (b)(7)(C) told OIG that it was (b)(7)(C) understanding that as of July 2011 the full report was approved for public release by all parties except for one paragraph that was to be redacted, but at the 11th hour a majority of the report had been redacted. (b)(7)(C) told OIG that (b)(7)(C) was not opposed to redactions in the report but did not understand the justification and wanted only to determine the right course of action.

In reviewing OGC's conclusion that the FOIA exemptions used by RES to justify the GI 204 redactions were consistent with an OGC interpretation of the use of FOIA exemptions, OIG reviewed an OGC Internal OIG Attorney Work Product document dated March 2011 from NRC's General Counsel (b)(7)(C).

(b)(7)(C) This document provided the history of the ruling and outlined the high court's decision that Federal agencies may not rely on the "High 2" exemption to withhold documents from the public for security purposes. The internal document reviewed the use of exemptions for Security Related Information (SRI) and outlined the use of Exemptions 4 and 7 for NRC specific information derived both internally and externally. The document also elaborated in detail Supreme Court Justice ALITO's concurring opinion which advocates that Federal agencies use Exemption 7 to protect agency information previously withheld under Exemption 2.

(b)(7)(C) told OIG that prior to the January 23, 2012 FOIA request for the unredacted report, the GI 204 report had already been redacted and made publicly available in ADAMS in 2011. Since there was no FOIA request prior to the placement of the redacted report in ADAMS, the FOIA office was not involved with the initial redactions which were made by RES and entered into ADAMS on December 16, 2011. (b)(7)(C) told OIG that in responding to the 2012 FOIA request, the FOIA office would not have changed the information already redacted in 2011. (b)(7)(C) told OIG that (b)(7)(C) was concerned that some of the information was not consistently protected throughout the report; however, the FOIA office would not change what was previously redacted.

Because OIG did not identify any misuse of FOIA processes to withhold information identified by staff as security sensitive, it is recommended that this investigation be closed to the files of this office.

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Because OIG did not identify any misuse of FOIA processes to withhold information identified by staff as security sensitive, it is recommended that this investigation be closed to the files of this office.

File Location: (b)(7)(F)

Distribution: Case File 12-78

Historical File

Magnum

OIG	OIG	(b)(7)(C)	Enix	OIG	OIG	OIG
				S. McMillan	U. Lee	H. Bell
12/17/13	12/17/13	1/1	1/1	12/17/13	12/19/13	12/19/13

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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

February 25, 2014

MEMORANDUM TO:

Joseph A. McMahon, Assistant Inspector General
for Investigations
Office of the Inspector General

FROM:

(b)(7)(C)

SUBJECT:

CLOSURE OF OFFICE OF THE INSPECTOR GENERAL
CASE NO. 13-001

This responds to your September 11, 2013, Report of Investigation for the Office the Inspector General Case No. 13-001. The report pertained to an allegation that an employee in the Office of Research may have improperly released official use only (OUO) / sensitive information to members of Congress.

After carefully reviewing the Report of investigation, management has determined that taking disciplinary action is not advisable at this time. The employee was orally counseled on following Agency protocol for the handling and release of OUO / sensitive information.

Absent further developments, this completes our action on the investigation report findings. This matter was coordinated with the Office of the General Counsel and this case should be closed. Your time and attention to this matter is appreciated.

CONTACT:

(b)(7)(C)

OCHCO

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B/10

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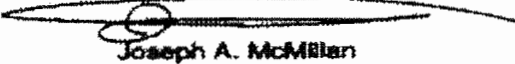


OFFICE OF THE
INSPECTOR GENERAL



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

September 11, 2013

MEMORANDUM TO: Mark A. Satorius
Executive Director for Operations

FROM: 
Joseph A. McMillan
Assistant Inspector General
for Investigations

SUBJECT: RELEASE OF NRC SECURITY RELATED DOCUMENTS BY
AN OFFICE OF NUCLEAR REGULATORY RESEARCH
EMPLOYEE (CASE NO. 13-001)


Attached are two copies of an Office of the Inspector General (OIG), U.S. Nuclear
Regulatory Commission (NRC), Report of Investigation pertaining to release of NRC
security related documents by an Office of Nuclear Regulatory Research employee. An
additional copy of the ROI with exhibits is being provided for the  (b)(7)(C)
 (b)(7)(C)

This report is furnished for whatever action you deem appropriate. Please notify this
office within 120 days of what action you take based on the results of this
investigation. Contact this office if further assistance is required.

The distribution of this report should be limited to those NRC managers required for
evaluation of this matter. Neither the Report of investigation nor its exhibits may be
placed in ADAMS without the written permission of the OIG.

Attachment: Report of Investigation w/ exhibits (two copies)

cc:  OGC w/ exhibits
 ADM/DFS w/o exhibits

CONTACT:  OIG

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OFFICE OF THE INSPECTOR GENERAL

Report of Investigation



Release of NRC Security Related Documents by an Office of the Chief of Human Capital Officer Employee

(b)(7)(C)	OIG Case No. 13-001	(b)(7)(C)
(b)(7)(C)	Special Agent	(b)(7)(C) Team Leader

[Signature]
Joseph A. McMillan, Assistant Inspector General
for Investigations

9/16/13
Date

THIS REPORT IS RELEASABLE ONLY BY THE U.S. NUCLEAR REGULATORY
COMMISSION, OFFICE OF THE INSPECTOR GENERAL.

THIS REPORT OR ITS EXHIBITS MAY NOT BE PLACED IN ADAMS WITHOUT
WRITTEN PERMISSION OF THE NRC OIG.
EXEMPT FROM RELEASE UNDER FREEDOM OF INFORMATION ACT
EXEMPTIONS (5), (6) OR (7) AND PRIVACY ACT EXEMPTIONS (j)(2) OR (k)(1)

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**Release of NRC Security Related
Documents by an Office of Nuclear
Regulatory Research Employee**

Case No. 13-001

September 11, 2013

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STATUTES AND REGULATIONS

Title 5 CFR §2635.101 – Basic Obligation of Public Service

(a) Public service is a public trust. Each employee has a responsibility to the United States Government and its citizens to place loyalty to the Constitution, laws and ethical principles above private gain. To ensure that every citizen can have complete confidence in the integrity of the Federal Government, each employee shall respect and adhere to the principles of ethical conduct set forth in this section, as well as the implementing standards contained in this part and in supplemental agency regulations.

(14) Employees shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards set forth in this part. Whether particular circumstances create an appearance that the law or these standards have been violated shall be determined from the perspective of a reasonable person with knowledge of the relevant facts.

Title 5 CFR §2635.704 – Use of Government Property

(a) Standard. An employee has a duty to protect and conserve Government property and shall not use such property, or allow its use, for other than authorized purposes.

(1) Government property includes any form of real or personal property in which the Government has an ownership, leasehold, or other property interest as well as any right or other intangible interest that is purchased with Government funds, including the services of contractor personnel. The term includes office supplies, telephone and other telecommunications equipment and services, the Government mails, automated data processing capabilities, printing and reproduction facilities, Government records and Government vehicles.

Title 5 USC §7211 - Employees' Right to Petition Congress

The right of employees, individually or collectively, to petition Congress or a Member of Congress, or to furnish information to either House of Congress, or to a committee or Member thereof, may not be interfered with or denied.

Title 18 USC §1030 – Fraud and Related Activity in Connection with Computers

(1) Having knowingly accessed a computer without authorization or exceeding authorized access, and by means of such conduct having obtained information that has been determined by the United States Government pursuant to an Executive order or statute to require protection against unauthorized disclosure for reasons of national

defense or foreign relation, or any restricted data, as defined in paragraph y. of section 11 of the Atomic Energy Act of 1954, with reason to believe that such information so obtained could be used to the injury of the United States...

Title 10 CFR §2.390 - Public inspections, exemptions, requests for withholding

(a) Subject to the provisions of paragraphs (b), (d), (e), and (f) of this section, final NRC records and documents, including but not limited to correspondence to and from the NRC regarding the issuance, denial, amendment, transfer, renewal, modification, suspension, revocation, or violation of a license, permit, order, or standard design approval, or regarding a rulemaking proceeding subject to this part shall not, in the absence of an NRC determination of a compelling reason for nondisclosure after a balancing of the interests of the person or agency urging nondisclosure and the public interest in disclosure, be exempt from disclosure and will be made available for inspection and copying at the NRC Web site, <http://www.nrc.gov>, and/or at the NRC Public Document Room, except for matters that are: (1)(i) Specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy; and (ii) Are in fact properly classified under that Executive order; (2) Related solely to the internal personnel rules and practices of the Commission; (3) Specifically exempted from disclosure by statute (other than 5 U.S.C. 552(b)), but only if that statute requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or establishes particular criteria for withholding or refers to particular types of matters to be withheld; (4) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; (5) Interagency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the Commission;

NRC Management Directive 3.4, Release of Information to Public

(0318) All NRC employees and consultants must, as applicable -

- Obtain permission from the appropriate supervisor when questions arise concerning releasability of information before the information is released. (d)

NRC Management Directive 12.5, NRC Automated Information Security Program

Users shall take appropriate precautions to protect the assets (hardware, software, data) provided for their use or to which they have been granted access (e.g., workstations, microcomputers, local-area networks (LANs), and associated data).

An Automated Information System (AIS) user -

Shall protect sensitive unclassified information in his or her possession from unauthorized access, disclosure, modification, misuse, damage, or theft.

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Shall never attempt to circumvent or defeat security safeguards and countermeasures implemented for the protection of NRC LAN/WAN system data or NRC processing systems.

Shall comply with NRC processes and procedures for secure dial-in access to NRC AISs. Direct dial-in access to NRC desktops and LAN/WAN system servers is normally not permitted.

Shall ensure that only NRC-authorized Internet connections are being used. All proposed connections shall be authorized and approved by OCIO.

NRC Management Directive 12.6, NRC Sensitive Unclassified Information Security Program, Handbook 12.6 Part II

Official Use Only Documents (b)

A document that contains information for Official Use Only must be marked when the originator believes that marking is essential to ensure proper handling and to ensure that all persons having access to the record will be aware that the-

- Document must not be publicly released. (i)
- Document must be distributed only to those who have a need-to-know to conduct official business. (ii)

How Information is Marked (3)

Official Use Only (b)

Originators must place the marking "OFFICIAL USE ONLY" at the top and bottom of the page on the face of each document containing information for Official Use Only when that marking is required to ensure proper handling. The marking "LIMITED INTERNAL DISTRIBUTION PERMITTED" must be placed in the lower left corner of the face of the document.

Transmittal Documents (g)

Documents (e.g., cover letters or memoranda) that do not in themselves contain sensitive information but are used to transmit one or more documents containing this information must be marked to indicate the fact that sensitive unclassified information is contained in the documents transmitted. The marking (e.g., "SAFEGUARDS INFORMATION," "OFFICIAL USE ONLY," or "PROPRIETARY INFORMATION") indicating the category of information must be placed at the top and bottom of the first

page of the transmittal document. Additionally, the following marking must be placed at the side or bottom of the transmittal document:

"Document transmitted herewith contains sensitive unclassified information.
When separated from enclosures, this document is decontrolled."

Transmission (6)

Methods Used (a)

Documents containing sensitive unclassified information must be transmitted by one of the following methods: (1)

- NRC messenger or NRC contractor authorized messenger or courier. NRC messengers and couriers shall be authorized to hand-carry sensitive unclassified information outside a facility by their division director or a higher level authority. NRC contractor personnel shall be authorized by the cognizant security office. (a)
- U.S. Postal Service First Class Mail, U.S. Postal Service Registered Mail, U.S. Postal Service Express Mail, or U.S. Postal Service Certified Mail (b)
- Any individual authorized access to the category of information involved (d)
- Other means approved by the Director, Division of Facilities and Security (DFS), Office of Administration (ADM) (a)

Telecommunications (7)

General Rule (a)

- Utmost discretion must be used in the transmission of any sensitive unclassified information by electrical means. Mail channels are preferable

NRC Regulatory Issue Summary 2005-26, Control of Sensitive Unclassified Nonsafeguards Information Related to Nuclear Power Reactors

... NRC changed its procedures shortly after September 11, 2001, to withhold from public disclosure various categories of documents likely to include individual records that warrant withholding under 10 CFR 2.390. The NRC staff will assess the need to withhold such document categories if licensees routinely identify specific documents containing sensitive information. The NRC staff will interact with licensees on a case-by-case basis regarding the use of the provisions of 10 CFR 2.390(d)(1) to assure that information is properly controlled, under either Section 2.390(d)(1) or one of the other Freedom of Information Act (FOIA) exemptions that might be applicable....

SUBJECT

(b)(7)(C)

Office of Nuclear Regulatory Research (RES)
U.S. Nuclear Regulatory Commission (NRC)

ALLEGATION

The Office of the Inspector General (OIG) initiated an investigation after receiving information that (b)(7)(C) may have improperly released official use only sensitive security information to members of Congress. During the course of the investigation, OIG noted that (b)(7)(C) also provided this information to the U.S. Office of Special Counsel (OSC).

FINDINGS

OIG found that (b)(7)(C) provided NRC "Official Use Only - Security Related information" (OUO-SRI), without NRC's permission, to members of Congress and to OSC and that such provision was permissible under 5 USC §7211, Employees' Right to Petition Congress, and by virtue of OSC's role in whistleblower protection. The OUO-SRI documents (b)(7)(C) provided included a non-public report, titled "Screening Analysis Report for the Proposed Generic Issue on Flooding of Nuclear Power Plant Sites Following Upstream Dam Failures" (Screening Analysis Report), which contained 10 CFR 2.390 information and which NRC considered security sensitive.

(b)(7)(C) OIG found that (b)(7)(C) did not properly mark as sensitive an email and attachment sent from (b)(7)(C) NRC email account to members of Congress and OSC on September 10, 2012, even though both items contained NRC OUO - SRI and should have been marked accordingly. The items sent pertained to the Screening Analysis Report and included regulatory correspondence between NRC and the power plant licensee regarding commitments concerning flooding.

(b)(7)(C) OIG found that on December 10, 2012 (b)(7)(C) forwarded an email containing NRC OUO-SRI from (b)(7)(C) NRC email account to (b)(7)(C) personal Hotmail account, although NRC prohibits transmittal of such information to commercial and personal email accounts. The sensitive information he forwarded pertained to subject matter of the Screening Analysis Report.

(b)(7)(C) In addition, (b)(7)(C) admitted sending the NRC OUO - SRI Screening Analysis Report to members of Congress from his personal Hotmail account, and storing a copy of the report in (b)(7)(C) Hotmail account, although NRC prohibits staff from using their personal email accounts to transmit or store OUO - SRI information.

BASIS FOR FINDINGS

Background

In July 2011, RES issued "Screening Analysis Report for the Proposed Generic Issue on Flooding of Nuclear Power Plant Sites Following Upstream Dam Failures" (Screening Analysis Report).¹ Also within the scope of the analysis was the possible impact on spent fuel pools at nuclear power plant sites. NRC marked the entire Screening Analysis Report as "OUO-SRI" and made it non-publicly available in ADAMS on August 31, 2011, under accession number ML112430114. On December 16, 2011, NRC initially made a redacted version of the report publicly available in ADAMS under accession number ML113500495. Prior to making the redacted version available to the public, NRC coordinated with the Army Corps of Engineers (USACE), the Department of Homeland Security (DHS), Duke Energy, and the Federal Energy Regulatory Commission (FERC). NRC coordinated with these entities because the report contained information provided by USACE and Duke Energy related to the possibility of a Jocassee Dam failure and flooding at Oconee Nuclear Station (a Duke Energy facility) and because of DHS's and FERC's national security roles in the protection of critical energy infrastructure information. This information had been identified by Duke Energy as 10 CFR §2.390 information and was to be treated as security sensitive information, as directed by NRC.

OIG learned that (b)(7)(C) was concerned that the non-publicly available Screening Analysis Report should be made available to Congress, and (b)(7)(C) hand-delivered it to select congressional oversight committee members in July 2012.²

On September 18, 2012, (b)(7)(C) sent an email, titled "Inadequately Sized Flood Wall at Oconee Nuclear Station Could Lead to Fukushima Scenario in the Event of a Failure of the Lake Jocassee Dam," to NRC Chairman Allison MACFARLANE and other senior NRC officials, as well as to the U.S. Office of Special Counsel (OSC)³ and members of the U.S. Senate and U.S. House of Representatives. The email explained that (b)(7)(C) was not directly involved with this issue, but that a coworker was concerned that serious safety concerns regarding Oconee Nuclear Station were being "illegally withheld from the public under the guise of 'Security-Related Information.'" The email included as attachments a 19-page letter from (b)(7)(C) to MACFARLANE with excerpts from the public and non-public versions of the Screening Analysis Report.

¹ On February 29, 2012, NRC completed a screening analysis and approved the matter as a Generic Issue (GI) assigning GI-204 as the issue's identifier.

² Separately, the Majority staff to the Senate Environment and Public Works Committee requested the unredacted GI-204 Screening Analysis Report on September 17, 2012. The NRC Office of Congressional Affairs delivered the unredacted report on September 21, 2012, both to the Committee Chairman and Ranking Member.

³ OSC's primary mission is to safeguard the merit system by protecting Federal employees and applicants from prohibited personnel practices, especially reprisal for whistleblowing.

and eight other documents related to the GI-204 matter and regulatory correspondence between NRC and Duke Energy regarding commitments concerning flooding.

(For further details, see Exhibit 1.)

On September 20, 2012, (b)(7)(C) management reported a security incident to NRC's Division of Facilities and Security (DFS) concerning (b)(7)(C) September 18, 2012, email to MACFARLANE and others inside and outside NRC. The email and attachments were reported to contain sensitive information that was not appropriately labeled or marked.

(For further details, see Exhibit 2.)

In an undated memorandum DFS issued a response to (b)(7)(C) management concerning the reported incident. DFS concluded that because the incident did not involve protection of classified information, a security infraction did not occur. However, DFS determined that the matter constituted a security incident for failure to follow applicable Sensitive Unclassified Non-Safeguards Information (SUNSI) guidelines and they directed that the individual or individuals responsible for the incident must review NRC's SUNSI guidance located on NRC's internal Web site, and that DFS was to be notified once the SUNSI "training" was completed.

(For further details, see Exhibit 3.)

On October 19, 2012, the *Huffington Post*⁴ posted an online link to the non-public, unredacted version of the Screening Analysis report, within an article written by reporter (b)(7)(C)

In an October 30, 2012, memorandum (b)(7)(C) prepared for DFS, (b)(7)(C) stated (b)(7)(C) never released any documents marked "OUO-SRI" to anyone outside the Federal Government, and (b)(7)(C) provided a "complete list" of all such documents (and any other non-public information) (b)(7)(C) had sent outside the agency. In the memorandum, (b)(7)(C) agreed to follow direction given to (b)(7)(C) by (b)(7)(C) branch chief and division director on October 26, 2012, to route any future documents that he wished to send to congressional offices through his chain of command and the Office of Congressional Affairs. (b)(7)(C)

(For further details, see Exhibit 4.)

⁴ The *Huffington Post* is an online news aggregator and blog, featuring news, blogs, and original content and covering politics, business, entertainment, environment, technology, popular media, and other topics. As of August 20, 2013, the unredacted GI-204 report continued to be available on The *Huffington Post* Web site at: http://www.huffingtonpost.com/2012/10/18/nuclear-plant-flood-threat-leak_n_1983005.html.

OIG Review of (b)(7)(C) September 18, 2012, Email, and Attached Documents

(b)(7)(C) (b)(7)(C) OIG reviewed the transmittal email and attached documents that (b)(7)(C) sent to Chairman MACFARLANE and other recipients on September 18, 2012, and noted he sent the document from (b)(7)(C) NRC account and that all recipient email addresses ended in ".gov," indicating all were Government recipients. The transmittal email described (b)(7)(C) rationale for sending the information, which included the separate 19-page letter to MACFARLANE, comparison excerpts from the redacted and non-redacted versions of the Screening Analysis Report (sent as enclosures with the letter), and eight other documents related to the GI-204 matter and regulatory correspondence between the NRC and Duke Energy regarding commitments concerning flooding. While the eight documents were marked on each page as either, "OUO-SRI," "Sensitive Information - Official Use Only," or to otherwise indicate the presence of "security sensitive information," neither (b)(7)(C) transmittal email to MACFARLANE nor (b)(7)(C) letter to MACFARLANE included such markings. OIG reviewed the information in both the transmittal email and the letter to MACFARLANE and observed that both documents, though lacking security markings, included information that NRC at the time considered to be SUNSI material. OIG also noted that the transmittal email did not indicate that the attachments included SUNSI material, even though most of the attached documents were marked as such.

(For further details, see Exhibit 1.)

OIG Review of (b)(7)(C) NRC Email Account

OIG reviewed (b)(7)(C) NRC email account from June 1, 2012, through December 12, 2012, and identified that an email with an attachment marked "OUO-SRI" was sent from (b)(7)(C) NRC email account to (b)(7)(C) personal Hotmail account on December 10, 2012, at 6:54 p.m. The subject line of the email stated, "FW: Your Meeting Today Concerning Flooding at Oconee from Jocassee Dam." The email message forwarded an email (b)(7)(C) had sent to NRC Commissioners William OSTENDORFF and William MAGWOOD (with copies to other NRC staff) that same day at 6:53 p.m. The three email attachments were identified as: (1) 2012-12-10_Briefing_on_Oconee_Flooding.pdf.pdf; (2) Lack of Transparency Impeding Resolution of Flooding Concerns at Oconee.pdf.pdf; and (3) 2009-04-06.pdf. Attachments (1) and (3) contained information labeled as Official Use Only - Security-Related Information. Attachment 3 also contained information labeled Preliminary Draft - Not for Public Release. Attachment 2 did not have any markings.

(For further details, see Exhibit 5.)

Interview of (b)(7)(C)

(b)(7)(C)

(b)(7)(C)

Computer

(b)(7)(C) Security Office (CSO), NRC, informed OIG that (b)(7)(C) determined (b)(7)(C) September 18, 2012, email to the Chairman and Congress did not violate NRC policy regarding electronic transmission of sensitive unclassified information; however, (b)(7)(C) did not follow policy when (b)(7)(C) failed to mark sensitive "Official Use Only" information in the body of (b)(7)(C) message and one of the attachments. (b)(7)(C) routinely reviews incidents where sensitive unclassified information is inadvertently posted to ADAMS, the NRC's public access records management system; however, (b)(7)(C) message on September 18, 2012, was intentional and the recipients of the message were intended and, as Federal employees, authorized to receive OIU information.

(b)(7)(C) (b)(7)(C) was unaware that (b)(7)(C) had transmitted OIU information to (b)(7)(C) personal email account. (b)(7)(C) stated this is a practice CSO always takes the opportunity to discourage (especially depending on data sensitivity levels) and advised, "This is something that should be more explicitly spelled out in policy as a prohibited practice, even though it is currently addressed in OIS guidance to use only approved systems and CITRIX." (b)(7)(C) further advised, "This continues to be a problem in that NRC employees continue to send OIU and SUNSI information to their personal accounts to accomplish/facilitate telework from home."

(For further details, see Exhibit 6.)

Interview of (b)(7)(C)

(b)(7)(C)

(b)(7)(C)

(b)(7)(C) CSO, informed OIG that NRC employees are prohibited from sending OIU/SUNSI information from their NRC email account to commercial/personal email, such as Hotmail, Gmail, and Yahoo, and that OIU/SUNSI should never be on or transmitted from commercial/personal email servers such as Hotmail, Gmail, Yahoo. (b)(7)(C) said this prohibition is conveyed to employees on page 3 of NRC's 2012 "Agency-wide Rules of Behavior for Authorized Computer Use" in stipulating, "Users shall not . . . Use any computing resource to process NRC information unless it has been authorized by the DAA (Designated Approving Authority)." (b)(7)(C) said that all employees certify annually their acknowledgment of the Rules of Behavior. (b)(7)(C) explained if (b)(7)(C) transmitted

* The Rules of Behavior define the DAA as "The individual(s) responsible for approving IT implementations for operation."

* (b)(7)(C) also provided a copy of the 2009 Rules of Behavior, which preceded the 2012 rules; page 2 states, "Users shall not use any computing resource to process NRC information unless it has been approved by the system owner."

(b)(7)(C) sensitive unclassified information via Yahoo, Hotmail, or Gmail systems. (b)(7)(C) would be in violation of both the Rules of Behavior and NRC Management Directive (MD) 12.5, which conveys that utilizing other commercial email systems can constitute circumvention of a security safeguard. (b)(7)(C) referred to MD 12.5 instruction that employees "shall never attempt to circumvent or defeat security safeguards and countermeasures implemented for the protection of NRC LAN/WAN system data or NRC processing systems."

[Investigative note: (b)(7)(C) Elearn records reflect that (b)(7)(C) acknowledged reviewing the Rules of Behavior on January 4, 2011, and May 4, 2012.]

(b)(7)(C) noted that previous assessments of NRC telecommunications vulnerabilities identified sensitive information being sent from NRC to personal email accounts. (b)(7)(C) said it was undetermined whether this continues to be a problem.

(For further details, see Exhibit 7.)

Interview of (b)(7)(C)

(b)(7)(C) Division of Risk Analysis, RES, and (b)(7)(C) told OIG that GI-204 was the first GI topic for which (b)(7)(C) office had to withhold and redact sensitive information from the public in the analysis. To the extent possible, (b)(7)(C) office's position was to make the analysis publicly available; however, they recognized some sensitive information regarding critical energy infrastructure would need to be considered for redaction.

(b)(7)(C) said that NRC coordinated externally with DHS, FERC, and USACE to determine what information was sensitive and should be withheld from public disclosure. (b)(7)(C) said that Duke Energy and DHS requested that information relating to any failure or any hazard that may cause an event at a nuclear plant, such as the failure of a dam that would cause an accident at a nuclear plant, be considered critical infrastructure information and be treated as sensitive. (b)(7)(C) said (b)(7)(C) used these criteria during the redaction of the screening report.

(b)(7)(C) was familiar with the September 18, 2012, letter (b)(7)(C) submitted to Chairman MACFARLANE and summarized (b)(7)(C) complaint as follows: (b)(7)(C) believes there is no need to withhold any of the 204 Screening Report or Oconee information because it is not based on a security threat, and it's not security-related information; thus, it is inappropriate to withhold it from the public." (b)(7)(C) stated (b)(7)(C) also felt that the NRC has not responded in a timely manner to the flood risk at Oconee Nuclear Station, although the NRC has known of the potential flooding issue.

As a result of the September 16th letter, (b)(7)(C) reported a security infraction to DFS because (b)(7)(C) had sensitive information within the document and it was not marked properly. (b)(7)(C) also worked with the Office of Congressional Affairs to notify the recipients of (b)(7)(C) email and the September 18 letter that both the email and letter contained sensitive information and must be protected accordingly.

(b)(7)(C) reported (b)(7)(C) had access to all documents attached to the September 18, 2012, letter through ADAMS (b)(7)(C) would have had access to the unredacted GI-204 report, and did not seek permission to release it beyond the NRC or to Congress.

(b)(7)(C) informed OIG that (b)(7)(C) has not considered limiting or restricting (b)(7)(C) access. (b)(7)(C) said that because of a separate concern that pre-dated (b)(7)(C) NRC employment (b)(7)(C) told (b)(7)(C) was welcome to pursue concerns as a private citizen, not as an agency employee, and any research that (b)(7)(C) did on that topic needed to be on (b)(7)(C) own time. (b)(7)(C)

(b)(7)(C) believed (b)(7)(C) was aware that (b)(7)(C) was releasing sensitive information because one of the attachments to the email had two pages out of the screening analysis, one redacted and one not redacted, that (b)(7)(C) was using to illustrate the point that the withheld information had no relation to security information.

(For further details, see Exhibit 8.)

Interview of (b)(7)(C)

(b)(7)(C) RES, who is (b)(7)(C) informed OIG that the decision to identify information within the GI-204 report as "sensitive information" was a collaborative process, both internally and with external agencies (DHS, FERC and USACE), to protect the Nation's security. (b)(7)(C) described the redaction of information in the public version of the Screening Analysis Report as determined through collaboration.

(For further details, see Exhibit 9.)

Interview of (b)(7)(C)

(b)(7)(C) told OIG that (b)(7)(C) expects (b)(7)(C) to follow the Office of Information Services guidance when teleworking, and understood that (b)(7)(C) was to use CITRIX to process NRC information while teleworking. (b)(7)(C) said when (b)(7)(C) processed OUC-SRI information on (b)(7)(C) personal computer while on telework status, (b)(7)(C) did so while logged into CITRIX. (b)(7)(C) denied storing any OUC-SRI information on (b)(7)(C) personal laptop; however, (b)(7)(C) acknowledged that (b)(7)(C) routinely utilizes Hotmail for work when teleworking. (b)(7)(C) recalled when (b)(7)(C) began teleworking (b)(7)(C) did not have a CITRIX (b)(7)(C)

certificate; therefore (b)(7)(C) used Webmail to correspond with (b)(7)(C) supervisor. However (b)(7)(C) said that this was difficult when attachments were involved, which is why (b)(7)(C) used Hotmail. (b)(7)(C)

(b)(7)(C) (b)(7)(C) stated that (b)(7)(C) forwarded the unredacted GI-204 report to Congress because "... I was following my conscience that this is something that we haven't been effective at correcting over 8 years, going on 7. And I felt...I had an obligation as a professional engineer, as a Federal employee, to let my congressional oversight committees know that, of my concerns."

(b)(7)(C) (b)(7)(C) stated that between September 12 and October 19, 2012, (b)(7)(C) forwarded "OUO-SRI" to congressional offices on multiple occasions. (b)(7)(C) said this was at the request of congressional committee staff. (b)(7)(C)

(b)(7)(C) (b)(7)(C) told OIG that (b)(7)(C) also provided a copy of an allegation letter that had been sent to the Inspector General and the non-public Screening Analysis Report (GI-204) to about a dozen congressional offices on September 14, 2012. (b)(7)(C) stated (b)(7)(C) also forwarded the complaint letter along with a redacted (publicly available version) Screening Analysis Report (GI-204) to the Union of Concerned Scientists.

(b)(7)(C) (b)(7)(C) understood that under 10 CFR 52.390, licensees can request information be withheld from public disclosure because it is proprietary, and the agency would then designate the information OUO. (b)(7)(C) explained that the agency has a duty to protect the information as official and can release it only to people who are required to see it. (b)(7)(C)

(b)(7)(C) (b)(7)(C) said (b)(7)(C) provided the information to Congress because (b)(7)(C) disagreed with NRC's characterization of the information as security related and wanted to bring the matter to the attention of Congress. (b)(7)(C)

(b)(7)(C) (b)(7)(C) said that it was not (b)(7)(C) intent to release the unredacted Screening Analysis Report through some unofficial channels to the public. However (b)(7)(C) said (b)(7)(C) considered that if (b)(7)(C) went to Congress with (b)(7)(C) concern, it was possible the report would be made public. While (b)(7)(C) said (b)(7)(C) did not make the report public, (b)(7)(C) acknowledged responsibility for the report's release from the agency. (b)(7)(C)

(b)(7)(C) (b)(7)(C) acknowledged a number of the documents (b)(7)(C) forwarded to the Chairman, members of Congress, and congressional committees contained 10 CFR 52.390 information and did not seek approval to release the information. (b)(7)(C)

(b)(7)(C) (b)(7)(C) stated that (b)(7)(C) used Hotmail to send the unredacted Screening Analysis Report (GI-204) to some members of Congress, and this was the only time (b)(7)(C) has sent OUO-SRI information via unsecure means. (b)(7)(C) said sending the document from (b)(7)(C) (b)(7)(C)

² The allegation focused on opposition to the NRC withholding information labeled Official Use Only - Security Related Information under FOIA.

Hotmail account was probably not the right choice to make, and that [redacted] should have used his NRC account. (b)(7)(C)

OIG asked [redacted] about the December 10, 2012, email, with OUC-SRI attachments that had been forwarded from [redacted] NRC email account to [redacted] Hotmail account. [redacted] said [redacted] remembered sending the email but had meant to blind copy (bcc) [redacted] Hotmail account. [redacted] said that [redacted] probably should not have stored that information on [redacted] Hotmail account and should have put that information on [redacted] encrypted thumb drive. (b)(7)(C) (b)(7)(C) (b)(7)(C) (b)(7)(C)

[redacted] acknowledged that OUC-SRI documents, including the unredacted GI-204 report as well as a document labeled "Preliminary Draft -- Not for Public Release" were currently stored in [redacted] Hotmail account. Upon discussing the multiple protected documents [redacted] had stored within [redacted] Hotmail account, [redacted] stated [redacted] thought [redacted] needed to speak to an attorney and the interview was ended. (b)(7)(C) (b)(7)(C) (b)(7)(C) (b)(7)(C) (b)(7)(C)

(For further details, see Exhibit 10.)

Department of Justice Coordination

On February 4, 2013, [redacted] Assistant U.S. Attorney, Central District of Illinois, was provided a written summary of investigative activity regarding [redacted] release of "OUC-SRI" information via unsecure means. (b)(7)(C) (b)(7)(C)

On February 15, 2013, [redacted] provided a written declination regarding possible violation of 18 U.S.C Section 1030 indicating that no Federal offense was committed. (b)(7)(C)

EXHIBITS

1. Email from (b)(7)(C) to Chairman MACFARLANE with attachments (OUO-SRI) dated September 18, 2012.
2. NRC Form 153, Report of Security Incident/Infraction/Violation, dated September 20, 2012.
3. Memorandum from (b)(7)(C) undated.
4. Memorandum from (b)(7)(C) dated October 30, 2012.
5. Email from (b)(7)(C) with attachments, dated December 10, 2012:
 - a. Attachment, 2012-12-10_Briefing_on_Oconee_Flooding.pdf.pdf (OUO-SRI).
 - b. Attachment, Lack of Transparency Impeding Resolution of Flooding Concerns at Oconee.pdf.pdf.
 - c. Attachment, 2009-04-06.pdf (Preliminary Draft – Not For Public Release and OUO-SRI).
6. Memorandum of Interview of (b)(7)(C) dated August 27, 2013.
7. Memorandum of Interview of (b)(7)(C) dated April 2, 2013.
8. Transcription Interview of (b)(7)(C) dated October 18, 2012.
9. Transcription Interview of (b)(7)(C) dated October 23, 2012.
10. Transcription Interview of (b)(7)(C) dated January 17, 2013.

MEMORANDUM TO: Mark A. Satorius
Executive Director for Operations

FROM: Joseph A. McMillan
Assistant Inspector General
for Investigations

SUBJECT: RELEASE OF NRC SECURITY RELATED DOCUMENTS BY
AN OFFICE OF NUCLEAR REGULATORY RESEARCH
EMPLOYEE (CASE NO. 13-001)

Attached are two copies of an Office of the Inspector General (OIG), U.S. Nuclear
Regulatory Commission (NRC), Report of Investigation pertaining to release of NRC
security related documents by an Office of Nuclear Regulatory Research employee. An
additional copy of the ROI with exhibits is being provided for the (b)(7)(C)

(b)(7)(C)

This report is furnished for whatever action you deem appropriate. Please notify this
office within 120 days of what action you take based on the results of this
investigation. Contact this office if further assistance is required.

The distribution of this report should be limited to those NRC managers required for
evaluation of this matter. Neither the Report of Investigation nor its exhibits may be
placed in ADAMS without the written permission of the OIG.

Attachment: Report of Investigation w/ exhibits (two copies)

cc: (b)(7)(C) OGC w/ exhibits
(b)(7)(C) ADM/DFS w/o exhibits

CONTACT: (b)(7)(C) OIG

Distribution:

File Location: (b)(7)(E)

Case File 13-001 Historical File MAGNUM

OIG/AIGI	OIG/AIGI	Editor		OIG/AIGI	OIG	OIG
(b)(7)(C)				J. McMillan	D. Lester	FF. Bell
9/9/13	9/9/13	9/9/13	9/11/13	9/11/13	9/11/13	9/11/13

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OFFICE OF THE
INSPECTOR GENERAL

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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

December 24, 2013

MEMORANDUM TO: Concur: Case Closed [Signature]
Joseph A. McMillan
Assistant Inspector General
for Investigations

THRU:

(b)(7)(C)
Team Leader, (b)(7)(C)

FROM:

(b)(7)(C)
Special Agent (b)(7)(C)

SUBJECT: NRC'S STAFF HANDLING OF THE JOCASSEE DAM AND
OCDNEE NUCLEAR STATIONS (OIG CASE NO. 13-005)

Allegation

The Office of the Inspector General (OIG), U.S. Nuclear Regulatory Commission (NRC), opened an investigation in response to a NRC staff member's allegations and resulting media attention which indicated that NRC staff took too long in examining and working to mitigate possible flood hazards to the Oconee Nuclear Station (ONS).

Findings

OIG found no administrative wrong-doing or substantial regulatory delay in how the NRC staff examined flood hazards to ONS or regulatory framework put in place to require ONS to mitigate the scientifically-accepted flood hazard at the plant. This investigation did not identify any violations of Title 10 CFR.

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B/11

Basis of Findings

Interview of the Alleging NRC Employee

(b)(7)(C) [redacted] interviewed the NRC employee who alleged the NRC took too long to correct what (b)(7)(C) [redacted] considered a serious safety concern at ONS. The employee stated that [redacted] did not believe NRC or Duke violated any law or policy, but felt that the NRC has come up short. The employee was not familiar with all actions taken by the U.S. Government to investigate or mitigate potential flood hazards at ONS. Specifically, the employee was not aware of Federal Energy Regulatory Commission (FERC) or Army Corps of Engineers (ACE) oversight of the dams in question. The employee told OIG that (b)(7)(C) [redacted] didn't have a background in hydrology, but that [redacted] had completed a six-week training course in probabilistic risk assessment. The employee did not believe that there is an imminent danger of dam failure at ONS. The employee stated that [redacted] was happy where the situation concerning ONS stood, but believed the OIG should address why it took NRC so long to get Duke to address the flood hazard issue. (b)(7)(C)

OIG Review of NRC Actions Regarding Flood Hazard at ONS

OIG reviewed the NRC's actions involving oversight of ONS' flood hazard issue. OIG found that the original issue came from a 2006 inspection finding concerning the Safe Shutdown Facility (SSF). While researching this issue, NRC staff found a 1992 inundation study conducted by Duke to meet a FERC requirement. The study found that approximately 16.5 feet of flood water would inundate the area surrounding the SSF and would render all systems necessary to shut down and maintain the reactors in a safe and stable condition inoperable.

Based on these concerns, the NRC issued a 10 CFR 50.64(f) letter in August 2008 requesting information from Duke. Duke responded in September 2008, and after review, the NRC found that Duke did not demonstrate that ONS would be adequately protected from external flooding events. In April 2009, the NRC requested Duke provide information regarding a deterministic resolution of external flooding at ONS and a schedule to resolve the external flooding issue in a timely manner.

Duke responded in November 2009, and although the company provided more accurate estimates of flooding at ONS caused by a dam failure, the NRC requested in January 2010 that Duke provide additional analyses examining the entire Jocassee system, not just the Jocassee Dam. Duke responded in May and June 2010, and provided 15 interim compensatory measures (ICMs) with implementation dates. In June 2010, the NRC issued a Confirmatory Action Letter (CAL) to Duke, confirming the ICMs, and required the licensee to submit a list of all necessary modification to mitigate flood hazards by November 2010. Duke provided the list as required and committed to a timeline of 30 months plus the regulatory review period after the NRC approves the use of FERC design standards for the wall. In September 2012, the NRC approved the use of FERC standards for flood walls.

Concurrent to the regulatory process concerning ONS, NRC staff initiated Generic Issue (GI) 204 concerning the effect of dam failures on nuclear plants. Additionally in March 2011, the NRC responded to the Fukushima nuclear plant incident, by reexamining certain vulnerabilities at all U.S. nuclear plants. Accordingly, the GI-204 issue was merged with the Fukushima response required of all plants. Since ONS was required to submit a Fukushima-reviewed flooding hazard report to the NRC by March 2013, NRC gave Duke the option to initiate the agreed upon 30-month timeline following the submittal of that report, with all essential modification completed no later than June 2016.

Interview of (b)(7)(C)

OIG interviewed the former (b)(7)(C) who since February 2013, has been responsible for examining all plants' responses to the Fukushima-initiated review of flooding hazards.

(b)(7)(C) As to (b)(7)(C) earlier work as (b)(7)(C) the employee stated (b)(7)(C) developed an independent team for the reevaluation of ONS flood hazard, and worked closely with FERC staff because FERC regulates the dams above the ONS. NRC executed an interagency agreement with the Bureau of Reclamation to examine research and methodologies on dams, where NRC had little expertise. NRC received FERC inspections reports and in conjunction with FERC, established parameters for breaching models. (b)(7)(C)

The employee told OIG that the NRC examined the worst case breach scenario for the plants, while FERC looked at worst case flooding scenario to the public. Using the established parameters, Duke Energy provided three different breaching scenarios. NRC and FERC accepted Duke's second scenario, which the employee opined was unrealistically large, because it provided enough margin for uncertainties in the analysis. Duke used the scenario to do sensitivity studies, and came out with a new flooding inundation height at the site. NRC and FERC agreed with the safety margins in the analysis, and it became the new flood hazard at the site.

The employee also stated that NRC had issued a CAL requesting Duke to put interim safety measures in place to protect the plant. Duke enhanced monitoring of the dams, enhanced the ability to open the dams' spillway gate, put an additional pump and cooling water source for the plant, and erected a temporary 10-foot flood wall and intake dyke. The employee stated that the CAL dates kept sliding because of both NRC and Duke's difficulties in evaluating the volume of scientific data. The employee told OIG that after the lessons learned at Fukushima, NRC issued a series of 50.54(f) letters which required plants to reexamine certain hazards, including seismic and flooding. Because of additional reviews required by Fukushima, Duke was given until June 2016 to get everything done.

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The employee told OIG that for the Fukushima required flooding study, Duke used a new scientific dam breach model for their flooding assessment. This model has never been evaluated by the U.S. Government before, so NRC had to let a research contract for evaluation. NRC is evaluating the model to see whether or not they are going to allow Duke to use the model as the breaching methodology. The employee believes NRC will have the evaluation back by April 2014. After NRC completes its evaluation of the new breaching methodology, it will need to be presented to other affected federal partners and the Interagency Committee on Dam Safety (ICODS) for review. However, regardless of the methodology used, NRC has already informed Duke that they are being held to the original June 2016 deadline for final remediation of the flooding hazard.

The employee told OIG that regardless of delays due to scientific differences, the NRC did extensively inspect Duke's interim compensatory measures and evaluate Duke's emergency drill. The employee told OIG that these measures give reasonable assurances that the plant could survive if a breach happened.

Because this investigation did not identify any evidence of misconduct by NRC staff or substantial regulatory delay, it is recommended that this case be closed to file as unsubstantiated.

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Because this investigation did not identify any evidence of misconduct by NRC staff or substantial regulatory delay, it is recommended that this case be closed to file as unsubstantiated.

File Location: (b)(7)(C)

Distribution

Case File 13-005

Historical File

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OFFICE OF THE
INSPECTOR GENERAL

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

July 23, 2013

MEMORANDUM TO: Concur, Case Closed
Joseph A. McMillan
Assistant Inspector General
for Investigations

THRU

FROM:

SUBJECT: HACKING OF NRC CONTRACTOR COMPUTER SYSTEM BY
REGION IV EMPLOYEE (OIG CASE NO. 13-08)

Allegation

The Office of the Inspector General (OIG), U.S. Nuclear Regulatory Commission (NRC), initiated an investigation based on an allegation that (b)(7)(C) Division of Resource Management and Administration (DRMA), Region IV, NRC, used a password cracking program to obtain the administrator password to a video feed system used to send information to video feed monitors located in the regional office. According to the allegation, Region IV purchased a subscription for the video feed system and associated administrative services from Symon Communications, and any changes to the video feed needed to be made through the company's system administrator. The alleged said (b)(7)(C) did not have a need to have the administrator password to the system, which does not connect to the NRC network, and believed (b)(7)(C) obtained it to show off what (b)(7)(C) could do. (b)(7)(C)

Findings

OIG found that (b)(7)(C) used a password cracking utility in an attempt to gain administrative rights to the non-NRC, non-networked video feed system. OIG did not identify any harmful motives on the part of (b)(7)(C) who maintained (b)(7)(C) wanted access for efficiency-related reasons. OIG determined that (b)(7)(C) did not install any malware, spyware, viruses, or other harmful or destructive programs that would allow an attacker to later access the system. (b)(7)(C)

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B/12

Basis of Findings

OIG learned that when NRC's Region IV office moved to its current location, the site came equipped with a video feed system that allowed the region to post digital announcements and messages on video monitors located in the regional office. The region then needed to contract with the system owner to provide maintenance support to the system. The video feed, or digital signage, system does not reside on the NRC network, but is housed on a standalone computer and server that is owned by the company that provides the video feed system and is located within the regional office. On July 1, 2012, the NRC Division of Contracts awarded Symon Communications the NRC contract to provide maintenance support for the digital signage computer system for 3 years.

OIG received notification from Region IV that (b)(7)(C) had attempted to gain unauthorized administrative rights to the non-NRC system using a password cracking tool. The OIG Cyber Crime Unit forensically imaged and reviewed the server that housed the video feed system. Review of the server did not yield any results indicating that it contained malware, spyware, viruses, or other harmful or destructive programs that would allow an attacker to later access the system. The server did not disclose any discrepancies in the Windows operating system or other installed programs indicative of machines being tampered with or compromised.

(b)(7)(C) DRMA, Region IV, stated that (b)(7)(C) met with (b)(7)(C) to discuss the region's use of the Symon system. Following the meeting, (b)(7)(C) learned from (b)(7)(C) that (b)(7)(C) retrieved the passwords for the (b)(7)(C) said (b)(7)(C) did not explain why (b)(7)(C) retrieved the passwords, but (b)(7)(C) recalled that (b)(7)(C) had been asking for the passwords to acquire a better understanding of the system. (b)(7)(C) explained that (b)(7)(C) was unable to obtain the passwords from the contractor. (b)(7)(C) told OIG that as the system owner and system administrator for the digital signage system, (b)(7)(C) needed to retrieve the passwords to the system to better administer and secure the system. (b)(7)(C) explained that the vendor did not give the region administrative rights to the system, and the vendor refused to provide such rights to (b)(7)(C). (b)(7)(C) stated (b)(7)(C) contacted the company's help desk and was told that it was not allowed to give the NRC passwords to access their system. (b)(7)(C) stated that (b)(7)(C) was trying to get administrative rights to the (b)(7)(C) so (b)(7)(C) could eventually get it on the NRC network. (b)(7)(C) said (b)(7)(C) needed to perform security checks in order to try to get the system on the NRC network. (b)(7)(C) said that (b)(7)(C) wanted the digital signage system on the same network as the NRC so that the region could synchronize the 29 system monitors with the NRC network. It would allow (b)(7)(C) to put NRC network exchange calendar information and other NRC information on the

system because the system was currently providing the Region with only weather updates and appointment information, and several of the monitors did not work. (b)(7)(C) said (b)(7)(C) was able to find a password retrieval tool that would give (b)(7)(C) the ability to try to get the passwords for the system without harming or changing anything on the system. (b)(7)(C) explained that (b)(7)(C) used the non-NRC computer on which the system resides to go to an (b)(7)(C).

(b)(7)(C) said that at the time (b)(7)(C) told (b)(7)(C) what (b)(7)(C) had done (b)(7)(C) believed the password cracking tool may have been on the system for 15 to 30 minutes. (b)(7)(C) stated that in hindsight what (b)(7)(C) did was "shortsighted."

OIG learned that effective May 18, 2013, (b)(7)(C) accepted employment with the U.S. Department of Veteran Affairs and is no longer an NRC employee. A copy of this closing memorandum will be provided to NRC Personnel Security Branch for information purposes.

Because OIG did not find that (b)(7)(C) installed any malware, spyware, viruses, or other harmful or destructive programs on the private system, and (b)(7)(C) is no longer an NRC employee, it is recommended that this case be closed to the files of this office.

system because the system was currently providing the Region with only weather updates and appointment information, and several of the monitors did not work. (b)(7)(C) said (b)(7)(C) was able to find a password retrieval tool that would give (b)(7)(C) the ability to try to get the passwords for the system without harming or changing anything on the system. (b)(7)(C) explained that (b)(7)(C) used the non-NRC computer on which the system resides to go to an (b)(7)(C). (b)(7)(C) said that at the time (b)(7)(C) told (b)(7)(C) what (b)(7)(C) had done (b)(7)(C) believed the password cracking tool may have been on the system for 15 to 30 minutes. (b)(7)(C) stated that in hindsight what (b)(7)(C) did was "shortsighted."

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Because OIG did not find that (b)(7)(C) installed any malware, spyware, viruses, or other harmful or destructive programs on the private system, and (b)(7)(C) is no longer an NRC employee, it is recommended that this case be closed to the files of this office.

Distribution:

File Location: (b)(7)(E)

Case No 13-08

Historical File

Magnum

OIG/AIGI	OIG/AIGI	Editor	OIG	OIG/AIGI	OIG	OIG
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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

January 15, 2014



MEMORANDUM TO: Joseph A. McMillan, Assistant Inspector General
for Investigations
Office of the Inspector General

2/1/14

FROM:

(b)(7)(C)

SUBJECT:

CLOSURE OF OFFICE OF THE INSPECTOR GENERAL
CASE NO. 13-10

This responds to your September 19, 2013, memorandum to Mark Satorius forwarding the Report of Investigation for OIG Case No. 13-10. This report, which was sent to management for appropriate action, pertained to an inappropriate relationship between a R-III supervisor and a subordinate employee.

To address the findings in this report, the supervisor involved was given the opportunity to sign an Alternative Discipline Agreement in lieu of being issued a proposed 14-day Suspension, which (b)(7)(C) did. In exchange for waiving all procedural rights relating to the matter, this supervisor will receive a Letter of Reprimand and has been directed to complete a training course on Ethics and to view the "EEO Refresher Training for Supervisors" video within 60 days of the Agreement's execution. The subordinate employee involved will receive a counseling memorandum as guidance for not reporting the relationship.

These actions were coordinated between Region III, the Office of the Chief Human Capital Officer, and the Office of General Counsel.

This completes our action on the investigation report's findings and this case should be closed. Your time and attention to this matter is appreciated.

CONTACT:

(b)(7)(C)

(b)(7)(C)

B/13

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OFFICE OF THE
INSPECTOR GENERAL

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20455-0001

September 19, 2013

MEMORANDUM TO: Mark A. Satorius
Executive Director for Operations

FROM: 
Joseph A. McMillan
Assistant Inspector General
for Investigations

SUBJECT: INAPPROPRIATE RELATIONSHIP BETWEEN A REGION III
SUPERVISOR AND EMPLOYEE (OIG CASE NO. 13-10)

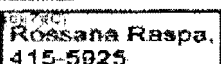
Attached is an Office of the Inspector General (OIG), U.S. Nuclear Regulatory Commission, Report of Investigation (ROI) pertaining to an inappropriate relationship between a Region III supervisor and employee. A copy of the ROI with exhibits is also attached for you to provide to the Office of the Chief Human Capital Officer.

This report is furnished for whatever action you deem appropriate. Please notify this office within 120 days of what action you take based on the results of this investigation. Contact this office if further assistance is required.

The distribution of this report should be limited to those NRC managers required for evaluation of this matter. Neither the Report of Investigation nor its exhibits may be placed in ADAMS without OIG's written permission.

Attachments: Report of Investigation w/ exhibits (plus one copy)

cc: Mark Maxin, OGC w/ exhibits
Valerie B. Kerben, ADM/DFS w/o exhibits

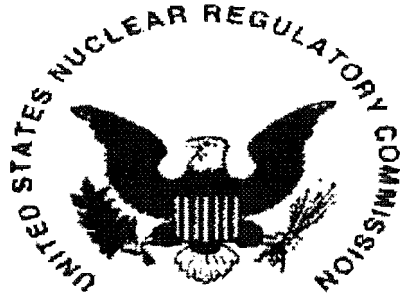
CONTACT: 
Rossana Raspa, OIG
415-5925

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OFFICE OF THE INSPECTOR GENERAL

Report of Investigation



Inappropriate Relationship Between a
Region III Supervisor and Employee

Case No. 13-10

(b)(7)(C)		(b)(7)(C)	
(b)(7)(C)	Senior Special Agent	(b)(7)(C)	Team Leader


Joseph A. McMillan, Assistant Inspector General
for Investigations

9/13/13
Date

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**Inappropriate Relationship Between A
Region III Supervisor and Employee**

Case No. 13-10

September 19, 2013

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STATUTES, REGULATIONS, AND POLICY

5 CFR, Section 735.203 – What are the Restrictions on Conduct Prejudicial to the Government?

An employee shall not engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, or other conduct prejudicial to the Government.

NRC Inspection Manual, Manual Chapter 1201-07, Personal Conduct

07.01 Policy. NRC employees shall maintain high standards of integrity in all their activities, personal and official, and conduct themselves in a manner to create and maintain public respect for the NRC and the U.S. Government.

- **Avoidance of Appearances of Loss of Impartiality.** The standards of conduct regulations provide that employees take appropriate steps to avoid even an appearance of loss of impartiality in the performance of their official duties.

SUBJECT

(b)(7)(C)

Dresden Nuclear Power Station
Region III
U.S. Nuclear Regulatory Commission (NRC)

ALLEGATION

The Office of the Inspector General (OIG), NRC, initiated this investigation based on a notification from (b)(7)(C) Region III, that (b)(7)(C) had engaged in an inappropriate relationship with (b)(7)(C) (b)(7)(C) LaSalle County Station (LaSalle), Region III. At the time of the relationship, (b)(7)(C) was the (b)(7)(C) and (b)(7)(C) was the

(b)(7)(C) at LaSalle.

FINDINGS

OIG found that (b)(7)(C) and (b)(7)(C) engaged in a consensual, intimate physical relationship from June 2009 to approximately September 2012, to include while (b)(7)(C) was (b)(7)(C). (b)(7)(C) provided (b)(7)(C) performance appraisals for fiscal years 2009 and 2010 while the relationship was ongoing. However, based on testimony of a current and former supervisor, the ratings appear consistent with (b)(7)(C) performance.

BASIS FOR FINDINGS

Review of (b)(7)(C) and (b)(7)(C) Recent Employment History

Review of personnel files pertaining to (b)(7)(C) and (b)(7)(C) disclosed the following:

- (b)(7)(C) • (b)(7)(C) accepted a non-competitive reassignment from Region II (b)(7)(C) to (b)(7)(C) at LaSalle on (b)(7)(C) where (b)(7)(C) remains presently.
- (b)(7)(C) • (b)(7)(C) was promoted to (b)(7)(C) at LaSalle on April 27, 2008. (b)(7)(C) was absent from NRC for (b)(7)(C) and returned to NRC on (b)(7)(C). (b)(7)(C) was reassigned as the (b)(7)(C) at Dresden Nuclear Power Station on (b)(7)(C).
- (b)(7)(C) and (b)(7)(C) worked at LaSalle at the same time from April 2008 to February 2011. Investigative Note: Although their personnel files indicated they were both employed at the plant for this time period, (b)(7)(C) and (b)(7)(C) indicated in interviews to OIG that (b)(7)(C).

(For further details, see Exhibit 1.)

Review of (b)(7)(C) Performance Appraisals

OIG reviewed NRC Form 412, General Grade Performance Appraisal System Summary Rating, for (b)(7)(C) for fiscal years 2009, 2010, 2011, and 2012. The 2008 performance appraisal was no longer available. The 2009 and 2010 forms disclosed that (b)(7)(C) gave (b)(7)(C) a Summary Rating of "Excellent" and quotient number of 3.5 for both fiscal years. Review of the 2011 and 2012 forms disclosed that (b)(7)(C) gave (b)(7)(C) LaSalle, gave (b)(7)(C) a Summary Rating of "Outstanding" with a quotient number of 3.75 for both fiscal years.

(For further details, see Exhibit 2.)

Interview of (b)(7)(C)

(b)(7)(C) (b)(7)(C) told OIG (b)(7)(C) had been tasked by (b)(7)(C) to clean up the NRC (b)(7)(C) at LaSalle, and while (b)(7)(C) and the NRC administrative assistant were cleaning (b)(7)(C) found documents that (b)(7)(C) believed were written by (b)(7)(C). (b)(7)(C) stated the documents were found in the filing cabinets in the (b)(7)(C). (b)(7)(C) said (b)(7)(C) had heard rumors that (b)(7)(C) and (b)(7)(C) had a "close relationship" when (b)(7)(C) was the (b)(7)(C) at LaSalle. According to (b)(7)(C), based on (b)(7)(C) experience working with (b)(7)(C).

(b)(7)(C) did not believe there had been an inflation of (b)(7)(C) performance appraisals when (b)(7)(C) was (b)(7)(C)

(For further details, see Exhibit 3.)

Review of Documents Found by (b)(7)(C)

OIG reviewed the documents that (b)(7)(C) found, which were six pages that appear to be communications of a romantic nature dated between July and August 2009. The documents, which did not include (b)(7)(C) names, contained information concerning LaSalle and the (b)(7)(C). They also contained personal statements such as, "I wonder if you've gone to our 'happy place' while you been out in your vacation? . . . I picked that Wednesday at your house. Specifically, the cuddling time just prior to that explosive O," and "I wish you were riding home with me. Maybe you'll try calling tomorrow . . . I miss you so much it hurts."

(For further details, see Exhibit 4.)

Review of (b)(7)(C) and (b)(7)(C) NRC E-Mail Accounts

OIG reviewed e-mails sent from and received in (b)(7)(C) and (b)(7)(C) NRC e-mail accounts for the period of January 15, 2013, to February 5, 2013. This review also captured e-mails sent or received prior to the review period if (b)(7)(C) had saved or archived the e-mails in their accounts. OIG did not identify any communication between (b)(7)(C)

(For further details, see Exhibit 5.)

Interview of Region III (b)(7)(C)

OIG interviewed (b)(7)(C) and (b)(7)(C) in the Region III Division of Reactor Projects, which has oversight for the LaSalle RIS. All four said they were unaware of an inappropriate relationship between (b)(7)(C) and the (b)(7)(C). (b)(7)(C) said that had they been aware, they would have reassigned one to avoid a conflict of interest.

(b)(7)(C) Region III, stated (b)(7)(C) was the reviewing official for (b)(7)(C) performance appraisals for fiscal years 2009 – 2011, and that (b)(7)(C) agreed with the appraisals that were provided by (b)(7)(C) for fiscal years 2009 and 2010. (b)(7)(C) also said (b)(7)(C) approved (b)(7)(C) overall "Outstanding" rating after (b)(7)(C) served as (b)(7)(C) for 6 months after (b)(7)(C) and (b)(7)(C) did a great job dealing with two major issues at the plant during that time.

(For further details, see Exhibits 6, 7, 8, 9, and 10.)

Interview of (b)(7)(C)

(b)(7)(C) (b)(7)(C) told OIG (b)(7)(C) had been involved with (b)(7)(C) from June 2009 to September 2012, and that they were sexually intimate (including intercourse) from the summer of 2009 to December 2010, at the end of (b)(7)(C) duty at LaSalle. (b)(7)(C) said their romantic relationship continued for a period of time when (b)(7)(C) and (b)(7)(C) was no longer (b)(7)(C) however (b)(7)(C) said (b)(7)(C) terminated the relationship after returning from (b)(7)(C) described their relationship as mutual and consensual and (b)(7)(C) said it took place outside the workplace.

(b)(7)(C) said (b)(7)(C) completed (b)(7)(C) appraisals in fiscal year 2009 and 2010. (b)(7)(C) said (b)(7)(C) got (b)(7)(C) first overall "outstanding" appraisal in fiscal year 2011, mostly because of (b)(7)(C) duties from December 2010 to March 2012, after (b)(7)(C) left. (b)(7)(C) did not believe that (b)(7)(C) relationship with (b)(7)(C) influenced (b)(7)(C) performance appraisals and (b)(7)(C) said (b)(7)(C) had been consistently evaluated as "E" from before (b)(7)(C) arrived at LaSalle through (b)(7)(C) departure from LaSalle. (b)(7)(C) believed that (b)(7)(C) did not show (b)(7)(C) any favoritism when (b)(7)(C) was (b)(7)(C) at LaSalle and said (b)(7)(C) had never been coerced into doing anything or received preferential treatment because of (b)(7)(C) physical intimate relationship with (b)(7)(C). (b)(7)(C) said (b)(7)(C) had never been harassed, intimidated, discriminated against, or forced to do something (b)(7)(C) did not want to do by (b)(7)(C). (b)(7)(C) said that at work it was kept strictly professional and that nothing was expected of (b)(7)(C) as a (b)(7)(C) because of their relationship. (b)(7)(C) said NRC and plant personnel would not have known (b)(7)(C) and (b)(7)(C) were involved, and that (b)(7)(C) husband at the time (another NRC (b)(7)(C) was unaware of (b)(7)(C) involvement with (b)(7)(C).

(b)(7)(C) added that (b)(7)(C) never used (b)(7)(C) Government computer to write romantic communications to (b)(7)(C) but mostly used (b)(7)(C) cell phone or iPad and would use (b)(7)(C) Government computer to check (b)(7)(C) personal e-mail during lunch and non-work time.

(For further details, see Exhibits 11 and 12.)

Interview of (b)(7)(C)

(b)(7)(C) (b)(7)(C) told OIG (b)(7)(C) was the (b)(7)(C) at LaSalle from May 2008 through December 2010, and in January 2011 (b)(7)(C) was (b)(7)(C) returning to NRC in May 2012. (b)(7)(C) said (b)(7)(C) and (b)(7)(C) carpooled to the plant together and that during the time they worked together, they became very good friends.

(b)(7)(C) initially (b)(7)(C) repeatedly denied having had a romantic relationship with (b)(7)(C) but (b)(7)(C) admitted the relationship after OIG presented the documents that (b)(7)(C) had provided to OIG. (b)(7)(C) acknowledged the documents contained communications that had been sent to (b)(7)(C) and (b)(7)(C) said (b)(7)(C) engaged in an "outside of work" relationship

with (b)(7)(C) while they both were married and working at LaSalle, from June 2009 until December 10, 2010, when (b)(7)(C) said the "romantic" aspect of their relationship occurred outside of the workplace only, and included sexual intercourse on more than 50 occasions from June 2009, after (b)(7)(C) became (b)(7)(C) until September 2012 (following (b)(7)(C) with a few occasions between September and December 2012.

(b)(7)(C) (b)(7)(C) said (b)(7)(C) did not recall (b)(7)(C) using a Government computer to send romantic e-mails to each other. (b)(7)(C) also stated they only gave small token gifts to each other because exchanging gifts would have been noticeable to others.

(For further details, see Exhibits 13 and 14.)

EXHIBITS

1. Memorandum to File, Subject: Review of (b)(7)(C) and (b)(7)(C) Recent Employment History, dated July 14, 2013.
2. Memorandum to File, Subject: Review of (b)(7)(C) Performance Appraisals, dated July 14, 2013.
3. Memorandum of Interview, (b)(7)(C) dated January 8, 2013.
4. Memorandum to File, Subject: Review of Documents found by (b)(7)(C) dated July 14, 2013.
5. Memorandum to File, Subject: Receipt and Review of NRC E-mails Sent by (b)(7)(C) and (b)(7)(C) dated February 8, 2013.
6. Memorandum of Interview, (b)(7)(C) dated March 5, 2013.
7. Memorandum of Interview, (b)(7)(C) dated March 5, 2013.
8. Memorandum of Interview, (b)(7)(C) dated March 5, 2013.
9. Memorandum of Interview, (b)(7)(C) dated March 5, 2013.
10. Memorandum of Interview, (b)(7)(C) dated July 10, 2013.
11. Transcript of Interview, (b)(7)(C) dated January 23, 2013.
12. Transcript of Interview, (b)(7)(C) dated July 2, 2013.
13. Transcript of Interview, (b)(7)(C) dated January 16, 2013.
14. Transcript of Interview, (b)(7)(C) dated July 2, 2013.

MEMORANDUM TO: Mark A. Satorius
Executive Director for Operations

FROM: Joseph A. McMillan
Assistant Inspector General
for Investigations

SUBJECT: INNAPPROPRIATE RELATIONSHIP BETWEEN A REGION III
SUPERVISOR AND EMPLOYEE (OIG CASE NO. 13-10)

Attached is an Office of the Inspector General (OIG), U.S. Nuclear Regulatory Commission (NRC), Report of Investigation pertaining to an inappropriate relationship between a Region III supervisor and employee.

This report is furnished for whatever action you deem appropriate. Please notify this office within 120 days of what action you take based on the results of this investigation. Contact this office if further assistance is required.

The distribution of this report should be limited to those NRC managers required for evaluation of this matter. Neither the Report of Investigation nor its exhibits may be placed in ADAMS without OIG's written permission.

Attachments: Report of Investigation w/ exhibits (plus one copy)

cc: (b)(7)(C) OGC w/ exhibits
(b)(7)(C) ADM/DFS w/o exhibits

CONTACT: (b)(7)(C) OIG

Case File 13-10 Historical File AIG r/t, memo only

MAGNUM

OIG	OIG	OIG	OIG	OIG	OIG	OIG
(b)(7)(C)				J. McMillan	D. Lee	H. Bell
9/15/13	9/15/13	9/19/13	9/13/13	9/13/13	9/19/13	9/22/13

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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20545-0001

OFFICE OF THE
INSPECTOR GENERAL

July 11, 2013

MEMORANDUM TO: Concur: Case Closed (b)(7)(C)
Joseph A. McMillan
Assistant Inspector General
for Investigations

THRU

(b)(7)(C)
Team Leader (b)(7)(C)

FROM:

(b)(7)(C)
Special Agent (b)(7)(C)

SUBJECT: ALLEGED LACK OF THOROUGH INVESTIGATION INTO
RETALIATION COMPLAINT BY THE OFFICE OF
INVESTIGATIONS (OIG CASE NO. 13-14)

Allegation

This Office of the Inspector General (OIG), U.S. Nuclear Regulatory Commission
(NRC) investigation was initiated based on an allegation by (b)(7)(C)

(b)(7)(C) that (b)(7)(C) was retaliated against by an
(b)(7)(C) NRC licensee contractor for complaining about a coworker who (b)(7)(C) alleged, was
(b)(7)(C) abusing prescription drugs on the job. After raising (b)(7)(C) complaint with (b)(7)(C) employer, and
(b)(7)(C) Dominion, the licensee for Millstone (where (b)(7)(C) had been working), and perceiving
(b)(7)(C) was retaliated against for raising the concern, (b)(7)(C) made an allegation to NRC
Region I Allegation/Enforcement Staff (AES), who did not substantiate the harassment
claim. (b)(7)(C) allegation to OIG was that the Office of Investigations (OI) did not
conduct a professional investigation into the matter.

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B/14

Findings

OIG found that OI's investigation into (b)(7)(C) allegation of retaliation addressed the points raised by (b)(7)(C) in a logical manner by interviewing (b)(7)(C) and the key relevant parties with knowledge of the allegation details and that OI supported its investigative conclusions with relevant evidence in the investigative report, which was also supported by independent investigations conducted by Dominion's Corporate Security and the Employee Concern Program (ECP).

Basis of Findings

OIG confirmed that both Dominion and OI conducted investigations into (b)(7)(C) allegations stemming from concerns that a coworker was coming to work impaired due to prescription drug abuse. Dominion's Corporate Security investigation focused on the drug abuse allegation and did not substantiate that (b)(7)(C) was using prescription Oxycontin while on duty at the plant. The investigation found that (b)(7)(C) had over-the-counter drugs that resembled Oxycontin. Their investigation further disclosed that (b)(7)(C) was unaware of any abuse of prescription drugs by (b)(7)(C) or that (b)(7)(C) ever informed management of (b)(7)(C) concern that (b)(7)(C) might be abusing prescription drugs. (b)(7)(C)

Dominion's Employee Concern Program investigation focused on (b)(7)(C) claim that (1) furlough was cancelled in retaliation for making the allegation, (2) was provided a 1" paint brush to seal coat a large piece of equipment in order to keep track of (b)(7)(C) and away from other employees, (3) was "yelled at" by (b)(7)(C) supervisor for legitimately going to a Safety Coordinator to inquire about a change in plant condition regarding a piece of equipment (b)(7)(C) was working on, and (4) was escorted off site and accused of sleeping on the job. Dominion's ECP did not substantiate any of (b)(7)(C) claims during their investigation. (b)(7)(C)

OI's investigation focused on the retaliation aspect and concluded that there was no evidence to substantiate that retaliation against (b)(7)(C) had occurred. The OI report did not address (b)(7)(C) being "yelled at" by (b)(7)(C) supervisor. The investigation found (b)(7)(C) had been walked off the plant by the (b)(7)(C) for sleeping, which was supported by eyewitness accounts. (b)(7)(C) requested furlough was denied due to issues raised by the labor union to (b)(7)(C). There is no independent corroborating evidence to support (b)(7)(C) contention that (b)(7)(C) was only given a 1" brush to paint a chiller. (b)(7)(C)

OIG reviewed OI's report and noted that the investigator had reviewed Dominion's investigative reports and independently interviewed the same key parties because of their relevance to the allegation details. Interviewees included (b)(7)(C) managers, and potential eyewitnesses to the incidents (b)(7)(C) described as retaliatory.

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(b)(7)(C) The OI investigator asked questions that conveyed [redacted] understanding of the allegation details, including the three incidents (b)(7)(C) conveyed as evidence of retaliation against (b)(7)(C). These issues were (1) painting chiller with 1-inch brush, (2) sleeping in break room, and (3) furlough request. OI's investigation found that there was no supporting evidence one way or the other that (b)(7)(C) was given only a 1" brush and not a bag of different size brushes as claimed by [redacted] supervisor to paint the chiller. (b)(7)(C) There were four individuals who testified that they saw (b)(7)(C) sleeping in the break room. OI found (b)(7)(C) was denied a furlough due to a union issue and that (b)(7)(C) said (b)(7)(C) off instead of terminating [redacted] for sleeping in the break room.

OIG interviewed (b)(7)(C) who maintained that OI used hearsay as their basis for their conclusion. However, in a subsequent phone conversation with OIG [redacted] acknowledged (b)(7)(C) that it was possible that [redacted] may have been sleeping in the break room. [redacted] also agreed (b)(7)(C) that [redacted] got the time off to take [redacted] planned vacation, but that it was due to being laid off (b)(7)(C) and not from being furloughed. [redacted] further disagreed that [redacted] had been given three (b)(7)(C) paint brushes, but could not provide proof to refute the testimony given by [redacted] manager. (b)(7)(C) who said (b)(7)(C) was given a bag of paint brushes. (b)(7)(C) could not provide OIG any additional specific information regarding [redacted] claim that OI did not conduct an adequate investigation.

Because OIG could not find any evidence that OI did not conduct an adequate investigation, it is recommended that this case be closed to the office files.

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(b)(7)(C) The OI investigator asked questions that conveyed his understanding of the allegation details, including the three incidents (b)(7)(C) conveyed as evidence of retaliation against (b)(7)(C). These issues were (1) painting chiller with 1-inch brush, (2) sleeping in break room, and (3) furlough request. OI's investigation found that there was no supporting evidence one way or the other that (b)(7)(C) was given only a 1" brush and not a bag of different size brushes as claimed by (b)(7)(C) supervisor to paint the chiller. There were four individuals who testified that they saw (b)(7)(C) sleeping in the break room. OI found (b)(7)(C) was denied a furlough due to a union issue and that DZ laid (b)(7)(E) off instead of terminating (b)(7)(C) for sleeping in the break room.

(b)(7)(C) OIG interviewed (b)(7)(C) who maintained that OI used hearsay as their basis for their conclusion. However, in a subsequent phone conversation with OIG (b)(7)(C) acknowledged (b)(7)(C) that it was possible that (b)(7)(C) may have been sleeping in the break room. (b)(7)(C) also agreed (b)(7)(C) that (b)(7)(C) got the time off to take (b)(7)(C) planned vacation, but that it was due to being laid off and not from being furloughed. (b)(7)(C) further disagreed that (b)(7)(C) had been given three paint brushes, but could not provide proof to refute the testimony given by (b)(7)(C) manager, (b)(7)(C) who said (b)(7)(C) was given a bag of paint brushes. (b)(7)(C) could not provide OIG any additional specific information regarding (b)(7)(C) claim that OI did not conduct an adequate investigation.

Because OIG could not find any evidence that OI did not conduct an adequate investigation, it is recommended that this case be closed to the office files.

Distribution (b)(7)(E)
File location

Case File No. 13-14

Historical File

Magnum

OIG/AIGI	OIG/AIGI	Editor	O	OIG/AIGI	OIG	OIG
(b)(7)(C)	(b)(7)(C)	(b)(7)(C)	(b)(7)(C)	J. McMillan	D.L. [Signature]	H. Bell [Signature]
7/11/13	7/11/13	11	7/11/13	7/11/13	7/16/13	7/17/13

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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

OFFICE OF THE
INSPECTOR GENERAL

September 19, 2013

MEMORANDUM TO:

(b)(7)(C)

Office of the General Counsel

FROM:

Hubert T. Bell
Hubert T. Bell
Inspector General

SUBJECT:

NOTICE OF CASE CLOSING (OIG Case NO. 13-17)

The Office of Inspector General has concluded an investigation of an allegation that during a legal proceeding, you knowingly submitted and willfully altered documentary evidence to the Merit Systems Protection Board.

This memorandum is to inform you that our investigation of the misconduct described above is complete. Our investigation did not corroborate the alleged misconduct and the case is closed.

The purpose of this memorandum is to provide closure for you. This memorandum does not grant immunity to you for any future investigation of this allegation.

Agency management has been advised of this case closing.

If you have any questions regarding this matter, please contact (b)(7)(C)

(b)(7)(C)

cc: (b)(7)(C) OGC

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B/15

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MEMORANDUM TO:

(b)(7)(C)

Office of the General Counsel

FROM:

Hubert T. Bell
Inspector General

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If you have any questions regarding this matter, please contact (b)(7)(C)

(b)(7)(C)

cc: (b)(7)(C)

OGC

Distribution:

File Location: (b)(7)(E)

OIG Case No. 13-017

Historical File

Magnum

OIG/AIGI	OIG/ACI	OIG	OIG	OIG	OIG
(b)(7)(C)	(b)(7)(C)	J. McMillan	D. Leach	H. Bell	J. Bell
9/14/13	9/17/13	9/13/13	9/13/13	9/20/13	9/20/13

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OFFICE OF THE
INSPECTOR GENERAL

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20545-0001

September 19, 2013

MEMORANDUM TO:

(b)(7)(C)

Office of the General Counsel

FROM:

Hubert T. Bell
Hubert T. Bell
Inspector General

SUBJECT:

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Agency management has been advised of this case closing.

If you have any questions regarding this matter, please contact:

(b)(7)(C)

(b)(7)(C)

cc: (b)(7)(C)

OGC

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MEMORANDUM TO:

(b)(7)(C)

Office of the General Counsel

FROM:

Hubert T. Bell
Inspector General

SUBJECT:

NOTICE OF CASE CLOSING (OIG Case NO. 13-17)

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The purpose of this memorandum is to provide closure for you. This memorandum does not grant immunity to you for any future investigation of this allegation.

Agency management has been advised of this case closing.

If you have any questions regarding this matter, please contact (b)(7)(C)

(b)(7)(C)

cc: (b)(7)(C) OGC

Distribution:

File Location: (b)(7)(E)

OIG Case No. 13-017

Historical File

Magnum

OIG/AIGI	OIG/AIGI	OIG	OIG	OIG
(b)(7)(C)	(b)(7)(C)	J. McMillen	D. Lee	H. Bell
7/11/13	7/12/13	7/13/13	7/18/13	7/19/13

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OFFICE OF THE
INSPECTOR GENERAL

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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

September 13, 2013

MEMORANDUM TO: Concur: Case Closed [Signature]
Joseph A. McMillan
Assistant Inspector General
for Investigations

THRU:

Team Leader (b)(7)(C)

FROM:

Special Agent (b)(7)(C)

SUBJECT: WHISTLEBLOWER RETALIATION BY NRC MANAGEMENT
(OIG CASE NO. 13-17)

Allegation

(b)(7)(C) This office of the Inspector General (OIG), U.S. Nuclear Regulatory Commission (NRC), investigation was based on an allegation from (b)(7)(C) previously employed by NRC, in which (b)(7)(C) alleged retaliation from NRC management for filing Equal Employment Opportunity (EEO) complaints and for filing an appeal for removal from Federal service with the Merit Systems Protections Board (MSPB). (b)(7)(C) also alleged that (b)(7)(C) and (b)(7)(C) two attorneys in NRC's Office of the General Counsel (OGC), knowingly submitted to MSPB a version of (b)(7)(C) 2010 appraisal that had been willfully altered and that this appraisal had been used to take administrative action against (b)(7)(C). Because most of the matters raised in (b)(7)(C) allegation were being addressed by the EEO investigation and MSPB appeal, OIG focused on (b)(7)(C) allegation pertaining to his 2010 appraisal.

Findings

OIG found that (b)(7)(C) Electronic Online Personnel File (eOPF) contained a version of (b)(7)(C) 2010 appraisal that matched the original version in terms of overall rating and overall numerical score but contained incorrect numerical scores for each rating.

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factor whereas the original did not include rating factor numerical scores at all. OIG found that the OGC used the original appraisal to take administrative action against (b)(7)(C) and not the EOPF version.

Basis for Findings

(b)(7)(C) OIG learned that (b)(7)(C) EEO investigations are still ongoing and there have not been any decisions made regarding (b)(7)(C) complaints. OIG learned that on January 23, 2013, MSPB dismissed (b)(7)(C) appeal without prejudice, meaning that it could get reviewed at a later date.

(b)(7)(C) OIG reviewed the copy of the 2010 performance appraisal used by (b)(7)(C) Division of Risk Analysis, Nuclear Reactor Regulation, NRC, and by OGC to take administrative action against (b)(7)(C) as well as the copy of the performance appraisal (b)(7)(C) claims should have been used. (b)(7)(C) alleged (b)(7)(C) "Official Copy" of (b)(7)(C) performance appraisal was not used by OGC, and that instead a willfully doctored version was used. The copy used by OGC was the same copy provided to them by (b)(7)(C). This copy of the performance appraisal had check marks showing the element rating for each of the four critical elements. Elements 1 and 2 were checked as minimally successful and elements 3 and 4 were checked as fully successful. The performance appraisal did not have the numerical equivalent column filled out. This column was intentionally left blank on the original performance appraisal. The quotient value for the appraisal was 1.5 which equates to a summary rating of minimally successful.

The "Official Copy" of (b)(7)(C) 2010 performance appraisal maintained in eOPF shows check marks in the element rating column for each of the four critical elements in the identical location as the performance appraisal used by OGC. It also accurately reflects the quotient value of 1.5, which equates to a minimally successful summary rating. This eOPF copy does have the numerical equivalent column filled in; however, the numbers are inaccurate and they do not coincide with the check marks for the element rating. Had the numerical equivalent been completed properly, it would have shown values of 1, 1, 2, and 2. However, the "Official Copy" showed inaccurate values of 2, 2, 3, and 3. The remainder of the "Official Copy" and the original copy of the performance appraisal are identical and both support the summary rating of 1.5.

OIG learned that when (b)(7)(C) completes a performance appraisal, (b)(7)(C) does not fill out the numerical equivalent column for any person he supervises and that the original copy of the (b)(7)(C) performance appraisal did not have the numerical equivalent column filled out. (b)(7)(C) had never seen the "Official Copy" of (b)(7)(C) performance appraisal until it was presented in the allegation. (b)(7)(C) stated that (b)(7)(C) could only speculate that a person with good intentions, possibly from the Office of the Chief Human Capital Officer, filled in the numerical equivalent column while it was being filed; however, they accidentally used the wrong numbers when doing so. OIG reviewed the

(b)(7)(C) file (b)(7)(C) maintains on all employees that (b)(7)(C) supervises and confirmed that the numerical equivalent column on all of the performance appraisals (b)(7)(C) had completed were not filed in. OIG also confirmed that each employee's appraisal in eOFF did have the numerical equivalent column completed; however, the handwriting did not appear to match (b)(7)(C).

(b)(7)(B) (b)(7)(C) and (b)(7)(C) said they had never seen the "Official Copy" of (b)(7)(C) performance appraisal that (b)(7)(C) used in (b)(7)(C) allegation. (b)(7)(C) stated that (b)(7)(C) had worked off of documents provided by (b)(7)(C) and that there were no numbers in the numerical equivalent column. (b)(7)(C) stated that the lack of numbers in these columns was never questioned in any discussions regarding the case. (b)(7)(C) noted that in the copy of the appraisal supplied with the allegation, the numbers in the numerical equivalent column were incorrect and rather, "Inconsequential" because the breakdown of all four elements in the appraisal support a rating of minimally successful, not fully successful as claimed by (b)(7)(C).

(b)(7)(C)

Because the EEO investigations are still open, the MSPB dismissed (b)(7)(C) appeal without prejudice, and there was no evidence to suggest NRC purposely altered (b)(7)(C) appraisal and used it to take administrative action against (b)(7)(C). It is recommended this case be closed to the files of this office.

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(b)(7)(C) file (b)(7)(C) maintains on all employees that (b)(7)(C) supervises and confirmed that the numerical equivalent column on all of the performance appraisals (b)(7)(C) had completed were not filed in. OIG also confirmed that each employee's appraisal in eOPF did have the numerical equivalent column completed; however, the handwriting did not appear to match (b)(7)(C) (b)(7)(C)

(b)(7)(C) and (b)(7)(C) said they had never seen the "Official Copy" of (b)(7)(C) performance appraisal that (b)(7)(C) used in (b)(7)(C) allegation. (b)(7)(C) stated that (b)(7)(C) had worked off of documents provided by (b)(7)(C) and that there were no numbers in the numerical equivalent column. (b)(7)(C) stated that the lack of numbers in these columns was never questioned in any discussions regarding the case. (b)(7)(C) noted that in the copy of the appraisal supplied with the allegation, the numbers in the numerical equivalent column were incorrect and rather, "Inconsequential" because the breakdown of all four elements in the appraisal support a rating of minimally successful, not fully successful as claimed by (b)(7)(C) (b)(7)(C)

Because the EEO investigations are still open, the MSPB dismissed (b)(7)(C) appeal without prejudice, and there was no evidence to suggest NRC purposely altered (b)(7)(C) appraisal and used it to take administrative action against (b)(7)(C) It is recommended this case be closed to the files of this office.

File Location:

Distribution: (b)(7)(E)

Case File 13-17

Historical File

Magnum

OIG	OIG	OIG	OIG	OIG	OIG
(b)(7)(C)	(b)(7)(C)	(b)(7)(C)	J. McMillan	D. Lee	H. Bell
8/21/13	8/21/13	9/13/13	9/13/13	9/13/13	9/13/13

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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

December 30, 2013

MEMORANDUM TO: Concur, Case Closed
Joseph A. McMillan
Assistant Inspector General
for Investigations

THRU:

(b)(7)(C)

Team Leader (b)(7)(C)

FROM:

(b)(7)(C)

Special Agent, (b)(7)(C)

SUBJECT: NSIR STAFF OVERSIGHT OF FORCE ON FORCE
EXERCISES AT TWO EXELON NUCLEAR POWER PLANTS
(OIG CASE NO. 13-19)

Allegation

This Office of the Inspector General (OIG), U.S. Nuclear Regulatory Commission (NRC), investigation was initiated based on an anonymous allegation that the alleged (b)(7)(C) believed that NRC Inspection Team Leaders (b)(7)(C) and (b)(7)(C)

(b)(7)(C) urged (b)(7)(C) Office of Nuclear Security and Incident Response (NSIR) to direct (b)(7)(C) Exelon Corporation to dismiss (b)(7)(C) from Exelon's employment or, things would go much harder for Exelon in 2013.

Specifically, it was alleged that (b)(7)(C) was trying to go outside of NRC's and Nuclear Energy Institute's guidance and then threatened and bullied people to get (b)(7)(C) way, in order to place a huge advantage to the Composite Adversary Team (CAF). It was also alleged that (b)(7)(C) made several threats about finding issues if Exelon's Defensive Strategy Team (DST) did not quit pointing things out where (b)(7)(C) the CAF team and the NRC contractors were wrong; and that (b)(7)(C) threatened Exelon to remove (b)(7)(C)

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B/16

(b)(7)(C) their DST from the site or face a finding. Regarding (b)(7)(C) the anonymous allegor stated (b)(7)(C) complaint against (b)(7)(C) focused on (b)(7)(C) not having (b)(7)(C) experience, including (b)(7)(C) and therefore took NRC's contractors' word over the licensee on FOF activities.

Findings

OIG did not substantiate the allegations. OIG found that Exelon management made the decision to remove their personnel from the Limerick Generating Station (Limerick) during the Force-on-Force (FOF) exercises. OIG learned that the issues, as stated in the allegations were issues that arose from interactions between the NRC subject matter experts (contractors) and the Exelon DST.

This investigation did not confirm any violation of 5 CFR 2635 – Standards of Conduct.

Basis of Findings

OIG conducted interviews with (b)(7)(C) and (b)(7)(C) Exelon Corporation, regarding the FOF exercises at Oyster Creek Nuclear Generating Station (Oyster Creek) and Limerick.

(b)(7)(C) (b)(7)(C) stated that (b)(7)(C) was present for the exercises for both Oyster Creek and Limerick. (b)(7)(C) stated that it was (b)(7)(C) decision to remove (b)(7)(C) DST personnel from Limerick after they failed to follow (b)(7)(C) instructions about not interfering with the FOF exercises. (b)(7)(C) said that (b)(7)(C) DST personnel acted unprofessionally and that they had even apologized to (b)(7)(C) for not following (b)(7)(C) instructions. (b)(7)(C)

(b)(7)(C) (b)(7)(C) also stated that at no time was (b)(7)(C) told or influenced by NRC staff to remove (b)(7)(C) personnel from the site, and that (b)(7)(C) alone made that decision based on what had occurred. (b)(7)(C) further stated that (b)(7)(C) did not witness or was aware of any unprofessionalism or misconduct by NRC staff or their contractors at Oyster Creek or Limerick.

(b)(7)(C) (b)(7)(C) said that (b)(7)(C) was present when (b)(7)(C) spoke to their DST personnel about their behavior and interaction with NRC's contractors. (b)(7)(C) also stated that (b)(7)(C) was present the following day when after receiving another complaint from NRC staff about their DST's interaction with NRC contractors. (b)(7)(C) dismissed the DST personnel from the FOF exercise at Limerick and informed them to leave the site. (b)(7)(C) also stated that (b)(7)(C) saw no unprofessional behavior or misconduct on the part of NRC staff or NRC contractors at either Oyster Creek or Limerick. (b)(7)(C)

OIG interviewed NRC staff who were involved with the Oyster Creek and the Limerick FOF inspections. Staff indicated that they were aware that there were some issues regarding equipment and breaches. Staff who were involved with the FOF inspection at

Limerick became aware that Exelon personnel were removed from the site by Exelon management.

NRC staff indicated that they did not witness or were aware of any unprofessional conduct by the NRC team leaders. Staff involved with the FOF exercises advised that all exercises were concluded without any issues during the exercises.

OIG interviewed (b)(7)(C) and (b)(7)(C) for Oyster Creek and Limerick, regarding their conduct during the FOF inspections. Both (b)(7)(C) indicated that at no time did they ever threaten Exelon managers regarding the conduct of the exercises. (b)(7)(C) advised that (b)(7)(C) briefed (b)(7)(C) about the issues the NRC contractors were having with the Exelon DST personnel and that (b)(7)(C) had (b)(7)(C) mentioned with (b)(7)(C) regarding these issues. (b)(7)(C) stated that (b)(7)(C) did not direct (b)(7)(C) to remove (b)(7)(C) DST personnel from the site and that the decision to do so was strictly (b)(7)(C).

OIG interviewed (b)(7)(C) for Quad City and currently the Office Allegations Coordinator for the Office of Nuclear Reactor Regulation (NRR), who stated (b)(7)(C) did not have much interaction with Exelon's DST. Regarding (b)(7)(C) qualifications to be a (b)(7)(C) exercise, (b)(7)(C) stated (b)(7)(C) has been at the NRC since August 2002, and worked in NSIR on two occasions. From 2009 to February 2013 (b)(7)(C) was a (b)(7)(C) for a year and a (b)(7)(C) for three years. (b)(7)(C) also previously worked in NSIR for five years.

OIG interviewed (b)(7)(C) who told OIG that (b)(7)(C) did have conversations with (b)(7)(C) regarding the issues at Limerick but did not direct or threaten Exelon management with any NRC action if their DST personnel were not removed from the site. (b)(7)(C) stated that (b)(7)(C) offered (b)(7)(C) the opportunity to have NRC train their DST personnel in the purpose and scope of the FOF exercises. Furthermore, (b)(7)(C) stated that approximately 3 weeks after the Limerick inspection, (b)(7)(C) had informed (b)(7)(C) that Exelon had undertaken steps to train their personnel on the purpose and objective of the FOF exercises.

(b)(7)(C) added that as for the requirements for being a team leader in SPEB, team leads are selected based on their knowledge of nuclear power plants; broad knowledge of nuclear security; good communication skills; and knowledge of Regulatory Guide 569, which explains the Design Basis Threat (DBT) under 10 CFR Part 73. (b)(7)(C) said the criteria was approved by the NRC. (b)(7)(C) stated that only two of (b)(7)(C) (b)(7)(C) was selected as a (b)(7)(C) because (b)(7)(C) had a regulatory background and was a (b)(7)(C).

OIG interviewed (b)(7)(C) for Exelon Corporation, who stated that (b)(7)(C) was fired from Exelon after the Limerick inspection due to a conflict of interest.

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(b)(7)(C) [redacted] stated that whatever disagreements [redacted] had with NRC staff or their contractors at Oyster Creek were resolved and forgotten. [redacted] stated that though [redacted] was not personally participating in the Limerick FOF exercises, (b)(7)(C) was present at the site. (b)(7)(C) also said that there were issues that were brought to [redacted] attention by [redacted] DST personnel who apparently had disagreements with the NRC contractors. (b)(7)(C)

(b)(7)(C) said that the situation at Limerick was getting so contentious that (b)(7)(C) was told by (b)(7)(C) to keep the DST personnel away from (b)(7)(C) and (b)(7)(C) instructed the DST personnel not to engage the NRC contractors at all during the remainder of time while on the site.

OFG interviewed (b)(7)(C) and (b)(7)(C) Exelon personnel who stated that they did have disagreements with NRC contractors regarding the use of 550 parachute cord, breeches and weight of equipment. They further stated that they witnessed no unprofessional behavior or misconduct by NRC staff during the FOF inspection at both Oyster Creek and Limerick.

(b)(7)(C) QIG noted that neither (b)(7)(C) nor (b)(7)(C) discussed (b)(7)(C) or the FOF activities at Quad Cities for which (b)(7)(C) was the (b)(7)(C)

OIG interviewed the three NRC contractors (b)(7)(C) and (b)(7)(C) who participated in the Oyster Creek and/or Limerick FOF inspections. (b)(7)(C) stated that (b)(7)(C) did not witness any unprofessional behavior by NRC staff. (b)(7)(C) stated that Exelon's OSI members were completely unaware of the regulatory process and were fighting everything they possibly could outside of the purview of the inspection team lead. (b)(7)(C) said that the situation was so contentious the very first day that they had a meeting with (b)(7)(C)

(b)(7)(C) stated that there were three personnel that worked for the industry who were debating how the tactics were being used, how stuff would be placed, and what it should look like. (b)(7)(C) said that the DST members were interfering with the CAF team. (b)(7)(C) stated that no one from NRC was unprofessional during the inspection. (b)(7)(C) stated that if anyone was unprofessional, it was Exelon's DST.

(b)(7)(C) told OIG that there was a lot of push back from Exelon's DST on the CAF's tactics, techniques, and procedures; and that they were told by (b)(7)(C) that the NRC was there to evaluate the site's protective strategy, not the CAF nor the CAF's technical abilities. (b)(7)(C) stated that Exelon's DST was having a hard time with that concept. They were trying to switch from a real world tactical mode to a testing and strategy mode, and they were having a hard time wrapping their minds around that point.

(b)(7)(C) [redacted] relayed that Exelon management was a little frustrated with their DST, because in their eyes, they were causing a disruption to the inspection process. (b)(7)(C) [redacted] stated that (b)(7)(C) [redacted] could not think of anything remotely unprofessional, as far as the NRC team was concerned.

~~OFFICIAL USE ONLY - OIG INVESTIGATION INFORMATION~~

Since OIG could not find any evidence of NRC staff misconduct, it is recommended that this case be closed to the office files.

~~OFFICIAL USE ONLY - OIG INVESTIGATION INFORMATION~~

~~—OFFICIAL USE ONLY—OIG INVESTIGATION INFORMATION—~~

OIG interviewed the three NRC contractors, (b)(7)(C) and (b)(7)(C) who participated in the Oyster Creek and/or Limerick FOF inspections. (b)(7)(C) stated that (b)(7)(C) did not witness any unprofessional behavior by NRC staff. (b)(7)(C) stated that Exelon's DST members were completely unaware of the regulatory process and were fighting everything they possibly could outside of the purview of the inspection team lead. (b)(7)(C) said that the situation was so contentious the very first day that they had a meeting with (b)(7)(C).

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(b)(7)(C) relayed that Exelon management was a little frustrated with their DST, because in their eyes, they were causing a disruption to the inspection process. (b)(7)(C) stated that (b)(7)(C) could not think of anything remotely unprofessional, as far as the NRC team was concerned.

Since OIG could not find any evidence of NRC staff misconduct, it is recommended that this case be closed to the office files.

Distribution (b)(7)(E)

Case File No. 13-19

Historical File

Magnum

OIG/AIGI	OIG/AIGI	Editor	OIG/AIGI	OIG/AIGI	OIG	OIG
(b)(7)(C)			J. McMillan	D. Lee	H. Bell	
12/11/13	12/24/13	14	1/1	12/18/13	12/21/13	12/24/13

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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20535-0001

December 30, 2013

MEMORANDUM TO:

(b)(7)(C)

Office of Nuclear Reactor Regulation

FROM:

Hubert T. Bell
Hubert T. Bell
Inspector General

SUBJECT:

NOTICE OF CASE CLOSING (OIG CASE NO. 13-019)

The Office of the Inspector General has concluded an investigation of an allegation that you urged NRC management to influence an Exelon executive to terminate its employee due to technical disagreements with NRC staff during Force on Force inspections at two Exelon facilities.

This memorandum is to inform you that our investigation of the misconduct described above is complete. Our investigation did not corroborate the alleged misconduct and the case is closed.

The purpose of this memorandum is to provide closure for you. This memorandum does not grant immunity to you for any future investigation of this allegation.

Agency management has been advised of this case closing.

If you have any questions regarding this matter, please contact

(b)(7)(C)

(b)(7)(C)

cc: Mark A. Satorius, EDO

~~OFFICIAL USE ONLY - OIG INVESTIGATION INFORMATION~~

MEMORANDUM TO:

(b)(7)(C)

Office of Nuclear Reactor Regulation

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Hubert T. Bell
Inspector General

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If you have any questions regarding this matter, please contact (b)(7)(C)

(b)(7)(C)

cc: Mark A. Satorius, EDO

Distribution:

File Location: (b)(7)(E)

AIG/rlt

OIG Case No. 13-19

Historical File

OIG/AIGI	OIG/AIG	OIG/AIGI	OIG	OIG	OIG
	(b)(7)(C)		J. McMillan	D. Lee	H. Bell
12/27/13	12/27/13	12/27/13	12/27/13	12/27/13	12/27/13

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OFFICE OF THE
INSPECTOR GENERAL

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

December 30, 2013

MEMORANDUM TO: (b)(7)(C)
Office of Nuclear Security and Incident Response

FROM: *Hubert T. Ball*
Hubert T. Ball
Inspector General

SUBJECT: NOTICE OF CASE CLOSING (OIG CASE NO. 13-019)

The Office of the Inspector General has concluded an investigation of an allegation that you urged NRC management to influence an Exelon executive to terminate its employee due to technical disagreements with NRC staff during Force on Force inspections at two Exelon facilities.

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(b)(7)(C)

cc: Mark A. Salorus, EDO

~~OFFICIAL USE ONLY - OIG INVESTIGATION INFORMATION~~

MEMORANDUM TO:

(b)(7)(C)

Office of Nuclear Security and Incident Response

FROM:

Hubert T. Bell
Inspector General

SUBJECT:

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If you have any questions regarding this matter, please contact

(b)(7)(C)

(b)(7)(C)

cc: Mark A. Satorius, EDO

Distribution:

File Location (b)(7)(E)

AIGI n/

OIG Case No. 13-19

Historical File

OIG/AIGI	OIG/AIGI	OIG/AIGI	OIG	OIG	OIG
(b)(7)(C)	(b)(7)(C)	(b)(7)(C)	J. McMillan	D. Lee	H. Bell
12/11/13	12/11/13	12/11/13	12/27/13	12/27/13	12/31/13

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OFFICE OF THE
INSPECTOR GENERAL

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

December 30, 2013

MEMORANDUM TO:

(b)(7)(C)

Office of Nuclear Security and Incident Response

FROM:

Hubert T. Bell
Hubert T. Bell
Inspector General

SUBJECT:

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(b)(7)(C)

cc: Mark A. Satorius, EDO

~~OFFICIAL USE ONLY - OIG INVESTIGATION INFORMATION~~

MEMORANDUM TO:

(b)(7)(C)

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Inspector General

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If you have any questions regarding this matter, please contact (b)(7)(C)

(b)(7)(C)

cc: Mark A. Satonus, EDO

Distribution:

File Location: (b)(7)(E)

AIGI #1

OIG Case No. 13-19

Historical File

OIG/AIGI	OIG/AIGI	OIG/AIGI	OIG	OIG	OIG
(b)(7)(C)	(b)(7)(C)	(b)(7)(C)	MacMillan	D. Lee	H. Bell
12/21/13	12/21/13	12/21/13	12/21/13	12/21/13	12/30/13

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OFFICE OF THE
INSPECTOR GENERAL

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555-0001

December 30, 2013

MEMORANDUM TO: (b)(7)(C)

Office of Nuclear Security and Incident Response

FROM:

Hubert T. Bell
Hubert T. Bell
Inspector General

SUBJECT: NOTICE OF CASE CLOSING (OIG CASE NO. 13-019)

The Office of the Inspector General has concluded an investigation of an allegation that you instructed or influenced an Exelon executive to terminate one of its employees due technical disagreements with NRC staff during Force on Force inspections at two Exelon facilities.

This memorandum is to inform you that our investigation of the misconduct described above is complete. Our investigation did not corroborate the alleged misconduct and the case is closed.

The purpose of this memorandum is to provide closure for you. This memorandum does not grant immunity to you for any future investigation of this allegation.

Agency management has been advised of this case closing.

If you have any questions regarding this matter, please contact (b)(7)(C)

(b)(7)(C)

cc: Mark A. Satorius, EDO

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MEMORANDUM TO:

(b)(7)(C)

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If you have any questions regarding this matter, please contact (b)(7)(C)

(b)(7)(C)

cc: Mark A. Satorius, EDO

Distribution:

File Location: (b)(7)(C)

AIG/r/1

OIG Case No. 13-19 Historical File

OIG/AIG	OIG/AIG	OIG/AIG	OIG	OIG	OIG
	(b)(7)(C)		J. McMillan	D. Lee	H. Bell
12/17/13	12/17/13	12/17/13	12/17/13	12/17/13	12/17/13

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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

OFFICE OF THE
INSPECTOR GENERAL

July 22, 2013

MEMORANDUM TO:

Concur. Case Closed
Joseph A. McMillan
Assistant Inspector General
for Investigations

THRU:

(b)(7)(C)
Team Leader (b)(7)(C)
(b)(7)(C)
Special Agent (b)(7)(C)

FROM:

SUBJECT

INAPPROPRIATE INVESTIGATION PROCESS BY
WASHINGTON STATE DEPARTMENT OF RADIATION
PROTECTION (OIG CASE NO. 13-23)

Allegation

The Office of the Inspector General (OIG), U.S. Nuclear Regulatory Commission (NRC), initiated this investigation based on an OIG Hotline conversation with private citizen (b)(7)(C) regarding the failure of NRC staff to fully review Washington State's Department of Radiation's investigation of (b)(7)(C) possible overexposure to radiation stemming from radiation therapies at the University of Washington Hospital in 1995. Specifically, (b)(7)(C) alleged that NRC staff failed to investigate the State of Washington's lack of response to (b)(7)(C) allegation. It should be noted that Washington is an Agreement State¹.

¹ Under the Agreement State Program, authorized by Section 274 of U.S. Atomic Energy Act of 1954, the NRC relinquishes to Agreement States portions of its authority to regulate certain materials, and the State asserts its own authority under State law.

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8/17

Findings

OIG found that (b)(7)(C) allegation was reviewed by the NRC Allegations Review Board (ARB) in July and September 2010. OIG found that the allegation was outside the regulatory responsibilities of the NRC and, as a result, the NRC lacks any authority to investigate. OIG also found that NRC staff contacted the State of Washington Office of Radiation Protection, reviewed the State's investigation, and, as a result, referred (b)(7)(C) to the Washington State Auditor's office for any further inquiry.

Basis of Findings

(b)(7)(C) contacted the NRC OIG Hotline regarding closure letters (b)(7)(C) received from the NRC dated August 3 and October 7, 2010, from the NRC Office of Federal and State Materials and Environmental Management Programs (b)(7)(C). (b)(7)(C) sent an allegation to the NRC on June 22, 2010, requesting the NRC review the investigation conducted by the State of Washington's Office of Radiation Protection regarding (b)(7)(C) concern that (b)(7)(C) was overexposed to radiation while having linear accelerator treatments at the University of Washington Medical Center in 1995. (b)(7)(C)

OIG reviewed the ARB case file and determined that (b)(7)(C) first contacted NRC in 2010 with (b)(7)(C) allegation. OIG reviewed the two closure letters the NRC staff sent to (b)(7)(C) in 2010, informing (b)(7)(C) that the NRC lacks the jurisdiction to investigate (b)(7)(C) allegation. (b)(7)(C)

OIG learned that NRC communicated to (b)(7)(C) that it lacked the ability to investigate because the NRC does not have jurisdiction over radiation producing machines specifically linear accelerators and cyclotrons, which (b)(7)(C) believes caused (b)(7)(C) overexposure in 1995. The State of Washington has the authority to investigate the allegation. (b)(7)(C)

OIG learned that NRC staff contacted the State of Washington's Office of Radiation Protection on August 12, 2010, and received a copy of the State's investigation, which the NRC forwarded to (b)(7)(C) in an attempt to assist (b)(7)(C). NRC staff also informed (b)(7)(C) that (b)(7)(C) could report any claims of misconduct to the Washington State Auditor's office. (b)(7)(C)

It should be noted that additional information regarding the allegation was sent by (b)(7)(C) to OIG in February 2013. OIG submitted this additional information to FSME for its consideration in the Integrated Materials Performance Evaluation Program² audit of Washington State scheduled for May 2013. This additional information did not affect the jurisdiction of the NRC to investigate. NRC staff reviewed the information and referred the materials to the Washington State Attorney General's Office for review.

The NRC program which evaluates and audits Agreement State's radiation control programs to ensure public health and public safety is being adequately protected as mandated by the Atomic Energy Act.

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Based on the fact that the NRC lacks the jurisdictional authority to investigate (b)(7)(C) allegation and that (b)(7)(C) was referred to the Washington State's Auditor's and Attorney General's offices, and no wrongdoing was identified by the OIG, it is recommended that this investigation be closed to the files of this office.

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Based on the fact that the NRC lacks the jurisdictional authority to investigate (b)(7)(C) allegation and that (b)(7)(C) was referred to the Washington State's Auditor's and Attorney General's offices, and no wrongdoing was identified by the OIG, it is recommended that this investigation be closed to the files of this office.

File Location: (b)(7)(E)

Distribution

Case File 13-23

Historical File

Magnum,

OIG	OIG	(b)(7)(C)	Editor	OIG	OIG	OIG	OIG
					S. McMillan	D. L. [Signature]	H. Bell [Signature]
7/22/13	7/22/13	7/22/13	7/22/13	7/22/13	7/22/13	7/22/13	7/22/13

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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

OFFICE OF THE
INSPECTOR GENERAL

May 8, 2013

MEMORANDUM TO: Concur. Case Closed
(b)(7)(C)

THRU: (b)(7)(C) Team Leader (b)(7)(C)

FROM: (b)(7)(C) Special Agent (b)(7)(C)

SUBJECT: REGION I NRC EMPLOYEE IS MISUSING TRAVEL
FUNDS (OIG CASE NO. 13-26)

Allegation

The Office of the Inspector General (OIG), U. S. Nuclear Regulatory Commission (NRC), received an allegation that (b)(7)(C) Clinton Power Station, Region I, NRC, may be misusing travel funds by requesting to attend external training every year in (b)(7)(C) where (b)(7)(C) currently (b)(7)(C) has family.

Finding

OIG found that from 2009 to the present (b)(7)(C) has attended one approved training course, "Leadership Essentials," in (b)(7)(C)

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B/18

Basis for Finding

OIG reviewed all available travel vouchers for (b)(7)(C) which ranged from October 2009 through January 2013. In September 2010 (b)(7)(C) attended, "Leadership Essentials," in (b)(7)(C) and also took leave in conjunction with the training.

According to the allegation (b)(7)(C) had submitted a training request in 2011, 2012, and 2013 to attend various leadership courses in (b)(7)(C) but it was believed those requests were denied. 7C

OIG learned that Region I does not maintain records on training requests that are denied and, therefore, there is no record of how many times (b)(7)(C) requested to attend training in (b)(7)(C).


Because OIG did not identify any improper behavior by (b)(7)(C) it is recommended this case be closed to the files of this office.



OFFICE OF THE
INSPECTOR GENERAL

~~OFFICIAL USE ONLY - OIG INVESTIGATION INFORMATION~~
UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

AUGUST 8, 2013

MEMORANDUM TO: Concur: Case Closed 
Joseph A. McMillan
Assistant Inspector General
for Investigations

THRU:

(b)(7)(C)
Team Leader (b)(7)(C)

FROM:

(b)(7)(C)
Special Agent (b)(7)(C)

SUBJECT: POTENTIAL INAPPROPRIATE RELATIONSHIP BETWEEN
AN OFFICE OF NEW REACTORS SUPERVISOR AND
STAFF MEMBER (OIG CASE NO. 13-30)

Allegation

The Office of the Inspector General (OIG), U.S. Nuclear Regulatory Commission (NRC) initiated this investigation based on an e-mail received from (b)(7)(C) Office of New Reactors (NRO), Nuclear Regulatory Commission (NRC), regarding an "apparent prohibited practice" and the actions taken by NRO and the Office of the Chief Human Capital Officer (OCHCO) in response. The matter pertained to a reported romantic relationship between NRC employees (b)(7)(C) Information Technology Management Branch (ITMB), Division of Program Management, Policy Development and Analysis (PMDA), NRO, and (b)(7)(C) assigned to ITMB and (b)(7)(C) OIG reviewed NRC's handling of the reported incident.

Findings

OIG found that NRC responded to the reported romantic relationship between (b)(7)(C) and (b)(7)(C) by transferring (b)(7)(C) to a position not (b)(7)(C). OIG found that OCHCO reviewed the matter and determined that no prohibited personnel practices occurred during the approximate 3.5 month period that (b)(7)(C).

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B/19

Basis of Findings

Based on OIG's review of an OCHCO memorandum dated May 21, 2013, by (b)(7)(C)

(b)(7)(C) OCHCO, OIG learned that (b)(7)(C) (b)(7)(C) ITMB, Division of Program Management, Policy Development & Analysis (PMDA), NRO, on December 2, 2012. At that time, (b)(7)(C) On March 22, 2013, (b)(7)(C) telephoned (b)(7)(C) OCHCO, and asked to be reassigned from (b)(7)(C) position in branch. (b)(7)(C) told (b)(7)(C) that (b)(7)(C) and (b)(7)(C) were in a romantic relationship. Therefore, (b)(7)(C) was seeking a transfer outside of ITMB and on March 28, 2013, (b)(7)(C) was transferred out of ITMB. (b)(7)(C) (b)(7)(C)

On March 27, 2013, (b)(7)(C) NRO, notified OIG via an e-mail that a personnel issue involving a possible prohibited practice had been brought to their attention by NRC staff on March 21. In the e-mail to OIG, (b)(7)(C) told OIG that (b)(7)(C) and (b)(7)(C) NRO, learned of the reported romantic relationship and that NRO and OCHCO decided to reassign (b)(7)(C) to a different branch in NRO. (b)(7)(C) told OIG that (b)(7)(C) asked OCHCO to obtain further information regarding the allegation and to determine whether or not any prohibited practices occurred.

OIG learned from OCHCO's memorandum that on April 1, 2013, both (b)(7)(C) and (b)(7)(C) were interviewed by OCHCO regarding the allegation and (b)(7)(C) denied a romantic relationship but said that (b)(7)(C) and (b)(7)(C) had discussed exploring a relationship. (b)(7)(C) also said they were not living together and had not purchased a residence together. (b)(7)(C) (b)(7)(C)

The memorandum described NRC personnel policies and reported that based on those policies and an assessment of personnel actions by (b)(7)(C) no prohibited practices were identified. OCHCO reported that during the time period (b)(7)(C) (b)(7)(C) did not make any personnel determinations regarding (b)(7)(C) for promotions, awards, or within-grade increases, and (b)(7)(C) did not conduct his FY 2012 appraisal or (b)(7)(C) FY 2013 midyear review. (b)(7)(C)

Because NRC management took corrective action and no wrongdoing was identified, it is recommended that this investigation be closed to the files of this office.

Basis of Findings

Based on OIG's review of an OCHCO memorandum dated May 21, 2013, by (b)(7)(C)

(b)(7)(C) OCHCO, OIG learned that (b)(7)(C)

(b)(7)(C) ITMB, Division of Program Management, Policy

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(b)(7)(C) were interviewed by OCHCO regarding the allegation and (b)(7)(C) denied a

romantic relationship but said that (b)(7)(C) and (b)(7)(C) had discussed exploring a

relationship. (b)(7)(C) also said they were not living together and had not purchased a

residence together.

The memorandum described NRC personnel policies and reported that based on those

policies and an assessment of personnel actions by (b)(7)(C), no prohibited practices

were identified. OCHCO reported that during the time period (b)(7)(C)

(b)(7)(C) did not make any personnel determinations regarding (b)(7)(C) for

promotions, awards, or within-grade increases, and (b)(7)(C) did not conduct his FY 2012

appraisal or his FY 2013 midyear review.

Because NRC management took corrective action and no wrongdoing was identified, it

is recommended that this investigation be closed to the files of this office.

File Location: (b)(7)(E)

Distribution

Case File 13-30

Historical File

Magnum,

OIG	OIG	(b)(7)(C)	Editor	OIG	OIG	OIG
				J. McMillan	D. Lee	H. Bell
8 11 113	8 11 113	8 17 113	8 18 113	8 14 113	8 123 113	8 16 113

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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

OFFICE OF THE
INSPECTOR GENERAL

MEMORANDUM TO: **Concur: Case Closed**
(b)(7)(C)

THRU: (b)(7)(C)
Team Leader (b)(7)(C)

FROM: (b)(7)(C)
Special Agent (b)(7)(C)

SUBJECT: POSSIBLE SECRET NEGOTIATIONS FOR EMPLOYMENT WITH
NRC LICENSEE BY CHAIRMAN (OIG CASE NO. 13-32)

Allegation

This Office of the Inspector General (OIG), U.S. Nuclear Regulatory Commission (NRC), investigation was initiated based on an anonymous allegation received on the OIG Web site stating that Chairman Allison MACFARLANE has been in secret negotiations with an NRC licensee for employment for herself and her spouse. No additional information was provided by the allegor to facilitate OIG's assessment of the allegation. Therefore, OIG conducted a review of the Chairman's NRC-issued Government laptop and NRC e-mail account, and reviewed her Executive Branch Personnel Public Financial Disclosure Report to identify potential indicators that the Chairman was engaged in employment negotiations as alleged.

Findings

OIG did not identify any information on the Chairman's NRC-issued Government laptop, NRC e-mail account, or Public Financial Disclosure Report indicating she was negotiating with an NRC licensee for employment for herself or her spouse.

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Basis of Findings

Part I, Section J, of Executive Order 12674 (as modified by E.O. 12731), "Principles of Ethical Conduct for Government Officers and Employees" states:

1) Employees shall not engage in outside employment or activities, including seeking or negotiating for employment, that conflict with official Government duties and responsibilities.

Additionally, Section 17 (a) and (b) of Public Law 112-105 "Stock Act" states:

POST-EMPLOYMENT NEGOTIATION RESTRICTIONS.

(a) RESTRICTION EXTENDED TO EXECUTIVE AND JUDICIAL BRANCHES.—

Notwithstanding any other provision of law, an individual required to file a financial disclosure report under section 101 of the Ethics in Government Act of 1978 (5 U.S.C. App. 101) may not directly negotiate or have any agreement of future employment or compensation unless such individual, within 3 business days after the commencement of such negotiation or agreement of future employment or compensation, files with the individual's supervising ethics office a statement, signed by such individual, regarding such negotiations or agreement, including the name of the private entity or entities involved in such negotiations or agreement, and the date such negotiations or agreement commenced.

(b) RECUSAL.—An individual filing a statement under subsection (a) shall recuse himself or herself whenever there is a individual with respect to the subject matter of the statement, and shall notify the individual's supervising ethics office of such recusal. An individual making such recusal shall, upon such recusal, submit to the supervising ethics office the statement under subsection (a) with respect to which the recusal was made.

A review of OGE Form 278, Executive Branch Personnel Public Financial Disclosure Report, as well as her personnel file revealed no information of possible violations of E.O. 12674 or the "Stock Act."

The OIG Cyber Crime Unit conducted a review of the Chairman's NRC-issued Government computer utilizing keyword searches to uncover possible deleted e-mail messages as well as review e-mail communications between the Chairman and various companies, corporations, licensees, and educational institutions.

A review of the keyword search results and e-mail revealed no information of possible violations of E.O. 12674 or the "Stock Act."

Because there was no information found to substantiate the allegation, it is recommended that this case be closed to the files of this office.

File Location:

Distribution

Case File xx-xxx

Historical File

OIG	OIG	OIG	OIG	OIG	OIG
(b)(7)(C)			J. McMillan	D. Lee	H. Bell
/ /	/ /	/ /	/ /	/ /	/ /

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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20585-0001

December 30, 2013

MEMORANDUM TO: Concur: Case Closed
Joseph A. McMillan
Assistant Inspector General
for Investigations

THRU:

(b)(7)(C)
Team Leader (b)(7)(C)

FROM:

(b)(7)(C)
Special Agent (b)(7)(C)

SUBJECT: QUESTIONS CONCERNING A 2004 OIG INVESTIGATION
PERTAINING TO A HARASSMENT COMPLAINT (OIG CASE
NO. 13-035)

Allegation

The Office of the Inspector General (OIG), U.S. Nuclear Regulatory Commission (NRC), initiated this investigation based on an allegation from (b)(7)(C) now retired from NRC, that OIG agents tried to get (b)(7)(C) to confess to something (b)(7)(C) did not do, reported inaccurate information provided by a witness. (b)(7)(C)

(b)(7)(C) Office of Federal and State Materials and Environmental Management Programs (FSME), in a prior case involving (b)(7)(C) did not interview three witnesses (b)(7)(C) thought should have been interviewed for the case and would not accept a written statement from one witness. (b)(7)(C)
(b)(7)(C) Office of Nuclear Security and Incident Response (NSIR). The names of the three witnesses (b)(7)(C) thought should have been interviewed by the OIG were (b)(7)(C)
(b)(7)(C)

Findings

OIG found that the OIG report did not have inaccurate information provided by (b)(7)(C). OIG also found that OIG interviewed one of the three individuals (b)(7)(C) thought should have been interviewed in the previous investigations. However, one of two NRC employees not previously interviewed by OIG did not witness the alleged inappropriate activity; and the other NRC employee was subsequently interviewed by OIG in this

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investigation and did not observe and recall the entire alleged inappropriate activity. OIG further found that (b)(7)(C) written statement was provided to NTEU, but not provided to OIG. OIG could not determine if the OIG investigators tried to get (b)(7)(C) to confess to something (b)(7)(C) did not do because the interview was not transcribed; however, OIG found that the OIG investigators did not ask (b)(7)(C) any inappropriate questions in a subsequent investigation based on a review of the interview record. This investigation did not identify any violations of 5 CFR 735.203 (What are the Restrictions on Conduct Prejudicial to the Government).

Basis for Findings

Background

Review of OIG files disclosed that OIG previously conducted two investigations into allegations of inappropriate behavior by (b)(7)(C)

The first, OIG Case No. (b)(7)(C) found that (b)(7)(C) acted in an inappropriate manner on July 14, 2004, towards (b)(7)(C) at the NRC Headquarters Diversity Day Event. OIG determined that despite (b)(7)(C) declination of (b)(7)(C) request to dance with (b)(7)(C) which (b)(7)(C) demonstrated both verbally and physically (b)(7)(C) grabbed (b)(7)(C) arm and forced (b)(7)(C) to the dance floor. OIG further determined that while they were dancing, (b)(7)(C) dipped (b)(7)(C) and (b)(7)(C) fell backwards towards (b)(7)(C) which caused (b)(7)(C) shirt to rise and expose the lower portion of her breast. OIG found that (b)(7)(C) behavior towards (b)(7)(C) of the NRC, was inconsistent with appropriate behavior for an on duty Government employee and reflected poorly on the NRC. NRC issued a letter of reprimand to (b)(7)(C) as a result of OIG's investigation.

The second, OIG Case No. (b)(7)(C) found that after the first investigation (b)(7)(C) inappropriately contacted (b)(7)(C) and witnesses interviewed by OIG in OIG Case No. (b)(7)(C) OIG found that (b)(7)(C) sent several emails to one witness and threatened and intimidated (b)(7)(C) confronted another witness about (b)(7)(C) testimony to the OIG, and wrote a letter to the victim (b)(7)(C) and hand delivered it to (b)(7)(C) place of employment in an attempt to speak with (b)(7)(C) in person about the OIG investigation. NRC issued a Memorandum of Admonishment to (b)(7)(C) as a result of OIG's investigation.

Allegation #1: OIG Investigators Allegedly Tried to Get (b)(7)(C) to Confess to Something (b)(7)(C) Did Not Do

For this investigation, OIG reviewed files for OIG Case Nos. (b)(7)(C) and noted that OIG interviewed (b)(7)(C) on one occasion for OIG Cases Nos. (b)(7)(C) None of the interviews were transcribed in OIG Case No. (b)(7)(C) and only (b)(7)(C) interview was transcribed in OIG Case No. (b)(7)(C) OIG could not determine if the OIG investigators tried to get (b)(7)(C) to confess to something (b)(7)(C) did not do because the

interview for Case No. (b)(7)(C) was not transcribed.

OIG reviewed (b)(7)(C) transcript in OIG Case No. (b)(7)(C) to assess questioning techniques and whether OIG pressured (b)(7)(C) to confess to something (b)(7)(C) did not do. (b)(7)(C) serving as (b)(7)(C) was present during the interview. (b)(7)(C)

The former OIG special agents asked (b)(7)(C) about (b)(7)(C) interactions with OIG witnesses and the victim regarding the (b)(7)(C) investigation after it was completed. The review revealed that OIG used standard questioning techniques and nothing appeared inappropriately forceful. OIG investigators did not ask (b)(7)(C) any inappropriate questions based on a review of the interview transcript. (b)(7)(C)

OIG noted that the interviews conducted of the witnesses were very detailed and thorough. OIG noted in Case No. (b)(7)(C) that the former NRC OIG special agents interviewed (b)(7)(C) OCFO, who told OIG that (b)(7)(C) received a telephone call from (b)(7)(C) on May 24, 2005, and asked (b)(7)(C) if (b)(7)(C) saw (b)(7)(C) do anything inappropriate during the event. (b)(7)(C) told (b)(7)(C) that it was unacceptable for (b)(7)(C) to harass (b)(7)(C) to dance when (b)(7)(C) clearly had told (b)(7)(C) "No." (b)(7)(C) told (b)(7)(C) "told you 'no' a thousand times." (b)(7)(C) told (b)(7)(C) observed (b)(7)(C) pull (b)(7)(C) from (b)(7)(C) chair and hold (b)(7)(C) tight to dance. While they danced, (b)(7)(C) got behind (b)(7)(C) and dipped (b)(7)(C) which caused (b)(7)(C) top to rise, exposing (b)(7)(C) breasts. (b)(7)(C) told (b)(7)(C) that (b)(7)(C) believed (b)(7)(C) ran from the room out of embarrassment. (b)(7)(C)

Allegation #2: OIG Allegedly Reported Inaccurate Information Provided by (b)(7)(C)
(b)(7)(C) told OIG that (b)(7)(C) was interviewed in 2004 by OIG. (b)(7)(C) said (b)(7)(C) did not see (b)(7)(C) dance with (b)(7)(C) on July 14, 2004. OIG noted that (b)(7)(C) provided the same information (b)(7)(C) provided to OIG on November 8, 2004, and May 26, 2005, which were documented in OIG Case Nos. (b)(7)(C)

Allegation #3: OIG Allegedly Did Not Interview Three Witnesses Suggested by (b)(7)(C)

OIG reviewed a report of interview of (b)(7)(C) dated August 12, 2004, OIG Case No. (b)(7)(C) conducted by two former NRC OIG special agents. The two special agents questioned (b)(7)(C) concerning the allegation. (b)(7)(C) claimed to not recall the specifics of the dance, but denied pulling (b)(7)(C) onto the dance floor. (b)(7)(C) did recall dipping and spinning (b)(7)(C) and that (b)(7)(C) ran from the room after the "dip" or conclusion of the dance. (b)(7)(C) stated that at no time did (b)(7)(C) touch (b)(7)(C) inappropriately and that there were witnesses to that fact. (b)(7)(C) provided the names of two witnesses who would have seen the entire dance. (b)(7)(C) and (b)(7)(C) Office of the Chief Financial Officer (OCFO). (b)(7)(C)

OIG reviewed a transcript of (b)(7)(C) interview by (b)(7)(C) for (b)(7)(C) Case No. (b)(7)(C) dated June 9, 2005. In the transcript, (b)(7)(C) stated that (b)(7)(C) (correct spelling is (b)(7)(C)) (b)(7)(C) witnessed (b)(7)(C) dancing with (b)(7)(C) and was not interviewed by the (b)(7)(C) (b)(7)(C) (b)(7)(C) stated (b)(7)(C) contacted 30 or 40 people in search of witnesses of (b)(7)(C) interaction with (b)(7)(C) did not mention (b)(7)(C) as a potential witness. (b)(7)(C)

OIG interviewed both (b)(7)(C) and (b)(7)(C) in this investigation who stated they were not present when (b)(7)(C) was dancing with (b)(7)(C). (b)(7)(C) (b)(7)(C) also noted that the former NRC (b)(7)(C) (b)(7)(C) special agents also interviewed several other potential witnesses. (b)(7)(C) (b)(7)(C) told (b)(7)(C) (b)(7)(C) that (b)(7)(C) was (b)(7)(C) (b)(7)(C) for (b)(7)(C) Case No. (b)(7)(C) and was not present when (b)(7)(C) was dancing with (b)(7)(C).

Allegation #4: (b)(7)(C) Allegedly Did Not Accept a Written Statement from (b)(7)(C)

(b)(7)(C) provided (b)(7)(C) an email dated May 2, 2005, which was from (b)(7)(C) to (b)(7)(C) NTEU, Chapter 208, cc: (b)(7)(C) (b)(7)(C) which (b)(7)(C) alleged that (b)(7)(C) would not accept (b)(7)(C) (b)(7)(C) said that (b)(7)(C) did not provide the email document to (b)(7)(C), but instead gave it to NTEU and (b)(7)(C).

The email documented what (b)(7)(C) observed when (b)(7)(C) danced with (b)(7)(C) in 2004. In the email, (b)(7)(C) stated that from (b)(7)(C) vantage point, which was the middle of the auditorium, it did not appear (b)(7)(C) grabbed or pulled anyone to dance against their wishes. (b)(7)(C) appeared to be a willing participant in response to (b)(7)(C) invitation for a swing dance. (b)(7)(C) also appeared to be playing to the crowd as the (b)(7)(C) (b)(7)(C) It was not obvious to (b)(7)(C) that (b)(7)(C) was offended. During their dance, (b)(7)(C) saw (b)(7)(C) lead (b)(7)(C) into a dip. (b)(7)(C) saw (b)(7)(C) shirt rise to bare an inch or two of her stomach during the dip maneuver, but did not see (b)(7)(C) breasts exposed.

(b)(7)(C) (b)(7)(C) told (b)(7)(C) (b)(7)(C) was not sitting close enough to (b)(7)(C) to hear anything that (b)(7)(C) and (b)(7)(C) said to each other when (b)(7)(C) asked (b)(7)(C) to dance. (b)(7)(C) did recall (b)(7)(C) that (b)(7)(C) arm was extended behind (b)(7)(C) but (b)(7)(C) did not see what part of (b)(7)(C) body (b)(7)(C) was holding as (b)(7)(C) was walking to the dance area. (b)(7)(C) (b)(7)(C) said (b)(7)(C) did not see them until they were in the aisle near the first or second row walking toward the dance area. (b)(7)(C) (b)(7)(C) said (b)(7)(C) saw (b)(7)(C) take (b)(7)(C) into a dip, and (b)(7)(C) saw (b)(7)(C) shirt rise. (b)(7)(C) (b)(7)(C) said (b)(7)(C) noticed (b)(7)(C) leave the dancing area, but (b)(7)(C) did not notice the expression on (b)(7)(C) face. (b)(7)(C) (b)(7)(C) did not remember whether or not (b)(7)(C) walked off the dance area or ran. (b)(7)(C) (b)(7)(C) could not recall other specific details. (b)(7)(C)

OIG contacted (b)(7)(C) for an interview. (b)(7)(C) attempted to ask (b)(7)(C) why (b)(7)(C) did not provide (b)(7)(C) letter to (b)(7)(C) in May 2005, but (b)(7)(C) declined to answer the question (b)(7)(C) and any other questions regarding this matter because (b)(7)(C) claimed (b)(7)(C) was (b)(7)(C) (b)(7)(C) (b)(7)(C)

functioning in the capacity as a union steward on this matter, and therefore, claiming Union Privilege (similar to the Attorney-Client privilege).

Because OIG did not identify evidence of shortcomings in the prior investigations as alleged by (b)(7)(C) it is recommended this case be closed to the files of this office. 7C

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Because OIG did not identify evidence of shortcomings in the prior investigations as alleged by (b)(7)(C) it is recommended this case be closed to the files of this office.

Distribution: (b)(7)(E)

Case File 13-35 Historical File MAGNUM

OIG	OIG	OIG	OIG	OIG	OIG	OIG
(b)(7)(C)				J. McMillan	D. Lee	H. Bell
12/14/13	12/14/13	12/14/13	12/14/13	12/26/13	12/26/13	12/26/13

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OFFICE OF THE
INSPECTOR GENERAL

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

September 30, 2013

MEMORANDUM TO:

Concur: Case Closed

(b)(7)(C)

(b)(7)(C)

THRU:

(b)(7)(C)

Team Leader (b)(7)(C)

(b)(7)(C)

FROM:

Special Agent (b)(7)(C)

SUBJECT:

INSTANCES OF WASTE OF TAX PAYER FUNDS
(OIG CASE NO. 13-043)

Allegation

The Office of the Inspector General (OIG), U.S. Nuclear Regulatory Commission (NRC), received an anonymous allegation that the NRC is wasting funds by having NRC staff travel around the world to participate in Multi National Design Evaluation Programme (MDEP) meetings. The allegor described one meeting last year, where the Chairman, (b)(7)(C) and dozens of other staff members attended MDEP meetings in France. The allegor also conveyed that in January 2013, eight NRC staff members attended the Institute of Electrical and Electronics Engineers (IEEE) meeting in Orlando, FL, and questioned why so many staff were in attendance and whether they had received approval from office directors in the Office of Nuclear Regulatory Research (RES), Office of New Reactors (NRO), and Office of Nuclear Reactor Regulation (NRR). The allegor also noted that more than one staff member had been attending International Electrotechnical Commission (IEC) meetings.

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Findings

OIG found that the NRC staff who traveled to the meetings referenced in the allegation had received approval for their travel to these meetings. NRC officials articulated to OIG the reasons for these individuals to travel to the meetings, and that multiple meeting participants were sometimes necessary for meeting attendance or work on working groups and/or subcommittees.

Basis of Findings

OIG reviewed documentation from NRO, NRR, and RES supporting their staff's travel to MDEP, IEEE, and IEC meetings and found that all travelers had approval from their office directors or designee for the trips.

(b)(7)(C)

NRO, told OIG that NRC supports and participates in MDEP, with Commission and State Department approval, at multiple levels of technical staff and management. The NRC Chairman currently serves as MDEP Policy Group chair. The trips that the NRO attended were made to support the MDEP Digital Instrumentation and Controls working group (DICWG) which the NRC leads. For the working groups that NRC leads, the practice (approved at the Office Director and Deputy Office Director level) is to send two people, one to chair the working group and one to represent the NRC. For the digital Instrumentation and Control (I&C) meetings, NRR also occasionally sends a representative to ensure technical consistency between the offices. The working group generally holds three meetings per year. The MDEP meetings are usually held in Paris to make use of the Nuclear Energy Agency (OECD/NEA) secretariat's meeting facilities. If the MDEP meeting is scheduled adjacent to an IEC meeting, NRO staff will sometimes participate in the IEC meeting as well. All NRO international travel is approved at the Office Director level or designee.

NRO reported that NRO and NRR supported the following MDEP meetings for 2012 and 2013:

1. February 20-24, 2012, Paris and Germany (Subcommittee meeting): three travelers (b)(7)(C)
2. June 23-28, Paris: same three above referenced representatives attended.
3. December 3-6, 2012, China: two NRO representatives attended.
4. March 2013, Paris: same three above referenced representatives attended.
5. June 2013, Paris: one NRR and one NRO representative attended.

NRO also reported that three staff from NRO's Instrumentation, Controls and Electronics Engineering Branch participated domestically in IEEE's Nuclear Power Engineering Committee (NPEC) meetings in San Antonio, TX, in Jan 2012; San Diego, CA, in June 2012; Orlando, FL, in January 2013; and planned to participate in the meeting in Mystic, CT, in July 2013.

(b)(7)(C) NRR, provided justification pertaining to three NRR staff members' attendance at two MDEP and two IEEE meetings in 2012 and 2013. For example, one NRR attendee traveled to a 2012 MDEP meeting to discuss four draft common positions to progress these positions towards completion, update the program plans and prioritization for the development of generic common positions. Another attended an IEEE meeting in Switzerland in 2013 to develop guidance concerning the types of fault to be considered in the electrical power system analyses, load flow studies, loss of voltage and degraded voltage studies, lightning protection and system grounding studies. (b)(7)(C) also provided justification for NRR staff's travel to Paris in 2013 for an MDEP meeting and Moscow in 2013 for an IEEE meeting.

(b)(7)(C) Instrumentation Controls and Electrical Engineering Branch (ICEE), RES, told OIG that RES does not participate in MDEP meetings, but that a number of RES staff routinely participate in various IEEE meetings where they represent the NRC's interest in the development and endorsement (via Regulatory Guides) of a number of IEEE standards and in support of their research assignments. IEEE NPEC typically meets twice a year and various supporting subcommittees (SC) and working groups (WG) meet during the same timeframe. Additionally, individual SCs and WGs may have separately scheduled meetings to work on their specific IEEE standards. IEEE also holds international meetings on more specific topics or in coordination with IEC meetings.

Because NRC officials articulated professional and technical reasons for staff travel to MDEP, IEEE, and IEC meetings and documentation was available indicating management's support for staff's travel to these meetings, it is recommended this case be closed to the files of this office.

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NRO also reported that three staff from NRO's Instrumentation, Controls and Electronics Engineering Branch participated domestically in IEEE's Nuclear Power Engineering Committee (NPEC) meetings in San Antonio, TX, in Jan 2012; San Diego, CA, in June 2012; Orlando, FL in January 2013; and planned to participate in the meeting in Mystic, CT, in July 2013.

(b)(7)(C) NRR, provided justification pertaining to three NRR staff members' attendance at two MDEP and two IEEE meetings in 2012 and 2013. For example, one NRR attendee traveled to a 2012 MDEP meeting to discuss four draft common positions to progress these positions towards completion, update the program plans and prioritization for the development of generic common positions. Another attended an IEEE meeting in Switzerland in 2013 to develop guidance concerning the types of fault to be considered in the electrical power system analyses, load flow studies, loss of voltage and degraded voltage studies, lightning protection and system grounding studies. (b)(7)(C) also provided justification for NRR staff's travel to Paris in 2013 for an MDEP meeting and Moscow in 2013 for an IEEE meeting.

(b)(7)(C) Instrumentation Controls and Electrical Engineering Branch (ICEE), RES, told OIG that RES does not participate in MDEP meetings, but that a number of RES staff routinely participate in various IEEE meetings where they represent the NRC's interest in the development and endorsement (via Regulatory Guides) of a number of IEEE standards and in support of their research assignments. IEEE NPEC typically meets twice a year and various supporting subcommittees (SC) and working groups (WG) meet during the same timeframe. Additionally, individual SCs and WGs may have separately scheduled meetings to work on their specific IEEE standards. IEEE also holds international meetings on more specific topics or in coordination with IEC meetings.

Because NRC officials articulated professional and technical reasons for staff travel to MDEP, IEEE, and IEC meetings and documentation was available indicating management's support for staff's travel to these meetings, it is recommended this case be closed to the files of this office.

Distribution File Location: (b)(7)(E)

(b)(7)(E)

Case File 13-43

Historical File

Magnum

OIG/AIGI	OIG/A	Editor		OIG/AIGI	OIG	OIG
	(b)(7)(C)			J. McMillan	D. Lee	H. Bell
7/13/13	9/13/13	9/17/13	11/13/13	11/13/13	11/13/13	11/13/13

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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

September 30, 2013

MEMORANDUM TO:

Concur: Case Closed
Joseph A. McMillan
Assistant Inspector General
for Investigations

THRU:

(b)(7)(C)
Team Leader (b)(7)(C)

FROM:

(b)(7)(C)
Special Agent (b)(7)(C)

SUBJECT:

MISUSE OF CITIBANK GOVERNMENT TRAVEL CARD BY
REGION I EMPLOYEE (OIG CASE NO. 13-44)

Allegation

The Office of the Inspector General (OIG), U.S. Nuclear Regulatory Commission (NRC), initiated this investigation based on a review of Citibank Government travel card statements by the Office of the Chief Financial Officer (OCFO), NRC. OCFO's review indicated that (b)(7)(C) Division of Reactor Safety (DRS), Region I, had a delinquent Government travel card account with an account balance of \$1,905.04, which was suspended by Citibank. It is OIG policy to review all suspended Citibank travel card accounts to identify potential misuse. OIG reviewed (b)(7)(C) account and identified several transactions that appeared to be unrelated to official travel. Because of the low dollar threshold, OIG initially referred (b)(7)(C) credit card misuse to Region I to handle; however, the region subsequently returned this matter to OIG.

Findings

(b)(7)(C)

OIG found that (b)(7)(C) used [redacted] Government travel card to make nine unauthorized transactions between June 2010 and January 2013 totaling \$225.33; six of the nine transactions were made at alcoholic beverage stores. OIG informed

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(b)(7)(C) of the card misuse and on September 17, 2013, a counseling memorandum was issued to (b)(7)(C)

Basis of Findings

Assessment of Government Travel Card Usage

(b)(7)(C) (b)(7)(C) travel history to use of (b)(7)(C) Government travel card between 2009 and 2013 and identified nine unauthorized transactions totaling \$225.33. Six of the nine charges were unauthorized because they were made to purchase alcohol while on official travel. The following table lists the nine unauthorized transactions. (b)(7)(C)

Date	Transaction	Location	Amount
1/30/2013	Austins Liquor & Wines	(b)(7)(C)	\$31.97
1/14/2013	Wine & Spirits		\$24.37
9/27/2012	The Home Depot		\$4.58
9/17/2012	NH Liquor Store		\$65.98
6/18/2012	NH Liquor Store		\$32.98
5/15/2012	Oasis Liquor		\$11.45
4/06/2012	McDonalds		\$9.39
2/13/2012	NH Liquor Store		\$27.99
6/02/2010	Himalayan Grocery		\$16.62
		Total	\$225.33

Travel Card Training Records

OIG obtained NRC training records dating back to 1980, which showed that (b)(7)(C) completed the NRC Web-based Government Travel Charge Card Training on April 30, 2007, and September 22, 2011.

Travel Card Paid in Full

OIG reviewed travel card records and learned that (b)(7)(C) paid the entire past due amount of \$1,905.04 on March 27, 2013. This payment reactivated (b)(7)(C) card status. (b)(7)(C)

Government Charge Card Policies

OIG reviewed the following directives and regulations, which prescribe requirements for the Government charge card program and its approved use throughout the Federal Government: NRC Yellow Announcement 036, "Use of The Citibank Travel Charge Card," dated May 7, 2002; NRC Yellow Announcement 037, "Reminder on Use of Travel Charge Card Policies," dated March 24, 2011, which states that the charge card

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should not be used for alcohol; NRC MD 14.1, Official Temporary Duty Travel, revised June 7, 2005, 5.1.2 Use and 5.1.3 Payment; and the "Citi Government Services Travel Card Program Cardholder Account Agreement." These documents state that the travel card should not be used for personal expenses and should be used only for official travel related expenses, and requirements for timely payments.

Interview of (b)(7)(C)

(b)(7)(C) (b)(7)(C) told OIG (b)(7)(C) was familiar with the terms of use for the travel card and that (b)(7)(C) knew that it was not permitted for personal use or expenses. (b)(7)(C) explained that (b)(7)(C) accepted responsibility for not paying off the card and attributed the failure to pay the \$1,905.04 to (b)(7)(C) oversight. (b)(7)(C) explained that (b)(7)(C) wife was/is ill and (b)(7)(C) simply forgot to pay the bill and admitted that (b)(7)(C) set aside the notices from Citibank and did not open them. (b)(7)(C)

(b)(7)(C) (b)(7)(C) told OIG that (b)(7)(C) now understands that (b)(7)(C) cannot use the card to purchase alcohol but explained that (b)(7)(C) had been confused since (b)(7)(C) sees NRC staff sometimes buying alcohol at dinners while on travel. (b)(7)(C) explained that since (b)(7)(C) has trouble sleeping due to (b)(7)(C) wife's illness (b)(7)(C) would sometimes buy a bottle or two of wine while on travel to have a drink prior to going to bed at (b)(7)(C) hotel. (b)(7)(C) told OIG that (b)(7)(C) is a social drinker and does not have any dependencies on alcohol. (b)(7)(C)

(b)(7)(C) (b)(7)(C) could not recall information concerning all transactions but accepted responsibility for using the card. (b)(7)(C) told OIG that (b)(7)(C) would not carry the card with (b)(7)(C) anymore until (b)(7)(C) was ready to travel; this way (b)(7)(C) would not use the card while not on travel status. (b)(7)(C)

Notification to Supervisor

OIG advised (b)(7)(C) DRS, Region I, of (b)(7)(C) specific improper charges to (b)(7)(C) Citibank Travel credit card account. (b)(7)(C) told OIG that (b)(7)(C) prepared a counseling memorandum and was waiting for Human Resources to provide guidance before issuing the memorandum to (b)(7)(C).

OIG learned that on September 17, 2013, Region I issued the counseling memorandum to (b)(7)(C).

(b)(7)(C) Because of the low dollar amount of travel card misuse and (b)(7)(C) received a counseling memorandum pertaining to (b)(7)(C) misuse, it is recommended this case be closed to the files of this office.

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should not be used for alcohol; NRC MD 14.1, Official Temporary Duty Travel, revised June 7, 2005, 5.1.2 Use and 5.1.3 Payment; and the "Citi Government Services Travel Card Program Cardholder Account Agreement." These documents state that the travel card should not be used for personal expenses and should be used only for official travel related expenses, and requirements for timely payments.

Interview of (b)(7)(C)

(b)(7)(C) (b)(7)(C) told OIG (b)(7)(C) was familiar with the terms of use for the travel card and that (b)(7)(C) knew that it was not permitted for personal use or expenses. (b)(7)(C) explained that (b)(7)(C) accepted responsibility for not paying off the card and attributed the failure to pay the \$1,905.04 to (b)(7)(C) oversight. (b)(7)(C) explained that (b)(7)(C) wife was/is ill and (b)(7)(C) simply forgot to pay the bill and admitted that (b)(7)(C) set aside the notices from Citibank and did not open them. (b)(7)(C) (b)(7)(C) told OIG that (b)(7)(C) now understands that (b)(7)(C) cannot use the card to purchase alcohol but explained that (b)(7)(C) had been confused since (b)(7)(C) sees NRC staff sometimes buying alcohol at dinners while on travel. (b)(7)(C) explained that since (b)(7)(C) has trouble sleeping due to (b)(7)(C) wife's illness (b)(7)(C) would sometimes buy a bottle or two of wine while on travel to have a drink prior to going to bed at (b)(7)(C) hotel. (b)(7)(C) told OIG that (b)(7)(C) is a social drinker and does not have any dependencies on alcohol. (b)(7)(C) (b)(7)(C) could not recall information concerning all transactions but accepted responsibility for using the card. (b)(7)(C) told OIG that (b)(7)(C) would not carry the card with (b)(7)(C) anymore until (b)(7)(C) was ready to travel, this way (b)(7)(C) would not use the card while not on travel status. (b)(7)(C) (b)(7)(C)

Notification to Supervisor

OIG advised (b)(7)(C) DRS, Region I, of (b)(7)(C) specific improper charges to (b)(7)(C) Citibank Travel credit card account. (b)(7)(C) told OIG that (b)(7)(C) prepared a counseling memorandum and was waiting for Human Resources to provide guidance before issuing the memorandum to (b)(7)(C)

OIG learned that on September 17, 2013, Region I issued the counseling memorandum to (b)(7)(C)

Because of the low dollar amount of travel card misuse and (b)(7)(C) received a counseling memorandum pertaining to (b)(7)(C) misuse, it is recommended this case be closed to the files of this office.

File Location: (b)(7)(E)

Distribution: (b)(7)(E)

Historical File

Magnum

(b)(7)(C)	(b)(7)(C)	(b)(7)(C)	(b)(7)(C)	OIG	OIG	OIG
(b)(7)(C)	(b)(7)(C)	(b)(7)(C)	(b)(7)(C)	J. McMillan	D. Leland	M. Bell
10/10/13	10/10/13	10/10/13	11/11/13	10/10/13	10/10/13	10/10/13

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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

January 15, 2014

MEMORANDUM TO

Joseph A. McMillan
Assistant Inspector General
for Investigations
Office of the Inspector General

1/15/14
[Signature]

FROM

(b)(7)(C)

SUBJECT

CLOSURE OF OFFICE OF THE INSPECTOR GENERAL
CASE NO. 13-46

This responds to your September 20, 2013, memorandum to Mark Satorius forwarding the Report of Investigation for OIG Case No. 13-46. This report sets forth your office's findings regarding inappropriate action by a Region IV manager.

The employee elected to retire effective November 30, 2013. Accordingly, no further action is required and this matter should be closed. This action was coordinated between Region IV, the Office of the Chief Human Capital Officer, and the Office of General Counsel.

Your time and attention to this matter is appreciated.

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1/15/14



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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

December 30, 2013

MEMORANDUM TO: Concur: Case Closed
Joseph A. McMillan
Assistant Inspector General
for Information

THRU:

Team Leader

FROM:

Special Agent

SUBJECT: ALLEGED IMPROPER DESTRUCTION OF CLASSIFIED
DOCUMENTS PURSUANT TO FOIA REQUEST
(OIG CASE NO. 14-01)

The Office of the Inspector General (OIG), U.S. Nuclear Regulatory Commission (NRC),
investigated an allegation received from (b)(7)(C)

(b)(7)(C) Office of Information Services (OIS), who stated (b)(7)(C)

(b)(7)(C) OIS, notified (b)(7)(C) that (b)(7)(C)

(b)(7)(C) Office of Nuclear Security and

Incident Response (NSIR), directed (b)(7)(C) to improperly destroy classified documents
pursuant to Freedom of Information Act (FOIA) request during an "all-hands" meeting.

Findings

OIG found that there was no misconduct by (b)(7)(C). OIG also discovered there was
miscommunication between a member of the Japan FOIA office and staff members
within NSIR.

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B/25

Basis for Findings

(b)(7)(C) (b)(7)(C) informed OIG that (b)(7)(C) requested (b)(7)(C) to examine overdue Japan FOIA requests within (b)(7)(C) division, particularly within the Information Security Branch (ISB) and Intelligence Liaison Threat Assessment Branch (ILTAB) pertaining to classified information. (b)(7)(C) identified 14 unresolved Japan FOIA requests which were originally requested between March 2011 and March 2012. (b)(7)(C) stated (b)(7)(C) contacted both ISB and ILTAB branches and requested classified information per the instructions of the FOIA request. (b)(7)(C) commented that (b)(7)(C) appointed (b)(7)(C) to oversee the overdue Japan FOIA requests due to (b)(7)(C) previously held position within NSIR, and her working knowledge and relationship within ISB and ILTAB. (b)(7)(C)

(b)(7)(C) (b)(7)(C) relayed (b)(7)(C) contacted (b)(7)(C) Division of Security Operations, NSIR, who stated (b)(7)(C) Division of Security Operations, NSIR, was directed by (b)(7)(C) during an "all-hands" meeting to destroy classified documents related to Japan's Fukushima incident. (b)(7)(C) stated (b)(7)(C) documented (b)(7)(C) telephone conversation to the best of (b)(7)(C) knowledge and reported the incident to (b)(7)(C)

OIG interviewed (b)(7)(C) who stated upon further evaluation of (b)(7)(C) initial conversation with (b)(7)(C) that (b)(7)(C) was unsettled with the comments made referencing (b)(7)(C) directive. (b)(7)(C) told OIG (b)(7)(C) reengaged with (b)(7)(C) confirmed (b)(7)(C) directive to destroy classified documents related to the Fukushima incident, but clarified (b)(7)(C) directive with: "as long as you maintain the original documents for appropriate inquiries." Furthermore, (b)(7)(C) stated (b)(7)(C) should have clarified (b)(7)(C) comments of (b)(7)(C) directive before informing (b)(7)(C) of inaccurate statements. (b)(7)(C) relayed (b)(7)(C) was unaware of the directive by (b)(7)(C) and did not attend the "all hands" meeting in May 2011, in which (b)(7)(C) allegedly made the statement. (b)(7)(C) told OIG that (b)(7)(C) has never directed (b)(7)(C) to destroy or delete original classified or unclassified data related to the Fukushima incident. Furthermore (b)(7)(C) stated it was a major breakdown of communication between ISB and (b)(7)(C) and ISB is prepared to provide all classified and unclassified documents as directed per the FOIA request. (b)(7)(C)

(b)(7)(C) informed OIG that (b)(7)(C) called an "all hands" in May 2011, following the Fukushima incident. (b)(7)(C) stated during the meeting (b)(7)(C) recalls that (b)(7)(C) directed the staff to destroy all classified documents related to the Fukushima incident "as long as you maintain all original copies for appropriate inquiries." (b)(7)(C) does not recall any other topics or specifics of the meeting. (b)(7)(C) also stated that it was the only instance in which (b)(7)(C) was directed by (b)(7)(C) to destroy classified documents. (b)(7)(C)

OIG interviewed (b)(7)(C) Division of Security Operations, NSIR, who stated that HOLAHAN conducted semi-annual "all hands" meetings, but was unable to recall a meeting following the Fukushima incident in May 2011. (b)(7)(C) told

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(b)(7)(B) OIG that (b)(7)(C) has never directed [redacted] or [redacted] branch to destroy or delete original classified data related to the Fukushima incident. Furthermore [redacted] relayed there appears to be a communication issue between IIAB and the Japan FOIA office (b)(7)(C)

(b)(7)(C) resulting in the outstanding FOIA requests, but [redacted] is prepared to provide all classified and unclassified documents as directed per the FOIA request.

(b)(7)(C) [redacted] Division of Security Operations, NSIR, informed OIG that (b)(7)(C) conducted "all hands" meetings semi-annually, but was unable to recollect an "all-hands" meeting in May 2011. (b)(7)(C) stated [redacted] was unable to recall (b)(7)(C) or anyone directing [redacted] or [redacted] office to destroy or delete original classified data related to the Fukushima incident. (b)(7)(C) further stated [redacted] has not destroyed or deleted any original classified data related to any FOIA requests, and is prepared to provide all classified and unclassified documents as directed per the FOIA request. (b)(7)(C)

OIG interviewed (b)(7)(C) who stated that during and immediately following the Fukushima incident, between March 2011 and May 2011, NSIR was in high operation tempo, collecting and analyzing information throughout the intelligence community. (b)(7)(C) stated that (b)(7)(C) conducted "all hands" meetings approximately once a quarter, and briefly recalls an "all hands" meeting upon the drawdown of the Fukushima incident in May 2011. (b)(7)(C) relayed (b)(7)(C) was unable to recall the itinerary or the context of the meeting. (b)(7)(C) further stated that (b)(7)(C) may have directed [redacted] staff to remove unnecessary copies of classified documents related to Japan's Fukushima incident, as long as you maintain the "original copies." (b)(7)(C) followed up the statement with: "however, I do not recall making such a statement." (b)(7)(C) Furthermore [redacted] stated that under no circumstances did [redacted] destroy unclassified or classified documents, or direct [redacted] staff to destroy unclassified or classified documents related to a FOIA. (b)(7)(C)

(b)(7)(C) also relayed shortly following the Fukushima incident, NRC received large quantities of Japan FOIA requests, but based upon the volume of data, NRC initially concentrated on collecting and providing only unclassified documents to the public. (b)(7)(C) told OIG that all the classified documents were in a secure environment and were accessible to amass upon request. (b)(7)(C) further stated that NSIR is prepared to provide all classified and unclassified documents as directed per the FOIA requests. Lastly [redacted] told OIG there appears to be breakdown of dialogue; however, NSIR will comply with all FOIA requests. (b)(7)(C)

OIG found no evidence of misconduct by (b)(7)(C) or evidence of improper destruction of classified information, it is recommended that this case be closed to the office files.

Distribution (b)(7)(E)

Case File No. 14-01

Historical File

Magnum

OIG/AIGI	OIG/AIGI	Editor	OIG/AIGI	OIG/AIGI	OIG	OIG
[redacted]	[redacted]	(b)(7)(C)	[redacted]	[redacted]	D. Leedman	H. Bell
12/14/2012	12/28/12			12/24/12	12/24/12	12/28/12

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Referral, Actions & Follow-Up

Prepared by: (b)(7)(C)

Case Title: Misuse of Government Computer to View Pornographic Images Case Number: C 12 028

Program Office:

(b)(7)(C)

Classification:

(b)(7)(C)

Origination Doclink:

Subject's Last Name / Company Name:

(b)(7)(C)

Subject's First Name:

(b)(7)(C)

Agency Referral & Follow-up

PFCRA Referral: Yes ☒ No

Referred to Agency Action: ☒ Yes No

Date: 02/15/2013

Referred to (Office): Office of the Executive Director for Operations

Contact Person: William Borchardt

Follow Up Assigned To: (b)(7)(C)

Expected Completion Date: 08/17/2013

Revised Completion Date: 10/31/2013

Actual Completion Date: 10/31/2013

Completion Status: Open ☒ Closed

Comments: ROI, response requested, requested extension in completion date, which was granted by (b)(7)(C). On August 15, 2013, EDO asked for an extension to 10/31/13 which was provided. According to the quarterly report received from OCHCO, the subject in this manner submitted resignation subject to finalizing settlement agreement. No final memo was sent to OIG.

Administrative Action

PFCRA: Accepted Declined Date:

Agency Action: Resignation Date: 10/31/2013

Comments:

Prosecution Referral

Federal Referral Date: 08/09/2012

Prosecution Status: Date: 08/09/2012

B/2/6

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Pending
Accepted
☒ Declined

AUSA Office:
State/Local Referral
Date:

Prosecution Status: Pending
Accepted
☒ Declined

Date:

Office:

Comments: Blanket Declaration, Dated March 26, 2003, November 18, 2008, and updated by e-mail dated September 22, 2011, in from AUSA (b)(7)(C) for Adult Pornography Conduct in the Government Workplace. No local prosecution exists.

LE/Judicial Action

Actions: Arrest Date:
Arraignment Date:
Charges Dropped Date:
Indictment Date:
Information Date:
Level: Jurisdiction:
Statute(s)/
Violation(s):
Court Action: Date:
Sentence: Details:
Comments:

Recoveries

Amount Recovered: Type:
Recovery Date:
Comments:

Potential Losses

Amount
Description:
Comment:

Status: Closed

Allow Other Editors:

Edit Authorization:
[Management], [InvAnalyst]

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OFFICE OF THE INSPECTOR GENERAL

Report of Investigation



**Misuse of Government Computer
by an Office of Nuclear
Regulatory Research Employee**

(b)(7)(C)	File No. 12-028
(b)(7)(C)	(b)(7)(C)
(b)(7)(C)	Special Agent
(b)(7)(C)	Team Leader

Joseph A. McMillan
Joseph A. McMillan, Assistant Inspector General
for Investigations

1/4/13
Date

**THIS REPORT IS RELEASABLE ONLY BY THE U.S. NUCLEAR REGULATORY
COMMISSION, OFFICE OF THE INSPECTOR GENERAL.**

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**EXEMPT FROM RELEASE UNDER FREEDOM OF INFORMATION ACT
EXEMPTIONS (5), (6) OR (7) AND PRIVACY ACT EXEMPTIONS (j)(2) OR (k)(1)**

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STATUTES, REGULATIONS, AND POLICY

NRC Rules of Behavior for Authorized Computer Use, System Access and Use, Dated May 19, 2009¹

The following rules of behavior are relevant to NRC system access and use. Users shall:

- Access and use only information or systems for which he or she has official authorization.
- Follow established procedures for accessing information, including the use of user identification (ID), passwords, and other physical and logical safeguards.
- Adhere to all Federal laws, NRC security policies, standards, and directives.

Users shall:

- Not use Internet and electronic mail for fraudulent or harassing messages or for sexual remarks or the downloading of illegal or inappropriate materials (e.g., pornography). Additionally, users shall not send or retain any such material on any Government system.

NRC Management Directive and Handbook 12.6, "NRC Automated Information Security Program," Parts 2.5 and 2.6.6

The NRC user rules of behavior are to be followed by all users of the NRC local-area network/wide-area network (LAN/WAN) system and all users of any NRC AIS (Automated Information System). Users shall be held accountable for their actions on the NRC LAN/WAN system. If an employee violates NRC policy regarding the rules of behavior for use of any NRC AIS and the NRC LAN/WAN system, they may be subject to disciplinary action at the discretion of NRC management.

An AIS user –

- Shall not knowingly access or download material (e.g., pornography) that could create a "hostile work environment."

When using the Internet, users shall practice "safe surfing." Specifically, users shall—

- Avoid accessing pornographic or other sites that provide content that is incompatible with the NRC work environment. NRC uses software to block access to sites that provide content that is incompatible with the NRC work

¹ An update to the Rules of Behavior was issued on October 2, 2012; however, the 2009 rules were in effect at the time the events addressed in this report occurred.

environment or that might present a security risk. These sites offer content relating to criminal skills, gambling, hate speech, and pornography or other sexually oriented material. These sites are blocked on the basis of a characterization by the commercial provider of the blocking software, not an analysis of the site content. Thus, other sites may provide similar content but are not blocked. It is the user's responsibility to avoid such sites and to immediately terminate access to such sites that are reached unintentionally.

**NRC Management Directive 2.7, "Personal Use of Information Technology,"
Handbook Section (D), "Inappropriate Personal Uses":**

- Employees are expected to conduct themselves professionally in the workplace and to refrain from using agency information technology for activities that are inappropriate. Misuse or inappropriate personal use of agency information technology includes --
- Use of information technology, including telephone or facsimile service, to create, download, view, store, copy, transmit, or receive sexually explicit or sexually oriented materials or materials related to illegal gambling, illegal weapons, terrorist activities, and any other illegal activities or activities otherwise prohibited.

SUBJECT

(b)(7)(C)

Division of Engineering
Office of Nuclear Regulatory Research
U.S. Nuclear Regulatory Commission

ALLEGATION

The Office of the Inspector General (OIG), Nuclear Regulatory Commission (NRC), initiated this investigation based on an OIG proactive review of Internet search terms on the NRC computer network. OIG identified NRC employee (b)(7)(C) as searching Google with the search term "Slut" and "MILF" (Moms I'd Like to Fuck) on numerous occasions on (b)(7)(C) NRC issued computer. OIG's review indicated that (b)(7)(C) had searched and accessed pornographic pictures and sexually explicit material via the Web site Flickr, an NRC approved photo sharing site.

FINDINGS

OIG determined that (b)(7)(C) searched, accessed, and viewed numerous pornographic images and sexually explicit material on (b)(7)(C) NRC issued computer over an approximate 2-year period starting in 2010. OIG also determined that (b)(7)(C) was previously identified by OIG in 2004 for viewing pornography and sexually explicit material on (b)(7)(C) NRC computer and, as a result of that investigation, (b)(7)(C) was suspended for 20 days without pay.

BASIS FOR FINDINGS

The OIG Computer Crime Unit (CCU) conducted a proactive search of the NRC Log Logic system for specific pornographic search terms appearing in Internet traffic originating and received by the NRC computer network. The search term "slut" was found to have been searched on multiple times from NRC Internet Protocol (IP) address (b)(7)(C). A check of NRC records showed this IP address was assigned to NRC computer tag number (b)(7)(C). A search of the NRC computer inventory identified this computer as assigned to (b)(7)(C). The Internet traffic records from the NRC Log Logic system showed the search term "slut" appeared multiple times on the Flickr.com Web site. Flickr is a photo sharing Web site that is used by the NRC for legitimate business purposes. Users can also log into their own personal Flickr accounts through the NRC network and search for and view unrated or pornographic content.

On March 15, 2012, OIG CCU conducted computer forensic imaging of the NRC desktop computer assigned to (b)(7)(C). OIG CCU later conducted an analysis of the forensic image and identified 28 entries in the Internet History file associated with the

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Web site Flickr.com for the time period February 22, 2012, to March 9, 2012. An examination of these entries identified that (b)(7)(C) profile was used to view sexually explicit or pornographic material.

The OIG CCU also conducted a search of (b)(7)(C) NRC computer hard drive for deleted Internet History files. This search identified Internet activity for (b)(7)(C) user profile on the Flickr.com Web site for the time period of May 4, 2010, to March 9, 2012. An analysis of these recovered entries identified 127 instances of adult pornography or sexually explicit material. CCU visited the Flickr.com Web sites and confirmed that the posted material was either pornographic or sexually explicit. OIG noted that many entries were associated with Flickr.com user accounts that are no longer active and as such the material was unavailable for review.

During the review, OIG CCU identified several other keywords identified on the (b)(7)(C) profile that were used to search the Flickr.com Web site. These words are milf, slut, woman, maystones, camel toe, tom kozak, laura kozak, mom bikini, april heinze, mature woman, mature women, alysis, alysis hot, alysis bone, alysis bikini, woman, and hot wife. The search term 'milf' was used most often and appeared numerous times in the History Index.dat file.

A total of 148 digital images of a pornographic or sexual nature were identified in the Temporary Internet Files folder in (b)(7)(C) user profile on the computer. This folder contained Web pages and digital images that were downloaded and viewed on (b)(7)(C) NRC assigned computer for the time period February 22, 2012, to March 9, 2012.

(For further details, see Exhibits 1, 1A, and 1B.)

Interview of (b)(7)(C)

(b)(7)(C) (b)(7)(C) informed OIG that (b)(7)(C) had previously been suspended in 2004 for viewing pornographic images on (b)(7)(C) NRC issued computer. (b)(7)(C) told OIG that (b)(7)(C) chose not to seek any help or counseling with viewing pornography in 2004 and that (b)(7)(C) no longer viewed pornography." (b)(7)(C) told OIG that (b)(7)(C) did not seek any help or counseling, because (b)(7)(C) chose not to. (b)(7)(C) (b)(7)(C) initially told OIG that (b)(7)(C) no longer viewed pornography. However (b)(7)(C) later admitted that (b)(7)(C) has viewed pornographic images through Flickr since 2010. (b)(7)(C) also admitted that while using Flickr (b)(7)(C) searched for "MILF," "Moms I'd Like to Fuck," and other search terms that produced pornographic or sexually explicit images. (b)(7)(C) admitted that (b)(7)(C) would search Flickr during working hours, including while on breaks and during telephonic conference calls. (b)(7)(C) (b)(7)(C) admitted that (b)(7)(C) conducted the pornographic searches, but (b)(7)(C) maintained that (b)(7)(C) understood that this (use of Flickr) was within the rules." (b)(7)(C) maintained that because Flickr was not blocked (b)(7)(C) could view this material.

(b)(7)(C) (b)(7)(C) told OIG that (b)(7)(C) also searched for old girlfriends and other explicit terms to include, "mature porn" and "needlesblowjobnow," which are identified as sexually explicit Web sites. (b)(7)(C) admitted to OIG that it was possible that (b)(7)(C) may have searched the names of the three females (b)(7)(C) branch on these Web sites. (b)(7)(C)

(For further details, see Exhibits 2 and 3.)

Review of 2004 OIG Case Involving (b)(7)(C)

OIG reviewed the 2004 OIG investigation (Case 04-30F) that determined (b)(7)(C) used an NRC computer to view Internet Web sites containing sexually explicit images several times a week for approximately two years from 2002 to 2004. OIG found a total of 883 files containing images of a sexually explicit nature on the hard drive of (b)(7)(C) NRC computer and that (b)(7)(C) conducted Internet searches for sexually explicit terms including "MILF". During the 2004 investigation (b)(7)(C) told OIG that (b)(7)(C) was aware of NRC regulations concerning the appropriate use of NRC computers. (b)(7)(C) also told OIG in 2004 that (b)(7)(C) would often review pornography while (b)(7)(C) was participating in telephonic conference calls at (b)(7)(C) desk. (b)(7)(C)

(For further details, see Exhibit 4.)

Review of (b)(7)(C) Suspension

OIG reviewed the suspension memorandum dated September 3, 2004, and related SF-50 regarding (b)(7)(C) 2004 suspension and learned that (b)(7)(C) received a 20-day suspension without pay. The letter to (b)(7)(C) stated, "Future instances of misconduct may result in a more severe disciplinary action up to, and including, removal from the Federal service."

(For further details, see Exhibits 5 and 6.)

Department of Justice Declination

(b)(7)(C) Assistant U.S. Attorney, U.S. Attorney's Office, Southern District of Maryland, was briefed on this investigation. (b)(7)(C) declined prosecution of this matter in lieu of administrative action.

EXHIBITS

1. Memorandum to File, Subject: Computer Forensic Report – NRC Dell Optiplex 755, Asset Tag No. (b)(7)(C) with attachments, dated October 15, 2012.
- 1A. (b)(7)(C) computer searches for "MILF" on October 15, 2012.
- 1B. Photos/Flickr photos from (b)(7)(C) computer hard drive from forensic exam.
2. Transcript of Interview (b)(7)(C) dated October 15, 2012.
3. Report of Investigation, "Misuse of NRC Computer Equipment by NRC Employee" OIG Case No. (b)(7)(C) dated April 26, 2004.
4. NRC Memorandum, Subject: Decision on Proposed Suspension for Forty (40) Calendar Days, dated September 3, 2004.
5. Notification of Personnel Action, Standard Form 50, dated October 19, 2004.

MEMORANDUM TO: R. William Borchardt
Executive Director for Operations

FROM: Joseph A. McMillan
Assistant Inspector General
for Investigations

SUBJECT: MISUSE OF GOVERNMENT COMPUTER TO VIEW
PORNOGRAPHIC IMAGES BY AN OFFICE OF NUCLEAR
REGULATORY RESEARCH EMPLOYEE (CASE NO. 12-028)

Attached is an Office of the Inspector General (OIG), U.S. Nuclear Regulatory Commission (NRC), Report of Investigation pertaining to misuse of Government computer to view pornographic images by an Office of Nuclear Regulatory Research employee.

This report is furnished for whatever action you deem appropriate. Please notify this office within 120 days of what action you take based on the results of this investigation. Contact this office if further assistance is required.

The distribution of this report should be limited to those NRC managers required for evaluation of this matter. Neither the Report of Investigation nor its exhibits may be placed in ADAMS without the written permission of the OIG.

Attachment: Report of Investigation w/ exhibits

cc: (b)(7)(C) ADM/DFS w/o exhibits

CONTACT: (b)(7)(C) OIG

Distribution:

File Location:

Case File 12-28 Historical File MAGNUM

(b)(7)(C)			OIG/AIGI	OIG	OIG
			J. McMillan	D. Lee	H. Bell
3/13/13	3/14/13	4/13/13	2/19/13	2/14/13	2/14/13

Official File Copy



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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

March 21, 2014

MEMORANDUM TO: Joseph A. McMillan, Assistant Inspector General
for Investigations
Office of the Inspector General

FROM: (b)(7)(C)

SUBJECT: CLOSURE OF OFFICE OF THE INSPECTOR GENERAL
CASE NO. 12-040

This responds to your September 9, 2013, memorandum to Mark A. Satorius, Executive Director for Operations, forwarding the Report of Investigation, Case No. 12-040. This report, which was sent to management for appropriate action, pertained to an Office of New Reactors (NRO) employee that misused the Government Citibank Travel card.

To address the findings in this report, on March 20, 2014, NRO management issued a fourteen (14) day Decision to Suspend the employee. This action was coordinated with this Office and the Office of General Counsel.

This completes our action on the investigation report findings and this case should be closed. Your time and attention to this matter is appreciated.

CONTACT: (b)(7)(C) ELRBAOCHCO

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6/27




OFFICE OF THE
INSPECTOR GENERAL

~~OFFICIAL USE ONLY - OIG INVESTIGATION INFORMATION~~
UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20545-0001

September 9, 2013

MEMORANDUM TO: Mark A. Satonus
Executive Director for Operations

FROM: 
Joseph A. McMillan
Assistant Inspector General
for Investigations


SUBJECT: MISUSE OF THE GOVERNMENT CITIBANK TRAVEL CARD
BY AN OFFICE OF NEW REACTORS EMPLOYEE (CASE NO.
12-040)


Attached are two copies of an Office of the Inspector General (OIG), U.S. Nuclear Regulatory Commission (NRC), Report of Investigation pertaining to misuse of the Government Citibank travel card by an Office of New Reactors employee.

This report is furnished for whatever action you deem appropriate. Please notify this office within 120 days of what action you take based on the results of this investigation. Contact this office if further assistance is required.

The distribution of this report should be limited to those NRC managers required for evaluation of this matter. Neither the Report of Investigation nor its exhibits may be placed in ADAMS without the written permission of the OIG.

Attachment: Report of Investigation w/ exhibits (two copies)

cc:  OIG w/ exhibits
 ADM/DFS w/o exhibits

CONTACT:  OIG

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OFFICE OF THE INSPECTOR GENERAL

Report of Investigation



**Misuse of the Government Citibank Travel
Card by an Office of New Reactors Employee**

(b)(7)(C)

OIG Case No. 12-040

(b)(7)(C)

(b)(7)(C)

(b)(7)(C)

Special Agent

(b)(7)(C)

Sam Leiby

Joseph A. McMillan
Joseph A. McMillan, Assistant Inspector General
for Investigations

9/9/13
Date

**THIS REPORT IS RELEASABLE ONLY BY THE U.S. NUCLEAR REGULATORY
COMMISSION, OFFICE OF THE INSPECTOR GENERAL.**

**THIS REPORT OR ITS EXHIBITS MAY NOT BE PLACED IN ADAMS WITHOUT
WRITTEN PERMISSION OF THE NRC OIG.**

**EXEMPT FROM RELEASE UNDER FREEDOM OF INFORMATION ACT
EXEMPTIONS (5), (6) OR (7) AND PRIVACY ACT EXEMPTIONS (j)(2) OR (k)(1)**

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**Misuse of the Government Citibank
Travel Card by an Office of
New Reactors Employee**

Case No. 12-040

September 9, 2013

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MEMORANDUM TO: Mark A. Satonus
Executive Director for Operations

FROM: Joseph A. McMillan
Assistant Inspector General
for Investigations

SUBJECT: MISUSE OF THE GOVERNMENT CITIBANK TRAVEL CARD
BY AN OFFICE OF NEW REACTORS EMPLOYEE (CASE NO.
12-040)

Attached are two copies of an Office of the Inspector General (OIG), U.S. Nuclear
Regulatory Commission (NRC), Report of Investigation pertaining to misuse of the
Government Citibank travel card by an Office of New Reactors employee.

This report is furnished for whatever action you deem appropriate. Please notify this
office within 120 days of what action you take based on the results of this investigation.
Contact this office if further assistance is required.

The distribution of this report should be limited to those NRC managers required for
evaluation of this matter. Neither the Report of Investigation nor its exhibits may be
placed in ADAMS without the written permission of the OIG.

Attachment: Report of Investigation w/ exhibits (two copies)

Attachment: Report of Investigation w/ exhibits

cc: (b)(7)(C) OGC w/ exhibits
(b)(7)(C) ADM/DFS w/o exhibits

CONTACT: (b)(7)(C) OIG

Distribution:

File Location: (b)(7)(E)

Case File 12-40 Historical File MAGNUM

OIG/AIGI	OIG/AIGI	Editor	OIG/AIGI	OIG/AIGI	OIG	OIG
(b)(7)(C)				J. McMillan	D. Lee	H. Bell
8/28/13	8/28/13	/ /13	8/30/13	8/30/13	9/3/13	9/9/13

Official File Copy

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SUBJECT

(b)(7)(C)

Division of Safety Systems and Risk Assessment
Office of New Reactors (NRO)
U.S. Nuclear Regulatory Commission (NRC)

ALLEGATION

The Office of the Inspector General (OIG), NRC, initiated this investigation based on a review of Government Citibank travel card statements by the Office of the Chief Financial Officer (OCFO), NRC. OCFO's review indicated that (b)(7)(C) had a Government travel card account that was actively being used although (b)(7)(C) was not on official travel and that (b)(7)(C) had reported card lost or stolen on several occasions. (b)(7)(C)

FINDINGS

OIG determined that (b)(7)(C) used (b)(7)(C) Government Citibank travel card for purposes not associated with official travel for five unauthorized transactions between April 2010 and February 2012. OIG determined that these unauthorized transactions totaled \$1,917.61. OIG also determined that no transactions or fraudulent charges were made on (b)(7)(C) reportedly lost and stolen cards.

BASIS FOR FINDINGS

Review of (b)(7)(C) Official Travel History and Travel Card Statements

OIG's review of (b)(7)(C) travel records for the period November 2009 through February 2012 disclosed that (b)(7)(C) was authorized for official travel on 12 occasions.

OIG compared (b)(7)(C) NRC official travel history with the usage of his Government Citibank travel card between November 2009 and February 2012 and identified five unauthorized transactions totaling \$1,917.61 that were not associated with official travel. The following table lists the five unauthorized transactions and provides dates of (b)(7)(C) official travel when the travel dates were close to the card usage dates.

FORSATY'S TRANSACTIONS NOT ASSOCIATED WITH OFFICIAL TRAVEL				
DATE	TRANSACTION	LOCATION		AMOUNT
4/12-14/2010	(b)(7)(C) OFFICIAL TRAVEL	PA		
4/20/2010	Gas - Exxon	MD		\$46.03
1/9-14/2011	(b)(7)(C) OFFICIAL TRAVEL	VA		
2/16/2011	Washingtonian Express	MD		\$21.06
6/11/2011	Sunoco	VA		\$10.02
6/13-14/2011	(b)(7)(C) OFFICIAL TRAVEL	VA		
10/27/2011	Cash Advance/Fee Capital One	MD		\$818.00
11/16-18/2011	FORSATY OFFICIAL TRAVEL	VA		
2/28/2012	Cash Advance/Fee Chevy Chase	MD		\$1,022.50
		Total		\$1,917.61

(For further details, see Exhibit 1.)

Information Concerning (b)(7)(C) Lost and Stolen Card Reports

(b)(7)(C) A Citibank representative told OIG that (b)(7)(C) reported that (b)(7)(C) original card issued to (b)(7)(C) had been stolen on September 5, 2009. A replacement card was issued but apparently not received and was reported lost on September 28, 2009. (b)(7)(C) later reported the replacement card as lost on August 25, 2011. Citibank told OIG that (b)(7)(C) did not report any unauthorized or fraudulent charges as associated with (b)(7)(C) reports of lost and stolen cards.

Review of Training Records

OIG reviewed NRC training records dating back to 2006 which showed that (b)(7)(C) completed the NRC Web-based Government Travel Charge Card Training for what

appears to be the first time on February 27, 2013. No similar courses prior to that date were documented on the training records.

(For further details, see Exhibit 2.)

Government Travel Charge Card Policies

OIG reviewed the following directives and regulations which prescribe requirements for the Government travel charge card program and its approved use throughout the Federal Government: NRC Yellow Announcement 036, "Use of The Citibank Travel Charge Card," dated May 7, 2002; NRC Yellow Announcement 037, "Reminder on Use of Travel Charge Card Policies," dated March 24, 2011; NRC MD 14.1, *Official Temporary Duty Travel*, revised June 7, 2005; General Services Administration, Federal Travel Regulation, Part 301-51.100, dated January 2004; Office of Management and Budget Circular A-123, Appendix B Revised, "Improving the Management of Government Charge Card Programs," dated January 15, 2009; and the "Citi Government Services Travel Card Program Cardholder Account Agreement." These documents state that the travel card should not be used for personal expenses and should be used only for official travel related expenses. It should be noted that NRC MD 14.1, Part 5, states that use of the travel card for unauthorized travel advances or purchases may result in disciplinary action up to and including removal.

(For further details, see Exhibit 3.)

Interview of (b)(7)(C)

(b)(7)(C) (b)(7)(C) told OIG (b)(7)(C) was familiar with the terms of use for the travel card and that (b)(7)(C) knew that it was not permitted for personal use or expenses.

(b)(7)(C) provided OIG the following information concerning the three charges and two cash advances identified by OIG as not associated with official travel:

- (b)(7)(C) • The \$46.03 transaction dated April 20, 2010; was to purchase gasoline for (b)(7)(C) personally owned vehicle (POV), which (b)(7)(C) had used for official travel from April 12-14, 2010. (b)(7)(C) admitted that this was not proper use of the card.
- (b)(7)(C) • (b)(7)(C) had no explanation for the \$21.06 charge dated February 16, 2011; however, (b)(7)(C) said (b)(7)(C) would not knowingly use the card for personal use and had no recollection of using it for other than official travel. (b)(7)(C) was not scheduled for any travel in proximity to the date of the transaction.
- The \$10.02 transaction dated June 11, 2011, was to purchase gas for (b)(7)(C) POV (which he used for official travel beginning June 13, 2011) because (b)(7)(C) would not have had time to fill up the day of the trip. (b)(7)(C)
- (b)(7)(C) could not provide an explanation of the \$818 cash advance/fee dated October 27, 2011, but later sent OIG an e-mail stating that (b)(7)(C) had been in (b)(7)(C)

(b)(7)(C) training in Bethesda, MD, for the entire week and that (b)(7)(C) could not recall if (b)(7)(C) attended the training partially or not and told OIG that could have been the reason (b)(7)(C) made the cash advance. (b)(7)(C) told OIG that (b)(7)(C) thought (b)(7)(C) was scheduled for a trip during the time period; however, no supporting information was produced by (b)(7)(C) to support this claim. (b)(7)(C) admitted that (b)(7)(C) also used these funds for personal use but maintained that (b)(7)(C) still believed that there was a possible trip that may have been discussed during that time that did not happen. (b)(7)(C)

- (b)(7)(C) • With regard to the \$1,022.50 cash advance/fee on February 28, 2012 (b)(7)(C) initially told OIG that (b)(7)(C) did not have identification when (b)(7)(C) entered the bank and that the bank officials wanted identification and used (b)(7)(C) Citibank card as identification thinking that the card was (b)(7)(C) Capital One Bank card. (b)(7)(C) admitted that (b)(7)(C) used the funds for personal use. (b)(7)(C) also provided OIG with a letter dated October 4, 2012, from Capital One bank (previously Chevy Chase) that (b)(7)(C) obtained from the bank to explain the cash advance. The letter explained that (b)(7)(C) attempted to withdraw \$1,000 from (b)(7)(C) personal account at Capital One, but that the bank had processed a cash advance from (b)(7)(C) credit card instead. (Investigative note: OIG contacted the bank about the letter and bank officials reaffirmed the information contained in the letter. The bank official told OIG that the letter was based on information provided by (b)(7)(C) and not from any bank records as they had been expunged.) (b)(7)(C)

(For further details, see Exhibits 4, 5, and 6.)

NRC 2008 Counseling Memorandum to (b)(7)(C)

(b)(7)(C) NRC (b)(7)(C) advised that in August 2008, (b)(7)(C) gave (b)(7)(C) a counseling memorandum after being informed that (b)(7)(C) travel card was suspended for non-payment. (b)(7)(C)

(b)(7)(C) OIG reviewed the 2008 counseling memorandum provided to (b)(7)(C) by (b)(7)(C) supervisor which reflected that (b)(7)(C) Citibank travel card had been suspended due to failure by (b)(7)(C) to pay the balance of \$4,000.34 on the card. The memorandum explained that the account was past due by more than 61 days, outlined the seriousness of the matter, and reminded (b)(7)(C) of the responsibility to pay the charges associated with the charge card in a timely manner. The memorandum also contained a statement that any future misconduct by (b)(7)(C) could result in more serious disciplinary action including suspension or removal from (b)(7)(C) position. (b)(7)(C)

(For further details, see Exhibit 7.)

EXHIBITS

1. Memorandum to File Review of Citibank Travel Charge Card Use and Travel of (b)(7)(C) dated April 4, 2013, with attachments.
2. Memorandum to File, Review of Citibank Travel Card Training, dated March 8, 2013, with attachment.
3. NRC Yellow Announcement 036, "Use of The Citibank Travel Charge Card," dated May 7, 2002; NRC Yellow Announcement 037, "Reminder on Use of Travel Charge Card Policies," dated March 24, 2011; NRC MD 14.1, *Official Temporary Duty Travel*, revised June 7, 2005; General Services Administration, Federal Travel Regulation, Part 301-51.100, dated January 2004; Office of Management and Budget Circular A-123, Appendix B Revised, "Improving the Management of Government Charge Card Programs," dated January 15, 2009, and the "Citi Government Services Travel Card Program Cardholder Account Agreement."
4. Memorandum of Interview (b)(7)(C) dated April 23, 2012
5. Memorandum of Interview (b)(7)(C) dated May 17, 2013.
6. Capital One bank letter from (b)(7)(C) dated October 4, 2012, regarding (b)(7)(C) \$1,000 cash advance.
7. Memorandum of Interview (b)(7)(C) dated May 22, 2013, with attachment.

Referral, Actions & Follow-Up

Prepared by: **USAFIS/Secur 22910272**

Case Title: Misuse of a Government Travel Card by an NRO Employee Case Number: C 12 058

Program Office: (b)(7)(C) Classification: (b)(7)(C)

Origination Doclink: 1
Subject's Last Name / Company Name: (b)(7)(C)
Subject's First Name:

Agency Referral & Follow-up

PFCRA Referral: Yes No
Referred to Agency Action: Yes No Date:
Referred to (Office):
Contact Person:
Follow-Up Assigned To:

Expected Completion Date: 03/13/2014

Revised Completion Date:

Actual Completion Date: 11/01/2013

Completion Status: Open ☒ Closed

Comments: Subject was counseled on the proper use of official government credit card (see chron note for memo) (b)(7)(C)

Administrative Action

PFCRA: Accepted Declined Date:
Agency Action: Counseling Date: 11/01/2013
Comments: NRO Management issued a Counseling Memorandum to the employee for inappropriate use of the Government-issued travel charge card.

Prosecution Referral

Federal Referral Date:
Prosecution Status: Pending Accepted Declined Date: 09/22/2011
☒ Declined

AUSA Office

6/28

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State/Local Referral

Date:

Prosecution Status:

Pending
Accepted
Declined

Date:

Office:

Comments:

Blanket Declination, Dated March 26, 2003, November 18, 2008, and updated by e-mail dated September 22, 2011, in from AUSA (b)(7)(C) for Travel Card Misuse Conduct in the Government Workplace. No local prosecution exists.

LE/Judicial Action

Actions:

Arrest
Arraignment
Charges Dropped
Indictment
Information

Date:

Date:

Date:

Date:

Date:

Jurisdiction:

Level:

Statute(s)/

Violation(s):

Court Action:

Sentence:

Comments:

Date:

Details:

Recoveries

Amount Recovered:

Type:

Recovery Date:

Comments:

Potential Losses

Amount:

Description:

Comment:

Status: Closed

Allow Other Editors:

(b)(7)(C)

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OFFICE OF THE
INSPECTOR GENERAL

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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

August 26, 2013

MEMORANDUM TO: Mark Satorius
Executive Director for Operations

FROM: 
Joseph A. McMillan
Assistant Inspector General
for Investigations


SUBJECT: MISUSE OF THE GOVERNMENT TRAVEL CARD BY AN
OFFICE OF NEW REACTORS EMPLOYEE
(CASE NO. 12-58)


Attached are two copies of an Office of the Inspector General (OIG), U.S. Nuclear
Regulatory Commission (NRC), Report of Investigation pertaining to misuse of the
Government travel card by an Office of New Reactors employee.

This report is furnished for whatever action you deem appropriate. Please notify this
office within 120 days of what action you take based on the results of this investigation.
Contact this office if further assistance is required.

The distribution of this report should be limited to those NRC managers required for
evaluation of this matter. Neither the Report of Investigation nor its exhibits may be
placed in ADAMS without the written permission of the OIG.

Attachment: Report of Investigation w/ exhibits (two copies)

cc: (b)(7)(C)  OGC w/ exhibits
(b)(7)(C)  ADM/DFS w/o exhibits

CONTACT: (b)(7)(C)  OIG

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STATUTES, REGULATIONS, AND POLICY

NRC Management Directive (MD) 14.1, Official Temporary Duty Travel, Section 5.1, "Government Contractor-Issued Travel Charge Cards," Subsection 5.1.2, "Use"

A cardholder only may use his or her travel charge card for official travel...

The charge card should not be used for personal expenditures or anything else that would not be reimbursable on the employee's travel voucher.

Use of the Government contractor-issued travel charge card for unauthorized travel advances or purchases that are not eligible for reimbursement on a travel voucher may result in disciplinary action up to and including removal.

MD 14.1, Section 5.2, "Travel Advances," Subsection 5.2.2.1, "Automated Teller Machines"

Travelers should obtain advances no earlier than 3 business days before departure and no later than the last day of travel.

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**Misuse of the Government Travel Card
by an Office of New Reactors Employee**

Case No. 12-58

August 26, 2013

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STATUTES, REGULATIONS, AND POLICY

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MD 14.1, Section 5.2, "Travel Advances," Subsection 5.2.2.1, "Automated Teller Machines"

Travelers should obtain advances no earlier than 3 business days before departure and no later than the last day of travel.

SUBJECT

(b)(7)(C)

Construction Electrical Vendor Branch
Office of New Reactors
U.S. Nuclear Regulatory Commission (NRC)

ALLEGATION

The Office of the Inspector General (OIG), NRC, initiated this investigation based on a proactive review of Citibank Government travel card statements that indicated

(b)(7)(C) used the card for purchases and cash advances that did not appear to be associated with official travel.

FINDINGS

OIG determined that (b)(7)(C) used his Citibank Government travel card for purposes not associated with official travel on 12 occasions between July 2009 and April 2012. OIG determined that these unauthorized transactions totaled \$1,448.53.

BASIS FOR FINDINGS

Review of (b)(7)(C) Official Travel History and Travel Card Statements

OIG's review of (b)(7)(C) travel records for the period July 2009 through April 2012 disclosed that (b)(7)(C) was authorized for official travel on 21 occasions during that time period.

A comparison of (b)(7)(C) travel history with (b)(7)(C) use of the Government travel card between July 2009 and April 2012 identified 12 unauthorized transactions, totaling \$1,448.53, that were not associated with official travel. The following table lists the 12 unauthorized transactions and provides dates of (b)(7)(C) official travel when those dates are close to the unauthorized usage dates.

(b)(7)(C) Transactions Not Associated With Official Travel				
DATE	TRANSACTION	LOCATION		AMOUNT
7/13-17/09	(b)(7)(C) OFFICIAL TRAVEL	Massachusetts		
7/29/09	Marlow Sports, Inc.	Maryland		\$450.24
8/2-6/10	(b)(7)(C) OFFICIAL TRAVEL	Texas		
8/15/10	Musket Ridge Golf Club	Maryland		\$146.75
4/24-30/11	(b)(7)(C) OFFICIAL TRAVEL	Arizona		
5/7/11	Unk. Bank Cash Advance/Fee	Maryland		\$102.25
1/30/12	Safeway Grocery Store	Maryland		\$71.45
2/14/12	Bank of America Cash Adv/Fee	Maryland		\$309.82
2/19/12-2/24/12	(b)(7)(C) OFFICIAL TRAVEL	Texas		
2/19/12	Safeway Grocery Store	Maryland		\$120.23
2/27/12	Safeway Grocery Store	Maryland		\$62.00
2/27/12	Ridgeville Gas and Go	Maryland		\$47.35
2/29/12	Buffalo Wings and Beer	Maryland		\$34.13
4/13/12	Ridgeville Gas and Go	Maryland		\$19.06
4/13/12	Ridgeville Gas and Go	Maryland		\$60.25
4/15-20/12	(b)(7)(C) OFFICIAL TRAVEL	North Carolina		
4/21/12	Classic Fuels	Maryland		\$25.00
		Total		\$1,448.53

(For further details, see Exhibit 1.)

Review of Training Records

On April 4, 2007, (b)(7)(C) received an "Exempt Substitute Credit" for NRC's Web-based Government Travel Charge Card Training because (b)(7)(C) had completed the course from the General Services Administration's (GSA) Web site within the previous 3 years. (b)(7)(C) completed NRC's Web-based Government Travel Charge Card Training on November 20, 2010, and again on November 20, 2012 (2012 training occurred after the unauthorized use identified in this report). NRC's Web-based training includes a detailed review of NRC's travel card policy and specifically states that the travel card should be used only for authorized official travel and authorized travel-related expenses, and that the card is not to be used for any personal expense.

(b)(7)(C)

(For further details, see Exhibit 2.)

Government Travel Charge Card Policies

OIG reviewed the following directives and regulations which prescribe requirements for the Government travel charge card program and its approved use throughout the Federal Government: NRC Yellow Announcement 036, "Use of The Citibank Travel Charge Card," dated May 7, 2002; NRC Yellow Announcement 037, "Reminder on Use of Travel Charge Card Policies," dated March 24, 2011; NRC MD 14.1, *Official Temporary Duty Travel*, revised June 7, 2005; General Services Administration, Federal Travel Regulation, Part 301-51.100, dated January 2004, with amendments; Office of Management and Budget Circular A-123, Appendix B Revised, "Improving the Management of Government Charge Card Programs," dated January 15, 2009; and the "Citi Government Services Travel Card Program Cardholder Account Agreement." These documents state that the travel card should not be used for personal expenses and should be used only for official travel related expenses. It should be noted that NRC MD 14.1, Part 5, states that use of the travel card for unauthorized travel advances or purchases may result in disciplinary action up to and including removal.

(For further details, see Exhibit 3.)

Interview of (b)(7)(C)

(b)(7)(C) (b)(7)(C) told OIG (b)(7)(C) was familiar with the rules associated with use of the travel card and that it was for official use only. (b)(7)(C) said (b)(7)(C) thought that once travel was approved by management, the card could be used for purposes related to official travel. (b)(7)(C) (b)(7)(C) admitted that (b)(7)(C) used the card for personal purchases and cash withdrawals, but maintained that those purchases outside of the official travel dates were for the upcoming travel. (b)(7)(C) also admitted to OIG that (b)(7)(C) clicked through the slides in the required computer-based iLearn training and failed to take the course as it should be taken.

(b)(7)(C)

(b)(7)(C) (b)(7)(C) told OIG that (b)(7)(C) would use the card prior to the trip at a grocery store to make sure (b)(7)(C) had items (b)(7)(C) needed for the trip and to feed (b)(7)(C) family while (b)(7)(C) was away, again stating that (b)(7)(C) thought that it was allowable to do so since (b)(7)(C) was (b)(7)(C).

(b)(7)(C)

(b)(7)(C)

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(b)(7)(C) authorized for travel. (b)(7)(C) told OIG that while some of the items purchased were for use during travel, (b)(7)(C) included in (b)(7)(C) purchase other items for (b)(7)(C) family, but (b)(7)(C) did not separate them at the checkout and, instead, put the entire purchase on (b)(7)(C) travel card. (b)(7)(C) admitted that this use of the card was outside the proper use of the card. (b)(7)(C)

(b)(7)(C) (b)(7)(C) told OIG that (b)(7)(C) would sometimes use the card to put gas in (b)(7)(C) personal vehicles prior to leaving for official travel, especially if (b)(7)(C) thought (b)(7)(C) was using (b)(7)(C) own vehicle to travel to the airport and also to make sure (b)(7)(C) family did not have to put gas in their cars during (b)(7)(C) absence. (b)(7)(C) told OIG that (b)(7)(C) was trying to make things easier for (b)(7)(C) family when (b)(7)(C) was gone, but now understands that this was wrong. (b)(7)(C)

(b)(7)(C) (b)(7)(C) told OIG that (b)(7)(C) never took out a cash advance if (b)(7)(C) was not scheduled for official travel and added that (b)(7)(C) might have done it in advance of a trip that never happened. (b)(7)(C)

(b)(7)(C) (b)(7)(C) had no recollection of using the card in 2010 to charge \$149.75 at Musket Ridge Golf Club in Myerstown, Maryland, or in 2009 to charge \$450.24 at Marlow Sports, Inc., Bethesda, Maryland. (b)(7)(C) told OIG that (b)(7)(C) has been to both places and that (b)(7)(C) must have used it inadvertently. (b)(7)(C)

(b)(7)(C) (b)(7)(C) told OIG that (b)(7)(C) has learned from (b)(7)(C) mistakes and that (b)(7)(C) will no longer carry (b)(7)(C) Citi credit card with (b)(7)(C) until (b)(7)(C) leaves for official travel. (b)(7)(C)

(For further details, see Exhibits 4 and 5.)

EXHIBITS

1. Memorandum to File, Review of Citibank Travel Charge Card and Official Travel Records, dated May 8, 2013.
2. Memorandum to File, Review of Citibank Travel Card training, dated March 8, 2013, and iLearn travel card training slide.
3. Copies of NRC Yellow Announcement 038, "Use of the Citibank Travel Charge Card," dated May 7, 2002; NRC Yellow Announcement 037, "Reminder on Use of Travel Charge Card Policies," dated March 24, 2011; NRC MD 14.1 Part 5, "Paying for Travel Expenses," revised June 7, 2005; "Citi Government Services Travel Card Program Cardholder Account Agreement"; General Services Administration, Federal Travel Regulation, Part 301-51.100, dated January 2004, with amendments; and Office of Management and Budget, Circular No. A-123, Appendix B Revised, "Improving the Management of Government Charge Card Programs," dated January 15, 2009.
4. Memorandum of Interview (b)(7)(C) dated January 31, 2013.
5. Memorandum of Interview (b)(7)(C) dated May 3, 2013.

MEMORANDUM TO: Mark Satorius
Executive Director for Operations

FROM: Joseph A. McMillan
Assistant Inspector General
for Investigations

SUBJECT: MISUSE OF THE GOVERNMENT TRAVEL CARD BY AN
OFFICE OF NEW REACTORS EMPLOYEE
(CASE NO. 12-58)

Attached are two copies of an Office of the Inspector General (OIG), U.S. Nuclear Regulatory Commission (NRC), Report of Investigation pertaining to misuse of the Government travel card by an Office of New Reactors employee.

This report is furnished for whatever action you deem appropriate. Please notify this office within 120 days of what action you take based on the results of this investigation. Contact this office if further assistance is required.

The distribution of this report should be limited to those NRC managers required for evaluation of this matter. Neither the Report of Investigation nor its exhibits may be placed in ADAMS without the written permission of the OIG.

Attachment: Report of Investigation w/ exhibits (two copies)

cc: (b)(7)(C) OGC w/ exhibits
(b)(7)(C) ADM/DFS w/o exhibits

CONTACT: (b)(7)(C) OIG

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File Location: (b)(7)(E)

Case File 12-58 Historical File MAGNUM

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(b)(7)(C)	(b)(7)(C)	(b)(7)(C)	J. McMillan	D. Lee	H. Bell	H. Bell
8/8/13	8/20/13	1/1	8/20/13	8/20/13	8/20/13	8/20/13

Official File Copy

OFFICE OF THE INSPECTOR GENERAL

Report of Investigation



**Misuse of the Government Travel Card
by an Office of New Reactors Employee**

OIG Case No. 12-58

(b)(7)(C)

Special Agent

(b)(7)(C)

Team Leader

Joseph A. McMillan
Joseph A. McMillan, Assistant Inspector General
for Investigations

8/21/13
Date

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Misuse of the Government Travel Card
by an Office of New Reactors Employee

Case No. 12-58

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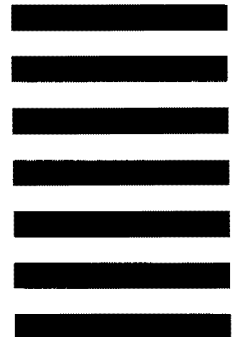
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