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

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

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.

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.

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.

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.

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)

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

**PART II.A -- APPLICABLE EXEMPTIONS**

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<thead>
<tr>
<th>GROUP</th>
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<tr>
<td>B</td>
<td>Exemption 1: The withheld information is properly classified pursuant to Executive Order 12958.</td>
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<td>Exemption 2: The withheld information relates solely to the internal personnel rules and practices of NRC.</td>
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<td>Exemption 3: The withheld information is specifically exempted from public disclosure by statute indicated.</td>
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<td>Exemption 4: The withheld information is a trade secret or commercial or financial information that is being withheld for the reason(s) indicated.</td>
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<td>Exemption 5: The withheld information is a trade secret or commercial or financial information that is being withheld for the reason(s) indicated.</td>
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<td>Exemption 6: The withheld information is a trade secret or commercial or financial information that is being withheld for the reason(s) indicated.</td>
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<td>Exemption 7: The withheld information consists of interagency or intraagency records that are not available through discovery during litigation.</td>
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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)

**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).

<table>
<thead>
<tr>
<th>DENYING OFFICIAL</th>
<th>TITLE/OFFICE</th>
<th>RECORDS DENIED</th>
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<tbody>
<tr>
<td>Joseph A. McMillan</td>
<td>Assistant Inspector General, OIG</td>
<td>Group B, C</td>
</tr>
</tbody>
</table>

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."
MEMORANDUM TO: [Redacted]
Office of Nuclear Reactor Regulation

FROM: Hubert T. Bell
Inspector General

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

December 30, 2013

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 [Redacted]

cc. Mark A. Satorius, EDO
MEMORANDUM TO:
Office of Nuclear Reactor Regulation

FROM: Hubert T. Belf
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.

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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](c)

cc: Mark A. Sutorius, EDO
MEMORANDUM TO: Joseph A. McMillan  
Assistant Inspector General for Investigations

THRU: Team Leader

FROM: Special Agent

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

OIG found that the [redacted] instructed 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, 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.

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 (PLII-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" 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

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1 On March 12, 2012, a document referred to as the Fukushima letter was sent to all power reactor owners 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.
notified DORL management on April 6, 2012, that their supplemental letter was in concurrence. In an April 9, 2012, email from DORL, WBSP informed WPB that DORL and NRR were not in alignment that a supplemental 50.54(f) letter was needed.

On May 1, 2012, WBSP requested permission from the Office of the General Counsel (OGC) to have the Office of the General Counsel (OGC) review their draft 50.54(f) letter for TVA. OIG noted that at the time (April 9), 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 OIG said there was an immediate safety concern and 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 used the term "chilled" to describe the DORL work environment, two 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.

OIG noted that at the time (April 9), 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 OIG said there was an immediate safety concern and 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 used the term "chilled" to describe the DORL work environment, two 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.
Four other former WBSP staff told OIG they did not perceive any retaliation by OIG.

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 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 the 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 [redacted] learned from [redacted] on April 9 that WBSP staff had provided a supplemental letter to OGC for concurrence, [redacted] told [redacted] to take it out of concurrence because [redacted] 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)] said that no one ever told [b/(7)(C)] had a bunch of rogue employees in [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)]. Although it was initially expected the branch would exist until NRC made a decision on the licensing of Watts Bar Unit 2, it was understood 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 [b/(7)(C)] 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 [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 to 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 plan and worked with [b/(7)(C)] to get the 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 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 advice was taken out of context by [b/(7)(C)] in an email [b/(7)(C)] had sent to [b/(7)(C)] said when [b/(7)(C)] first heard about the alleged...
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.
### Referral, Actions & Follow-Up

**Prepared by:**

<table>
<thead>
<tr>
<th>Case Title</th>
<th>Pertinent OGC Analyses Allegedly Withheld from Commission</th>
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<td>Program Office</td>
<td>(b)(7)(C)</td>
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<tr>
<td>Classification</td>
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**Originating Office:**

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<th>Subject’s Last Name</th>
<th>Company Name</th>
<th>Subject’s First Name</th>
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**Agency Referral & Follow-up**

- **PFCRA Referral:** Yes ☐ No ☐
- **Referred to Agency:** Yes ☐ No ☐
- **Date:** 06/07/2013
- **Office of the Commission:**
- **Contact Person:** Chairman McFarlane
- **Follow-Up Assigned To:**

**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, discussions have begun to develop better communication between the Commission and OGC. See Response Memo.

**Administrative Action**

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| Comments: | Although OIG did not substantiate the allegation, the Chairman has spoken with OGC. Together, discussions have begun to develop better communication between the Commission and OGC. See Response Memo.

**Prosecution Referral**

**Federal Referral Date:**
## OFFICIAL USE ONLY

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### AUSA Office
State/Local Referral Date:
Prosecution Status: Pending Date:

### Office
Comments:

### LE/Judicial Action

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

### Recovery
Amount Recovered:
Recovery Date:
Comments:

### Potential Losses
Amount:
Description:
Comment:

### Status:
Closed

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## OFFICIAL USE ONLY

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MEMORANDUM TO: Chairman Macfarlane

FROM: 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)

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

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

Allegation

OIG initiated this investigation following an allegation from an Office of the General
Counsel (OGC) staff attorney that conducted legal analysis on recent Supreme Court
rulings and opinions that 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 conducted

(b)(7)(C)

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 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.
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, 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.

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OFFICIAL USE ONLY—OIG INVESTIGATION INFORMATION—
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 "provides legal advice and assistance to the Commission and [handles] 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, EOC, 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**

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 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, legal analysis was entered into the OGC database as background research. The staff attorney claimed that she had shared some of the legal analysis with Chairman Jaczo and not with the Commission, although the staff attorney had no direct knowledge that this had, in fact, occurred. She also believed that the analysis was 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, she provided a memorandum to the Chairman’s office regarding the Chairman’s emergency authority following the nuclear incident in Fukushima. She 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.

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 she had no proof, the staff attorney suspected that some of the matters may have been provided to the Commission through the Chairman’s office instead of the staff attorney’s office, thus bypassing the legal review process. This may have 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.

The staff attorney provided seven specific examples of draft legal analyses that she prepared and subsequently provided to the four Commission offices, did not share the draft analysis with the Chairman’s office. The staff attorney believed the analysis she 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 information is important enough for the Commission to know. Two examples pertained to Supreme Court cases, one related to 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.

OIG interviewed the staff about each of the seven examples and her approach to sharing information with the Commission. She 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 were made as General Counsel for the agency. In some cases, the staff recalled the analysis was provided to the full Commission. In another case, the staff recalled the analysis was provided but in a revised and shortened form.

1 OGC maintains an internal database of legal memoranda, briefs, letters, and other legal documents as a research tool for OGC staff.
In one case, Burns recalled discussing the topic with the Chairman and Commissioners. Some of the examples were developed as background, at the request, and not relayed to the Commission or Chairman but maintained in OGC's database for possible future use as background information.

Denying 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, Burns asserted that the Chairman's 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, OGC uses judgment and management discretion in determining which information should be provided to the Commission and which is unnecessary or inappropriate to share.

Bums 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. Burns asserted that there is also some room for confidential discussions about matters.

Described to OIG one memorandum that, in hindsight, Burns believed should have been shared sooner with the full Commission. OIG notes that this was not one of the seven examples prepared by the staff attorney. Burns recalled receiving a request from Chairman Jaczko's office regarding the Chairman's emergency authority following the Fukushima nuclear incident. OIG documented 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 files and the OGC database. The analysis was not initially provided to the Commissioners; however, Burns verbally informed the Commissioners and their staff of the analysis and provided the Commission staff a copy of a November 7, 2001, memorandum from at the time, to then-Chairman Richard Meserve regarding the Chairman's emergency authority following the September 11, 2001, terrorist attacks. Burns noted to OIG that Chairman Meserve had requested the legal analysis, and that analysis was not shared with the Commission at that time either

Burns said that sometime in June 2011, he provided the March 17, 2011, memorandum to the Commission. Burns asserted it was a mistake not to provide the March 17 memorandum to the Commission sooner.

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

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OFFICIAL USE ONLY—OIG INVESTIGATION INFORMATION
old 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, stated there are many instances where internal memoranda are developed and not shared with the Commission. 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.

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

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

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

related if a Commissioner requested an analysis on a matter believed would be beneficial to the full Commission would discuss releasing it with the requesting Commissioner would inform the Commissioner that
wanted a memorandum, then would provide it to the full Commission in an effort to keep them fully informed. However, did not have a situation where this had occurred. However, 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.

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 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 Commissioners 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.
of the Commission and therefore consults with the General Counsel's office more frequently. It 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).
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frequently. He 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

Distribution:

File Location: b(T)(E)

Magnum  Case No. 12-061 Historical File

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February 20, 2013

MEMORANDUM TO FILE: Joseph A. McMillan
Assistant Inspector General

THRU:

Team Leader

FROM:

Senior Special Agent

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 that a Division of Engineering (DE), Office of New Reactors (NRO), employee was retaliated against for using the Open Door Policy to bring a safety issue to a higher level of management. According to DE, NRO, to remove the topic of safety system software from the USA-PWR Licensing Review and raise it with Management through the Open Door Policy, [redacted] allegedly disagreed with the [redacted] DE, NRO, that because [redacted] was a GG-14, and not a GG-15, [redacted] would no longer be the [redacted] replacement as [redacted].

Findings

OIG did not find evidence of retaliation against the employee for using NRC's Open Door Policy to raise concerns about the employee's replacement as [redacted].
had been discussed in previous months between CB and GG-15 had wanted to replace GG-14 with a GG-15 as the project lead, but all GG-15s were previously assigned to other tasks. Once GG-15 had become available, CB assumed the position of GG.

OIG found that lower performance appraisal score for FY 2011 was attributable to the change in the nature of work on the project (no longer

**Basis of Findings**

(b)(7)(C) told OIG that has been with NRC since 2005 and had worked for the industry for (b)(7)(C) was assigned as the (b)(7)(C) remained as the (b)(7)(C) stated that was still supervised by (b)(7)(C) but reported to (b)(7)(C) for USAPWR project purposes.

(b)(7)(C) said that 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 the seriousness of the 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 NRO to discuss the 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 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, was replaced as the (b)(7)(C) stated that at the direction of (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 safety concern was not included in the draft SER.

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

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

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

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

(b)(7)(C) stated that was aware that was discussing this issue with because was informing the meetings was having with using the Open Door Policy because it was a tool that the agency offered and encouraged staff to use stated that would never retaliate against any employee for using any of the processes or tools that this agency afforded its employees.

(b)(7)(C) related that replaced because was more technologically knowledgeable and had more experience. Furthermore wanted a GG-15 to lead the project. It was view that GG-15s should be responsible for the bigger projects.

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

(b)(7)(C) stated that and does performance appraisals (b)(7)(C) said provided feedback to on branch on (b)(7)(C) stated that overall.
performance as a technical lead for this project was good and that the rating reflected that in both FY 2010 and 2011. OIG stated that the project had gone down from the previous year and that there were more staff helping with the project and the responsibilities were not as great.

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

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

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

OIG compared FY 2010 performance appraisal against his FY 2011 performance appraisal and noted that for FY 2010 received three "O"s and one "E" for an overall Outstanding rating of 3.75. For FY 2011 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 that 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 that 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 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 FY 2011 appraisal reflected the transfer of the project to the ICE2 branch and noted support to other members of the review team.

Because OIG did not identify evidence to indicate that was retaliated against by management for using the Open Door Policy, it is recommended that this case be closed to the office files.
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 support to other members of the review team.

Because OIG did not identify evidence to indicate that (b)(6) was retaliated against by management for using the Open Door Policy, it is recommended that this case be closed to the office files.
MEMORANDUM TO

THRU

FROM

SUBJECT:

Allegation

Findings
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 the 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 Schuykill 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)(ii) 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 (NCR 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, 2006, 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 down tanks 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 about 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 the spill. Water sample results from the days after the release showed the tritium levels at the lower limit of detection (amounts less than 2,000 picocuries per liter). The spilled blow down water flows into the ground water which flows into the drainage points. 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 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, ALARA 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.

\[\text{ALARA} \text{ - As low as is reasonably achievable}\]
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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](T)(E)

MAGIUM Case File 12-64 Historical File

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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 (OGI) CASE NO. 12-57

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 2012, [OIG] Region II [OIG] was arrested at his home in [OIG] for the crime of "taking government property with a malafide intent in the State of Virginia. On July 13, 2012 [OIG] attorney contacted [OIG] regarding the arrest. On July 16, 2012 [OIG] provided an email statement regarding the arrest and to determine if there was any information of [OIG] government-issued computer(s) related to the crimes.

[OIG] was charged with
Finding

OIG provided ADM with the requested information regarding arrest and court actions. Additionally, OIG identified that Government computers by using them to view sexually explicit material. This matter was investigated under a separate case, OIG Case No. (b)(7)(C), which was issued previously. OIG found no information on (b)(7)(C) Government computers related to arrest.

Basis for Findings

On August 6, 2012, OIG received a (b)(7)(C) investigation report regarding (b)(7)(C) The report disclosed that on (b)(7)(C) respondent to (b)(7)(C) regarding a report of sexual abuse. Allegedly a minor aged (b)(7)(C) relative who lived at (b)(7)(C) residence arrived home around midnight and went to bed around 3 a.m. (b)(7)(C) alleged it was broken and entered the (b)(7)(C) bedroom rubbing (b)(7)(C) kissed (b)(7)(C) cheek lifted (b)(7)(C) blanket, and placed (b)(7)(C) hand on (b)(7)(C) before turning off the light and leaving. Then (b)(7)(C) allegedly returned to the (b)(7)(C) room, exposed (b)(7)(C) and put (b)(7)(C) hand on it. After (b)(7)(C) left the bedroom the second time, the (b)(7)(C) contacted another (b)(7)(C) of the incident. The (b)(7)(C) mother and aunt both told (b)(7)(C) investigator that (b)(7)(C) had been charged or investigated by the (b)(7)(C) for a 2002 incident in which (b)(7)(C) allegedly masturbated and ejaculated in front of (b)(7)(C) 7-year-old step (b)(7)(C)

OIG met with (b)(7)(C) investigators to obtain information regarding the alleged 2002 incident or any other incident involving (b)(7)(C) which was assigned as an NRC (b)(7)(C) was unable to identify any records concerning (b)(7)(C).

On July 24, 2012, the OIG Cyber Crime Unit (CCU) imaged the NRC computer assigned to (b)(7)(C) at the NRC (b)(7)(C) at Surry Power Station to determine if there was any workplace connection for the crimes. The analysis identified a thumbdrive of a pornographic image saved in a folder in (b)(7)(C). The CCU's analysis of the images identified 21 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 website. No information was found related to (b)(7)(C) arrest.

Based on the type of activity identified at Surry Power Station, the CCU also examined the NRC computer used by (b)(7)(C) prior assignment (St. Lucie Nuclear Plant) to determine if any pornographic material was accessed, viewed, or stored by (b)(7)(C) while assigned there. The CCU's analysis of the media identified 21 pornographic images in the NRC computer user profile and numerous entries in the Internet History files relating to pornography for sale on the eBay website.
relating to pornography for sale on the eBay Web site. No information was found
related to [IO][01] arrest. SIG initiated a separate investigation (SIG
Case No [IO][01][01] regarding misuse of two Government computers.
SIG contacted [IO][01][01] regarding the criminal case against [IO][01][01] and learned that the criminal case against
[IO][01][01] had been dismissed with a "nolle pross" meaning the State can reinstate the
charges at a later time. [IO][01][01] explained that the decision was based primarily on the
risk of cooperation the State was receiving from the victim's family.
relating to pornography for sale on the eBay Web site. No information was found related to [D](C) arrest. OIG initiated a separate investigation. OIG Case No. [E](C) regarding misuse of two government computers.

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

Distribution

File Location

[Image 0x0 to 614x794]
MEMORANDUM TO: Concur: Case Closed

THRU: 

Assistant Inspector General for Investigations

FROM: 

Special Agent

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 the Office of Investigations (OI), NRC, that 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 found that in 2010, OIG informed that wanted to establish a signal with [ ] that would get the Region IV OI agent in charge not to open a case.

Finding

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

Basis for Findings

OIG learned that in June 2014, met with OI, NRC, as part of the OI Field Office Review Visit (FORV). During
this meeting, OIG told OI that although there was a shared opinion with all RAs that they prefer OI not open certain low level investigations, who had attempted to interfere with the process, said that in 2010 OIG made a similar comment directly to OI that would let OI know not to open a case. In April of 2010 OIG had met with the RAs of all four regions and 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, OIG raised the question of establishing a signal between and OI regarding when not to open an investigation. OIG 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 case can determine if a person is considered a low level employee or not, 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 action with an allegation involving a low level employee who supervised and received a memorandum from in 2011 titled "Roles and Responsibilities." OIG reviewed memorandum as well as a November 2011 response from the memorandum contained a historical overview of why OI was created. The memorandum reinforced its independence and referenced 10 CFR 136, which is the regulation giving OI its authority to conduct investigations of licensees. In the memorandum, OIG stated that during tenure 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 responded with a memorandum to and the RAs. It stated that they supported 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.
from NRC, told OIG that comments to OI were aimed at process improvement to better use agency resources. OIG 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. OI stated that there have been cases in the past where OI felt OI should not have spent time investigating because the outcomes of the investigation was predictable. OI also said that recognizing OI could, and should, do whatever it needed to do because that was its authority. OI said that OI had accused of trying to get OI to not open certain cases, and not directly, "That is not happening." OI said that OI misunderstood any feedback had ever provided regarding process improvement. OI admitted used poor choice of words when stated there should be a "signal" regarding case openings. OI 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) said that there was not one case where tried to influence opening or closing or any decision OI has made.

OIG interviewed along with all including the current OI 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.

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

Because OIG did not develop any information to indicate that 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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(b)(7)(C)

from NRC, told OIG that 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 OI should not have spent time investigating because the outcome of the investigation was predictable. (b)(7)(C) also said that 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 of trying to get OI to not open certain cases, and (b)(7)(C) held directly. That is not happening. (b)(7)(C) said that (b)(7)(C) misunderstood any feedback had ever provided regarding process improvement, but admitted used poor choice of words when 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 they tried to influence opening or closing or any decision OI has made.

OIG interviewed the (b)(7)(C) along with all 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 licensees' employees; however, the primary conflict was between (b)(7)(C) and (b)(7)(C). (b)(7)(C) said they supported OIG 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.

File Location:

Distribution:

Case File 12-70 Historical File Magnum

OIG OIG OIG OIG OIG OIG

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

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OFFICIAL USE ONLY—OIG INVESTIGATION INFORMATION
### Referral, Actions & Follow-Up

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

**Program Office:** [redacted]  
**Classification:** [redacted]

**Originating Office:** [redacted]  
**Subject's Last Name / Company Name:** [redacted]  
**Subject's First Name:** [redacted]

**Agency Referral & Follow-up**

- **PFCRA Referral:** Yes or No  
- **Referred to Agency:** Yes or No  
- **Date:** 02/15/2013  
- **Contact Person:** William Borchardt  
- **Follow-Up Assigned To:** [redacted]  
- **Expected Completion Date:** [redacted]  
- **Revised Completion Date:** [redacted]  
- **Actual Completion Date:** [redacted]  
- **Completion Status:** Open or 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 or Declined  
- **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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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)

February 15, 2013


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

w/0 exhibits

CONTACT: OIG
Misuse of Government Computer by a Region II Employee

Case No. 12-74

February 15, 2015
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<td>Exhibits</td>
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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 contract 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.

(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, 2009

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 those 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."

3.6 Internet and E-mail Use

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

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

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• 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 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.


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.
OFFICIAL USE ONLY—OIG INVESTIGATION INFORMATION

SUBJECT

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." 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 profiles 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. OIG also admitted has been viewing pornography while at work for a long time. OIG also admitted going through the eBay Web site in an attempt to avoid detection by the NRC network content filters.

---

3 On February 13, 2013, OIG learned from the

(b)(7)(C) that the case was never processed, but could be brought back.

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OFFICIAL USE ONLY—OIG INVESTIGATION INFORMATION
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 Suny Power Station bearing NRC computer asset tag No. This computer was assigned to and used by while at the . An analysis of the media identified a thumbnail of a pornographic image saved in a folder in 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 user profile identified that it came from the Auctiva.com Web site. This Web site provides image files hosting for sellers on the eBay Web site. This thumbnail image was identified at the file path . This thumbnail image was created in the Thumbnails.db file when 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 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 bearing NRC computer asset tag No. An analysis of the media identified 21 pornographic thumbnail images in user profile and a folder labeled 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.
The 21 pornographic thumbnail images were in two Thumbs.db files. The Thumbs.db files were identified at the file path [(b)(7)(C)]. These thumbnail images were created when 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 website 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 office 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 and quickly cleared the screen ([(b)(7)(C)] stated the secretary’s computer faced 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 that 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 that has viewed adult pornography on the NRC computer while at work and has done...
This for "a long time," stated, would go to the eBay Web site to look for pornography because he knew that the eBay Web site was not blocked by the NRC filters and that he would be able to view pornography using this site. He stated he would also occasionally get an e-mail that might have pornography in it. He admitted to OIG that he saved a dozen or more pornographic images onto his NRC work computer.

According to , looking at pornography while at work did not distract him from his duties. Denied ever using licensee computers to look for pornography.

(For further details, see Exhibit 4.)

Department of Justice Coordination

U.S. Attorney's Office, Southern District of Maryland, has provided a blanket declaration pertaining to misuse of a Government computer by Federal employees to view adult pornography, in lieu of administrative action.
EXHIBITS


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)


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Attachment: Report of Investigation w/ exhibits

cc: D/(T/C) w/o exhibits

CONTACT: D/(T/L) OIG

Distribution: D/(T/E)

File Location: Case File 12-74 Historical File MAGNUM

OIG/AIG L OIG/AIG L OIG/AIG L OIG/AIG L OIG L OIG

D/(T/C) McMillan Lee Bell

Official File Copy
January 7, 2013

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

THRU
Team Leader

FROM:
Senior Special Agent

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 the Division of Engineering (DE), Office of Nuclear Reactor Regulation (NRR), that Office of New Reactors (NRO) abused authority alleged that delayed the issuance of NRC Bulletin to reactor licensees on design vulnerabilities in electric power system designs by refusing to concur on the bulletin

Findings

OIG found that and NRR were the did not immediately concur and co-sign the bulletin because 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

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concern before—would co-sign the document. OIG found that after learning that OGC understood and addressed specific concern and had no legal objection to the document, the staff declined to concur and sign the bulletin on behalf.

Basis for Findings

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

OIG's review of e-mail records from NRR, sent an e-mail to NRR staff and 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, NRO, e-mailed stating that NRO requested NRR's DE to explain why the bulletin should apply to AP1000 combined operating license (COL) holders. Later that day, sent another e-mail to stating that "received input regarding — event and would review the bulletin with and "hopefully" get NRO's concurrence.

On June 5, 2012, e-mailed requesting that and OGC explain how the bulletin could request a formal response from reactor licensees on the issue, and why it pertained to AP1000 reactor licensees. apologized for the delay, and stated that "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 and an attorney in OGC.

On July 20, 2012, NRR, sent a memorandum to the NRC Commissioners to inform them of the staff's intention to issue Bulletin 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.
The OIG reviewed the concurrence chain for Bulletin 2012-01 and noted that OGC 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.

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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 delayed concurring on Bulletin [delayed_concurring_on_Bulletin] for other than reasonable, professional questioning about the Bulletin's content, it is recommended this case be closed to the files of this office.
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 delayed concurring on Bulletin delayed concurring on Bulletin for other than reasonable, professional questioning about the Bulletin's content, it is recommended this case be closed to the files of this office.

Distribution
File Location [6776]

Case No 12.76

Historical File

Magnum

OIG/AGI

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OIG

OIG

OIG

J. McMillan

D. Lee

H. Bell

L. S. J. L

1/7/13

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

OFFICE OF THE INSPECTOR GENERAL

January 14, 2013

MEMORANDUM TO: [b] (C)
Office of New Reactors

FROM: 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 [b] (C) by delaying and refusing to concur on the issuance of (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] (C)

cc: R. William Borchardt, EDO

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MEMORANDUM TO

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cc: R. William Borchardt, EDO
MEMORANDUM TO: 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 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. 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). 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.
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 distributed to 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) told OIG that OGC disagreed with NRC’s decision to withhold the information from the public. They did not consider much of the information to be security related because it was of a general nature to include aerial photographs, and 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, they 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. [OIG 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. OIG was unable to provide any specific information other than that the information was not security related and informed OIG. OIG was not involved in the redaction process.]

OIG told OIG that OIG was responsible for deciding what information in the report would be deemed sensitive and that he along with NRC staff reviewed guidance from SECY 04-191 (established the NRC Sensitive Ioclassified Non-Safeguard Information (SUNI) policy) in making this decision. OIG 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. OIG 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 that some groups provided criteria to as to what information they viewed as security sensitive and warranting redaction. According to GI 204 was the first report RES produced that contained sensitive or Official Use Only (OUO) information 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. OIG told OIG that there were different opinions from NRC staff on the amount of information that needed to be withheld, but ultimately it was a decision to make the redactions. OIG said OIG was fully aware of the rationale used to justify the redactions but did not agree. OIG OIG was not aware that NRC had received an actual FOIA request prior to January 2012. OIG did not tell OIG that based on the amount of attention and deliberation between NRC staff regarding GI 204, believed at some point there could be a FOIA request. OIG told OIG that OIG was not negatively influenced by the thought that there might be a FOIA request, but that the possibility of a FOIA request made OIG more aware and thorough when making redactions by considering how the redactions aligned with the FOIA exemptions.

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. OIG told OIG that OIG was aware of the redactions in the final release of the report and that OIG had no issues with the amount of information redacted as part of a collaboration process that the NRC staff followed. OIG 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.
RES, who

(b)(7)(C)

held 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 on what material should be non-public and public (b)(7)(C) held OIG that it was 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)

(b)(7)(C)

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 OGC 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.

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OIG told OIG that 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. 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.

OIG 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.

OIG told OIG in responding to the 2012 FOIA request, the FOIA office would not have changed the information already redacted in 2011. OIG 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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MEMORANDUM TO: Joseph A. McMillan, Assistant Inspector General for Investigations
Office of the Inspector General

FROM

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 of 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: OCHCO
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(OCR)  

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: (OCR) OIG w/ exhibits  
(OCR) ADM/DFS w/o exhibits  

CONTACT: (OCR) 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

OIG Case No. 13-001

Special Agent

Team Leader

Joseph A. McMillan, Assistant Inspector General for Investigations

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OFFICIAL USE ONLY—OIG INVESTIGATION INFORMATION.
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

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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 or 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.
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.


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
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:

- 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) (e)

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 Non-safeguards 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.

4
SUBJECT

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 may have improperly released official use only sensitive security information to members of Congress. During the course of the investigation, OIG noted that also provided this information to the U.S. Office of Special Counsel (OSC).

FINDINGS

OIG found that 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 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.

OIG found that did not properly mark as sensitive an email and attachment sent from an NRC email account to members of Congress and OSC on September 18, 2012, even though both items contained NRC OUO - SRI and should have been marked accordingly. The items pertained to the Screening Analysis Report and included regulatory correspondence between NRC and the power plant licensee regarding commitments concerning flooding.

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

In addition, 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 his 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). 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 Alison 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 unreleased GI-204 Screening Analysis Report on September 17, 2012. The NRC Office of Congressional Affairs delivered the unreleased 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 retaliation for whistleblowing.
On September 20, 2012, management reported a security incident to NRC's Division of Facilities and Security (DFS) concerning September 18, 2012, email to MACPHERLANE and others inside and outside NRC. The email and attachments were reported to contain sensitive information that was not appropriately labeled or marked.

In an undated memorandum DFS issued a response to management concerning the reported incident. DFS concluded that because the incident did not involve protection of classified information, a security incident 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.

On October 30, 2012, memorandum prepared for DFS stated never released any documents marked "OUO-SRI" to anyone outside the Federal Government, and provided a "complete list of all such documents and any other non-public information" had sent outside the agency. In the memorandum, agreed to follow direction given to by branch chief and division director on October 20, 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.

(For further details, see Exhibit 4.)

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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 29, 2013, the undated G1-204 report continued to be available on The Huffington Post Web site at: http://www.huffingtonpost.com/2012/10/18/nuclear-plant-flood-threat-leak_g1_1933005.html.
OIG Review of NRC Email Account

OIG reviewed the NRC email account from June 1, 2012, through December 12, 2012, and identified an email with an attachment marked "OUO-SRI" sent from the 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 had sent to NRC Commissioners William Ostendorff and William Magwood (with copies to other NRC staff) that same day at 8:53 p.m. The three email attachments were identified as: (1) 2012-12-10_Briefing_on_Oconee_Flooding.pdf; (2) Lack of Transparency Impeding Resolution of Flooding Concerns at Oconee.pdf; and (3) 2006-04-08.pdf. Attachments (1) and (3) contained information labeled as Official Use Only - Security-Related Information. Attachment 2 did not have any markings.

(For further details, see Exhibit 5.)
Interview of [b][c]

(b)[c] Security Office (CSO). NRC informed OIG that in September 2012, email to the Chairman and Congress did not violate NRC policy regarding electronic transmission of sensitive unclassified information; however, information in the body of message and one of the attachments routinely reviewed incidents where sensitive unclassified information is inadvertently posted to ADAMS, the NRC's public access records management system; however, message on September 18, 2012, was intentional and the recipients of the message were intended and, as Federal employees, authorized to receive OUO information.

(b)[c] was unaware that [c] had transmitted OUO information to [c] personal email account 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." further advised, "This continues to be a problem in that NRC employees continue to send OUO and SANS information to their personal accounts to accomplish telework from home."

(For further details, see Exhibit 6.)

Interview of [b][c]

(b)[c] CSO, informed OIG that NRC employees are prohibited from sending OUO/SANS information from their personal email account to commercial/personal email, such as Hotmail, Gmail, and Yahoo, and that OUO/SANS information should never be on or transmitted from commercial/personal email servers such as Hotmail, Gmail, Yahoo 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]." explained if [c] transmitted acknowledgment of the Rules of Behavior...

[^9]: } The Rules of Behavior define the DAA as "The individual(s) responsible for approving IT implementations for operation."

[b][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."
sensitive unclassified information via Yahoo, Hotmail, or Gmail systems 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 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) [Learn 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) Division of

[b](7)(C) 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 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.

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As a result of the September 16th letter, reported a security breach to DFS because [redacted] had sensitive information within the document and it was not marked properly. Also worked with the Office of Congressional Affairs to notify the recipients of the email and the September 16 letter that both the email and letter contained sensitive information and must be protected accordingly. [redacted] had access to all documents attached to the September 16, 2012, letter through ADAMS would have had access to the unredacted GI-204 report, and did not seek permission to release it beyond the NRC or to Congress.

Informed OIG that has not considered limiting or restricting access. Said that because of a separate concern that pre-dated NRC employment, was welcome to pursue concerns as a private citizen, not as an agency employee, and any research that needed to be on one's own time.

Believed was aware that I 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 was using to illustrate the point that the withheld information had no relation to security information.

(For further details, see Exhibit 8.)

Interview of RES, who 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 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 held OIG that expects to follow the Office of Information Services guidance when teleworking, and understood that was to use CITRIX to process NRC information while teleworking said when processed ORO-SRI information on a personal computer while on telework status it was to be the same as if on a CITRIX into CITRIX. Denied storing any ORO-SRI information on a personal laptop; however, he acknowledged that he uses Hotmail for work when teleworking. Recall when began teleworking did not have a CITRIX
stated that between September 12 and October 19, 2012, forwarded "OUO-SRI" to congressional offices on multiple occasions; said this was at the request of congressional committee staff.

stated that 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, also forwarded the complaint letter along with a redacted (publicly available version) Screening Analysis Report (GI-204) to the Union of Concerned Scientists.

understood that under 10 CFR §2.390, licensees can request information be withheld from public disclosure because it is proprietary, and the agency would then designate the information OUO 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.

said that he provided the information to Congress because he disagreed with NRC’s characterization of the information as security related and wanted to bring the matter to the attention of Congress.

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

acknowledged a number of the documents forwarded to the Chairman, members of Congress, and congressional committees contained 10 CFR §2.390 information and did not seek approval to release the information.

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

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.

OIG asked [redacted] about the December 10, 2012, email with OUO-SRI attachments that had been forwarded from [redacted] NRC email account to [redacted] Hotmail account. [redacted] said he remembered sending the email but had meant to blind copy [redacted]. [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.

[redacted] acknowledged that OUO-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 that [redacted] thought [redacted] needed to speak to an attorney and the interview was ended.

(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 "OUO-SRI" information via unsecure means.

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.
EXHIBITS

1. Email from [redacted] to Chairman MACFARLANE with attachments (OUO-SRI) dated September 18, 2012.


5. Email from [redacted] with attachments, dated December 10, 2012:


MEMORANDUM TO: Mark A. Satterfield  
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](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](c) OIG w/ exhibits  
[b](c) ADM/DFS w/o exhibits

CONTACT: [b](c) OIG

Distribution:

File Location: [b](c)

Case File 13-001 Historical File MAGNUM

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Official File Copy
MEMORANDUM TO: Joseph A. McMillan
Assistant Inspector General
for Investigations

THRU: Team Leader

FROM: Special Agent

SUBJECT: NRC'S STAFF HANDLING OF THE JOCASSEE DAM AND OCONEE 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.
Basis of Findings

Interview of the Alleging NRC Employee

OIG interviewed the NRC employee who alleged the NRC took too long to correct what he considered a serious safety concern at ONS. The employee stated that he 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 he didn't have a background in hydrology, but that he 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 he was happy with the situation concerning ONS and believed the OIG should address why it took so long to get Duke to address the flood hazard issue.

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 50.54(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 to 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.

As to 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.

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 review required by Fukushima, Duke was given until June 2016 to get everything done.
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 as unsubstantiated.
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.

File Location: (D)(C)

Distribution

Case File 13-005

Historical File: Magnum

Official File Copy

4
MEMORANDUM TO: Joseph A. McMillan  
Assistant Inspector General for Investigations  

THRU:  

FROM: Special Agent  

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 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 allegation stated that the administrator password to the system, which does not connect to the NRC network, and believed obtained it to show what he could do.  

Findings  

OIG found that 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 who maintained access for efficiency-related reasons. OIG determined that did not install any malware, spyware, viruses, or other harmful or destructive programs that would allow an attacker to later access the system.
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 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. ORMA, Region IV, stated that he discussed the region's use of the Symon system. Following the meeting, learned from that retrieved the passwords for the server. Did not explain why he retrieved the passwords. recalled that had been asking for the passwords to acquire a better understanding of the system explained that was unable to obtain the passwords from the contractor.

as the system owner and system administrator for the digital signage system needed to retrieve the passwords to the system to better administer and secure the system explained that the vendor did not give the region administrative rights to the system, and the vendor refused to provide such rights to the user. contacted the company's help desk and was told that it was not allowed to give the NRC passwords to access their system. stated that was trying to get administrative rights to the so security checks in order to try to get the system on the NRC network said that 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 the NRC network exchange calendar information and other NRC information on the...
system because the system was currently providing the Region with only weather
data and appointment information, and several of the monitors did not work.

(b)(7)(C) [Redacted] explained that [Redacted] used the non-NRC computer on which the
system resides to go to an [Redacted] [Redacted]

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

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

Because OIG did not find that [Redacted] installed any malware, spyware, viruses, or
other harmful or destructive programs on the private system, and [Redacted] 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 he was able to find a password retrieval tool that would give
him the ability to try to get the passwords for the system without harming or changing anything
on the system. (b)(7)(C) explained that he had used the non-NRC computer on which the
system resides to go to an (b)(7)(C)
said that at the time he told (b)(7)(C) what he 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 he 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.
MEMORANDUM TO: Joseph A. McMillan, Assistant Inspector General for Investigations
Office of the Inspector General
FROM
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 he did. In exchange for waiving all procedural rights relating to the matter, this supervisor will receive a Letter of Reproachment 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

[Signature]
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, OIG w/ exhibits
     Willena B. Kersten, ADM/DFS w/o exhibits

CONTACT:   Rossana Rappa, OIG
            415-5925
Inappropriate Relationship Between a Region III Supervisor and Employee

Case No. 13-10

Senior Special Agent

Joseph A. McMillan, Assistant Inspector General

Date for investigations

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)
Inappropriate Relationship Between A Region III Supervisor and Employee

Case No. 13-10

September 19, 2013
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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

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 Region III, that had engaged in an inappropriate relationship with LaSalle County Station (LaSalle), Region III. At the time of the relationship, was the and was the at LaSalle.

FINDINGS

OIG found that and engaged in a consensual, intimate physical relationship from June 2009 to approximately September 2012, to include while was . OIG found that provided 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 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) accepted a non-competitive reassignment from Region II at LeSalle on (b)(7)(C) where he remains presently.
- (b)(7)(C) was promoted to -- at LeSalle on April 27, 2008 (b)(7)(C) was absent from NRC for (b)(7)(C) and returned to NRC on (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 LeSalle 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) was (b)(7)(C) in fiscal years 2009 and 2010, and that (b)(7)(C) gave (b)(7)(C) a Summary Rating of "Outstanding" with a quotient number of 3.75 for both fiscal years. The 2011 and 2012 forms disclosed that (b)(7)(C) at LeSalle 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) told OIG (b)(7)(C) had been tasked by (b)(7)(C) to clean up the NRC (b)(7)(C) at LeSalle, and while (b)(7)(C) and the NRC administrative assistant were cleaning (b)(7)(C) found documents that were believed to be written by (b)(7)(C) (b)(7)(C) stated the documents were found in filing cabinets in the (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 LeSalle. According to (b)(7)(C) (b)(7)(C) stated or experience working with

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did not believe there had been an inflation of performance appraisals when

(For further details, see Exhibit 3.)

Review of Documents Found by

OIG reviewed the documents that were 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 names, contained information concerning LaSalle and the. (b)(G) 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 NRC E-Mail Accounts

OIG reviewed e-mails sent from and received in and 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 that had saved or archived the e-mails in their accounts. OIG did not identify any communication between

(For further details, see Exhibit 5.)

Interview of Region III

OIG interviewed and in the Region III Division of Reactor Projects, which has oversight for the LaSalle RB. All said they were unaware of an inappropriate relationship between and the

said that had they been aware, they would have reassigned one to avoid a conflict of interest.

Region III, stated—was the reviewing official for performance appraisals for fiscal years 2009 – 2011, and that agreed with the appraisals that were provided by for fiscal years 2009 and 2010. Also said, knowing overall “Outstanding” rating after

served as for 6 months after and 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 [redacted]

[redacted] told OIG that they had been involved with [redacted] from June 2008 to September 2012, and that they sexuely intimate (including intercourse) from the summer of 2009 to December 2010, at the end of their duty at LaSalle. They said their romantic relationship continued for a period of time when [redacted] was no longer employed. said that the relationship after returning from [redacted] described their relationship as mutual and consensual and that it took place outside the workplace.

[redacted] said that completed [redacted] appraisals in fiscal year 2009 and 2010. said that completed the first overall outstanding appraisal in fiscal year 2011, mostly because of [redacted] duties from December 2010 to March 2012, after [redacted] left. did not believe that the relationship with [redacted] influenced performance appraisals and had been consistently evaluated as "E" from before [redacted] arrived at LaSalle through [redacted] departure from LaSalle.

believed that [redacted] did not show any favoritism when was [redacted] at LaSalle and said that had never been coerced into doing anything or received preferential treatment because of the physical intimate relationship with [redacted]. said that had never been harassed, intimidated, discriminated against, or forced to do something that did not want to do by [redacted] that at work it was kept strictly professional and that nothing was expected of [redacted] as as because of the relationship [redacted] said that and [redacted] were involved, and that husband at the time (another person) [redacted] was unaware of the involvement with [redacted]. added that [redacted] never used Government computer to write romantic communications to [redacted], but mostly used cell phone or iPad and would use [redacted] Government computer to check personal e-mail during lunch and non-work time.

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

Interview of [redacted]

[redacted] told OIG that they were the [redacted] at LaSalle from May 2008 through December 2010, and in January 2011, returning to NRC in May 2012. and [redacted] carpooled to the plant together and that during the time they worked together, they became very good friends.

[redacted] repeatedly denied having had a romantic relationship with [redacted] but admitted the relationship after OIG presented the documents that [redacted] had provided to OIG. [redacted] acknowledged the documents contained communications that had been sent to [redacted] and [redacted] and engaged in an "outside of work" relationship.
with [DX/C] while they both were married and working at LeSalle, from June 2009 until December 10, 2010, when [DX/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 [DX/C] became [DX/C] until September 2012 (following [DX/C]) with a few occasions between September and December 2012.

[DX/C] [DX/C] did not recall [DX/C] using a Government computer to send romantic e-mails to each other; [DX/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

5. Memorandum to File, Subject: Receipt and Review of NRC E-mails Sent by and , dated February 6, 2013.
7. Memorandum of Interview dated March 5, 2013.
8. Memorandum of Interview dated March 5, 2013.
MEMORANDUM TO: Mark A. Satori
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 (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: OGC w/ exhibits
ADM/DFS w/o exhibits

CONTACT: OIG

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

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Official File Copy
MEMORANDUM TO: Joseph A. McMillan  
Assistant Inspector General for Investigations
THRU  
Team Leader  
FROM  
Special Agent

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) NRC licensee contractor for complaining about a co-worker who [b](7)(C) was retaliated against by an [b](7)(C) NRC licensee contractor for complaining about a co-worker who [b](7)(C) was retaliated against by an [b](7)(C) NRC licensee contractor for complaining about a co-worker who [b](7)(C) was retaliated against by an [b](7)(C) NRC licensee contractor for complaining about a co-worker who [b](7)(C) was retaliated against by an [b](7)(C) NRC licensee contractor for complaining about a co-worker who [b](7)(C) was retaliated against by an [b](7)(C) NRC licensee contractor for complaining about a co-worker who [b](7)(C) was retaliated against by an [b](7)(C) NRC licensee contractor for complaining about a co-worker who [b](7)(C) was retaliated against by an [b](7)(C) NRC licensee contractor for complaining about a co-worker who [b](7)(C) was retaliated against by an [b](7)(C) NRC licensee contractor for complaining about a co-worker who [b](7)(C) was retaliated against by an [b](7)(C) NRC licensee contractor for complaining about a co-worker who [b](7)(C) was retaliated against by an [b](7)(C) NRC licensee contractor for complaining about a co-worker who [b](7)(C) was retaliated against by an [b](7)(C) NRC licensee contractor for complaining about a co-worker who [b](7)(C) was retaliated against by an [b](7)(C) NRC licensee contractor for complaining about a co-worker who [b](7)(C) was retaliated against by an [b](7)(C) NRC licensee contractor for complaining about a co-worker who [b](7)(C) was retaliated against by an [b](7)(C) NRC licensee contractor for complaining about a co-worker who [b](7)(C) was retaliated against by an [b](7)(C) NRC licensee contractor for complaining about a co-worker who [b](7)(C) was retaliated against by an [b](7)(C) NRC licensee contractor for complaining about a co-worker who [b](7)(C) was retaliated against by an [b](7)(C) NRC licensee contractor for complaining about a co-worker who [b](7)(C) was retaliated against by an [b](7)(C) NRC licensee contractor for complaining about a co-worker who [b](7)(C) was retaliated against by an [b](7)(C) NRC licensee contractor for complaining about a co-worker who [b](7)(C) was retaliated against by an [b](7)(C) NRC licensee contractor for complaining about a co-worker who [b](7)(C) was retaliated against by an [b](7)(C) NRC licensee contractor for complaining about a co-worker who [b](7)(C) was retaliated against by an [b](7)(C) NRC licensee contractor for complaining about a co-worker who [b](7)(C) was retaliated against by an [b](7)(C) NRC licensee contractor for complaining about a co-worker who [b](7)(C) was retaliated against by an [b](7)(C) NRC licensee contractor for complaining about a co-worker who [b](7)(C) was retaliated against by an [b](7)(C) NRC licensee contractor for complaining about a co-worker who [b](7)(C) was retaliated against by an [b](7)(C) NRC licensee contractor for complaining about a co-worker who [b](7)(C) was retaliated against by an [b](7)(C) NRC licensee contractor for complaining about a co-worker who [b](7)(C) was retaliated against by an [b](7)(C) NRC licensee contractor for complaining about a co-worker who [b](7)(C) was retaliated against by an [b](7)(C) NRC licensee contractor for complaining about a co-worker who [b](7)(C) was retaliated against by an [b](7)(C) NRC licensee contractor for complaining about a co-worker who [b](7)(C) was retaliated against by an [b](7)(C) NRC licensee contractor for complaining about a co-worker who [b](7)(C) was retaliated against by an [b](7)(C) NRC licensee contractor for complaining about a co-worker who [b](7)(C) was retaliated against by an [b](7)(C) NRC licensee contractor for complaining about a co-worker who [b](7)(C) was retaliated against by an [b](7)(C) NRC licensee contractor for complaining about a co-worker who [b](7)(C) was retaliated against by an [b](7)(C) NRC licensee contractor for complaining about a co-worker who [b](7)(C) was retaliated against by an [b](7)(C) NRC licensee contractor for complaining about a co-worker who [b](7)(C) was retaliated against by an [b](7)(C) NRC licensee contractor for complaining about a co-worker who [b](7)(C) was retaliated against by an [b](7)(C) NRC licensee contractor for complaining about a co-worker who [b](7)(C) was retaliated against by an [b](7)(C) NRC licensee contractor for complaining about a co-worker who [b](7)(C) was retaliated against by an [b](7)(C)
Findings

OIG found that OI's investigation into [redacted] allegation of retaliation addressed the points raised by [redacted] in a logical manner by interviewing [redacted] 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 found that Dominion and OI conducted investigations into [redacted] 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 [redacted] was using prescription Oxycontin while on duty at the plant. The investigation found that [redacted] had over-the-counter drugs that resembled Oxycontin. Their investigation further disclosed that [redacted] was unaware of any abuse of prescription drugs by [redacted] or that [redacted] ever informed management of [redacted] concern that [redacted] might be abusing prescription drugs.

Dominion's Employee Concern Program investigation focused on [redacted] claim that (1) [redacted] is going to a Safety Coordinator to inquire about a change in plant condition regarding a piece of equipment [redacted] was working on, and (2) [redacted] was escorted off site and accused of sleeping on the job. Dominion's ECP did not substantiate any of [redacted] claim during their investigation.

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

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. Interviews included [redacted] managers, and potential eyewitnesses to the incidents described as retaliatory.
The OI investigator asked questions that conveyed understanding of the allegation details, including the three incidents conveyed as evidence of retaliation against. These issues were: (1) painting chiller with 1-inch brush, (2) sleeping in break room, and (3) furlough request. OIC's investigation found that there was no supporting evidence one way or the other that was given only a 1" brush and not a bag of different size brushes as claimed by the supervisor to paint the chiller.

There were four individuals who testified that they saw sleeping in the break room. It was denuded a furlough due to a union issue and that instead of terminating either for sleeping in the break room.

OIC interviewed who maintained that OI used hearsay as their basis for their conclusion. However, in a subsequent phone conversation with OIC acknowledged that it was possible that may have been sleeping in the break room. Further disagreed that had been given three paint brushes, but could not provide proof to refute the testimony given by the manager who said was given a bag of paint brushes. OIC could not provide OIC any additional specific information regarding the claim that OI did not conduct an adequate investigation.

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

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

Because OIG could not find any evidence that OIG did not conduct an adequate investigation, it is recommended that this case be closed to the office files.
MEMORANDUM TO: Office of the General Counsel

FROM: 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 [Redacted]

cc: [Redacted] GC

September 19, 2013
MEMORANDUM TO: 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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Agency management has been advised of this case closing.

If you have any questions regarding this matter, please contact Office of the General Counsel.

cc: Office of the General Counsel

Distribution: Office of Investigative Activities
File Location: OIG Case No. 13-017 Historical File


H.Bell

---OFFICIAL USE ONLY--- OIG INVESTIGATION INFORMATION---
September 19, 2013

MEMORANDUM TO: 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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If you have any questions regarding this matter, please contact [redacted].

cc: [redacted] OGC
MEMORANDUM TO: [Redacted]

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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Agency management has been advised of this case closing.

If you have any questions regarding this matter, please contact [Redacted]

cc: [Redacted]

Distribution: [Redacted]

File Location: [Redacted]

OIG Case No. 13-017

Historical File
Magnum

[Redacted]

Official File Copy
MEMORANDUM TO: Joseph A. McMillan
Assistant Inspector General for Investigations
THRU: Team Leader
FROM: Special Agent

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

Allegation

This Office of the Inspector General (OIG), U.S. Nuclear Regulatory Commission (NRC), investigation was based on an allegation from [redacted] previously employed by NRC, in which [redacted] 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 Protection Board (MSPB). [redacted] also alleged that [redacted] and [redacted], two attorneys in NRC's Office of the General Counsel (OGC), knowingly submitted to MSPB a version of [redacted] 2010 appraisal that had been willfully altered and that this appraisal had been used to take administrative action against [redacted]. Because most of the matters raised in [redacted] allegation were being addressed by the EEO investigation and MSPB appeal, OIG focused on [redacted] allegation pertaining to his 2010 appraisal.

Findings

OIG found that [redacted] Electronic Online Personnel File (eOPF) contained a version of [redacted] 2010 appraisal that matched the original version in terms of overall rating and overall numerical score, but contained incorrect numerical scores for each rating.
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 and not the EOPF version.

Basis for Findings

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

OIG reviewed the copy of the 2010 performance appraisal used by Division of Risk Analysis, Nuclear Reactor Regulation, NRC, and by OGC to take administrative action against as well as the copy of the performance appraisal claims should have been used. OGC, and that instead a willfully doctored version was used. The copy used by OGC was the same copy provided to them by. 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 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 completes a performance appraisal does not fill out the numerical equivalent column for any person he supervises and that the original copy of the performance appraisal did not have the numerical equivalent column filled out. had never seen the “Official Copy” of performance appraisal until it was presented in the allegation stated that 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 accidently used the wrong numbers when doing so. OIG reviewed the
OIG investigation information

file maintains on all employees that [redacted] supervises and confirmed that the numerical equivalent column on all of the performance appraisals had completed were not filled 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.

[redacted] said they had never seen the “Official Copy” of performance appraisal that [redacted] used in the allegation. [redacted] stated that [redacted] had worked off of documents provided by [redacted] and that there were no numbers in the numerical equivalent column. [redacted] stated that the lack of numbers in these columns was never questioned in any discussions regarding the case.

[redacted] 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 [redacted].

Because the EEO investigations are still open, the MSPB dismissed [redacted] appeal without prejudice, and there was no evidence to suggest NRC purposely altered [redacted] appraisal and used it to take administrative action against [redacted]. It is recommended this case be closed to the files of this office.
File Location:

Distribution: (b)(7)(C)

Case File 13-17

Historical File

Magnum

Official File Copy

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(b)(7)(C) maintains on all employees that supervise and confirmed that the numerical equivalent column on all of the performance appraisals had completed were not filled 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) and (b)(7)(C) said they had never seen the "Official Copy" of the performance appraisal that used in the allegation. (b)(7)(C) stated that they 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).

Because the EEO investigations are still open, the MSPB dismissed appeal without prejudice, and there was no evidence to suggest NRC purposely altered 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.

OFFICIAL USE ONLY—OIG INVESTIGATION INFORMATION
MEMORANDUM TO: Joseph A. McMillan
THRU: Special Agent
FROM: Special Agent
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 NRC Inspection Team Leaders . . . and urged . . . Office of Nuclear Security and Incident Response (NSIR) to direct . . . Exelon Corporation to dismiss . . . from Exelon’s employment or, things would go much harder for Exelon in 2013.

Specifically, it was alleged that . . . was trying to go outside of NRC’s and Nuclear Energy Institute’s guidance and then threatened and bullied people to get . . . in order to place a huge advantage to the Composite Adversary Team (CAF). It was also alleged that . . . made several threats about finding issues if Exelon’s Defensive Strategy Team (DST) did not quit pointing things out where . . . the CAF team and the NRC contractors were wrong; and that . . . threatened Exelon to remove . . .
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 found 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 Exelon Corporation, regarding the FOF exercises at Oyster Creek Nuclear Generating Station (Oyster Creek) and Limerick.

- Stated that was present for the exercises for both Oyster Creek and Limerick.
- Stated that it was the decision to remove DST personnel from Limerick after they failed to follow instructions about not interacting with the FOF exercises.
- Said that DST personnel acted unprofessionally and that they had even apologized to for not following the instructions.
- Also stated that at no time was told or influenced by NRC staff to remove personnel from the site, and that alone made that decision based on what had occurred.
- Further stated that did not witness or was aware of any unprofessionalism or misconduct by NRC staff or their contractors at Oyster Creek or Limerick.

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

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 [ ] for Oyster Creek and Limerick, regarding their conduct during the FOF inspections. BOR advised that at no time did they ever threaten Exelon managers regarding the conduct of the exercises.

OIG interviewed [ ] for the NRC contractors were having with the Exelon DST personnel and that [ ] had not removed DST personnel from the site and that the decision to do so was strictly voluntary.

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

OIG interviewed [ ] who told OIG that [ ] did have conversations with [ ] 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 [ ] stated that [ ] offered the opportunity to have NRC train their DST personnel on the purpose and scope of the FOF exercises. Furthermore, [ ] stated that approximately 3 weeks after the Limerick inspection [ ] had informed [ ] that Exelon had undertaken steps to train their personnel on the purpose and objective of the FOF exercises.

[ ] added that as for the requirements for being a team leader in SPBE, 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 568, which explains the Design Basis Threat (DBT) under 10 CFR Part 73. [ ] said the criteria was approved by the NRC [ ] stated that only two of [ ] was selected as a [ ] because [ ] had a regulatory background and was a [ ] for Exelon Corporation, who stated that [ ] was not seen by Exelon after the Limerick inspection due to a conflict of interest.
stated that whatever disagreements they had with NRC staff or their contractors at Oyster Creek were resolved and forgotten. They stated that thought was not personally participating in the Limerick FOF exercises was present at the site also said that there were issues that were brought to attention by DST personnel who apparently had disagreements with the NRC contractors.

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

OIG interviewed and Exelon personnel who stated that they did have disagreements with NRC contractors regarding the use of 550 parachute cord, breaches 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.

OIG noted that neither nor discussed for the FOF activities at Quad Cities for which was the person.

OIG interviewed the three NRC contractors and who participated in the Oyster Creek and/or Limerick FOF inspections, stated that did not witness any unprofessional behavior by NRC staff, 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, said that the situation was so contentious the very first day that they had a meeting with

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. said that the DST members were interfering with the CAF team. stated that no one from NRC was unprofessional during the inspection stated that if anyone was unprofessional, it was Exelon's DST.

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 that the NRC was there to evaluate the site's protective strategy, not the CAF for the CAF's technical abilities 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.

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

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Since OIG could not find any evidence of NRC staff misconduct, it is recommended that this case be closed to the office files.
OIG interviewed three NRC contractors who participated in the Oyster Creek and/or Limerick FOI inspections. They stated that they did not witness any unprofessional behavior by NRC staff. They 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. They said that the situation was so contentious the very first day that they had a meeting where they discussed what was happening.

One stated that there were three personnel who worked for the industry who were debating how the tactics were being used, how stuff would be placed, and what it should look like. They said that the DST members were interfering with the CAF team.

Another stated that no one from NRC were unprofessional during the inspection. They stated that if anyone was unprofessional, it was Exelon's DST.

The DST members were interfering with the inspection team, and they stated 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 that the NRC was there to evaluate the site's protective strategy, not the CAF and the CAF's technical abilities. 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.

Exelon management was a little frustrated with their DST, because in their eyes, they were causing a disruption to the inspection process. They 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

Case File No. 13-19

Official File Copy

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MEMORANDUM TO:  [Redacted]

Office of Nuclear Reactor Regulation

FROM:  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 an 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 [Redacted]

cc: Mark A. Salojes, EDO
MEMORANDUM TO: [Redacted]
Office of Nuclear Reactor Regulation

FROM: Hubert T. Bell
Inspector General

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

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Agency management has been advised of this case closing.

If you have any questions regarding this matter, please contact [Redacted]

cc: Mark A. Satorius, EDO

Distribution: [Redacted]

File Location: [Redacted]

OIG Case No. 13-19

Historical File

--OFFICIAL USE ONLY-- OIG INVESTIGATION INFORMATION--
MEMORANDUM TO: Office of Nuclear Security and Incident Response

FROM: Hubert T. Bell
Inspector General

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

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Agency management has been advised of the case closing.

If you have any questions regarding this matter, please contact [redacted].

cc: Mark A. Satori, EDO
MEMORANDUM TO: [Redacted]

Office of Nuclear Security and Incident Response

FROM: Hubert T. Bell
Inspector General

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

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Agency management has been advised of this case closing.

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

cc: Mark A. Satorius, EDO
MEMORANDUM TO

Office of Nuclear Security and Incident Response

FROM:
Hubert T. Bell
Inspector General

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

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Agency management has been advised of this case closing.

If you have any questions regarding this matter, please contact [Redacted]

cc: Mark A. Satorius, EDO
MEMORANDUM TO: Office of Nuclear Security and Incident Response

FROM: 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.

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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

cc: Mark A. Satonius, EDO
MEMORANDUM TO: Office of Nuclear Security and Incident Response

FROM: Hubert T. Bell
       Inspector General

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

December 30, 2013

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 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:

cc: Mark A. Satori, EDO
MEMORANDUM TO: Office of Nuclear Security and Incident Response

FROM: 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 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.

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

THRU: Team Leader

FROM: Special Agent

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 the investigation based on an OIG Hotline conversation with private citizen regarding the failure of NRC staff to fully review Washington State's Department of Radiation's investigation of possible overexposure to radiation stemming from radiation therapies at the University of Washington Hospital in 1995. Specifically, alleged that NRC staff failed to investigate the State of Washington's lack of response to the allegation. It should be noted that Washington is an Agreement State.

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.
Findings

OIG found that the 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 the matter to the Washington State Auditor's office for any further inquiry.

Basis of Findings

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

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

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 in an attempt to assist. NRC staff also informed that could report any claims of misconduct to the Washington State Auditor's office.

It should be noted that additional information regarding the allegation was sent by to OIG in February 2013. OIG submitted this additional information to FSME for its consideration in the Integrated Materials Performance Evaluation Program 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.
Based on the fact that the NRC lacks jurisdictional authority to investigate [redacted] allegation and that [redacted] 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.
Based on the fact that the NRC lacks the jurisdictional authority to investigate [b7/c]
allegation and that [b7/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 | [b7/e] |
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MEMORANDUM TO:

THRU:

FROM:

SUBJECT:

Concur Case Closed

Team Leader

Special Agent

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 Clinton Power Station, Region I, NRC may be misusing travel funds by requesting to attend external training every year it has family.

Finding

OIG found that from 2009 to the present, has attended one approved training course, "Leadership Essentials."
Basis for Finding

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

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

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 requested to attend training in

Because OIG did not identify any improper behavior it is recommended this case be closed to the files of this office.
MEMORANDUM TO: Joseph A. McMillan
Assistant Inspector General for Investigations

THRU: Team Leader

FROM: Special Agent

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 the Office of New Reactors (NRO), Nuclear Regulatory Commission (NRC), regarding a "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 assigned to Information Technology Management Branch (ITMB), Division of Program Management, Policy Development and Analysis (PMDA), ORO, and OIG reviewed NRC's handling of the reported incident.

Findings

OIG found that NRC responded to the reported romantic relationship between by transferring to a position not OIG found that OCHCO reviewed the matter and determined that no prohibited personnel practices occurred during the approximate 3.5 month period that
Basis of Findings

Based on OIG's review of an OCHCO memorandum dated May 21, 2013, OIG learned that ITMB, Division of Program Management, Policy Development & Analysis (PM/DA), NRO, on December 2, 2012, at that time, telephoned OCHCO, and asked to be reassigned from position in branch from NRO, to ITMB. NRO, notified OIG via an e-mail on March 22, 2013, that and were in a romantic relationship. Therefore, was seeking a transfer outside of ITMB and was transferred out of ITMB.

On March 27, 2013, 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, told OIG that NRO, learned of the reported romantic relationship and that NRO and OCHCO decided to reassign to a different branch in NRO. OIG learned from OCHCO's memorandum that on April 1, 2013, both and were interviewed by OCHCO regarding the allegation and denied a romantic relationship but said that had discussed exploring a relationship. 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 the NRC, no prohibited practices were identified. OCHCO reported that during the time period for promotions, awards, or within-grade increases, did not conduct his FY 2012 appraisal or 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.
Based on OIG's review of an OCHCO memorandum dated May 21, 2013, by [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 from position in branch [b](7)(C) that [b](7)(C) were in a romantic relationship. Therefore, [b](7)(C)
[b](7)(C) were transferred outside of ITMB and on March 28, 2013, [b](7)(C) was transferred out of ITMB.

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)
[b](7)(C) NRO, learned of the reported romantic relationship and that NRC and OCHCO decided to reassign [b](7)(C) to a different branch in NRC.
[b](7)(C) called 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) 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) 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.
MEMORANDUM TO

THRU:

FROM:

SUBJECT

Allegation

Findings

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 alleged 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.

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.
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 (b) 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:

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MEMORANDUM TO: Joseph A. McMillan  
THRU: Team Leader  
FROM: Special Agent  

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 an individual (b)(7)(C) now retired from NRC, that OIG agents tried to get him to confess to something he did not do; reported inaccurate information provided by a witness (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); 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).  

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
investigation and did not observe and recall the entire alleged inappropriate activity. OIG further found that a written statement was provided to NTEU, but not provided to OIG. OIG could not determine if the OIG investigators tried to get G to confess to something - did not do because the interview was not transcribed.

However, OIG found that the OIG investigators did not ask 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 G, both at the NRC Headquarters Diversity Day Event. OIG determined that despite G's declination of a request to dance with G, which demonstrated both verbally and physically, G grabbed G's arm and forced G to the dance floor. OIG further determined that while they were dancing, G dangled G's hand and fell backwards towards G, which caused G's shirt to rise and expose the lower portion of her breast. OIG found that G's behavior towards G was inconsistent with appropriate behavior for an on-duty government employee and reflected poorly on the NRC. NRC issued a letter of reprimand to G as a result of OIG's investigation.

The second, OIG Case No. 1, found that after the first investigation, G inaccurately contacted G and witnesses interviewed by OIG in OIG Case No. G found that G sent several emails to one witness and threatened and intimidated G and confronted another witness about testimony to the OIG, and wrote a letter to the victim and hand delivered it to place of employment in an attempt to speak with a person about the OIG investigation. NRC issued a Memorandum of Admonishment to G as a result of OIG's investigation.

Allegation #1: OIG Investigators Allegedly Tried to Get G to Confess to Something Did Not Do

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

OIG reviewed the transcript in OIG Case No. to assess questioning techniques and whether OIG pressured the witness to confess to something they did not do. The former OIG special agents asked about interactions with OIG witnesses and the victim regarding their investigation after it was completed. The review revealed that OIG used standard questioning techniques and nothing appeared inappropriate forceful. OIG investigators did not ask any inappropriate questions based on a review of the interview transcript.

OIG noted that the interviews conducted of the witnesses were very detailed and thorough. OIG noted in Case No. that the former NRC OIG special agents interviewed OCFO, who told OIG that he received a telephone call from on May 24, 2004, and asked if anything was acceptable for him to harass. OIG told OCFO that he had said no. OCFO told OCFO that he was not acceptable for him to harass. OCFO told OCFO that he had no thousand times. OCFO told OCFO that he was acceptable for him to dance. While they danced, OCFO told OCFO that they danced and dipped which caused breasts to rise, exposing. OCFO ran from the room out of embarrassment.

Allegation #2. OIG Allegedly Reported Inaccurate Information Provided by

Allegation #3. OIG Allegedly Did Not Interview Three Witnesses Suggested by

OIG reviewed a report of a interview of OCFO, dated August 12, 2004, OIG Case No. conducted by former NRC OIG special agents. The two special agents questioned concerning the allegations. claimed to not recall the specifics of the dance, but denied pulling two witnesses into the dance floor. claimed that after the "dip" or "conclusion of the dance," they pulled that at no time did they touch or inappropriately and that there were witnesses to that fact. provided the names of two witnesses who would have seen the entire dance.
OIG reviewed a transcript of an interview by OIG for OIG Case No. dated June 9, 2005. In the transcript, the OIG stated that was not interviewed by the OIG. OIG also noted the former NRC special agents also interviewed several other potential witnesses. OIG stated that was dancing with and was not present when was dancing with .

**Allegation #4: OIG Allegedly Did Not Accept a Written Statement from**

OIG allegedly provided OIG with an email dated May 2, 2005, which was from to NTEU, Chapter 205, cc: . OIG allegedly that OIG would not accept and that did not provide the email document to OIG, but instead gave it to NTEU and .

The email documented what was observed when danced with in 2004. In the email, stated that from was the middle of the auditorium. It did not appear to be a willing participant in response to an invitation for a conversation. It was not obvious to that was offended. During their dance, saw lead into a dip. saw shirt rise to bare an inch or two of her stomach during the dip maneuver, but did not see or breasts exposed.

said that was not sitting close enough to hear anything that said to each other when asked to dance. did recall that was extending behind but did not see what part of was holding as was walking to the dance area to the dance area and said did not see them until they were in the last or second row walking towards the dance area. said saw take into a dip, and saw shirt rise. said noticed leave the dancing area, but not notice the expression on her face. did not remember whether or not walked off the dance area or ran. could not recall other specific details.

OIG contacted for an interview. OIG attempted to ask why did not provide a letter to OIG in May 2005, but declined to answer the question and any other questions regarding this matter because claimed was.
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 [REDACTED], it is recommended this case be closed to the files of this office.
Because OIG did not identify evidence of shortcomings in the prior investigations as alleged by [OIG], it is recommended this case be closed to the files of this office.
MEMORANDUM TO: [Concur: Case Closed]

THRU: [b/(7)(C)]

FROM: Special Agent [b/(7)(C)]

SUBJECT: INSTANCES OF WASTEF 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 alleeer described one meeting last year, where the Chairman, and dozens of other staff members attended MDEP meetings in France. The alleeer 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 alleeer 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 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.

OIG, in a letter to NRO (filed with OIG), 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:

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.

[NRC 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. Also provided justification for NRR staff's travel to Paris in 2013 for an MDEP meeting and Moscow in 2013 for an IEEE meeting.]

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 travel to these meetings, it is recommended this case be closed to the files of this office.
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.

NRR, provided justification pertaining to three NRR staff members' attendance at two MOEP and two IEEE meetings in 2012 and 2013. For example, one NRR attendee traveled to a 2012 MOEP 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. NRR also provided justification for NRR staff's travel to Paris in 2013 for an MOEP meeting and Moscow in 2013 for an IEEE meeting.

Instrumentation Controls and Electrical Engineering Branch (ICEE), RES, told OIG that RES does not participate in MOEP 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 MOEP, 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.
MEMORANDUM TO: Joseph A. McMillan
Assistant Inspector General for Investigations

THRU: Team Leader

FROM: Special Agent

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 Region I Division of Reactor Safety (DRS), Region I, had a delinquent Government travel card account with an account balance of $1,005.04, which was suspended by Citibank. It is OIG policy to review all suspended Citibank travel card accounts to identify potential misuse. OIG reviewed the account and identified several transactions that appeared to be unrelated to official travel. Because of the low dollar threshold, OIG initially referred credit card misuse to Region I to handle; however, the region subsequently referred this matter to OIG.

Findings
OIG found that a Region I 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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Of the card misuse and on September 17, 2013, a counseling memorandum was issued to

Basis of Findings

Assessment of Government Travel Card Usage

OIG compared travel history to use of 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.

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<thead>
<tr>
<th>Date</th>
<th>Transaction</th>
<th>Location</th>
<th>Amount</th>
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<tr>
<td>1/30/2013</td>
<td>Austins Liquor &amp; Wines</td>
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<td>1/14/2013</td>
<td>Wine &amp; Spirits</td>
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<td>9/17/2012</td>
<td>NH Liquor Store</td>
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<td>McDonalds</td>
<td></td>
<td>$9.39</td>
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<td>2/13/2012</td>
<td>NH Liquor Store</td>
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<td>6/02/2010</td>
<td>Himalayan Grocery</td>
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<tr>
<td>Total</td>
<td></td>
<td></td>
<td>$225.33</td>
</tr>
</tbody>
</table>

Travel Card Training Records

OIG obtained NRC training records dating back to 1980, which showed that 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 paid the entire past due amount of $1,905.04 on March 27, 2013. This payment reactivated card status.

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 [redacted]  

(b)(7)(C) told OIG that he was familiar with the terms of use for the travel card and that he knew that it was not permitted for personal use or expenses. [redacted] accepted responsibility for not paying off the card and attributed the failure to pay the $31,905.04 balance as a result of [redacted] wife's illness and simply forgot to pay the bill and admitted that he set aside the notices from Citibank and did not open them.

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

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

Notification to Supervisor  

OIG advised [redacted] DRS, Region I, of specific improper charges to his Citibank Travel credit card account. [redacted] told OIG that he prepared a counseling memorandum and was waiting for Human Resources to provide guidance before issuing the memorandum to [redacted]

OIG learned that on September 17, 2013, Region I issued the counseling memorandum to [redacted]

Because of the low dollar amount of travel card misuse and [redacted] received a counseling memorandum pertaining to travel card misuse, it is recommended this case be closed to the files of this office.
should not be used for alcohol. NRC MD 14.1, Official Temporary Duty Travel, revised June 7, 2006. 5.1.2 Use and 5.1.3 Payment; and the "OIG 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

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

OIG that now understands that cannot use the card to
purchase alcohol but explained that had been convicted since he's NRC staff
sometimes buying alcohol at dinners while on travel. explained that since had
trouble sleeping due to wife's illness would sometimes buy a bottle or two of wine
while on travel to have a drink prior to going to bed at hotel.

Told OIG that is a social drinker and does not have any dependencies on alcohol.

OIG could not recall information concerning all transactions but accepted
responsibility for using the card. Told OIG that would not carry the
card with anymore until was ready to travel, this way would not use the card
while not on travel status.

Notification to Supervisor

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

OIG learned that on September 17, 2013, Region I issued the counseling memorandum to

Because of the low dollar amount of travel card misuse and received a counseling memorandum pertaining to misuse, it is recommended this case be
disclosed to the files of this office.

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

FROM: [Redacted]

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

This responds to your September 20, 2013 memorandum to Mark Salorius 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.

[Redacted]
MEMORANDUM TO: [Redacted]
THRU: [Redacted]
FROM: [Redacted]
SUBJECT: ALLEGED IMPROPER DESTRUCTION OF CLASSIFIED DOCUMENTS PURSUANT TO FOIA REQUEST (OIG CASE NO. 14-01)

December 30, 2013

Concur: Case Closed

MEMORANDUM

The Office of the Inspector General (OIG), U.S. Nuclear Regulatory Commission (NRC), investigated an allegation received from [Redacted], Office of Information Services (OIS), who stated that OIS notified that [Redacted], Office of Nuclear Security and Incident Response (NSIR), directed a plan 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 [Redacted] OIG also discovered there was miscommunication between a member of the Japan FOIA office and staff members within NSIR.

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Basis for Findings

(b)(7)(C) Informed OIG that (b)(7)(C) requested to examine overdue Japan FOIA requests within (b)(7)(C) division, particularly within the Information Security Branch (ISB) and Intelligence Threat Assessment Branch (ITALB) 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 that he contacted both ISB and ITALB branches and requested classified information per the instructions of the FOIA request. (b)(7)(C) commented that (b)(7)(C) appointed to oversee the overdue Japan FOIA requests due to his previously held position within NSIR, and her working knowledge and relationship within ISB and ITALB.

(b)(7)(C) relayed (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 (b)(7)(C) stated that he documented (b)(7)(C) telephone conversation to the best of (b)(7)(C) knowledge and reported the incident to (b)(7)(C) and (b)(7)(C) whom (b)(7)(C) interviewed who stated upon further evaluation of (b)(7)(C) that was unsettled with the comments made referencing (b)(7)(C)Directive. (b)(7)(C) told OIG that he engaged 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 inquires.” Furthermore, (b)(7)(C) relayed (b)(7)(C) directive before informing (b)(7)(C) of inaccurate statements (b)(7)(C) relayed that he 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 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) called an “all hands” in May 2011, following the Fukushima incident (b)(7)(C) stated during the meeting recalls that (b)(7)(C) directed the staff to destroy all classified documents related to the Fukushima incident “as long as you maintain the original copies for appropriate inquires.” (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.

OIG interviewed (b)(7)(C) Division of Security Operations. NSIR, who stated that HOLLARAN conducted semi-annual “all hands” meetings, but was unable to recall a meeting following the Fukushima incident in May 2011 (b)(7)(C) told
Division of Security Operations, NSIR, informed OIG that he has never directed or branch to destroy or delete original classified data related to the Fukushima incident. Furthermore, OIG relayed that appears to be a communication issue between ILTAB and the Japan FOIA office resulting in the outstanding FOIA requests, but is prepared to provide all classified and unclassified documents as directed per the FOIA request.

OIG interviewed [b](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](b)(7)(C) stated that [b](b)(7)(C) conducted "all hands" meetings semi-annually, but was unable to recall [b](b)(7)(C) or anyone directing the office to destroy or delete original classified data related to the Fukushima incident, [b](b)(7)(C) further stated that 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](b)(7)(C) also relayed shortly following the Fukushima incident, NRC received large quantities of Japan's Fukushima incident, as long as you maintain the "original copies." [b](b)(7)(C) followed up the statement with: "however, I do not recall making such a statement.

Furthermore, [b](b)(7)(C) stated that under no circumstances did destroy unclassified or classified documents, or direct staff to destroy unclassified or classified documents related to a FOIA request.

[b](b)(7)(C) found no evidence of misconduct by [b](b)(7)(C) or evidence of improper destruction of classified information, it is recommended that this case be closed to the office files.
**Referral, Actions & Follow-Up**

**Case Title:** Misuse of Government Computer to View Pornographic Images  
**Case Number:** C 12028

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

**Originating Office:**  
**Subject's Last Name:** (b)(7)(C)  
**Company Name:** (b)(7)(C)  
**Subject's First Name:** (b)(7)(C)

**Agency Referal & Follow-up**

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<td>Contact Person:</td>
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<td>Follow Up Assigned To:</td>
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**Expected Completion Date:** 08/17/2013  
**Actual Completion Date:** 10/31/2013  
**Completion Status:** Open  
**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 matter submitted resignation subject to finalizing settlement agreement. No final memo was sent to OIG.

**Administrative Action**

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**Prosecution Referral**

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OFFICIAL USE ONLY

Pending
 Accepted
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AUSA Office:
State/Local Referral
Date:
Prosecution Status:
Accepted
 DECLINED

Office:
Comments:
Blanket Declination, Dated March 26, 2003, November 18, 2003, and updated by e-mail dated September 22, 2011, in from AUSA[8(7)(C) for Adult Pornography Conduct in the Government Workplace: No local prosecution exists.

Criminal Action

Actions:
Arrest
Arraignment
Charges Dropped
Indictment
Information

Date:

Level:
Statute(s):
Violation(s):
Court Action:
Sentence:

Jurisdiction:

Comments:

Recoveries

Amount Recovered:
Recovery Date:

Comments:

Potential Losses
Amount
Description:

Comment:

Status: Closed

Allow Other Editors:

Edit Authorization:
[Management], [M/Analyst]
OFFICE OF THE INSPECTOR GENERAL

Report of Investigation

Misuse of Government Computer
by an Office of Nuclear Regulatory Research Employee

Joseph A. McMillan, Assistant Inspector General for Investigations

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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 12.5, "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 environment.

---

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

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) searching Google with the search term “Slut” and “MILF” (Mom I’d Like to Fuck) on numerous occasions on 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 [c](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 an NRC computer and, as a result of that investigation [c](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 a NRC computer log 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...
examination of these entries identified that a user profile was used to view sexually
explicit or pornographic material.

The OIG CCU also conducted a search of the NRC computer hard drive for
deleted Internet History files. This search identified Internet activity for a user
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 a
result the material was unavailable for review.

During the review, OIG CCU identified several other keywords identified on the
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, alysia, alysia hot, alysia bone, alysia 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 146 digital images of a pornographic or sexual nature were identified in the
Temporary Internet Files folder in a user profile on the computer. This folder
contained Web pages and digital images that were downloaded and viewed on a

(For further details, see Exhibits 1, 1A, and 1B.)

Interview of

Informed OIG that he had previously been suspended in 2004 for viewing
pornographic images on the NRC-issued computer. OIG told OIG that he chose
to not seek any help or counseling with viewing pornography in 2004 and that he
no longer viewed pornography. OIG said that he did not seek any help or
counseling, because he chose not to.

Initially told OIG that he no longer viewed pornography. However, later
admitted that he has viewed pornographic images through Flickr since 2010.

Also admitted that while using Flickr he searched for "MILF," "Moms I'd Like to Fuck,"
and other search terms that produced pornographic or sexually explicit images.

Admitted that he would search Flickr during working hours, including while on
breaks and during telephonic conference calls.

Admitted that he conducted the pornographic searches, but maintained
that he understood that this (use of Flickr) was within the rules. He maintained
that because Flickr was not blocked, he could view this material.
Review of 2004 OIG Case Involving SF-50

OIG reviewed the 2004 OIG investigation (Case 04-30F) that determined SF-50 regarding SF-50 suspension and learned that OIG was aware of NRC regulations concerning the appropriate use of NRC computers. OIG also told OIG in 2004 that they would often review pornography while participating in telephonic conference calls at a desk.

(For further details, see Exhibit 4.)

Review of Suspension

OIG reviewed the suspension memorandum dated September 3, 2004, and related SF-50 regarding SF-50 suspension and learned that received a 20-day suspension without pay. The letter to 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

Assistant U.S. Attorney, U.S. Attorney's Office, Southern District of Maryland, was briefed on this investigation. Declined prosecution of this matter in lieu of administrative action.
EXHIBITS


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)


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: [Redacted] ADM/DFS w/o exhibits

CONTACT: [Redacted] OIG

Distribution:

File Location:

Case File 12-28  Historical File  MAGNUM

[Redacted]

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

FROM

SUBJECT CLOSURE OF OFFICE OF THE INSPECTOR GENERAL
           CASE NO. 12-040

This responds to your September 9, 2013, memorandum to Mark A. Satorus, 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 Climbank 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 ELRB/OCHCO
MEMORANDUM TO: Mark A. Salorus  
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)

September 9, 2013


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)  
OIG  
ADM/DFS w/o exhibits  
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

OIG Case No. 12-040

Special Agent

Joseph A. McMillan, Assistant Inspector General for Investigations

9/19/13

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

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OFFICIAL USE ONLY — OIG INVESTIGATION INFORMATION
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. Salatus
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)


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.

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

Contact this office if further assistance is required.

Distribution:

File Location: 0(7)(E)

Case File 12-40 Historical File MAGNUM

Official File Copy
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<td>BASIS FOR FINDINGS</td>
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<tr>
<td>EXHIBITS</td>
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</tbody>
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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 [redacted] had a Government travel card account that was actively being used although [redacted] was not on official travel and that [redacted] had reported [redacted] card lost or stolen on several occasions.

FINDINGS

OIG determined that [redacted] used Government Citibank travel card for purposes not associated with official travel for five unauthorized transactions between April 2010 and February 2012. OIG also determined that no transactions or fraudulent charges were made on [redacted] reportedly lost and stolen cards.
BASIS FOR FINDINGS

Review of Official Travel History and Travel Card Statements

OIG's review of travel records for the period November 2009 through February 2012 disclosed that was authorized for official travel on 12 occasions.

OIG compared 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 official travel when the travel dates were close to the card usage dates.

<table>
<thead>
<tr>
<th>DATE</th>
<th>TRANSACTION</th>
<th>LOCATION</th>
<th>AMOUNT</th>
</tr>
</thead>
<tbody>
<tr>
<td>4/12-14/2010</td>
<td>OFFICIAL TRAVEL</td>
<td>PA</td>
<td>$466.03</td>
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<tr>
<td>4/20/2010</td>
<td>Gas - Exxon</td>
<td>MD</td>
<td>$466.03</td>
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<tr>
<td>1/9-14/2011</td>
<td>OFFICIAL TRAVEL</td>
<td>VA</td>
<td>$211.06</td>
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<td>7/16/2011</td>
<td>Washingtonian Express</td>
<td>MD</td>
<td>$10.02</td>
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<tr>
<td>6/1/2011</td>
<td>Sunoco</td>
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<td>$10.02</td>
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<tr>
<td>8/13-14/2011</td>
<td>OFFICIAL TRAVEL</td>
<td>VA</td>
<td></td>
</tr>
<tr>
<td>10/27/2011</td>
<td>Cash Advance/fee Capital One</td>
<td>MD</td>
<td>$318.00</td>
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<tr>
<td>11/16-15/2011</td>
<td>OFFICIAL TRAVEL</td>
<td>VA</td>
<td></td>
</tr>
<tr>
<td>2/28/2012</td>
<td>Cash Advance/fee Chevy Chase</td>
<td>MD</td>
<td>$1,022.50</td>
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<tr>
<td>Total</td>
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<td>$1,917.61</td>
</tr>
</tbody>
</table>

(For further details, see Exhibit 1.)

Information Concerning Lost and Stolen Card Reports

A Citibank representative told OIG that reported that original card issued was lost on September 5, 2009. A replacement card was issued but apparently not received and was reported lost on September 28, 2009. Citibank later reported the replacement card as lost on August 25, 2011. Citibank told OIG that did not report any unauthorized or fraudulent charges as associated with reports of lost and stolen cards.

Review of Training Records

OIG reviewed NRC training records dating back to 2006 which showed that 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 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, 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 [Redacted]

[(b)(7)(C)]

[Redacted] was familiar with the terms of use for the travel card and that [Redacted] 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:

1. The $46.03 transaction dated April 20, 2010, was to purchase gasoline for the personally owned vehicle (POV) which [Redacted] had used for official travel from April 12-14, 2010. [Redacted] admitted that this was not proper use of the card.

2. [Redacted] had no explanation for the $21.06 charge dated February 16, 2011; however, [Redacted] said that would not knowingly use the card for personal use and had no recollection of using it for other than official travel. [Redacted] was not scheduled for any travel in proximity to the date of the transaction.

3. The $10.02 transaction dated June 11, 2011, was to purchase gas for the POV (which he used for official travel beginning June 13, 2011) because [Redacted] would not have had time to fill up the day of the trip.

4. [Redacted] could not provide an explanation of the $818 cash advance/fee dated October 27, 2011, but later sent OIG an e-mail stating that had been in
training in Bethesda, MD, for the entire week and that [redacted] could not recall if attended the training partially or not and told OIG that could have been the reason. [redacted] made the cash advance. [redacted] told OIG that [redacted] thought was scheduled for a trip during the time period; however, no supporting information was produced by [redacted] to support this claim. [redacted] admitted that [redacted] also used these funds for personal use but maintained that [redacted] still believed that there was a possible trip that may have been discussed during that time that did not happen.

With regard to the $1,022.50 cash advance/fee on February 28, 2012, [redacted] initially told OIG that [redacted] did not have identification when [redacted] entered the bank and that the bank officials wanted identification and used a Citibank card as identification thinking that the card was a Capital One Bank card. [redacted] admitted that [redacted] used the funds for personal use. [redacted] also provided OIG with a letter dated October 4, 2012, from Capital One bank (previously Chevy Chase) that contained a letter from the bank to explain the cash advance. The letter explained that [redacted] attempted to withdraw $1,000 from a personal account at Capital One, but that the bank had processed a cash advance from a 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 [redacted] and not from any bank records as they had been expunged.)

(For further details, see Exhibits 4, 5, and 8.)

NRC 2008 Counseling Memorandum to [redacted]

OIG reviewed the 2008 counseling memorandum provided to [redacted] by [redacted] which reflected that [redacted] had suspended the travel card due to failure by [redacted] 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 [redacted] 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 [redacted] could result in more serious disciplinary action including suspension or removal from [redacted] position.

(For further details, see Exhibit 7.)
EXHIBITS

1. Memorandum to File Review of Citibank Travel Charge Card Use and Travel of
   dated April 4, 2013, with attachments.


### Referral, Actions & Follow-Up

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#### Agency Referral & Follow-up

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<td>Subject was counseled on the proper use of official government credit card (see chart note for memo)</td>
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<tr>
<td>NRO Management issued a Counseling Memorandum to the employee for inappropriate use of the Government-issued travel charge card.</td>
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#### Prosecution Referral

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State/Local Referral
Date: Pending Date: 
Accepted Declined 


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<td>Charges Dropped</td>
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Potential Losses

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<td>Comment:</td>
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</tbody>
</table>

Status: Closed Allow Other Editors: [GR7](C)
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)


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
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.
Misuse of the Government Travel Card by an Office of New Reactors Employee

Case No. 12-58

August 26, 2013
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MD 14.1, Section 8.2, “Travel Advances,” Subsection 8.2.2.1, “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

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 [O][T][C] used the card for purchases and cash advances that did not appear to be associated with official travel.

FINDINGS

OIG determined that [O][T][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

A review of Official Travel History and Travel Card Statements disclosed that was authorized for official travel on 21 occasions during that time period.

A comparison of travel history with 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 official travel when those dates are close to the unauthorized usage dates.

<table>
<thead>
<tr>
<th>DATE</th>
<th>TRANSACTION</th>
<th>LOCATION</th>
<th>AMOUNT</th>
</tr>
</thead>
<tbody>
<tr>
<td>7/13-17/09</td>
<td>OFFICIAL TRAVEL</td>
<td>Massachusetts</td>
<td>$450.24</td>
</tr>
<tr>
<td>7/29/09</td>
<td>Marlow Sports, Inc.</td>
<td>Maryland</td>
<td>$146.75</td>
</tr>
<tr>
<td>8/2-6/10</td>
<td>OFFICIAL TRAVEL</td>
<td>Texas</td>
<td></td>
</tr>
<tr>
<td>8/15/10</td>
<td>Musket Ridge Golf Club</td>
<td>Maryland</td>
<td>$102.25</td>
</tr>
<tr>
<td>4/24-30/11</td>
<td>OFFICIAL TRAVEL</td>
<td>Arizona</td>
<td></td>
</tr>
<tr>
<td>5/7/11</td>
<td>Unk. Bank Cash Advance/Fee</td>
<td>Maryland</td>
<td>$71.45</td>
</tr>
<tr>
<td>1/30/12</td>
<td>Safeway Grocery Store</td>
<td>Maryland</td>
<td>$309.82</td>
</tr>
<tr>
<td>2/14/12</td>
<td>Bank of America Cash</td>
<td>Maryland</td>
<td></td>
</tr>
<tr>
<td>2/19/12-2/24/12</td>
<td>OFFICIAL TRAVEL</td>
<td>Texas</td>
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<tr>
<td>2/19/12</td>
<td>Safeway Grocery Store</td>
<td>Maryland</td>
<td>$120.23</td>
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<tr>
<td>2/27/12</td>
<td>Safeway Grocery Store</td>
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<td>$62.00</td>
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<tr>
<td>2/27/12</td>
<td>Ridgeville Gas and Go</td>
<td>Maryland</td>
<td>$47.35</td>
</tr>
<tr>
<td>2/29/12</td>
<td>Buffalo Wings and Beer</td>
<td>Maryland</td>
<td>$34.13</td>
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<td>4/13/12</td>
<td>Ridgeville Gas and Go</td>
<td>Maryland</td>
<td>$19.06</td>
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<td>4/13/12</td>
<td>Ridgeville Gas and Go</td>
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<td>$60.25</td>
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<td>4/15-20/12</td>
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<tr>
<td>4/21/12</td>
<td>Classic Fuels</td>
<td>Maryland</td>
<td>$25.00</td>
</tr>
</tbody>
</table>

(For further details, see Exhibit 1.)
Review of Training Records

On April 4, 2007, received an "Exempt Substitute Credit" for NRC's Web-based Government Travel Charge Card Training because had completed the course from the General Services Administration's (GSA) Web site within the previous 3 years. (c)(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.

(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) told OIG that was familiar with the rules associated with use of the travel card and that it was for official use only. Said that once travel was approved by management, the card could be used for purposes related to official travel.

(b)(7)(C) admitted that 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 clicked through the slides in the required computer-based learn training and failed to take the course as it should be taken.

(b)(7)(C) told OIG that would use the card prior to the trip at a grocery store to make sure had items needed for the trip and to feed family while was away, again stating that thought that it was allowable to do so since was
OFFICIAL USE ONLY -- OIG INVESTIGATION INFORMATION

authorized for travel, told OIG that while some of the items purchased were for use during travel, they included in purchase other items for family, but did not separate them at the checkout and, instead, put the entire purchase on travel card. Admitted that this use of the card was outside the proper use of the card.

Told OIG that would sometimes use the card to put gas in personal vehicles prior to leaving for official travel, especially if thought was using own vehicle to travel to the airport and also to make sure family did not have to put gas in their cars during absence. Told OIG that was trying to make things easier for family when was gone, but now understands that this was wrong.

Told OIG that never took out a cash advance if was not scheduled for official travel and added that might have done it in advance of a trip that never happened.

had no recollection of using the card in 2010 to charge $149.75 at Musket Ridge Golf Club in Myersville, Maryland, or in 2009 to charge $450.24 at Marlow Sports, Inc. in Bethesda, Maryland. Told OIG that has been to both places and must have used it inadvertently.

Told OIG that has learned from mistakes and that will no longer carry Citi credit card with until leaves for official travel.

(For further details, see Exhibits 4 and 5.)

- 5 -

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EXHIBITS


2. Memorandum to File, Review of Citibank Travel Card training, dated March 8, 2013, and iLearn travel card training slide.


MEMORANDUM TO: Mark Satorius  
Executive Director for Operations

FROM: Joseph A. McMillan  
Assistant Inspector General  
for Investigations

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cc: OIG w/ exhibits

ADM/DFS w/o exhibits

CONTACT

OIG

Distribution:

File Location: MAGNUM

Case File 12-58 Historical File MAGNUM
OFFICE OF THE INSPECTOR GENERAL

Report of Investigation

Misuse of the Government Travel Card
by an Office of New Reactors Employee

DIG Case No. 12-56

Special Agent

Team Leader

Joseph A. McMillan, Assistant Inspector General
for Investigations

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EXEMPT FROM RELEASE UNDER FREEDOM OF INFORMATION ACT EXEMPTIONS (5), (6) OR (7) AND PRIVACY ACT EXEMPTIONS (1)(2) OR (1)(3)
Misuse of the Government Travel Card
by an Office of New Reactors Employee

Case No. 12-58

TO ADD DATE WHEN SIGNED
The U.S. Nuclear Regulatory Commission (NRC) is asking each FOIA requester to take a few moments to answer the following questions. Your candid response to this survey is important to us in determining user satisfaction and how we can improve our service to the public.

<table>
<thead>
<tr>
<th>STRONGLY AGREE</th>
<th>SOMewhat AGREE</th>
<th>SOMewhat DISAGREE</th>
<th>STRONGLY DISAGREE</th>
<th>NOT APPLICABLE</th>
</tr>
</thead>
</table>

1. The NRC FOIA staff was:
   
   Informative / Knowledgeable
   
   Courteous / Helpful

2. The NRC’s response to your request
   
   Timely
   
   Courteous / Helpful

3. I am a satisfied customer.

FOIA Request Number (Optional):

Use this space to provide any additional comments: