

CASE No. 4-2000-035

United States
Nuclear Regulatory Commission



Report of Investigation

SAN ONOFRE NUCLEAR GENERATING STATION:

DISCRIMINATION AGAINST
BY MANAGEMENT FOR
IDENTIFYING SAFETY CONCERNS

EX-
7C

Office of Investigations

Reported by OI: RIV

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Title: SAN ONOFRE NUCLEAR GENERATING STATION:
DISCRIMINATION AGAINST
BY MANAGEMENT FOR IDENTIFYING SAFETY CONCERNS 7 70

Licensee:

Case No.: 4-2000-035

Southern California Edison Co.
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SYNOPSIS

This investigation was initiated by the Nuclear Regulatory Commission (NRC), Office of Investigations, Region IV, on July 26, 2000, to determine if a [at Southern California Edison's (SCE) San Onofre Nuclear Generating Station (SONGS) was the subject of employment discrimination by management for identifying safety concerns.

Based on a review of the testimony, documentary evidence developed during the investigation, and coordination with the RIV technical staff and regional counsel, the allegation that a [at SONGS was the subject of employment discrimination by management for identifying safety concerns was not substantiated.

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LIST OF INTERVIEWEES

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SONGS.....	10
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DETAILS OF INVESTIGATION

Allegation

Discrimination Against [redacted] by Management
for Identifying Safety Concerns.

Applicable Regulations

10 CFR 50.5: Deliberate Misconduct (1999 Edition)

10 CFR 50.7: Employee Protection (1999 Edition)

Purpose of Investigation

This investigation was initiated by the Nuclear Regulatory Commission (NRC), Office of Investigations (OI), Region IV (RIV), on July 26, 2000, to determine if [redacted] at Southern California Edison's (SCE) San Onofre Nuclear Generating Station (SONGS), was the subject of employment discrimination by management for identifying safety concerns (Exhibit 1).

Background

On May 22, 2000, Jim SLOAN, Senior Resident Inspector, NRC:RIV, at SONGS received a voice mail message from [redacted] relating that [redacted] had filed safety issues with the Nuclear Safety Concerns Program (NSCP) at SONGS and [redacted] concerns were not handled well. On May 30, 2000, the RIV Allegation Review Board (ARB) discussed the allegation and requested that more information be obtained from [redacted] by the Allegations Coordinator. On June 6, 2000, [redacted] was requested to provide additional information regarding [redacted] concerns. On July 9, 2000, [redacted] responded to the Allegations Coordinator's request and provided documentation that [redacted] felt would support [redacted] position that retaliatory actions were taken against [redacted] for reporting safety concerns to [redacted] management. On July 24, 2000, the RIV ARB reviewed the documentation provided by [redacted] and requested OI:RIV, with the assistance of the Division of Reactor Projects, RIV, attempt to interview [redacted] and obtain detailed, specific information regarding [redacted] concerns.

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In the documentation submitted to RIV, [] related that on April 2, 1999, [] was given information from [] SONGS, that [] was being transferred to a work group called [] related policy, and [] which was a violation of [] [] was subsequently dismissed from []

[] related that during the [] outage, [] was the [] which covered every aspect of the assigned [] work, including [] within the moisture separator reheaters (MSR) and the condenser. [] explained that during a shift turnover, []

[] SONGS, told [] turnovers were laughed at by SCE management. [] said that prior to and during each shift, [] would review the maintenance orders (MOs) for completeness and errors and [] had discovered sign-off lines filled in where the work had not been completed and gross inattention to detail. [] said [] contacted []

[] SCE, SONGS, to investigate the matter. [] said that the following day, [] was confronted by [] who chastised [] for bringing [] concerns to the attention of SONGS management. [] said in the intervening weeks when [] discovered problems, [] took them to [] and each time [] did, [] would criticize [] for taking [] concerns to SONGS' supervision. [] said on multiple occasions, [] found that

equipment to be worked on was verified and second person verified as the correct equipment, even though it was designated as Unit 3 equipment when they were working on Unit 2. [] said [] also had a problem with the [] program in that during a turnover, [] was directed to perform vacuum testing in the MSR, and during this testing, [] discovered a missing and informed [] SCE supervisors, []

[] said as a result of this incident [] was upset at [] and the rumor was that [] was out to get [] said [] finally took [] concerns to the SONGS' NSCP.

[] said after meeting with NSCP, [] was informed by [] that there would not be a [] or that [] would not be working the [] as [] had in the past. [] said [] asked [] if that decision had anything to do with [] going to the NSCP, and [] replied "of course not." [] said other changes were made in [] job assignments, and [] felt this was a direct result of [] "whistle-blowing." [] stated [] subsequently refused a [] and was [] by []

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SONGS. [redacted] said while going through the exiting process, [redacted] spoke with [redacted] SONGS, and [redacted] acknowledged the [redacted] rules for [redacted] and asked [redacted] how long it would be before [redacted] was eligible for rehire. [redacted] said [redacted] called [redacted] SONGS, who said [redacted] would have to wait 1 year before being considered for rehire. [redacted] said [redacted] cursed the process and [redacted] the generated exit documents.

Interview of Allegor [redacted] (Exhibit 2)

On August 8, 2000, [redacted] was interviewed by OI:RIV and related the following information in substance.

[redacted] stated [redacted] had worked at SONGS for [redacted] off and on for over [redacted] years. [redacted] said [redacted] recent employment at SONGS included a [redacted] during the [redacted] outage and as a [redacted] during the [redacted] and [redacted] outages, respectively.

[redacted] related [redacted] worked as the [redacted] for [redacted] during the [redacted] in the [redacted] time frame. [redacted] stated [redacted] first concern arose when [redacted] was given an assignment to install two nozzles inside condenser water boxes. [redacted] said when [redacted] read the MO for the installation, [redacted] discovered that several welds on the two-piece nozzle had been made by a welder without the proper qualifications. [redacted] said [redacted] stopped the work and reported the concern to [redacted] related that the following evening, [redacted] received harsh comments from [redacted] regarding [redacted] decision to stop the work. According to [redacted] verbally reprimanded [redacted] and said that the situation could have been taken care of through [redacted]

[redacted] without bringing it to SCE's attention. [redacted] said [redacted] asked [redacted] where in the procedures it allowed them to go to the [redacted] to have a situation like that remedied, to which [redacted] replied, "You won't find it in the procedure." [redacted] stated they had to cut apart the [redacted]

According to [redacted] following the [redacted] incident, [redacted] began to review MOs more closely and discovered several MOs that incorrectly listed the unit for a piece of equipment that was scheduled to be repaired. [redacted] stated [redacted] reported this to [redacted] who "pen-and-inked" the change on the MO.

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[related that] [was subsequently given a work assignment by SONGS, to perform vacuum testing in a live steam drum in the MSR. [] said during preparations for the vacuum test, []

[NFI] recalled they stopped work, collected the remaining [] and searched the area for the [] said when they did not locate the [] reported the [] to [] and SCE supervisors, [NFI]. [] advised that the following day, [] who were upset about the [] if they had located the [] said [] subsequently asked [] SONGS, where the [] was found, and [] told [] they found the [] in the [] said [] again asked [] if they had found the [] and [] responded they had found [] claimed that there was a drawer full of similar [] in the chain shack that were used as replacements for the [] in the MSR. [] stated [] was also irritated with [] because [] questioned the exactness of work orders pertaining to the [] said several days later, [] was confronted by a [] [NFI] who said [] was out to get [] added that [] became more concerned regarding [] longevity at the job site when [] asked [] if it was worth it to "ruffle so many feathers?" (Exhibit 2, page 15).

[] stated that during the pre-outage work for the [] outage, [] told [] that there would not be a [] and [] that [] would be assigned as a [] on days. [] said [] discovered [] week prior to the outage that [] had, in fact, selected a person to run a [] confronted [] said [] asked [] had not been assigned the [] and [] responded that [] was more qualified for the [] position due to the nature of the work to be conducted. [] opined that [] may have been more qualified, but [] believed [] did not get the [] position because [] raised concerns to the [] According to [] had a history as [] [] and expected to be assigned the position if it was available. [] said [] had the design and engineering talent and for [] to tell [] that [] was not qualified to be the [] during that particular shift was surprising. [] said as a [] made less money than the [] would have offered.

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According to [redacted] the final retaliation for [redacted] reporting concerns came when [redacted] tried to transfer [redacted] to the [redacted] to get [redacted] laid off. [redacted] said traditionally, the project work crew worked good overtime, although they would then receive excused absences where they had to take off 2 weeks during the middle of the outage before coming back to finish the outage. [redacted] said the welding position [redacted] had under [redacted] guaranteed [redacted] employment for the length of the outage. [redacted] related that on [redacted] told [redacted] that [redacted] had instructed [redacted] to tell [redacted] was going to the [redacted] [redacted] said [redacted] told [redacted] to tell [redacted] that [redacted] was not going to go to the [redacted] and that [redacted] was "going to do what [redacted] is going to do" (Exhibit 2, page 20). [redacted] said [redacted] told [redacted] was going to the [redacted] because of [redacted] experience, although [redacted] doubted that explanation since there were many other [redacted] on-site who had similar experiences. [redacted] described the work the [redacted] was conducting as simple maneuvering that did not require [redacted] expertise. [redacted] conceded that [redacted] had past experience in the [redacted] replacing [redacted] for the [redacted] and had acted as the [redacted] during the [redacted]. Additionally, [redacted] may have been [redacted] for the position in the [redacted] by the [redacted] project [redacted] said [redacted] believed that due to concerns, it would have been better for [redacted] if [redacted] did not work for them any longer.

[redacted] stated that after [redacted] the new work assignment on [redacted] was terminated by [redacted]. According to [redacted] asked [redacted] what [redacted] would be for [redacted] to accept the job assignment and [redacted] in turn asked [redacted] who decided the [redacted] advised [redacted] subsequently filed a grievance with the union and had the [redacted].

[redacted] stated [redacted] reported the aforementioned concerns to the [redacted] at SONGS, although they did not substantiate [redacted] claims. [redacted] said the "final straw" that caused [redacted] to contact the NRC was a letter from the [redacted] that indicated the reason [redacted] did not receive the [redacted] during the [redacted] outage was because [redacted] had erroneously removed [redacted] from an [redacted] during the [redacted] outage. [redacted] confirmed that [redacted] removed the [redacted] because [redacted] was told to remove them, although [redacted] subsequently [redacted].

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learned [] had removed the [] stated [] was not disciplined for the error, although [] told [] that there was now a "little mark on the chalkboard" (Exhibit 2, page 32) for [] and that [] no longer owed [] for the job [] got [] in Los Angeles [NFI]. [] said, " [] (Exhibit 2, page 32).

[] related that following [] [] learned from [] that [] had allegedly written a letter to the NRC and [] that accused [] fellow [] of sabotage.

[] advised [] had recently been contacted by [] et al., regarding positions at SONGS, although [] declined the opportunity to work at SONGS. [] advised that in [] was also [] for leaving [] work area without a supervisor's authorization.

Coordination with NRC Staff

On August 28, 2000, OI:RIV provided the transcript of interview with [] to the RIV technical staff for review and determination of any potential violations of NRC regulations (Exhibit 3).

Wayne SIFRE, Project Engineer, Reactor Projects, Branch C, NRC:RIV, reviewed the transcript and advised he did not identify any new safety/technical issues that warranted additional NRC review. SIFRE indicated the transcript identified one potential violation of a nonsafety-related system or component that was covered under the maintenance rule. According to SIFRE, the installation of the []

(Exhibit 4).

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Coordination with Regional Counsel

On August 28, 2000, OI:RIV provided the transcript of interview with [redacted] to the RIV Regional Counsel for review and determination if [redacted] was [redacted] and the possible subject of employment discrimination (Exhibit 5).

On October 10, 2000, Karla D. SMITH, Regional Counsel, NRC:RIV, advised her review of [redacted] transcript of interview determined [redacted]

[redacted] (Exhibit 6).

Testimony/Evidence

Interview of [redacted] (Exhibit 7)

On November 6, 2000, [redacted] SONGS, was interviewed by OI:RIV. [redacted] related the following information in substance.

[redacted] stated [redacted] worked for [redacted] as the [redacted] during the [redacted] outage. According to [redacted] supervised work on the [redacted] at [redacted] with [redacted] explained that the [redacted] work during the [redacted] outage required additional manpower, so there were [redacted] working on the [redacted] [redacted] said he [redacted] worked the day shift during the outage.

[redacted] advised that although [redacted] was not involved in the incident recalled that during the [redacted] a [redacted] was lost in an for a short period of time. [redacted] said [redacted] reported to work one morning and heard that the [redacted] was missing and some [redacted] [NFI] were instructed to go into the [redacted] and find it. [redacted] recalled that the [redacted] was eventually located, although [redacted] did not seem satisfied with the outcome [NFI].

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[] recalled [] raised a concern, possibly to [] where [] reported that [] had failed to properly check a welder's qualifications. [] stated that [] was reprimanded for the error and the welds had to be repeated by qualified welders.

[] stated [] and [] worked together on a job in the [] where there could have been [] that should not have been, although many of them were damaged anyway and needed repair. [] stated they could have taken all of the [] out and replaced them with new ones without any impact on the [] work. [] said [] did not recall [] being reprimanded for the [] work.

According to [] during the [] outage, the scope of [] work was scheduled to be much less than the previous outage and there was no need for [] said [] went back to [] regular job as the [] and [] was put on the [] shift. [] related that [] was left on as the [] since, in [] opinion, [] had more [] experience than [] said the [] outage work in the [] was basic maintenance work that was conducted every outage, not the major demolition, repair, and reconstruction that was conducted during the [] outage.

[] advised that during the [] outage, [] was working for [] when [] asked [] to have [] report to the [] recalled that [] requested [] for the [] because of [] special skills and knowledge of the [] said [] was upset about the move and stated [] would not go over. [] related that the position on the [] would not result in a pay differential or in the number of hours worked, although it could have resulted in an excused absence at some point during the outage. [] said the [] was known for using excused absences when the work level dropped. [] explained that excused absences were usually used between outages, when workers were given an option of either being laid off or an excused absence. [] said the excused absence resulted in the workers being called back sooner than others when the work resumed and the workers were also eligible for unemployment compensation benefits.

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stated that [redacted] was disappointed that [redacted] had raised concerns regarding the [redacted] but in [redacted] opinion, [redacted] was not vindictive and would not transfer [redacted] to the [redacted] crew to retaliate against [redacted] for raising the concerns.

[redacted] related that [redacted] told [redacted] had written a letter to the NRC regarding the missing [redacted] but could not recall any other specific information regarding the letter. [redacted] said [redacted] never made the statement that [redacted] would never work at SONGS again.

Interview of [redacted] (Exhibit 8)

On November 6, 2000, [redacted] SCE, SONGS, was interviewed by OI:RIV. [redacted] related the following information in substance.

[redacted] advised that although [redacted] did not supervise the employees at SONGS, [redacted] acted as a go-between for [redacted] and SCE. [redacted] said [redacted] worked with [redacted] during the [redacted] outage when they both worked on the [redacted] at the time. [redacted] related that [redacted] was a [redacted] recalled that during the outage, [redacted] discovered a problem with the qualifications of a [redacted] who had conducted work on a nozzle. According to [redacted] there was a process in the MO outlining how [redacted] were [redacted] qualified to do a particular [redacted] process. [redacted] said [redacted] was reviewing the MOs and found that one of the [redacted] was not qualified to perform a process. [redacted] stated [redacted] notified [redacted] and they rectified the problem, which involved correcting the paperwork, [redacted] and having a [redacted] the joint. [redacted] said [redacted] briefed [redacted] on the situation, although it was not considered to be a large problem.

[redacted] advised [redacted] was not involved in the incident that involved a missing [redacted] although [redacted] heard that a [redacted] was discovered missing during the [redacted] and was later found during the [redacted] stated [redacted] was unaware of the inappropriate removal of [redacted] from an [redacted] during the [redacted] outage.

Interview of [redacted] (Exhibit 9)

On November 7, 2000, [redacted] SONGS, was interviewed by OI:RIV. [redacted] related the following information in substance.

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[] stated [] worked for [] as a [] on the [] job during the [] outage. [] explained that when [] arrived on-site for the outage to be the [] on the secondary side of the plant outage, [] looked for potential [] that had some familiarity with the plant. [] said [] was a capable [] although [] was not [] first choice for the position [NFI].

[] related that during the [] outage, [] learned of a discrepancy regarding [] qualifications from the SCE welding group [NFI]. [] said [] the responsible [] was verbally disciplined for the oversight. According to [] [] did not voice a concern to [] regarding the [] qualification issue and [] did not discuss the issue with [].

[] recalled that [] reported an error on an MO to []. According to [] the title page of the MO had the correct identification number for scheduled work on a condenser, although several pages into the MO, there was a single number in a long line of numbers that denoted the incorrect unit number. [] said that occasionally when the planning department prepared packages, they made typographical errors. [] said as a [] if [] felt comfortable after reviewing the MO and checking the referenced equipment that the MO contained an error, [] had the authority to "one-line" the MO to correct the error. [] said [] explained this to [] and told [] also had the authority as a [] to make the correction if [] felt comfortable with that decision. [] said [] was upset and "stomped off" when [] demonstrated to [] how to "one-line" the MO.

[] recalled that during an outage morning turnover meeting, [] learned that a [] was possibly lost in a live steam header area of the []. [] recalled that the [] had written a turnover note that a [] had been misplaced and had stopped work. [] said [] discussed the missing [] with [] and decided to allow [] to look for the [] prior to requesting a boroscope of the steam pipe. [] stated [] returned a short time later and said [] had found the [] and presented a [] that was the same size and had the same type of erosion as the other []. [] explained that the [] in the live steam path had a certain color and distinguishing look to them. [] said they recorded the fact that they had recovered the [] on the MO.

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recalled that [] was involved in an incident during the [] outage that resulted in the wrong [] being removed from an [] said [] had misunderstood a turnover and removed the wrong [] [] explained that the plan was to remove the outer [] prior to the [] but the error was not a "big deal" since the erosion factor on the [] removed were such that they would have been removed anyway. [] related that [] wrote [] an e-mail later advising [] that if [] needed assistance identifying the proper work, to let [] know. [] said [] also told [] to do a "hands-on" briefing with the crew so they understood the work scope. [] stated [] was not disciplined in any way for the error and [] did not recall telling [] that [] had a "mark on the chalk board now" (Exhibit 2, page 32).

[] related that as the [] outage drew to a close, [] told [] that since [] only had two foreman available during the [] outage, [] would not be a [] during the coming outage. [] said that the scope of work for the [] outage was less than the previous outage, and therefore [] only needed [] [] said [] accepted this news well and said [] told to just give [] a [] and [] would be happy. [] stated [] selected [] as the [] for the [] outage, although as the outage started, the outage window shortened and [] had to staff a [] again. [] related that [] wanted to assign the person with the most experience to the [] work, so [] as the [] said [] in [] opinion, was the most qualified based upon [] performance on the valve work, testing and preventive maintenance [] handled during the previous outage. [] said [] considered [] for the position, but [] had more hands-on [] experience than [] stated [] explained [] decision to [] although [] did not want to accept the decision. According to [] told [] that if work picked up further, [] would upgrade [] at that time. [] stated that reporting concerns to [] played no role in [] decision to assign [] to the [] position over []

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According to () after the () outage began, () was contacted by () who said () needed two people to work with the () crew. () related that the people assigned to ()

SONGS, lacked the necessary experience to supervise the job and () needed two people in particular to lead the job-

(NFI). () indicated would send two of () people over to replace ()

() stated () was not available to personally inform () that they were being transferred to the () crew so () sent () to inform them.

() said () did not recall discussing () performance or involvement in reporting concerns with () prior to the () call requesting () be transferred to the () crew, nor did () recall telling anyone that () wanted to get rid of ()

() stated () complied with the request to transfer to the () although () refused.

() said () relayed that information to () who indicated they would need to get ()

() involved. () related that approximately thirty minutes later, () learned that () had been () for () the job assignment.

() stated () was not involved in the decision to () nor did () have the authority to ()

() stated () had no knowledge of a letter () allegedly wrote to the NRC, nor did () ever say that () would never work at SONGS again.

Interview of () (Exhibit 10)

On November 7, 2000, () SONGS, was interviewed by OI:RIV. () related the following information in substance.

() stated that although () was aware that () worked on-site as a () during the () outage, () was not aware that () had raised any concerns to () supervisors. () related that after the () outage commenced, () realized that the () crew that had been hired for nuclear construction had little or no experience with the steam generator and had very little experience in containment. () said that in discussions

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with SCE management early in the outage, SCE, asked that [redacted] look at the entire [redacted] population, including the [redacted] working in maintenance, and find people who had experience with steam generators and containment work and to share that expertise between the two groups. [redacted] advised the inexperience of the [redacted] initially assigned to nuclear construction manifested itself when they had trouble getting into containment, finding hoses and equipment, and finding what elevation they should be on to do certain work activities.

[redacted] stated that after [redacted] made the request [redacted] held discussions with [redacted] group and realized that [redacted] had worked in the steam generators during previous outages and seemed like a logical candidate. [redacted] said [redacted] decided that [redacted] should be one of the [redacted] to report to the [redacted] with nuclear construction and that [redacted] did not discuss [redacted] choice with [redacted]. [redacted] said the decision was based on [redacted] knowledge of [redacted] experience. [redacted] stated [redacted] instructed someone [NFI] to inform [redacted] of the move and later learned that [redacted] to take the assignment and would quit first. [redacted] related that [redacted] had [redacted] talk to [redacted] although [redacted] said that in accordance with the site work rules, a [redacted] was prepared for [redacted] based upon [redacted]. According to [redacted] violation which resulted

[redacted] explained that a [redacted] warranted a [redacted] and a [redacted] [redacted] stated [redacted] elected to [redacted] for 1 year because the site was in an outage and they needed [redacted] expertise and [redacted] turned them down. [redacted] was not aware of any prior disciplinary problems with [redacted] said that after the [redacted] discussed the incident with [redacted] and they decided to reduce the [redacted]

[redacted] stated that [redacted] transfer to the [redacted] would not have resulted in a loss of pay or work hours, and in fact, could have resulted in [redacted] assignment as a [redacted] which would have resulted in a pay increase. [redacted] related that in the past, people assigned to the [redacted] group during an outage would receive an excused absence from work for several weeks during the middle of the outage, although that had not been the case at SONGS for several outage cycles. [redacted] said [redacted] had been able to move people back and forth between the different groups to keep them employed during the outage.

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Review of Documentation

SONGS New Hire Orientation and Work Rules Handbook,
undated (Exhibit 11)

The handbook indicated that a refusal to accept a work assignment was a violation and that the first infraction was subject to termination for a period of 30 days up to a maximum period of 1 year (page 10).

[redacted] dated [redacted] (Exhibit 12)

This [redacted] indicated [redacted] a violation of job site work rules (Exhibit 11). The [redacted] stated [redacted] was although it was later modified to [redacted] following a meeting with [redacted]

SCE Nuclear Safety Concerns Program Letter, dated [redacted]
(Exhibit 13)

This letter from [redacted] SONGS, summarized the concerns [redacted] reported to the [redacted]

Letter from [redacted] (Exhibit 14)

In this letter, [redacted] advised that an investigation conducted by [redacted] determined that [redacted] for a [redacted] Additionally, [redacted] advised that [redacted] based on [redacted] record, the [redacted] was reduced to [redacted]

SCE Nuclear Safety Concerns Program Letter, dated [redacted]
(Exhibit 15)

This letter summarized [redacted] amended concerns, which included the following potential nuclear safety-related and retaliatory concerns:

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EX 7C

SCE

/, dated

(Exhibit 16)

This letter reported the results of the [redacted] into concerns as amended and summarized in Exhibit 15. The [redacted] substantiated [redacted] concerns regarding the MO issue and [redacted], although failed to substantiate the remainder of the concerns identified in Exhibit 15. The letter indicated [redacted] raised three additional concerns during the closure meeting, which included further questions regarding the [redacted] position and the [redacted] and concerns that there was an overall plan to remove [redacted] from the site due to [redacted] reporting safety concerns.

SCE

Letter, dated

(Exhibit 17)

This letter from [redacted] summarized additional concerns [redacted] reported to the [redacted] which included that [redacted] was mad at [redacted] for reporting concerns, that [redacted] accused [redacted] of writing the NRC and [redacted] regarding suspected sabotage, and that [redacted] would not be allowed to work at SONGS in the future.

SCE

Letter, dated

(Exhibit 18)

This letter reported the results of the [redacted] into concerns as summarized in Exhibit 17. The [redacted] failed to substantiate the concerns identified in Exhibit 17. The letter indicated [redacted] raised three additional concerns during the closure meeting, which included further questions regarding the [redacted] position and the [redacted] and concerns that there was an overall plan to remove [redacted] from the site because of reported safety concerns.

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Agent's Analysis

An analysis of the evidence was performed to determine if () was the subject of employment discrimination by SONGS management personnel for reporting safety concerns to the NRC.

1. Protected Activity

According to (), reported numerous concerns regarding () qualifications and MO discrepancies to () and SCE supervisors circa (). These reports to () supervisors constitute protected activity.

AGENT'S NOTE: () filed () complaint with the NRC concerning () protected activity 14 months after () and, although the time lapse did not negate () filing to the NRC, it is noted that it was filed outside the recommended complaint and filing recommendation contained in the employee protection provisions of Title 42 USC Section 5851, as amended, of the Energy Reorganization Act of 1974.

2. Management's Knowledge

() and () stated they were aware of () concerns regarding the () qualification issue, although it appears the issue had already been identified by () and corrective action initiated by the time () reported () concern. () stated () was not aware that () raised the concern regarding the deficiencies, although () was aware of the MO discrepancy.

3. Adverse Action

() stated () was not assigned the () during the () outage, which resulted in a loss of pay. Additionally, () stated () was subsequently requested to transfer to a position with less opportunity for continuous work during the outage, a transfer () which resulted in ().

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4. Adverse Action Caused by Protected Activity

According to [redacted] selected [redacted] as the [redacted] during the [redacted] outage because [redacted] believed [redacted] was more qualified to supervise the [redacted] work scheduled for the outage, a claim that [redacted] did not dispute (Exhibit 2, page 17). Additionally, according to [redacted] was not aware of [redacted] reported safety concerns and made the decision to [redacted] to the [redacted] based on the licensee's need for qualified [redacted] and on [redacted] belief that [redacted] possessed the experience to fulfill this need.

It is concluded that [redacted] was not motivated by retaliatory animus and that reasonable grounds, i.e. [redacted] to accept a work assignment, existed for the [redacted]. It appears [redacted] employment was [redacted] for cause and for legitimate, nondiscriminatory reasons.

Conclusions

Based on review of the testimony, documentary evidence developed during the investigation, and coordination with the RIV technical staff and Regional Counsel, the allegation that [redacted] was the subject of employment discrimination for identifying safety concerns was not substantiated.

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LIST OF EXHIBITS

<u>Exhibit No.</u>	<u>Description</u>
1	Investigation Status Record, dated July 26, 2000.
2	Interview of () dated ()
3	Memorandum to WISE, dated August 28, 2000.
4	Memorandum from SIFRE, undated.
5	Memorandum to SMITH, dated August 8, 2000.
6	Memorandum from SMITH, dated October 10, 2000.
7	Interview of () dated /
8	Interview of () , dated
9	Interview of () , dated
10	Interview of = dated
11) SONGS New Hire Orientation and Work Rules Handbook, undated.
12	() Disciplinary Warning, dated ()
13	SCE f dated
14	Letter from () dated
15	SCE f dated
16	SCE f dated
17	SCE f dated
18	SCE dated

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