



UNITED STATES
NUCLEAR REGULATORY COMMISSION
OFFICE OF INVESTIGATIONS FIELD OFFICE, REGION IV
612 EAST LAMAR BLVD, SUITE 400
ARLINGTON, TEXAS 76011-4125

December 22, 2010

MEMORANDUM TO: Elmo E. Collins, Regional Administrator
Region IV

FROM: Crystal D. Holland, Director *CH*
Office of Investigations Field Office, Region IV

SUBJECT: HUMBOLDT BAY - DISCRIMINATION AGAINST A (b)(7)(C)
(b)(7)(C) FOR REPORTING PROCEDURE VIOLATIONS AND
TRAINING DEFICIENCIES
(CASE NO. 4-2010-044/RIV-2009-A-0100)

7C

Enclosed, for whatever action you deem appropriate, is the Office of Investigations (OI) Report of Investigation concerning the above matter.

Please note that documents may have been gathered during the course of the investigation that are not included in either the report or the exhibits. This additional documentation will be maintained in the OI case file and available for the staff's review upon request.

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Enclosure:

cc w/enclosure:
R. Zimmerman, OE

cc w/o enclosure:
C. Scott, OGC
C. Miller, FSME
C. Haney, NMSS

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A-B

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Distribution:
s/f (4-2010-044)
c/f
(b)(7)(C) OI:HQ

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DOCUMENT: S:\OIF\FY2010CASES\Closed Cases

OFFICE	OI:RIV	OI:RIV		
NAME	(b)(7)(C)	CHolland		
DATE	12-16-2010	12/22/2010		

OFFICIAL RECORD COPY

Title: HUMBOLDT BAY

7c DISCRIMINATION AGAINST A (b)(7)(C) FOR REPORTING
PROCEDURE VIOLATIONS AND TRAINING DEFICIENCIES

Licensee:

Pacific Gas & Electric Company
P.O. Box 770000
San Francisco, CA 94177-0001

Case No.: 4-2010-044

Report Date: December 22, 2010

Control Office: OI:RIV

Docket No.: 50-00133

Status: CLOSED

Allegation No.: RIV-2009-A-0100

Reported by:

Reviewed and Approved by:

7c (b)(7)(C)
(b)(7)(C) Special Agent
Office of Investigations
Field Office, Region IV

Crystal D. Holland
Crystal D. Holland, Director
Office of Investigations
Field Office, Region IV

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SYNOPSIS

7c This investigation was initiated on March 31, 2010, by the U.S. Nuclear Regulatory Commission, Office of Investigations, Region IV, to determine if a (b)(7)(C) at Pacific Gas and Electric Company's Humboldt Bay Nuclear Plant (Humboldt), Eureka, California, was the subject of discrimination for raising safety concerns.

7c Based on the evidence developed during this investigation, the allegation that a (b)(7)(C) at Humboldt was the subject of discrimination for raising safety concerns was not substantiated.

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Case No. 4-2010-044

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TESTIMONIAL EVIDENCE

Exhibit

(b)(7)(C)	Eureka, California.....	6
(b)(7)(C)	Humboldt Bay Nuclear Plant (Humboldt), Eureka, California.....	5
(b)(7)(C)	, Eureka, California	10
(b)(7)(C)	Humboldt	4
(b)(7)(C)	16
(b)(7)(C)	Humboldt	14
(b)(7)(C)	(b)(7)(C)	
Eureka, California	3
(b)(7)(C)	Humboldt.....	7
(b)(7)(C)	Humboldt.....	8
(b)(7)(C)	Humboldt.....	15
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DOCUMENTARY EVIDENCE

7c

Exhibit

Humboldt Notification	(b)(7)(C)	9				
Email from	(b)(7)(C)	to	(b)(7)(C)	dated	(b)(7)(C)	11
Email from	(b)(7)(C)	dated	(b)(7)(C)	13		

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DETAILS OF INVESTIGATION

Applicable Regulations

10 CFR 50.5: Deliberate misconduct (2009 Edition) (Allegation No. 1)

10 CFR 50.7: Employee protection (2009 Edition) (Allegation No. 1)

Purpose of Investigation

This investigation was initiated on March 31, 2010, by the U.S. Nuclear Regulatory Commission (NRC), Office of Investigations (OI), Region IV (RIV), to determine if (b)(7)(C) (b)(7)(C) for (b)(7)(C) at Pacific Gas and Electric (PG&E) Company's Humboldt Bay Nuclear Plant (Humboldt), Eureka, California, was the subject of discrimination for raising safety concerns [Allegation No. RIV-2009-A-0100] (Exhibit 1).

Background

On July 27, 2009, (b)(7)(C) Senior Allegations Coordinator, Allegation Coordination and Enforcement Staff (ACES), NRC:RIV, received an allegation from (b)(7)(C) who reported that she had been subjected to discrimination for engaging in protected activity at Humboldt.

According to (b)(7)(C) she raised several training concerns during May 2009 to (b)(7)(C) (b)(7)(C) and (b)(7)(C) Humboldt, that the lesson plans used by the training department for the scaffolding classes were inadequate and had not been approved by a subject matter expert as required by procedures. (b)(7)(C) further reported that the scaffolding courses were conducted by "inadequately qualified instructors" and that the training department did not use the approved lesson plans for the electronic Coastal Compact Disk course material, such as Confined Space and Scaffolding. (b)(7)(C) stated she also submitted a corrective action document on (b)(7)(C) (b)(7)(C) to (b)(7)(C) Humboldt, to document the training department's failure to follow procedures and the use of unapproved lesson plans. (b)(7)(C) advised that inadequate training impacted nuclear safety at the site, to include the radiologically controlled areas.

(b)(7)(C) stated that subsequent to reporting her concerns to (b)(7)(C) and (b)(7)(C) her (b)(7)(C) further advised that because of her refusal to teach courses with unapproved lesson plans, she received numerous threats during the period (b)(7)(C) (b)(7)(C)

On August 18, 2009, the Allegation Review Board (ARB), RIV, convened to discuss (b)(7)(C) allegation that she had been subjected to discrimination for reporting nuclear safety concerns related to training program deficiencies and violations.

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7c On August 25, 2009, (b)(7)(C) was contacted by the NRC and offered an opportunity to participate in the NRC's Alternative Dispute Resolution (ADR) process in an attempt to resolve her dispute with the licensee.

7c On March 17, 2010, ACES:RIV notified OI:RIV that the ADR offer extended to (b)(7)(C) in August 2009 had been rescinded due to her lack of response and requested that OI:RIV initiate an investigation to determine if (b)(7)(C) had been subjected to discrimination for reporting procedure violations and training deficiencies at Humboldt (Exhibit 2).

Interview of Allegor (b)(7)(C) (Exhibit 3)

(b)(7)(C) was interviewed by OI:RIV on May 5, 2010 in Smyrna, Georgia. (b)(7)(C) stated she began her employment with Humboldt in (b)(7)(C) as an (b)(7)(C) and was (b)(7)(C) advised she was a (b)(7)(C) when her employment was (b)(7)(C) stated that while she was a (b)(7)(C) she raised a concern about the training employees were receiving regarding scaffolding. According to (b)(7)(C) the material presented during scaffolding training was not adequate, not reviewed and not approved by a subject matter expert. Additionally, (b)(7)(C) stated she did not feel adequately trained.

7c (b)(7)(C) (Exhibit 3, pp 3-5). In particular, (b)(7)(C) stated (b)(7)(C) placed her in the position to have to (b)(7)(C) without receiving the proper training herself. (b)(7)(C) said it was her understanding that subject matter experts in scaffolding should have been available during the training sessions if employees taking the training had (b)(7)(C) but that did not happen. Regarding the training environment at Humboldt, (b)(7)(C) said, "It was just a bunch of people not following procedures" (Exhibit 3, pp. 6-8). According to (b)(7)(C) Humboldt, reportedly reviewed the material for the scaffolding training provided at Humboldt and said the material was not adequate (Exhibit 3, p. 11).

(b)(7)(C) stated she sent an email to (b)(7)(C) after she was asked to (b)(7)(C) (b)(7)(C) According to (b)(7)(C) that action was viewed as her "stopping work", and costing the company "tons of money" (Exhibit 3, pp. 11-13). (b)(7)(C) stated she also raised the issue to (b)(7)(C) According to (b)(7)(C) after raising that issue, (b)(7)(C) and (b)(7)(C) (b)(7)(C) began to harass her. (b)(7)(C) said (b)(7)(C) began to ignore her by not returning emails and refusing to answer her telephone calls. (b)(7)(C) added that (b)(7)(C) who was a (b)(7)(C) (a position subordinate to hers) was "put in charge" when (b)(7)(C) was not present. (b)(7)(C) stated (b)(7)(C) began treating her in an aggressive manner, screaming at her, berating her, and being very hostile towards her. (b)(7)(C) stated she felt (b)(7)(C) treatment of her may have been at the direction of (b)(7)(C). (b)(7)(C) stated she had very little contact with (b)(7)(C) prior to (b)(7)(C) adding she attempted to contact (b)(7)(C) but could not get through to him (Exhibit 3, pp. 15-19).

7c (b)(7)(C) stated that in (b)(7)(C) she received a text message from (b)(7)(C) requesting she come to his office for a meeting. (b)(7)(C) stated she (b)(7)(C) during that meeting, and was told by (b)(7)(C) that Humboldt "decided to change business strategies", and she was

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(b)(7)(C) at that point (Exhibit 3, p. 20). (b)(7)(C) being provided at Humboldt to its employees (Exhibit 3, pp. 20-25).

Agent's Analysis

Protected Activity

(b)(7)(C) claimed she raised concerns to (b)(7)(C) and (b)(7)(C) that the lesson plans used by Humboldt to provide scaffolding training to Humboldt employees were not reviewed and approved by subject matter experts as required by Humboldt procedures. Additionally, (b)(7)(C) claimed that as a (b)(7)(C) she was not adequately trained in the material she was asked to teach in the scaffolding training classes (Exhibit 3).

Management Knowledge

(b)(7)(C) stated she spoke with (b)(7)(C) approximately two times a week while she (b)(7)(C) was employed at Humboldt, both on a professional and personal basis. (b)(7)(C) stated (b)(7)(C) did come to her on a professional level and tell her that she (b)(7)(C) felt she was being asked to (b)(7)(C) (b)(7)(C) stated (b)(7)(C) told her that she was being asked to (b)(7)(C) (b)(7)(C) could not recall if (b)(7)(C) was referring to scaffolding training or training in general. (b)(7)(C) stated she did not feel what (b)(7)(C) told her elevated to the level of a safety concern, and was not aware (b)(7)(C) raised a concern with anyone else. (b)(7)(C) added that because (b)(7)(C) was a (b)(7)(C) (b)(7)(C) she did not deal directly with her regarding any problems she may have had. (b)(7)(C) stated that if a (b)(7)(C) had a concern, she always directed them to their employer (Exhibit 4, pp. 7-16).

(b)(7)(C) Humboldt, advised he knew (b)(7)(C) while she was employed as a contract employee at Humboldt on both a personal and professional level, adding (b)(7)(C) (b)(7)(C) stated (b)(7)(C) did express concerns to him about the training aspects of her job, but her concerns to him were mainly surrounding her qualifications for the job she was occupying. (b)(7)(C) stated (b)(7)(C) issues were general in nature, but did recall (b)(7)(C) having issues with the scaffolding training. (b)(7)(C) stated (b)(7)(C) issue with scaffolding was whether or not the training provided went into enough detail. (b)(7)(C) stated it was a "professional" discussion, and (b)(7)(C) stated no one in the training department thought the substance of the training was out of line. (b)(7)(C) stated he was unsure if (b)(7)(C) had raised safety concerns to her supervisor or anyone else in the management chain at Humboldt, but did not feel his discussion with her rose to the level of a safety concern (Exhibit 5, pp. 7-15).

(b)(7)(C) stated he began working at Humboldt on (b)(7)(C) and was (b)(7)(C) for approximately (b)(7)(C) (b)(7)(C) (b)(7)(C) stated he was aware (b)(7)(C) felt she was (b)(7)(C)

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scaffolding class, but that she never approached him about that issue. According to (b)(7)(C) (b)(7)(C) contacted training officials [NFI] from PG&E's Diablo Canyon Nuclear Power Plant who reportedly advised her that the scaffolding training class consisted of showing a DVD, and writing down any questions an employee may have to be answered later by qualified personnel. (b)(7)(C) stated he was aware of no other issues or concerns (b)(7)(C) had, and added (b)(7)(C) did not approach him with any concerns regarding the scaffolding class or any other training issues (Exhibit 6, pp. 9-13).

(b)(7)(C) stated he was (b)(7)(C) from (b)(7)(C) (b)(7)(C) when she began reporting to (b)(7)(C) recalled (b)(7)(C) was uncomfortable with presenting the scaffolding training. (b)(7)(C) recalled (b)(7)(C) saying she did not feel she had the time (b)(7)(C) because of conflicting duties she had within the (b)(7)(C) added (b)(7)(C) never gave him a well-defined reason why (b)(7)(C) scaffolding training (Exhibit 7, pp. 13-18). (b)(7)(C) recalled (b)(7)(C) submitted a condition report about a training concern she had, but could not recall the exact issue (b)(7)(C) had. (b)(7)(C) stated he did meet with (b)(7)(C) about her concern, and according to (b)(7)(C) stated it was not a "big deal" to her. (b)(7)(C) said (b)(7)(C) stated, "I didn't think a condition report being written about my concern was a big deal" (Exhibit 7, p. 30). (b)(7)(C) said he attempted to address her concern, but, according to (b)(7)(C) "continued to basically back pedal and say, no, no, this is being all blown out of proportion" (Exhibit 7, p. 31).

(b)(7)(C) stated he worked in the same group as (b)(7)(C) for a short time while he was in (b)(7)(C) (b)(7)(C) stated he took various training classes at Humboldt, but never took the scaffolding training. (b)(7)(C) said (b)(7)(C) approached him and stated she (b)(7)(C) and wanted him to help her write the problem into Humboldt's corrective action program. (b)(7)(C) recalled the problem (b)(7)(C) had was possibly with the environmental training, but he was not sure. (b)(7)(C) stated he agreed to help (b)(7)(C) and drafted the document himself (Exhibit 8, pp. 4-14).

AGENT'S NOTE: The document (b)(7)(C) prepared for (b)(7)(C) did appear in the Humboldt corrective action program, and did (b)(7)(C) (b)(7)(C) (Exhibit 9).

Adverse Act

(b)(7)(C) (Exhibit 3).

Nexus: Was (b)(7)(C) Discriminated Against as a Result of Engaging in a Protected Activity?

(b)(7)(C) stated he only supervised (b)(7)(C) in the (b)(7)(C) from (b)(7)(C) (b)(7)(C) advised he also supervised (b)(7)(C) and (b)(7)(C) Humboldt, who were also assigned to the (b)(7)(C) According to (b)(7)(C) he noticed no problems with the personnel within the (b)(7)(C) stating, "We got along great" (Exhibit 7, pp. 8 and 9). (b)(7)(C) stated that during the time he supervised (b)(7)(C) he had regular staff meetings and was very accessible to his staff. (b)(7)(C) stated that when he went on vacation, or was gone

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7C for a short period of time, he would leave (b)(7)(C) as a point of contact for the (b)(7)(C) but never specifically stated that (b)(7)(C) had supervisory responsibilities. (b)(7)(C) stated he was never approached by (b)(7)(C) or anyone else within the (b)(7)(C) and told they were mistreated in any way by (b)(7)(C). (b)(7)(C) recalled there were disagreements about who could perform different functions, but there were never any reports of any incidents of mistreatment by anyone.

7C (b)(7)(C) stated he received complaints from (b)(7)(C) and other individuals (b)(7)(C) [NFI] stating (b)(7)(C) was not performing the functions that were assigned to her. (b)(7)(C) also stated he received complaints from individuals within Humboldt [NFI] that (b)(7)(C) was not properly (b)(7)(C). (b)(7)(C) stated the complaints he received "were that (b)(7)(C) would come into class, have everybody there, but then she wouldn't want (b)(7)(C) Exhibit 7, pp. 13 and 14). (b)(7)(C) stated (b)(7)(C) wanted subject matter experts in the room with her, but she was (b)(7)(C).

(b)(7)(C) (b)(7)(C) stated the

(b)(7)(C)

7C (b)(7)(C) stated he made a strategic decision that he needed to bring someone else in to the (b)(7)(C) that had more experience in the decommissioning aspect of a nuclear power plant because the (b)(7)(C) was behind in its training responsibilities. (b)(7)(C) stated he cleared the decision through senior management, then brought (b)(7)(C) to his office and told her of his (b)(7)(C) her. (b)(7)(C) added that since (b)(7)(C) was a (b)(7)(C) he was not required to bring her in (b)(7)(C) her, he could have contacted her employer (b)(7)(C) and tell them her (b)(7)(C) (b)(7)(C) (Exhibit 7, pp. 22-25). (b)(7)(C) said he was never adversarial with (b)(7)(C) and never saw anyone mistreat her. (b)(7)(C) stated her (b)(7)(C) had nothing to do with her raising a concern. (b)(7)(C) said, "Her

(b)(7)(C)

(Exhibit 7, p. 32).

7C (b)(7)(C) advised her role within the (b)(7)(C) was that of a (b)(7)(C) keeping accurate records and scheduling personnel. (b)(7)(C) stated she was not a (b)(7)(C). (b)(7)(C) stated she worked with (b)(7)(C) from her (b)(7)(C) initial employment (which (b)(7)(C) estimated to be from approximately (b)(7)(C) until she (b)(7)(C) was moved to a different location on the plant. (b)(7)(C) stated she and (b)(7)(C) started out as co-workers doing the same job, then (b)(7)(C) was moved to (b)(7)(C). (b)(7)(C) said that while she and (b)(7)(C) worked together, their relationship was good. (b)(7)(C) stated that for a short time, she and (b)(7)(C) worked for (b)(7)(C) and stated (b)(7)(C) was very supportive of the (b)(7)(C). (b)(7)(C) (Exhibit 10, pp. 7-13). (b)(7)(C) stated that when (b)(7)(C) went on vacation, or was out of town for any reason, he would put an email out to the employees of Humboldt that if they had any questions regarding training to contact her (Exhibit 11). (b)(7)(C) stated, however, she was not in charge of training; she was just there to answer questions. (b)(7)(C) added, "I didn't try to run that department. I know that I don't have the knowledge base for it" (Exhibit 10, p. 14). (b)(7)(C) stated (b)(7)(C) checked in on the (b)(7)(C) quite often, and always addressed everyone in a group. (b)(7)(C) said she never saw (b)(7)(C) single anyone out or treat anyone differently.

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(b)(7)(C) stated that when (b)(7)(C) moved from (b)(7)(C) to (b)(7)(C) she (b)(7)(C) moved to a different location at the plant (b)(7)(C) stated (b)(7)(C) moved from the (b)(7)(C) to (b)(7)(C) which is where the (b)(7)(C) were housed (Exhibit 10, pp. 16-18).

7c (b)(7)(C) stated she was not aware (b)(7)(C) had any issues with any of the (b)(7)(C) (b)(7)(C) said the scaffolding training was an awareness level training, which included showing a DVD, getting attendees to sign an attendance sheet, and being able to capture questions and have them answered by subject matter experts. (b)(7)(C) said (b)(7)(C) never asked her any questions about (b)(7)(C) performance or any other aspect involving (b)(7)(C). Regarding (b)(7)(C) concerns (b)(7)(C) stated, "From what I recall, she (b)(7)(C) never said anything to me, personally, about scaffolding or having a concern. I do not know if she said anything to (b)(7)(C) (b)(7)(C) stated she was not given any instructions from (b)(7)(C) on how to treat (b)(7)(C) and re-iterated that when (b)(7)(C) became a (b)(7)(C) (b)(7)(C) she and (b)(7)(C) worked in different locations (Exhibit 10, pp. 19-26).

7c (b)(7)(C) stated she worked in the (b)(7)(C) (b)(7)(C) said that she got the position of (b)(7)(C) in the (b)(7)(C) because (b)(7)(C) was moved to (b)(7)(C) (b)(7)(C) stated she only worked with (b)(7)(C) for approximately (b)(7)(C) while she (b)(7)(C) was in transition from (b)(7)(C) to instructor. (b)(7)(C) stated that during her time as (b)(7)(C) (b)(7)(C) she reported to (b)(7)(C) said that when (b)(7)(C) was not there, (b)(7)(C) would send out an email stating if there were any questions regarding training to contact (b)(7)(C) however, (b)(7)(C) said (b)(7)(C) was "never put in charge" (Exhibit 12, pp. 6-10). (b)(7)(C) stated that during her time with (b)(7)(C) she never saw (b)(7)(C) be treated any differently than anyone else, and never heard (b)(7)(C) mention any problems or concerns she may have had with training or (b)(7)(C) (Exhibit 12, pp. 11-17).

7c (b)(7)(C) stated he became the (b)(7)(C) and said (b)(7)(C) worked for him as a (b)(7)(C) (b)(7)(C) stated (b)(7)(C) was (b)(7)(C) (b)(7)(C) stated he had practically daily contact with (b)(7)(C) and stated he was not aware she raised safety concerns regarding any aspect of either training or the (b)(7)(C) (b)(7)(C) stated he did receive feedback from plant personnel stating (b)(7)(C) was not "treating adults as adults". (b)(7)(C) said he talked to her about that and was working towards improving her skills. (b)(7)(C) stated that, even though he was her immediate supervisor, he did not know (b)(7)(C) was being (b)(7)(C) until the day it happened. (b)(7)(C) said the decision to (b)(7)(C) (b)(7)(C) was made by (b)(7)(C) and (b)(7)(C) stated he had no conversation with (b)(7)(C) regarding her (b)(7)(C) either before or after it happened (Exhibit 6, pp. 7-16).

7c (b)(7)(C) was familiar with the scaffolding training and stated that just recently he changed the training for it to be more "instructor-led", which fits more into the goals he was trying to accomplish (Exhibit 6, pp. 16 and 17). (b)(7)(C) added that Humboldt had no policy which referred specifically to scaffold training, and said scaffolding training fell within the awareness class, where DVDs are viewed and attendance sheets are signed to show participation in the class (Exhibit 13).

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7c (b)(7)(C) Humboldt; and (b)(7)(C)
(b)(7)(C) were also interviewed regarding the
allegations raised by (b)(7)(C) (Exhibits 14-16 respectively). None of the aforementioned
individuals interviewed could offer any direct testimony regarding (b)(7)(C) allegations.

In summary, although (b)(7)(C) claimed she was (b)(7)(C)
(b)(7)(C)
(b)(7)(C) testimonial and documentary evidence showed (b)(7)(C)
(b)(7)(C) stated he was aware (b)(7)(C) raised
7c a (b)(7)(C) but claimed (b)(7)(C) was hesitant to discuss the
issue with him so a resolution could be reached (Exhibit 7). Additionally, none of the other
supervisors interviewed stated they were aware (b)(7)(C) even raised safety concerns regarding
training. (b)(7)(C) and not
retaliation for raising safety concerns.

Conclusions

7c Based on the evidence developed during this investigation, the allegation that (b)(7)(C) was the
subject of discrimination for raising safety concerns was not substantiated.

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LIST OF EXHIBITS

Exhibit No.	Description
1	Investigation Status Record, dated March 31, 2010 (2 pages).
2	RIV ARB Summary and related documents, dated February 8, 2010 (11 pages).
3	Transcript of Interview with (b)(7)(C) dated May 5, 2010 (35 pages).
4	Transcript of Interview with (b)(7)(C) dated November 16, 2010 (25 pages).
5	Transcript of Interview with (b)(7)(C) dated November 16, 2010 (20 pages).
6	Transcript of Interview with (b)(7)(C) dated November 16, 2010 (23 pages).
7	Transcript of Interview with (b)(7)(C) dated November 22, 2010 (36 pages).
8	Transcript of Interview with (b)(7)(C) dated November 17, 2010 (25 pages).
9	Humboldt Notification (b)(7)(C) (4 pages).
10	Transcript of Interview with (b)(7)(C) dated November 16, 2010 (28 pages).
11	Email from (b)(7)(C) to (b)(7)(C) dated (b)(7)(C) 1 page).
12	Transcript of Interview with (b)(7)(C) dated November 16, 2010 (19 pages).
13	Email from (b)(7)(C) to (b)(7)(C) dated (b)(7)(C) (2 pages).
14	Transcript of Interview with (b)(7)(C) dated November 16, 2010 (18 pages).
15	Transcript of Interview with (b)(7)(C) dated November 16, 2010 (18 pages).
16	Transcript of Interview with (b)(7)(C) dated November 16, 2010 (18 pages).

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