

EMPLOYMENT ALERT

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SONGS Managers File Retaliation Complaints, Cite Plant Culture

Like other nuclear power utilities, Southern California Edison (SCE) emphasizes the importance of a safety conscious work environment (SCWE) at its San Onofre Nuclear Generating Station (SONGS). Nonetheless, two management-level employees recently filed complaints of retaliation against SCE under Section 211 of the Energy Reorganization Act, alleging that they were punished for raising safety concerns — including concerns critical of the work environment.

The complaints stem from events at the SONGS dry fuel canister fabrication facility. According to the complaints, independent auditors in September 2008 observed a welder violating welding specifications; the welder allegedly stated that he knew of that problem but nevertheless continued welding. As it happened, the NRC had issued a [Confirmatory Order](#) to SCE early in 2008 that recounted “several instances of willful violations at SONGS” in the preceding year. SCE agreed to hold “multi-day interventions that reinforce fundamental company values” including “the elements of a strong nuclear safety culture to prevent deliberate misconduct-related violation issues.” SCE was to complete the interventions by mid-2008 — not long before the welder’s misconduct was identified.

Busnardo, one of the complainants, managed the fabrication facility. His complaint appears to accuse SCE management of simultaneously not taking the welder’s apparent willful violation seriously enough *and* “overreacting” to the situation. In the not-serious-enough category, Busnardo alleges that he recommended firing the welder (a union member), but senior management decided on a two-week suspension. He also alleged that management attempted to “downplay” the welder’s wrongdoing by pointing to “a supposed culture of non-compliance” in Busnardo’s shop. In the overreacting category, Busnardo claims that senior management unnecessarily and inappropriately issued a Stop Work Order suspending work in the fabrication shop and issued an Apparent Cause Evaluation (ACE) concerning the event without consulting him and without referencing immediate corrective actions that Busnardo had taken. Apparently, Busnardo was upset that his shop came under scrutiny after his welder willfully violated procedures and that he was left out of discussions regarding the company’s response to the issue.

[Busnardo’s complaint](#) contends that he engaged in protected activity by filing a notice of the willful violation with the NRC upon discovery of the welder’s misconduct, as well as in sending an email to senior management in October 2008 alleging that he had experienced retaliatory treatment in relation to the Stop Work Order and that SONGS employees were

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subject to a chilled work environment. He also alleges that the Site Vice President chastised him for sending the email. Allegedly as a result of his protected activity, SCE removed his responsibilities, excluded him from meetings, denied him his job, and denied him a promotion.

The other complainant, Mason, was a supervisor who reported to Busnardo. [Mason's complaint](#) contends that he was retaliated against because he supported Busnardo and because SCE "associated" Mason with Busnardo's email to senior management. Mason asserts that SCE "discredited his managerial skills, ignored his safety investigations and disciplinary recommendations, isolated him from interacting with management" and gave him a negative mid-year performance evaluation. Both complaints conclude with the assertion that SCE "has created a culture in which conscientious employees fear reporting nuclear safety concerns." The complaints were filed earlier this week in the Department of Labor.

The retaliation complaints summarized above are perhaps typical of employment disputes that may flare up when significant plant performance problems develop. A recent semi-annual [report](#) on plant performance by the NRC noted continued concerns at SONGS in the areas of human performance and problem identification and reporting, although noting that SONGS has operated safely. While SCE's policy is not to comment on litigation, it has emphasized in response to the complaints that its highest commitment "is protecting the health and safety of the public and our workers" and that "an essential part of carrying out such a commitment is providing employees with effective ways of reporting safety concerns and prohibiting retaliation when they do so."

If you have any questions about the above, please contact us.

Conscious Work Environment: The Practical Guide for Leaders

identifies key ways in which supervisors, managers, and site executives can foster a work environment that encourages employees to participate in raising and resolving concerns. ***Safety***

Conscious Work Environment: Practical Pointers for the Individual Contributor

advises non-supervisory workers, including contract workers, how they can contribute to the desired work environment. [More information.](#)

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