

OFFICE OF THE INSPECTOR GENERAL
U.S. Nuclear Regulatory Commission

Memorandum of Interview

OIG Case No: 07-63

On September 25, 2007, (b)(7)c Office of New Reactors (NRO), U.S. Nuclear Regulatory Commission (NRC) was interviewed by Special Agent (SA) (b)(7)c Office of the Inspector General (OIG), NRC. (b)(7)c provided essentially the following information:

(b)(7)c stated he was assigned to Commissioner MERRIFIELD's office in December of 2006 and remained there through the end of June 2007. (b)(7)c was to manage the activities of the Combined Operating License (COL) task force which MERRIFIELD had been designated to head. On occasion, (b)(7)c also assisted Frank AKSTULEWICZ, Office of Commissioner MERRIFIELD, with technical issues related to reactors.

(b)(7)c had heard prior to the assignment in MERRIFIELD's office that MERRIFIELD was going to be leaving the NRC at the end of his term. (b)(7)c only knew MERRIFIELD's job search arrangement involved a private attorney from what he had read in open publications such as the NRC Insider. (b)(7)c received no briefing or instructions about MERRIFIELD's job search during his assignment. (b)(7)c never spoke with MERRIFIELD or John SZABO, Office of General Counsel (OGC), about MERRIFIELD's job search. (b)(7)c learned of MERRIFIELD's employment with Shaw only after MERRIFIELD's departure from the NRC.

In late May or early June 2007, (b)(7)c was told by (b)(7)c to MERRIFIELD, that MERRIFIELD was recusing himself from certain activities. To (b)(7)c this meant that MERRIFIELD would not participate in certain votes. In particular, MERRIFIELD would not be participating in a vote concerning rulemaking on an issue related to 10 CFR 50.46, which dealt with emergency core cooling requirements. (b)(7)c was not aware of any particular company which MERRIFIELD may have been negotiating a job offer with, but indicated that both licensees and vendors could have been affected by the rulemaking. He indicated that several nuclear vendors had their designs certified by the NRC, and that this rulemaking could affect these designs.

(b)(7)c acknowledged that he was a "little fuzzy" on conflict of interest regulations, and believed there was a period of time in which individuals could not be employed by companies working on issues related to their government employment. (b)(7)c did not believe Shaw presented a conflict of interest because they were not a licensee and not under NRC's regulation. (b)(7)c also believed that MERRIFIELD was going to be working with international development. Since the NRC regulates only nuclear power within the United States, (b)(7)c believed this was position would be unrelated to MERRIFIELD's duties.

(b)(7)c also indicated that the Shaw Group was not actually a vendor, such as Westinghouse. He indicated that Shaw provided architectural and engineering service to other companies such as vendors and licensees to help them build their plants. By

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contrast, Westinghouse was a vendor and provided reactors to the licensees, such as its new AP 1000 design. (b)(7)c added that Shaw had purchased a portion of Westinghouse after another corporate partner decided to cease joint efforts with Westinghouse. (b)(7)c believed Shaw and Westinghouse's association began in approximately 2004. Since that time, Shaw and Westinghouse had been attempting to complete a deal to construct power plants in China. (b)(7)c also believed that the two firms were trying to build new plants in the United States.

(b)(7)c did not see a relationship between Shaw and the COL task force efforts. (b)(7)c noted that neither Shaw nor Westinghouse were licensees or applicants. (b)(7)c stated that getting a license did not necessarily equate to a commitment to build a new plant, and that the task force anticipated that some licensees may wait extended periods of time following a successful application in order to await favorable economic and industry conditions before beginning construction.

(b)(7)c stated that MERRIFIELD's role in the COL task force was primarily to help initiate the project and set the overall vision. MERRIFIELD told the task force that he was not going to try and steer issues in a particular way, but would let the staff members selected to participate in the task force drive the recommendations.

(b)(7)c indicated that Chairman KLEIN had also wanted Commissioner MCGAFFIGAN to also head the task force, but that he had declined due to his failing health. The task force began in approximately October or November 2006, and essentially completed its efforts by the end of March 2007. The task force's recommendations were presented in the form of an Staff Requirements Memorandum (SRM) signed by both the Chairman and MERRIFIELD.

(b)(7)c stated that MERRIFIELD and his staff remained involved with the SRM following its issuance until completion of the final vote in late June 2007. This included reviewing draft votes and recommended changes from other Commissioners, as well as discussing the SRM with other Commissioners during one-on-one meetings.

(b)(7)c also provided talking points about the task force to the Commissioner in preparation for the various meetings, usually with (b)(7)c assistance. He indicated that (b)(7)c had also worked on various legal issues related to the task force recommendations. (b)(7)c did not recall any instance where the subject of MERRIFIELD recusing himself from any aspect of the COL task force arose.

(b)(7)c only knew MERRIFIELD during the time he was assigned to his office. (b)(7)c however, never suspected that MERRIFIELD's decisions or actions that were based on his potential job opportunities. (b)(7)c felt that MERRIFIELD's actions during the period he knew him were consistent with the positions he had held throughout his tenure at the NRC.

Interviewed by Special Agent (b)(7)c

MOI Prepared on September 27, 2007

MOI Reviewed by/on: (b)(7)c

27 Sep 07