



U.S. OFFICE OF SPECIAL COUNSEL

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Washington, D.C. 20036-4505

The Special Counsel

November 1, 2012

The President  
The White House  
Washington, D.C. 20500

Re: OSC File No. DI-11-3077

Dear Mr. President:

Pursuant to 5 U.S.C. § 1213(e)(3), enclosed please find an agency report based on disclosures received from Steven Abrams, an Engineering Technician at the U.S. Department of the of the Navy, Marine Corps Air Ground Combat Center (MCAGCC), Twentynine Palms, California. Mr. Abrams was employed in the MCAGCC Facilities Maintenance Branch for 16 years, initially as a Boiler Worker, then as a Boiler Operator, and finally, from July 2007 until December 2009, as a Boiler Plant Supervisor. Mr. Abrams, who consented to the disclosure of his name, alleged that the use of underrated valves on MCAGCC generators poses a persistent and significant safety hazard to boiler plant employees because of the increased risk of valve failure.

**The agency report concluded that Mr. Abrams' allegations were not substantiated. Specifically, the investigation found that there is no persistent or significant danger posed to either the public or MCAGCC employees because of the class of valve currently in use at the MCAGCC boiler plant. These valves, according to the report, are more than adequate to handle the water capacity and temperature produced by the MCAGCC generators. Based on my review of the original disclosure, the agency's report and Mr. Abrams' comments, I have determined that the report contains all of the information required by statute and that the findings appear to be reasonable.**

The Office of Special Counsel (OSC) is authorized by law to receive disclosures of information from federal employees alleging violations of law, rule, or regulation, gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health and safety. 5 U.S.C. § 1213(a) and (b). OSC does not have the authority to investigate a whistleblower's disclosure; rather, if the Special Counsel determines that there is a substantial likelihood that one of the aforementioned conditions exists, she is required to advise the appropriate agency head of her determination, and the agency head is required to conduct an investigation of the allegations and submit a written report. 5 U.S.C. § 1213(c) and (g).

Upon receipt, the Special Counsel reviews the agency report to determine whether it contains all of the information required by statute and that the findings of the head of the

agency appear to be reasonable. 5 U.S.C. § 1213(e)(2). The Special Counsel will determine that the agency's investigative findings and conclusions appear reasonable if they are credible, consistent, and complete based upon the facts in the disclosure, the agency report, and the comments offered by the whistleblower under 5 U.S.C. § 1213(e)(1).

Mr. Abrams' allegations were referred to the Honorable Ray Mabus, Secretary of the Navy, to conduct an investigation pursuant to 5 U.S.C. § 1213(c) and (d) on August 1, 2011. The Secretary delegated investigative authority in this matter to the Inspector General of the Marine Corps (IGMC) on August 3, 2011. On December 5, 2011, the Secretary submitted his report, based on the results of the IGMC investigation. Mr. Abrams provided comments on the agency report on January 4, 2012. As required by 5 U.S.C. § 1213(e)(3), I am now transmitting the report and Mr. Abrams' comments to you.

#### **I. The Whistleblower's Disclosure**

Mr. Abrams disclosed that 300 pounds per square inch (psi) valves associated with the high temperature side of the MCAGCC Boiler Plant's three generators are not sufficient to safely control the flow of hot water through the systems. He asserts that while these valves were sufficient when the facility was built in 1976, the demands on the generators have significantly increased and the original valves are no longer adequate. According to Mr. Abrams, the increased operational pressure level of the generators, without a coordinating enhancement to the valves, has resulted in a higher frequency of valve leaks. When the valves leak, they spew 350 degree water and Mr. Abrams contends that he and other employees have suffered up to second-degree burns on their hands and arms due to the valve failures. Mr. Abrams explained that, because of the leaks, most of the valves have been replaced since the original generators were installed, but rather than using the replacement as an opportunity to incorporate adequately rated valves into the existing system, the replacement valves were also 300 psi valves. According to Mr. Abrams, in addition to being underrated, these replacement valves were manufactured in 1967 and have been painted to appear new.

Mr. Abrams reported his concerns about the use of the 300 psi valves to Boiler Plant Foremen Louis Fielding and Jim Wheeler beginning in 2000. Both of these men have since retired. In 2005, Mr. Abrams submitted a Work Order requesting an evaluation of the valves, but his request was ignored. According to Mr. Abrams, no action was taken to address the underrated valve issue until the generators were subjected to a routine annual inspection by Naval Facilities Engineering Service Center (NAVFAC) inspectors in 2006. Mr. Abrams provided documentation indicating that the inspectors cited the valve problem as a basis for his initial decision not to recertify the generators. Mr. Abrams stated that as a result of the inspection, three valves were replaced with new 600psi valves. He contends that while these replacements were sufficient to permit recertification, replacing only these three valves failed to ensure the safety of the overall workplace.

## II. The Agency's Investigation

The subsequent IGMC investigation did not substantiate Mr. Abrams' allegation, finding instead that the valves in place are more than adequate to safely handle the water pressure and temperature produced by the generators. According to the report, valves are classified by their class/lb rather than by a psi rating. The pound per square inch (psi) rating refers to the generators' distribution system/flow rate. The report indicated that water flow in each of the three MCAGCC generators is regulated by a system of 300lb class valves and that 300lb class valves are capable of safely handling up to 1100psi and 850 degrees Fahrenheit. Given that the generators at issue in this matter have a maximum water/steam flow rate of less than 400psi and 400 degrees, the generators are incapable of generating a psi or heat temperature that exceeds the capacity of the 300lb class valve.

The IGMC investigation included interviews with Mr. Abrams, as well as Carl Mericle, current Boiler Plant Supervisor, MCAGCC, Twentynine Palms; Steven Guzinski, Supervisor, Mechanical Engineer; and Chip Mathewson, Senior Boiler Inspector, Plant Supervisor, Mechanical Engineer, NAVFAC, Point Huneme, California. According to the report, Mr. Guzinski and Mr. Mathewson are subject matter experts concerning the 300lb class valve and boiler plant operations. The NAVFAC Engineering Service Center (ESC) where they are employed is responsible for inspecting the MCAGCC Boiler Plant and Mr. Guzinski and Mr. Mathewson conducted the 2006 inspection referenced by Mr. Abrams. Mr. Mericle, Mr. Guzinski, and Mr. Mathewson asserted that water or steam valve leaks do not necessarily mean that the valve is defective or inadequate. Rather, according to these employees, valve failures indicate that a part within the valve needs to be repaired or replaced as a result of normal wear and it is the maintenance staff's job to inspect and, when necessary, replace the valves if they show signs of wear. Further, according the report, the investigation uncovered no evidence indicating that there have been any reported instances of injuries, accidents, or lost time associated with burns, steam, or hot water.

With respect to Mr. Abrams' allegation regarding the propriety of replacing 300lb valves with like-valves rather than higher rated valves, the report concluded that because the 300lb class valves were sufficient, replacing broken valves with the same class, rather than 600lb class valves, was acceptable. According to the report, the fact that the 300lb class valves were in place and already exceeded the capabilities of the generators explains why Mr. Abrams' previously referenced work order request to upgrade the valves was ignored. Additionally, the report found Mr. Abrams' allegation that the painting of the valves constituted an improper attempt by management to make the valves appear new is without merit. According to Mr. Matheson, because valves are constantly exposed to moisture, they are painted in an effort to minimize rust and corrosion and extend the life of the valve. Finally, the report concluded that the fact that following the 2006 inspection of the boiler plant, the NAVFAC inspectors recommended repair rather than replacement of the 300lb class valve with higher rated valves indicates that the 300lb class valves were deemed to be sufficient.

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### **III. Whistleblower's Comments**

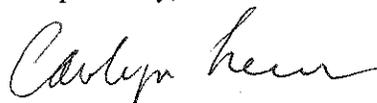
In his comments, Mr. Abrams expressed his dissatisfaction with the conduct and results of the investigation. He took issue with, among other things, the technical qualifications of the IGMC investigator, the investigator's failure to note that Mr. Abrams stated when interviewed that there had been injuries resulting from valve failures, and the investigator's omission of photographs of defective valves from the report. In addition, Mr. Abrams reiterated his concern that faulty valves have been replaced with used rather than new valves.

### **IV. Findings**

I have reviewed the original disclosure, the agency report, and Mr. Abrams' comments. Based on that review, I have determined that the agency's report contains all of the information required by statute and that its findings appear to be reasonable.

As required by 5 U.S.C. § 1213(e)(3), I have sent copies of the unredacted agency report and Mr. Abrams' comments to the Chairmen and Ranking Members of the Senate and House Committees on Armed Services. I have also filed a copy of the redacted report and Mr. Abrams' comments in our public file, which is now available online at [www.osc.gov](http://www.osc.gov), and closed the matter.

Respectfully,



Carolyn N. Lerner

Enclosures