

g:\alleg\panel\20040037arb.wpd ALLEGATION REVIEW BOARD DISPOSITION RECORD

Allegation No.:	RI-2004-A-0037	Branch Chief (AOC):	Glenn Meyer				
Site/Facility:	Salem/Hope Creek	Acknowledged:	Yes		No	X	N/A
ARB Date:	April 1, 2004	Confidentiality Granted:	Yes		No	X	

Issue Discussed:

1. Winston & Strawn performed an inadequate SCWE investigation. According to documents obtained by NRC Region I during the course of ongoing investigations, PSEG Nuclear sent a letter last August to an individual that, among other things, reported that the investigation conducted by Winston & Strawn concluded there were no SCWE issues at Salem and Hope Creek. Obviously, the SCWE was not fine between March and August 2003 only to be in the bottom quartile when Synergy evaluated it in December 2003. Further indications that Winston & Strawn's investigation was inadequate also appear in information, also provided to NRC Region I during the course of ongoing investigations, that Winston & Strawn (a) crafted questions apt to yield positive responses and (b) turned off the tape recorder and/or stopped the transcription when interviewees began revealing material damaging to the supposition that SCWE was just dandy.

2. PSEG failed to submit a 10 CFR Part 21 notification regarding the inadequate services of Winston & Strawn. 10 CFR Part 21 requires licensees to notify the NRC about deficient products and services from a vendor that (a) adversely affect safety and (b) might also be provided to other nuclear power plant licensees. In this case, PSEG Nuclear's statements on March 18th indicate that the SCWE results from Synergy et al diametrically oppose the results from Winston & Strawn last year, as reported in the August 2003 PSEG letter to the individual. Thus, PSEG is aware now that it received deficient services from a vendor; namely, the inadequate SCWE investigation by Winston & Strawn. Had Winston & Strawn conducted an adequate investigation, PSEG would have been apprised of its SCWE problems earlier and would likely have made further progress to date addressing them. PSEG must also be aware that SCWE can adversely affect safety. It was mentioned a time or two or more during the March 18th meeting. And a deficient SCWE was largely responsible for the RED finding publicly issued by NRC to Davis-Besse's owner. RED findings denote a matter of considerable safety significance. Finally, PSEG must know that Winston & Strawn provides similar services to other nuclear power plant owners. PSEG had a legal obligation to report the deficient service it received from Winston & Strawn to the NRC via a 10 CFR 21 report, but failed to properly discharge this obligation.

Alleger contacted prior to referral to licensee?	Yes		No		N/A	X	
--	-----	--	----	--	-----	---	--

ALLEGATION REVIEW BOARD DECISIONS:

Attendees:

Chair:	Blough	Br. Chief (AOC):	Meyer	SAC:	Vito
Ol Rep:	Wilson	RI Counsel:	Farrar	Others:	Barber, Crlenjak

Disposition Actions:

(List actions for processing and closure. Note responsible person(s), form of action closure document(s), and estimated completion dates.)

1. Acknowledgment letter			
Responsible Person:	SAC	ECD:	4/6/04
Closure Documentation:		Completed:	
2. Review the applicability of 10 CFR 21 in assessing whether the services provided by a legal firm for an internal SCWE review should be considered under 10 CFR 21. Provide documentation of assessment to SAC for file. SAC will obtain feedback from vendor inspection staff in HQ.			
Responsible Person:	Regional Counsel/OGC	ECD:	5/3/04
Closure Documentation:		Completed:	
3. Repanel after 10 CFR 21 review is complete.			

109
f

Responsible Person:	SAC	ECD:	5/13/04
Closure Documentation:		Completed:	

SAFETY SIGNIFICANCE ASSESSMENT							
Provide narrative assessment of safety significance; should be commensurate with estimated action plan completion dates.							
The initial safety significance of this issue is low because the underlying issues being described are an integral part of NRC SCWE review.							
PRIORITY OF OI INVESTIGATION							
High		Normal		Low			
If potential discrimination or wrongdoing and OI is not opening a case, provide rationale here (e.g. no prima facie, lack of specific indication of wrongdoing):							
Rationale used to defer OI discrimination case (DOL case in progress):							
ENFORCEMENT STATUTE OF LIMITATIONS CONSIDERATION (only applies to wrongdoing matters (including discrimination issues) that are under investigation by OI, DOL, or DOJ):							
What is the potential violation and regulatory requirement?							
When did the potential violation occur?							
(Assign action to determine date, if unknown) Once date of potential violation is established, SAC will assign AMS action to have another ARB at four (4) years from that date, to discuss enforcement statute of limitations issues.							
NOTES: (Include other pertinent comments. Also include considerations related to licensee referral, if appropriate. Identify any potential generic issues)							

Distribution: Panel Attendees, Regional Counsel, OI, Responsible Individuals (original to SAC)

ARB MINUTES ARE REVIEWED AND APPROVED AT THE ARB