



UNITED STATES  
NUCLEAR REGULATORY COMMISSION

REGION I  
475 ALLENDALE ROAD  
KING OF PRUSSIA, PA 19406-1415

April 5, 2005

N. Kym Harvin, Ph.D.  
[REDACTED]

RI-2003-A-0110

Subject: Concerns You Raised to the NRC Regarding Salem/Hope Creek

Dear Dr. Harvin:

The NRC Region I office has completed its follow up in response to the concerns you provided to us in September 2003 regarding the Salem and Hope Creek Generating Stations (the Stations). Since the September 2003 time frame, you have had several conversations with me and other members of the NRC staff, including a transcribed interview on September 9, 2003, and a meeting with staff in the Region I Office on August 18, 2004. You have provided the NRC with a significant amount of information related to your concerns and we thank you for all of the information that you have provided.

Your concerns involved the work environment for raising safety issues at the Stations, potential discriminatory action against you, and [REDACTED] PSEG management. We initially acknowledged your concerns in a letter dated October 16, 2003, and sent you letters on April 16, 2004, July 30, 2004, and November 12, 2004, which provided the status of our review. As noted in our letter to you dated July 30, 2004, we substantiated your concern that the work environment needed to be improved at the Stations (Allegation RI-2003-A-0110, Concern 1). In fact, our August 30, 2004 mid-cycle assessment letter concluded that a substantive cross-cutting issue in the safety conscious work environment (SCWE) existed at the Stations, and described NRC plans for increased oversight of the Stations. The NRC will continue to monitor PSEG's performance and its efforts to improve the work environment at the Stations until PSEG has concluded that substantial, sustainable progress has been made, and the NRC completes its review to confirm PSEG's assessment results. JC

Regarding your concern that discriminatory action was taken against you, you alleged that your former position as a Principal Organizational Development Specialist at Salem/Hope Creek was eliminated, and that your last day of work was subsequently moved up because you raised safety concerns. We have completed our investigation of the matter and have concluded that the evidence obtained by our Office of Investigations (OI) does not show that you were discriminated against for having engaged in NRC protected activity. Our basis is described in detail in Enclosure 1 to this letter and in our letter to PSEG dated April 5, 2005 (Enclosure 2). JC

[REDACTED]

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FOIA-2005-194

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We acknowledge that it has taken a considerable amount of time to complete our review of the last two concerns. Our initial focus in responding to your concerns was to complete our review of the work environment at the Stations due to its more immediate potential impact on the safe operation of the Stations. The SCWE review involved significant dedication of time and personnel resources. Additionally, it was necessary during the course of our review to reassign your discrimination concern to another OI investigator because the first OI investigator assigned to your case left the employment of the NRC.

Again, we thank you for all of the information you have provided to the NRC in support of our reviews of your concerns involving the Stations. If I can be of further assistance at this time, please call me via the NRC Safety Hotline at 1-800-695-7403.

Sincerely,

David J. Vito  
Senior Allegation Coordinator

Enclosures: As Stated

**Concern 1: Safety Conscious Work Environment**

The results of the NRC's review of this matter were provided in a previous letter to you dated July 30, 2004.

**Concern 2: Alleged Discrimination**

You stated that your employment was terminated after raising concerns to the [REDACTED] and subsequently to the [REDACTED] via a letter dated March 25, 2003, about the work environment for raising safety issues at Artificial Island. A subsequent Artificial Island ECP investigation was conducted, which concluded that you were not discriminated against, but rather that your position was eliminated.

More specifically, you indicated that you were called to a meeting with the [REDACTED] on February 26, 2003, purportedly to discuss "your bonus." However, after discussing your work environment concerns with the [REDACTED] you were informed that your employment was to be terminated. You indicated that you were initially told that you could stay on board until April 16, 2003, but later learned that immediately after speaking with the [REDACTED] again on March 20, 2003, he directed that your departure be "accelerated."

You added that after being informed that your departure would be accelerated, you submitted a letter to the CEO dated March 25, 2003, reiterating your concerns about the work environment at Artificial Island, and describing the retaliatory action against you. You indicated that you were contacted the following day (March 26, 2003) by the Human Resources Site Manager, who informed you that the [REDACTED] wanted you "out by Friday" (March 28, 2003). You left the site on March 28, 2003. You feel that this was additional retaliation for writing the letter to the CEO.

Regarding the ECP investigation conclusion that your position was eliminated and that you were not discriminated against, you indicated that after your departure, people were brought in immediately to perform the function you were performing.

**Response to Concern 2:**

The NRC, based on an investigation (Case No. 1-2003-045) conducted by the Region I Field Office of the NRC Office of Investigations (OI), has determined that there was insufficient evidence to prove that you were discriminated against for having engaged in NRC protected activity.

Concerning the elimination of your position as a Principal Organizational Development Specialist at Salem/Hope Creek, the evidence indicates that you voluntarily transferred from PSEG Corporate to this position in the Nuclear organization at the Station with the understanding that there were no guarantees that your assignment would extend beyond 2002. Although the [REDACTED] did not inform you that your position was eliminated until February 26, 2003, the evidence indicates that the [REDACTED] made this decision in the fourth quarter of 2002, and that he did so for budgetary reasons.

In the Fall of 2002, a consultant study found that PSEG Nuclear's staffing numbers were excessive. To come more in line with the rest of the industry, the former Director of Strategic Planning and Finance proposed eliminating jobs throughout PSEG Nuclear. To support that

plan, nine staff positions, including yours, were eliminated. As further evidence of PSEG Nuclear's desire to cut costs in and around the Fall of 2002, the [REDACTED] terminated a consulting contract that did work similar to work you performed. It was noted that 65 additional positions were eliminated later in 2003 as part of the PSEG Nuclear downsizing effort. Based on the above, the OI investigation found that the decision to eliminate your position was based on business reasons.

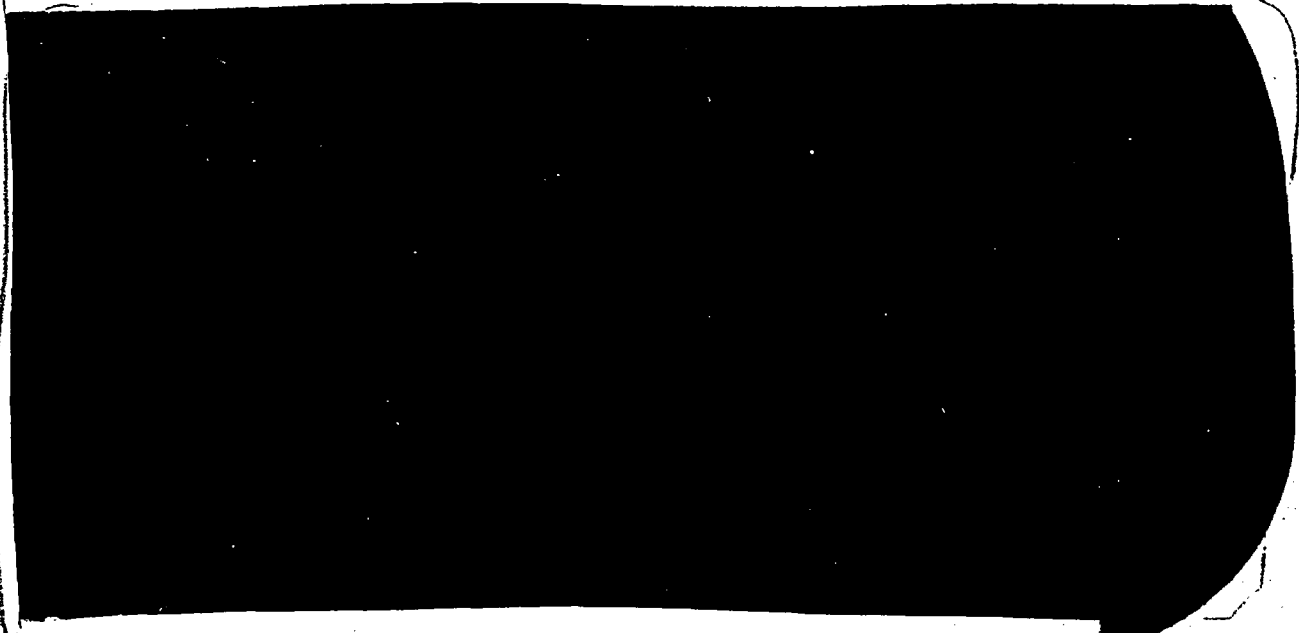
Concerning the decision to accelerate your employment termination date from April 16, 2003, to March 28, 2003, the evidence indicates that the VP of Corporate Human Resources (HR) was the individual primarily responsible for this decision, and on March 18, 2003, she specifically tasked the Senior HR Client Consultant to move your last day of employment to March 21, 2003. However, due to work schedule conflicts, the Senior HR Client Consultant was unable to inform you until March 24, 2003, of the decision to change your employment termination date.

Based on your taped conversation with the Senior HR Client Consultant on March 24, 2003, we understand why you may have felt that the former CNO made the decision to move up your last day of work. However, investigation testimony corroborates that Corporate HR individuals made the decision to move up your last day of employment. OI was unable to elicit any testimony or obtain relevant documentation to show that these individuals from Corporate HR were aware that you had raised safety concerns. Therefore, a violation of 10 CFR 50.7 (the NRC employee protection regulation) did not occur. Additionally, when the Senior HR Client Consultant informed the [REDACTED] of the plan to accelerate your termination date, the [REDACTED] agreed only after being assured that you would receive all compensation and opportunities promised to you in your separation letter. The investigation also identified that you were offered a job on site as an HR Consultant, which you declined.

The evidence developed during the investigation indicates that on March 18, 2003, the VP of Corporate HR and the Director of HR decided to move up your last day of employment, unaware that you had engaged in protected activity, and directed the Senior HR Client Consultant to deliver the message. In addition, there was no evidence developed to support your assertion that the [REDACTED] was part of, or had any role in the decision to eliminate your position or move up your last day of work.

You also asserted that people were brought in to perform your function immediately after your position was eliminated. Although a contract was issued in February 2003, the contract, as written, did not appear to request change management/cultural change type work. In addition, the investigation identified other contractors performing what might have been considered organizational development activities, but one contract was issued in November 2003, and three other contracts were issued in 2004, well after your position was eliminated. As such, the evidence indicates that people were not brought in to perform your function immediately after your position was eliminated.

Based on the above, the NRC was unable to conclude that you were discriminated against for engaging in protected activities. Please note that final NRC documents, such as the OI report described above, may be made available to the public under the Freedom of Information Act (FOIA) subject to redaction of information appropriate under FOIA. Requests under the FOIA should be made in accordance with 10 CFR 9.23, Request for Records, a copy of which is attached for your information.



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