

From: Richard Urban ^{RI}
To: Arrighi, Russell; Jarriel, Lisamarie ^{OE}
Date: 3/31/05 2:14PM
Subject: Salem/Hope Creek Letters

As promised, attached are the revised letters for Frank's concurrence. These letters have been recirculated thru Region I, and all parties agree with the changes. We plan to issue these letters on April 5, 2005. Let me know when we have HQ concurrence. Thanks.

CC: Holody, Daniel

Information in this record was deleted
in accordance with the Freedom of Information
Act, exemptions 7C
FOIA- 2005-194

5-57

April 5, 2005

Mr. William Levis
Senior Vice President and Chief Nuclear Officer
PSEG Nuclear LLC - N09
P. O. Box 236
Hancocks Bridge, NJ 08038

RI-2003-A-0110

SUBJECT: NRC OFFICE OF INVESTIGATIONS CASE NOS. 1-2003-045 AND 1-2004-002

Dear Mr. Levis:

The Region I Field Office of the NRC Office of Investigations (OI) initiated an investigation on September 8, 2003 (Case No. 1-2003-045) to determine whether a former Principal Organizational Development Specialist at Salem/Hope Creek was subjected to discrimination. Specifically, the former Principal Organizational Development Specialist claimed that her position was eliminated and last day of work moved up from April 16, 2003 to March 28, 2003, by a former Chief Nuclear Officer (CNO) for having raised safety conscious work environment issues and other safety concerns to the former CNO and the Chairman of the Board. Based on the results of the OI investigation, the NRC has concluded that there was insufficient evidence to demonstrate that the former CNO eliminated this individual's position or moved up her last day of work because of engagement in NRC protected activity.

With respect to the elimination of the Principal Organizational Development Specialist's position, the evidence indicated that the individual took the assignment voluntarily with the understanding that there were no guarantees that the assignment would extend beyond 2002, and that the former CNO's decision to eliminate the position was based on budgetary reasons. With respect to moving up this individual's last day of work, the evidence indicated that the decision was made by Corporate Human Resources (HR) personnel, who instructed the Senior HR Client Consultant to deliver the message to the individual on March 18, 2003. However, due to work schedule conflicts on the part of the Senior HR Client Consultant, the individual was not informed until March 24, 2003. OI was unable to elicit any testimony or obtain any relevant documentation to show that the HR personnel involved in this decision were aware that she had raised safety concerns.

The Region I OI Field Office also initiated an investigation on January 8, 2004 (Case No. 1-2004-002) to determine whether a Salem Assistant Operations Manager (AOM) deliberately violated a technical specification required plant procedure and/or NRC regulations on September 22, 2002, by manually closing a valve to isolate a steam leak without the required approval and/or knowledge of the control room staff. Based on the results of the OI investigation, the NRC has concluded that the AOM did not willfully violate procedures or NRC requirements when he closed the valve.

With respect to the latter issue, testimony obtained by OI and a review of interview notes from

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the Artificial Island Employee Concerns Program (ECP) investigation revealed that some of the control room staff knew that the AOM was going to close the valve. In addition, the Operations Superintendent (OS) testified that he recalled the AOM saying that he was either going to close the valve or look to see if it could be closed. The AOM testified that he believed that his communication to the OS was clear, but recognized in hindsight that his communication did not meet his own expectations. As a result, the NRC concluded that the communications between the OS and AOM were not in accordance with normal control room communication procedures and practices. The evidence indicated that there was confusion, a lack of understanding, and inadequate communications between the AOM and on-shift personnel, including the OS. Confusion, a lack of understanding and inadequate communications are inconsistent with proper command and control attributes. PSEG Management Directive NC.NA-ME.ZZ-0015(Z), "Shift Management Responsibility for Station Operation (Technical Specification 6.1.2)," states that the OS is responsible for ensuring proper command and control during all planned evolution and upset conditions. On September 21 and 22, 2002, as a result of the confusion, a lack of understanding and inadequate communications, the OS did not ensure proper command and control during the Salem Unit 2 steam leak event. The failure to ensure proper command and control is a violation of Management Directive NC.NA-ME.ZZ-0015(Z). For the particular circumstances involved in the 2002 event, we have determined that the violation was of minor significance because it was not willful, had no impact on safety equipment and caused no safety consequences. Therefore, the violation is not subject to enforcement action in accordance with Section VI of the NRC Enforcement Policy.

The investigative results discussed in this letter are related to, but are separable from, the broader work environment issues that were the subject of an NRC special review in 2003 - 2004. As you know from our letters dated January 28, July 30, and August 30, 2004, the NRC special review substantiated broad-ranging issues associated with the work environment at the Salem and Hope Creek stations, and consequently, the NRC is supplying heightened oversight at the facilities. The above noted investigation results do not alter any of the prior NRC conclusions on the broader issues of work environment, and the NRC continues to consider it important that PSEG effectively address those issues. As such, the NRC will continue to monitor PSEG's performance and its efforts to improve the work environment at the Salem and Hope Creek stations until PSEG has concluded that substantial, sustainable progress has been made, and the NRC completes its review to confirm PSEG's assessment results.

Please note that final NRC documents, such as the OI reports described above, may be made available to the public under the Freedom of Information Act (FOIA) subject to redaction of information appropriate under the FOIA. Requests under the FOIA should be made in accordance with 10 CFR 9.23, Requests for Records, a copy of which is attached for your information.

Also, in accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosure, and your response, if any, will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of

Mr. William Levis

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NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at

Mr. William Levis

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RI-2003-A-0110

Should you have any questions regarding this letter, please feel free to contact Mr. E. Cobey of my staff at (610) 337-5171.

Sincerely,

A. Randolph Blough, Director
Division of Reactor Projects

Enclosure: As Stated

Docket Nos. 50-272; 50-311
License Nos. DPR-70; DPR-75

T. Joyce, Site Vice President - Salem
G. Barnes, Site Vice President - Hope Creek
M. Brothers, Vice President Nuclear Assessment
M. Gallagher, Vice President, Engineering and Technical Support
W. F. Sperry, Director Business Support
C. Perino, Director - Regulatory Assurance
C. J. Fricker, Salem Plant Manager
M. Massaro, Hope Creek Plant Manager
J. J. Keenan, Esquire
M. Wetterhahn, Esquire
F. Pompper, Chief of Police and Emergency Management Coordinator
J. Lipoti, Ph.D., State of New Jersey, Ass't Director Radiation Protection & Release Prevention
K. Tosch - Chief, Bureau of Nuclear Engineering, NJ Dept. of Environmental Protection
H. Otto, Ph.D., DNREC Division of Water Resources, State of Delaware
Consumer Advocate, Office of Consumer Advocate
N. Cohen, Coordinator - Unplug Salem Campaign
W. Costanzo, Technical Advisor - Jersey Shore Nuclear Watch
E. Zobian, Coordinator - Jersey Shore Anti Nuclear Alliance

Mr. William Levis

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RI-2003-A-0110

Distribution:

F. Congel, OE

D. Vito, SAC

ADAMS (Docket Nos. 50-272; 50-311)

D. Screnci, PAO

Region I Docket Room (w/concurrences)

Region I Allegation File (RI-2003-A-0110)

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DATE	/ /05	/ /05	/ /05		

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April 5, 2005

16 N. Kymn 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. 7C

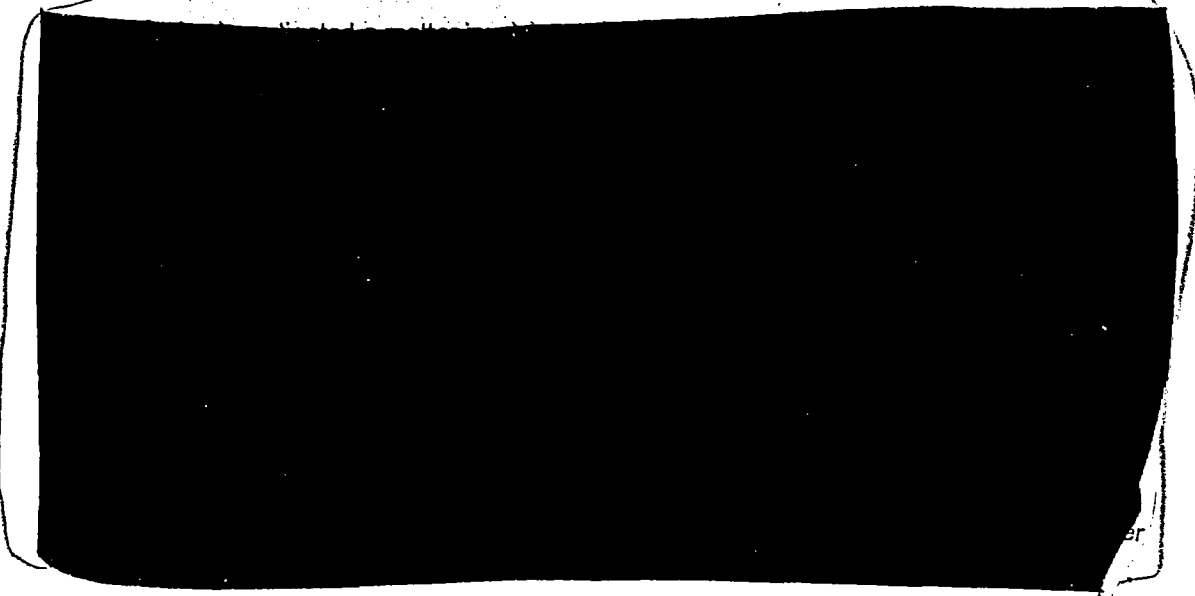
Regarding your concern that discriminatory action was taken against you, you alleged that your former position as a Principal Organizational Development Specialist at Salem/Hope Creek was eliminated, and that your last day of work was subsequently moved up because you raised safety concerns. We have 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).

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RETURN RECEIPT REQUESTED

N. Kymn Harvin, Ph.D.

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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

N. Kymn Harvin, Ph.D.

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RI-2003-A-0110

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ENCLOSURE 1

RI-2003-A-0110

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. 7C

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 Stations 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

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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. 7C

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 [REDACTED] 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. 7C

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.

[REDACTED]

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