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December 1, 1994

NOTE TO: T. Martin J. White D. Vito J. Lieberman, OE  
W. Kane K. Smith W. Lanning S. Barber  
D. Cooper J. Joustra

FROM: D. Holody

SUBJECT: OI REPORT NO. 1-93-021S (SALEM) ALLEGED HARASSMENT, INTIMIDATION AND DISCRIMINATION (HI&D)

On November 21, 1994, I distributed OI Report 1-93-021S which found HI&D in 1992 and 1993 by then Salem management against two members on the onsite Safety Review Group (SRG), namely, a Senior Staff Engineer, and a Safety Review Engineer. Specifically, the OI investigation report (which was referred to DOJ), found that:

1. the engineers were harassed/intimidated by the then Salem Operations Manager and General Manager, specifically:
  - a. on December 3, 1992, when the two engineers attempted to process a safety issue in an incident report, in accordance with station procedures, involving the qualification of commercial grade air supply setpoint pressure regulators which control the service water flow to the containment fan cooling units (also note that at the end of a meeting in the General Manager's office, the GM told the individuals to get out of his office and threatened to have them removed from the site);
  - b. and subsequently when attempts were made (including via a letter from the then General Manager, Salem to the General Manager, QA and Nuclear Safety Review) to have the engineers removed from any direct involvement with the site.
2. the Senior Staff Engineer was harassed and intimidated by the then General Manager, QA and Nuclear Safety Review, who attempted to reprimand the engineer for the handling of the safety issue, while the issue of the engineer's site access was still unresolved (also note that the General Manager, QA drafted a letter to the individual containing language of a reprimand nature, although it was not sent).

Subsequently, OI provided the attached supplemental report (1-93-021S), dated November 22, 1994, concerning whether an additional instance of HI&D occurred against the Senior Staff Engineer. Specifically, the Senior Staff Engineer, in a complaint to DOL, alleged that the company had denied him compensation and promotion to the level of others performing the same function based on his practice of speaking up on matters judged to adversely affect nuclear safety and the requirements. While OI notes that it has closed this case since it has been assigned a normal priority (after the OI prioritization meeting on October 17, 1994), I note that the DOL District Director (DD) had found in the individual's favor, noting that a position that the individual had been filling was approved for permanent status on January 26, 1993, after being denied previously on two occasions. DOL also indicated that because the Senior Staff Engineer was the incumbent and a leading candidate for the position, and because the individual's immediate supervisor felt he was the leading candidate to fill the position, the company's failure to fill that position must be construed as a discriminatory action. The DOL DD had recommended that the individual, a Grade 4, be promoted to Grade 5, and be given restitution of backpay and legal expenses. While the company appealed that finding to a DOL ALJ, a settlement was subsequently reached between the parties and was approved by the Secretary of Labor on June 8, 1994.

Since a collegial meeting is scheduled with OE and other HQ offices for December 12 at 2:00 (preceded by an internal RI meeting at 10), I recommend that this DOL DD finding also be considered at that meeting. In addition to this supplemental OI report, I've also attached (1) the DOL Compliance Officer's Report (previously provided to the staff) which provides the basis for the DOL DD conclusion; and (2) the licensee's response to the chilling effect letter in which the licensee takes issue with the DOL DD conclusion.

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UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
OFFICE OF INVESTIGATIONS FIELD OFFICE, REGION I  
475 ALLENDALE ROAD  
KING OF PRUSSIA, PENNSYLVANIA 19406

November 22, 1994

MEMORANDUM TO: Thomas T. Martin, Regional Administrator  
Region I

FROM: Barry R. Letts, Director *[Signature]*  
Office of Investigations Field Office, Region I

SUBJECT: SALEM GENERATING STATION, UNITS 1 AND 2: ALLEGED  
HARASSMENT, INTIMIDATION, AND DISCRIMINATION (CASE  
NO. 1-93-021S)

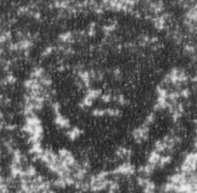
Enclosed, for whatever action you deem appropriate, is the Office of Investigations (OI) Report of Investigation concerning the above matter. Neither this memorandum nor the report may be released outside the NRC without the permission of the Director, OI. Internal NRC access and dissemination should be on a need-to-know basis. Treat as "Official Use Only."

Enclosure:  
Report w/exhibits

cc w/encl:  
J. Weddle, OI:HQ

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United States  
Nuclear Regulatory Commission



# Report of Investigation

SALEM GENERATING STATION UNITS 1 AND 2

ALLEGED HARASSMENT, INTIMIDATION, AND  
DISCRIMINATION

Office of Investigations

Reported by OI: RI

Title: SALEM GENERATING STATION, UNITS 1 AND 2:  
ALLEGED HARASSMENT, INTIMIDATION, AND DISCRIMINATION

Licensee:

Public Service Electric and Gas Company  
P.O. Box 236  
Hancocks Bridge, New Jersey 08038

Docket Nos.: 50-272/311

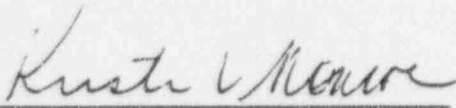
Case Number: 1-93-021S

Report Date: November 9, 1994


Control Office: OI:RI

Status: CLOSED

Reported by:

  
Kristin L. Monroe, Investigator  
Office of Investigations  
Field Office, Region I

Reviewed and Approved by:

  
Barry R. Letts, Director  
Office of Investigations  
Field Office, Region I

**WARNING**

The attached document/report has not been reviewed pursuant to Title 10 CFR Subsection 2.790(a) exemptions nor has any exempt material been deleted. Do not disseminate or discuss its contents outside NRC. Treat as "OFFICIAL USE ONLY."

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## SYNOPSIS

On October 4, 1994, the Office of Investigations (OI), U.S. Nuclear Regulatory Commission (NRC), Region I, King of Prussia, Pennsylvania, initiated an investigation into the alleged harassment, intimidation, and discrimination (HI&D) of a former Senior Staff Engineer, Salem Generating Station (SGS), Public Service Electric and Gas Company (PSE&G), for raising nuclear safety concerns.

After a preliminary review of this matter and coordination with the Regional Administrator, it has been determined that this matter is a normal priority. Due to OI:RI pursuing investigations with higher priorities, this matter is being closed.

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## ACCOUNTABILITY

The following portions of this Report of Investigation (Case No. 1-93-021S) will not be included in the material placed in the PDR. They consist of pages 3 through 11.

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APPLICABLE REGULATIONS

Allegation: Harassment, Intimidation, and Discrimination of a Former Senior Staff Engineer

10 CFR 50.5: Deliberate misconduct (Editions 1992 through 1994; Effective September 16, 1991)

10 CFR 50.7: Employee protection (Editions 1989 through 1994)

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## DETAILS OF INVESTIGATION

### Purpose of Investigation

This investigation was initiated to determine whether Bert E. WILLIAMS, former Senior Staff Engineer, Onsite Safety Review Group (SRG), Nuclear Safety Review (NSR), Salem Generating Station (SGS), Public Service Electric and Gas Company (PSE&G), was harassed, intimidated, and discriminated (HI&D) against for raising nuclear safety concerns (Exhibit 1).

### Background

On December 3, 1992, WILLIAMS participated in writing an Incident Report (IR) that pertained to problems with the Containment Fan Coil Units (CFCUs) for SGS Units 1 and 2. Alleged harassment and intimidation of WILLIAMS occurred when WILLIAMS and Paul CRAIG, Safety Review Engineer, SRG, SGS, attempted to file the IR with Vincent POLIZZI, Operations Manager, SGS, and Cal VONDRA, General Manager, SGS. The alleged harassment and intimidation continued when POLIZZI prepared a memorandum, at the request of and for the signature of VONDRA, addressed to Lawrence REITER, former General Manager, Quality Assurance/NSR, SGS, and the third tier supervisor of WILLIAMS and CRAIG. The memorandum requested that WILLIAMS and CRAIG "... be removed from any direct or indirect involvement with Salem Station." OI opened case No. 1-93-021R and substantiated harassment and intimidation in that scenario (Exhibit 1).

In a memorandum dated May 27, 1993, to William CIANFRANI, On-Site Safety Review Engineer, NSR, SGS, WILLIAMS requested an increase in grade and salary. WILLIAMS based his request upon the fact that he had performed the same functions as the engineers his group, however, WILLIAMS' salary was less (Exhibit 2, p. 3). In a memorandum dated June 30, 1993, to WILLIAMS from Bruce E. HALL, Manager, NSR, WILLIAMS was informed that his request could not be granted because there was "no reasonable basis" for the request (Exhibit 2, pp. 4 and 5).

On July 15, 1993, WILLIAMS filed a complaint with the U.S. Department of Labor (DOL), alleging that PSE&G had denied him compensation and promotion to the level of others who performed the same function, because he had often been a "whistleblower" on matters affecting public safety at PSE&G (Exhibit 2, pp. 1 and 2).

In a letter dated October 19, 1993, to Steven MILTENBERGER, Vice President and Chief Nuclear Officer, PSE&G, from Richard C. RICHARDS, District Director, DOL, RICHARDS advised that DOL had found in favor of WILLIAMS. DOL determined that WILLIAMS was a protected employee who had engaged in a protected activity and that discrimination was a factor in the actions that comprised WILLIAMS' complaint (Exhibit 3, p. 1). PSE&G appealed that decision, but reached a settlement with WILLIAMS before going to a hearing.

### Interview of Allegor

On September 29, 1993, and June 13, 1994, WILLIAMS was interviewed concerning

his allegation of harassment, intimidation, and discrimination. WILLIAMS advised that he had reviewed [safety] issues that he had raised during the course of his career. WILLIAMS continued that it seemed to him that he had been penalized for raising the [safety] issues. WILLIAMS continued that there had been many references [in his performance appraisals] to his "unyielding attitude" (Exhibit 4, p. 92). WILLIAMS stated that he thought that performance appraisals had been used to "sandbag" him (Exhibit 4, p. 96). WILLIAMS advised that life with PSE&G safety review is intimidation. WILLIAMS continued that if an individual is not prepared to stand up and support a safety issue, then the issue should not be raised (Exhibit 5, p. 55).

#### Summary of Investigative Activity

During the course of the investigation, Scott GILLESPIE, WILLIAMS' former supervisor was interviewed (Exhibit 6). In addition, the reporting investigator reviewed various documents, including: the DOL narrative report regarding WILLIAMS' complaint (Exhibit 7); Professional/Technical Performance Planning Appraisals; and documents provided by WILLIAMS.

#### Coordination with NRC Staff

On October 17, 1994, the Field Office Director, OI:RI met with the Regional Administrator, NRC:RI to discuss the open OI:RI inventory. During a discussion of this investigation, the Regional Administrator indicated that this investigation should be a normal priority.

#### Closure Information

Based on a determination that this investigation is of a normal priority, higher priority cases take precedence and this case is being closed. If, at a future date, information is developed which raises the priority of this case, OI:RI will re-evaluate the matter.

## LIST OF EXHIBITS

<u>Exhibit No.</u>	<u>Description</u>
1	OI Investigation Status Record for OI Case No. 1-93-021S.
2	WILLIAMS' complaint to the DOL, dated July 15, 1993.
3	Letter dated October 19, 1993, to Steve MILTENBERGER, Vice President and Chief Nuclear Officer, PSE&G, from Richard C. RICHARDS, District Director, DOL.
4	Testimony of WILLIAMS, dated September 19, 1993.
5	Testimony of WILLIAMS, dated June 13, 1994.
6	Testimony of GILLESPIE, dated December 14, 1993.
7	Letter dated November 3, 1993, to Dan HOLODY, Enforcement Officer, NRC, from Dominick J. DENATO, Assistant District Director, DOL, forwarding DOL Narrative Report.