

EXHIBIT 5

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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OFFICE OF INVESTIGATIONS
INTERVIEW

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IN THE MATTER OF: :

INTERVIEW OF : Docket No.

[REDACTED] *nc* : 1-2003-010S

(CLOSED) :

-----X

Tuesday, October 14, 2003

Salem/Hope Creek Generating
Station
Processing Center
Artificial Island, New Jersey

The above-entitled interview was
conducted at 4:57 p.m.

BEFORE:

Special Agent Kristin Monroe, NRC/OI:RI

EXHIBIT 5
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APPEARANCES:

On Behalf of the Witness:

JEFF KEENAN, ESQ.

Associate General Solicitor

PSEG

P-R-O-C-E-E-D-I-N-G-S

(4:57 p.m.)

SPECIAL AGENT MONROE: All right. Today is Tuesday, October 14th, 2003, and the time is now 4:57 p.m.

This is an interview of [REDACTED] who is an [REDACTED] in the [REDACTED] [REDACTED] who is employed by PSEG at the Salem/Hope Creek Generating Stations on Artificial Island, New Jersey.

Effective September 29th, 2003, because of the restructuring at the site, [REDACTED] is no longer [REDACTED] direct supervisor. Also present for the interview this evening is Jeff Keenan, who is the Assistant General Solicitor for PSEG Salem/Hope Creek.

My name is Kristin Monroe, and I am a Special Agent with the NRC Office of Investigations, in King of Prussia, Pennsylvania. We are doing the interview at the processing center, which is at Salem/Hope Creek.

Now, [REDACTED] was previously interviewed on May 5th, 2003, about allegations that [REDACTED] made to the NRC earlier in the year that [REDACTED] was suffering a pattern of discrimination because [REDACTED] had raised some concerns.

That case was closed and is in the process

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1 for staff review, and because of the newest issue that
2 came to the attention of the NRC in September of 2003,
3 we opened a supplemental to disposition, and I will
4 read you specifically what this issue is.

5 The subject of the interview concerns an
6 allegation that [REDACTED] senior engineer at
7 Salem/Hope Creek, is continuing to be discriminated
8 against because [REDACTED] raised a safety concern in August
9 of 2002.

10 [REDACTED] believes that as a result of
11 raising that concern that [REDACTED] received an
12 unsatisfactory mid-year performance appraisal on
13 August 29th, 2003. Potential violations are still the
14 same; 50.5, which is deliberate misconduct, and 50.7,
15 which is entitled, "Employee Protections."

16 And when I interviewed you in May, I
17 explained that it was under oath and that you are
18 still under that requirement.

19 [REDACTED] I understand.

20 SPECIAL AGENT MONROE: And is it still
21 your preference to have Jeff Keenan represent you for
22 purposes of this interview?

23 [REDACTED] Yes, that's correct.

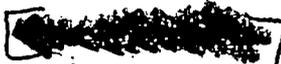
24 SPECIAL AGENT MONROE: Just explain to me
25 just generally what the mid-year performance appraisal

1 is, and if that differs in any way from what the
2 annual performance appraisal is as far as
3 requirements.

4  Okay. First it is an
5 employee performance appraisal system. We have a mid-
6 year performance appraisal, and it is meant as a
7 course adjustment opportunity. We look at an
8 employee's performance, and if there is areas that
9 need to be improved, changed, it is an opportunity to
10 discuss it with the employee and identify those areas
11 that need improvement.

12 The final performance appraisal at the end
13 of the year sums up the year's activities, with
14 emphasis on towards the end of the year behavior and
15 is a factor in your raises for the next year.

16 SPECIAL AGENT MONROE: Okay. I saw that
17 there were two sections. Section A, which is
18 entitled, "Core Job Performance Objectives," and
19 Section B, which is power behaviors. Would you
20 explain what a core job performance objective is?

21  A core job performance
22 objective is the part of an employee's goals for the
23 year that tie directly or an employee's activities
24 that can be directly tied to the business plan for the
25 company and the department. So it is our individual

1 tie and things we can influence tied to the business
2 plan.

3 SPECIAL AGENT MONROE: Okay. And what is
4 the power behaviors?

5  Power behaviors are a set of
6 behaviors created by our corporation that represent
7 key ways that we should behave that they believe will
8 result in an excellent corporation. So exceeding in
9 those behaviors should mean that we are doing well as
10 a corporation.

11 SPECIAL AGENT MONROE: Okay. Going right
12 to the essence here, I just want to point out first of
13 all that  overall performance rating for this
14 mid-year was satisfactory?

15  That's correct.

16 SPECIAL AGENT MONROE: That is on page 9
17 of 11. So that means that once everything was
18 balanced out, one is where you have been highly
19 competent, and one area where  was unsatisfactory,
20 resulted in an overall satisfactory?

21  That's correct.

22 SPECIAL AGENT MONROE: So if  stated to
23 the NRC that  received an unsatisfactory performance
24 appraisal for the mid-year is not accurate; is that
25 right?

1 [REDACTED] I agree that it is not
2 accurate.

3 SPECIAL AGENT MONROE: Okay. Now going to
4 page 8 of 11, and where [REDACTED] is specifically raising [REDACTED]
5 concern, it shows mid-year rating unsatisfactory, and
6 it is power behavior number 6. Engenders respect and
7 trust. Through character and competence, exhibits
8 trustworthiness. Treats others with respect and
9 trust. Seeks out the opinions of others, and
10 encourages open communications. So that is what [REDACTED] is
11 tasked with doing?

12 [REDACTED] Yes.

13 SPECIAL AGENT MONROE: How do you gather
14 data or observations to see if [REDACTED] is fulfilling
15 that one particular behavior, power behavior?

16 [REDACTED] Well, as a supervisor, you
17 can observe behaviors, hear feedback from others.
18 When I was [REDACTED] supervisor, we sat in an area that
19 was 30 foot by 30 foot, and I am within 15 feet of
20 him, and so it is easy to see my interactions directly
21 with [REDACTED] and [REDACTED] interactions with others, and
22 half the phone calls, and plus I get to see [REDACTED]
23 results to some degree also.

24 And essentially is [REDACTED] influencing others
25 to get their job done when necessary, and which could

1 be part of the respect and trust.

2 SPECIAL AGENT MONROE: Okay. You
3 indicated to me when I interviewed you that you
4 initially had a pretty good relationship with [REDACTED]
5 [REDACTED] I don't think you characterized it as
6 friends, but a good working relationship.

7 [REDACTED] That's right. We had a
8 professional working relationship, with appropriate
9 interactions.

10 SPECIAL AGENT MONROE: Exactly. And after
11 this NRC issue of raising safety concerns, it became
12 that [REDACTED] would not initiate any conversations, and [REDACTED]
13 would pretty much just answer a question as you asked
14 it.

15 [REDACTED] That's correct.

16 SPECIAL AGENT MONROE: That's how you
17 characterized it back in May.

18 [REDACTED] Right.

19 SPECIAL AGENT MONROE: Which seems to be
20 consistent with what your behavioral management
21 feedback was to [REDACTED] in August.

22 [REDACTED] Yes, the same behavior
23 continued. I would say hello and I would get a blank
24 stare. I would ask a question on a topic, and I would
25 get the briefest possible answer responding to that,

1 with no corollary discussions or the appropriate
2 interactions that I think a supervisor and employee
3 need to have, particularly when I am the leader of the
4 group, and need to influence the direction and tone of
5 the group.

6 If we are not having those discussions, it
7 is an inappropriate dictatorship that is not good for
8 the group.

9 SPECIAL AGENT MONROE: Okay. Prior to it
10 being documented on the mid-year, did you have any
11 discussions with [REDACTED] indicating that this is an
12 ongoing issue, and we are not having a good
13 communication, and was [REDACTED] aware of it I guess is my
14 point before reading this in August?

15 [REDACTED] We had one discussion, and
16 I can't zero in on the time frame, but it would have
17 been before this performance appraisal, when I said,
18 [REDACTED] we have got to get over this hurdle, and start
19 working together as professionals, and I had no
20 response to that, and things did not change after that
21 discussion.

22 SPECIAL AGENT MONROE: Okay. Did anybody
23 observe -- was Human Resources or anybody involved
24 during this conversation?

25 [REDACTED] No. I mean, there may have

1 been others in the group who heard it.

2 SPECIAL AGENT MONROE: Okay. And the best
3 way to time frame it, was it before or after I
4 interviewed you in May and you tried to approach this
5 with [REDACTED]?

6 [REDACTED] It would have been after
7 May.

8 SPECIAL AGENT MONROE: After May. Okay.
9 So [REDACTED] was aware of it and would not have been
10 surprised to see that documented in here for [REDACTED]

11 [REDACTED] No, I don't believe so.

12 SPECIAL AGENT MONROE: Now [REDACTED] recent
13 acceptance of the TARP assignment occurred with the
14 single word, fine, and which [REDACTED] followed up with a de
15 facto refusal via an e-mail, which stated a medical
16 restriction of duty that was known at the time of
17 acceptance.

18 Let me back up. I made a time line just
19 because both of us had not looked for a while, but on
20 [REDACTED] of last year, 2002 [REDACTED] was sent home on
21 decision making leave.

22 [REDACTED] Yes.

23 SPECIAL AGENT MONROE: And your
24 expectation was for [REDACTED] to come back on Monday, the
25 12th, and give you [REDACTED] decision on being on the TARP

1 team. [REDACTED] was actually out on sick leave or out on
2 leave for that week of the [REDACTED] [REDACTED] came back on the
3 19th and returned to work.

4 And your testimony was that [REDACTED] kind of
5 just said whatever, or whatever I have to do, and is
6 about as much of an acceptance that you could get. So
7 that was on August 19th.

8 And which [REDACTED] followed up with a de facto
9 refusal via an e-mail, and are you talking about
10 following up in the August 2002 time frame?

11 [REDACTED] It is a completely different
12 scenario.

13 SPECIAL AGENT MONROE: Okay.

14 [REDACTED] About a week before the e-
15 mail of August 14th, 2003, and which was roughly the
16 Monday before August 4th, I told [REDACTED] that it was time
17 for rotation of TARP positions, and it was now [REDACTED]
18 turn to be a TARP member again. At that point, [REDACTED]
19 response was fine.

20 Obviously the total response on that date,
21 and so that was an acceptance, and I assumed that [REDACTED]
22 was taking the job. A week later, I got this memo
23 saying I am unable to drive, and it is essentially
24 telling me that I cannot be on the TARP team, and so
25 it is essentially contradicting [REDACTED] acceptance of the

1 TARP team a week earlier.

2 So that is what I described as the de
3 facto refusal in an untimely way, since [REDACTED] clearly
4 knew that [REDACTED] was on the -- or was restricted at that
5 time point, and I just thought it was a less than
6 forthright way to deal with [REDACTED] supervisor. So it was
7 in my eyes an unsatisfactory behavior.

8 SPECIAL AGENT MONROE: Okay. Because when
9 [REDACTED] returned in August of 2002, [REDACTED] was sent back to a
10 return to work exam?

11 [REDACTED] Right.

12 SPECIAL AGENT MONROE: And then out of
13 that came the fact that [REDACTED] was on some medications and
14 we are not going to discuss what they are
15 specifically, but it would impact [REDACTED] ability to
16 respond to TARP. And did [REDACTED] make you aware of the
17 medications that [REDACTED] was on when he returned to work?

18 [REDACTED] In 2002?

19 SPECIAL AGENT MONROE: In 2002.

20 [REDACTED] Yes, in 2002, [REDACTED] made me
21 aware of those drugs. This has been over a year, and
22 it seemed reasonable to me to ask for -- well, I
23 shouldn't necessarily expect [REDACTED] to still be on a drug
24 that at the time was characterized as temporary for a
25 specific condition.

1 [REDACTED] did not mention it when I
2 offered [REDACTED] or proposed that [REDACTED] needed to be on TARP
3 again. So it came up in a memo, which I just did not
4 consider to be a behavior that engendered respect and
5 trust.

6 SPECIAL AGENT MONROE: Okay. You kind of
7 anticipated one of my questions. Did you ask [REDACTED] at
8 the time you made the -- telling [REDACTED] on August 4th
9 that it is time to rotate through, did you ask [REDACTED] if
10 [REDACTED] was still on any medication that would prohibit [REDACTED]
11 from accepting the assignment, or being able to
12 fulfill it?

13 [REDACTED] No.

14 SPECIAL AGENT MONROE: Any reason why you
15 would not have followed up with that?

16 [REDACTED] The response of fine to me
17 is an acceptance of the job with no restrictions.

18 SPECIAL AGENT MONROE: Okay. So that is
19 on August 4th of 2003.

20 [REDACTED] About a week before that.

21 MR. KEENAN: Yes, just to clarify. This
22 memo was August 14th, 2003. So what time frame were
23 you talking to [REDACTED]

24 [REDACTED] About a week before this
25 letter.

1 SPECIAL AGENT MONROE: I have a calendar
2 around here somewhere.

3 [REDACTED] I am not going to be able to
4 zero in on when.

5 SPECIAL AGENT MONROE: Okay. But it is
6 approximately a week before [REDACTED] sent you this e-mail?

7 [REDACTED] Right.

8 SPECIAL AGENT MONROE: Which leads you to
9 believe at the time that [REDACTED] accepted the assignment or
10 said fine.

11 [REDACTED] Yes.

12 SPECIAL AGENT MONROE: And [REDACTED] knew that [REDACTED]
13 was on the medication and wasn't going to be able to
14 accept it.

15 [REDACTED] Right.

16 SPECIAL AGENT MONROE: Had [REDACTED] declined it
17 on that time when you told [REDACTED] that it was time to
18 rotate through and said that I am still on this
19 medication, would the outcome in [REDACTED] mid-year
20 performance appraisal have been somewhat different?

21 [REDACTED] Yes.

22 SPECIAL AGENT MONROE: And in what way
23 would it have been different?

24 [REDACTED] I would not have mentioned
25 the -- well, it would not have been discussed here.

1 SPECIAL AGENT MONROE: Okay. If [REDACTED] had
2 been up front and said that I am still on it and I
3 still can't take the assignment, then that would have
4 been the end of it?

5 [REDACTED] That's correct. And my
6 response still would have been please have this
7 recertified with medical since it has been over a
8 year.

9 SPECIAL AGENT MONROE: Okay. And that is
10 what [REDACTED] did, [REDACTED] had to go back and have it
11 recertified, I guess, in August?

12 [REDACTED] I asked [REDACTED] to do that and
13 that was the reason of the e-mail, and I have had no
14 further contact with either [REDACTED] or the medical
15 department. And as soon as I say go to medical, I am
16 out of the decision process until they give me an
17 answer.

18 SPECIAL AGENT MONROE: Right. And then
19 the bullet -- this repeat behavior shades the core of
20 this behavior. What does that mean?

21 [REDACTED] Well, [REDACTED] did it in 2002 in
22 my eyes, and in our discussion on [REDACTED] return to work,
23 [REDACTED] said, yes, I am available for TARP, and then 8
24 hours later, or 6 hours later, I get a phone call
25 saying that I am not fit for duty.

1 SPECIAL AGENT MONROE: Because I am on the
2 medication.

3 [REDACTED] Right.

4 SPECIAL AGENT MONROE: Okay. [REDACTED]
5 behavior is a significant oppression of open
6 communication. What do you mean by that?

7 [REDACTED] I guess I didn't select the
8 right word, but the intent I was trying to state was
9 that [REDACTED] is oppressing open communication. I mean,
10 just [REDACTED] refusal to talk to me resulted in our not
11 having dynamic group discussions, open discussions of
12 alternatives. It just essentially put a damper on the
13 improvement of the entire group in my judgment.

14 SPECIAL AGENT MONROE: Okay. Were other
15 people aware of the non-communicative nature?

16 [REDACTED] Oh, absolutely. I can
17 remember the first time that [REDACTED] had actually said a
18 couple of sentences to me, and a guy in the group
19 commented that is the first time I have heard [REDACTED]
20 said two sentences to [REDACTED] in a year, and so it was
21 well observed.

22 SPECIAL AGENT MONROE: Okay.

23 [REDACTED] And in this overall -- you
24 know, the area that I truly found unsatisfactory as I
25 stated was [REDACTED] interaction with me. So that behavior

1 of just not talking with me was the unsatisfactory
2 part.

3 SPECIAL AGENT MONROE: Okay.

4 [REDACTED] And I added the second
5 paragraph as some evidence or example of that.

6 SPECIAL AGENT MONROE: Okay. I understand
7 that. Now, because [REDACTED] received an unsatisfactory on
8 this particular power behavior, what does [REDACTED] have to
9 do other than that [REDACTED] wrote that I disagree with the
10 feedback and believe the facts do not support his
11 conclusions.

12 [REDACTED] Let's put this one section
13 in context. There is two sections. In [REDACTED] case,
14 they each count for 50 percent. In fact, my entire
15 group, we can even have differences in how sections
16 are weighted.

17 SPECIAL AGENT MONROE: Are weighed you
18 mean?

19 [REDACTED] Yes. And from my entire
20 group, the core job performance objectives and the
21 power behaviors were both worth 50 percent.

22 SPECIAL AGENT MONROE: Okay.

23 [REDACTED] And that is indicated there.
24 Each of the power behaviors represents one-eighth of
25 the total power behaviors score.

1 SPECIAL AGENT MONROE: So it is one-eighth
2 of 50 percent?

3 [REDACTED] Yes, and so it boils down to
4 a little over 6 percent that this section represents.

5 SPECIAL AGENT MONROE: Okay.

6 [REDACTED] Again, the mid-year is a
7 course correction opportunity, and I think I presented
8 this to [REDACTED] that way, and I said that prompt
9 improvement of these behaviors is required in my wrap
10 up at the end.

11 I had proposed to [REDACTED] that [REDACTED] still has
12 an opportunity to do very well, but just needs to
13 change [REDACTED] behaviors.

14 SPECIAL AGENT MONROE: Okay. So because
15 [REDACTED] got one unsatisfactory in that power behavior that
16 is one-eighth of 50 percent, this does not set [REDACTED] on
17 the course for termination?

18 [REDACTED] Hardly. It is not even a
19 pimple on the road to termination.

20 SPECIAL AGENT MONROE: Okay. Because [REDACTED]
21 feels that [REDACTED] is on the road. Was there any
22 discussion with [REDACTED] that this might lead to [REDACTED]
23 termination of [REDACTED] employment?

24 [REDACTED] No, no discussion. The only
25 discussion that we had was that it is mid-year and you

1 need to change your course, and you need to properly
2 change and you have a good chance for having a good
3 performance review at the end of the year.

4 SPECIAL AGENT MONROE: And no mention of
5 termination to [REDACTED] in any way?

6 [REDACTED] Not at all. It was a
7 positive mid-year performance review, and where I
8 emphasized that [REDACTED] needed to change some things, and
9 it was at a time when I was pretty sure I wasn't [REDACTED]
10 supervisor, and I emphasized that [REDACTED] has a new
11 opportunity with a fresh supervisor, and if [REDACTED] flies
12 right, [REDACTED] should do well.

13 SPECIAL AGENT MONROE: Okay. And the new
14 supervisor was [REDACTED]

15 [REDACTED]
16 SPECIAL AGENT MONROE: And did you have
17 any discussion with [REDACTED] about [REDACTED] past
18 refusal to take the TARP assignment, or are you just
19 letting [REDACTED] observe [REDACTED] on [REDACTED] own?

20 [REDACTED] I gave [REDACTED] a very global
21 overview of the trouble and [REDACTED] has no details.

22 SPECIAL AGENT MONROE: Okay. What would
23 your global overview be?

24 [REDACTED] That [REDACTED] didn't accept our
25 TARP position and I have been working hard to get [REDACTED]

1 to take it.

2 SPECIAL AGENT MONROE: How long can you go
3 on not accepting an assignment? At some point in
4 time, is it going to become a larger performance issue
5 than it is?

6 [REDACTED] Well, [REDACTED] did accept it.

7 SPECIAL AGENT MONROE: Okay. [REDACTED] is
8 accepting it, but [REDACTED] is not doing it.

9 [REDACTED] A medical issue is
10 legitimate. I mean, we have got laws that protect us,
11 and I think we all have the same protection when we
12 have disabilities or issues.

13 SPECIAL AGENT MONROE: But how do you
14 distinguish if someone really has a disability or --

15 [REDACTED] I have to trust our medical
16 department and human resources department to make that
17 judgment.

18 SPECIAL AGENT MONROE: Okay. So you just
19 pass it on and saying that this is what [REDACTED] is still
20 on, and what is your assessment of it, and so it is
21 out of your hands then?

22 [REDACTED] Right. Yes.

23 SPECIAL AGENT MONROE: Okay. [REDACTED] I have
24 asked you a number of questions. Is there something
25 that I may not have asked you specifically, or any

1 part of your testimony that you would like to clarify
2 at this point in time?

3 [REDACTED] I am okay with my testimony
4 and I have nothing to add.

5 SPECIAL AGENT MONROE: Okay. And as in
6 the past, we will make arrangements for you to review
7 the transcript for accuracy like we did before, and
8 that is part of the process. And again in closing
9 have I offered you any reward for your testimony?

10 [REDACTED] No.

11 SPECIAL AGENT MONROE: Did I threaten you
12 for your testimony?

13 [REDACTED] No.

14 SPECIAL AGENT MONROE: And did your
15 provide your testimony voluntarily?

16 [REDACTED] Yes, I did.

17 SPECIAL AGENT MONROE: And we will go off
18 at 5:16 p.m. Thanks.

19 (Whereupon, the Interview was concluded at
20 5:16 p.m.)

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NC portions

CERTIFICATE

This is to certify that the attached proceedings before the United States Nuclear Regulatory Commission in the matter of:

Name of Proceeding: Interview of



nc

Docket Number: 1-2003-010S

Location: Artificial Island, NJ

were held as herein appears, and that this is the original transcript thereof for the file of the United States Nuclear Regulatory Commission taken by me and, thereafter reduced to typewriting by me or under the direction of the court reporting company, and that the transcript is a true and accurate record of the foregoing proceedings as recorded on tape(s) provided by the NRC.

Paul Intravia

Paul Intravia
Official Transcriber
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