

Title: SALEM/HOPE CREEK

DISCRIMINATION AGAINST [REDACTED]
[REDACTED] FOR RAISING SAFETY CONCERNS

7C

Licensee:

Case No.: 2-2004-049

Salem/Hope Creek
PO Box 509
Hancocks Bridge, NJ 08038

Report Date: February 28, 2005

Control Office: OI:RII

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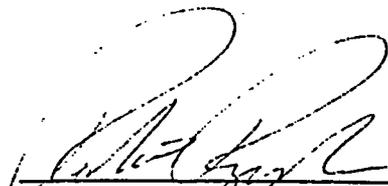
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SYNOPSIS

The U.S. Nuclear Regulatory Commission (NRC), Office of Investigations (OI), Region II (RII), initiated this investigation on October 5, 2004, to determine if [REDACTED] at the Public Service Electric and Gas's (PSE&G) Hope Creek Nuclear Plant (Hope Creek) was the subject of employment discrimination by his management for reporting safety concerns. nc

Based on the evidence developed during this investigation, the allegation that a [REDACTED] Hope Creek [REDACTED] was the subject of employment discrimination for reporting safety concerns was not substantiated.

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LIST OF INTERVIEWEES

Exhibit
No.

[REDACTED] Public Service Enterprise Group (PSEG) 2 *7C*

CAMPBELL, William J., Maintenance Manager, PSEG 14

KOPPEL, Peter J. Jr., Pump Engineer, PSEG 15

PRICE, Devon B., Refueling Outage Manager, PSEG 16

PYSHER, David, Facilities Manager, PSEG 17

TOCCI, Peter, Maintenance Manager, PSEG 19

[REDACTED] PSEG 18

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DETAILS OF INVESTIGATION

Allegation: Discrimination Against [REDACTED] for Raising Safety Concerns

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Applicable Regulation (2003 Edition)

10 CFR §50.7: Employee protection
10 CFR §50.5: Deliberate misconduct

Purpose of Investigation

The U.S. Nuclear Regulatory Commission (NRC), Office of Investigations (OI), Region II (RII), initiated this investigation on October 5, 2004, to determine if [REDACTED] at the Public Service Electric and Gas' (PSEG) Hope Creek Nuclear Plant (Hope Creek) was the subject of employment discrimination by his management for reporting safety concerns (Exhibit 1).

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Background

On August 30, 2003, [REDACTED] at the Hope Creek and Salem Generating Stations, informed the NRC RI allegations coordinator that he was discriminated against for identifying a problem regarding high vibrations in the Hope Creek "B" recirculating pump that resulted in a Level 1 Root Cause Evaluation in 2001. Specifically, [REDACTED] indicated that during an outage preparation meeting sponsored by senior plant management, he was asked what should be done to correct the high vibrations in the pump. [REDACTED] told the group that a complete makeover of the pump's rotating element was needed and would cost approximately 14 million dollars. [REDACTED] said that "loud discussions" then occurred, and [REDACTED] said that he would sponsor a Level 1 Root Cause/Notification. [REDACTED] stated he was not on the team that conducted the Root Cause Analysis. [REDACTED] advised [REDACTED] articulated that a "business decision" had been made to not perform the overhaul.

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[REDACTED] stated that in August 22, 2003, [REDACTED] regarding the lack of a quality Work Management Procedure (WMAP). [REDACTED] reported [REDACTED] reviewed the notification, and asked him [REDACTED] to re-draw the concern. According to [REDACTED] inappropriately downgraded the notification to "incomplete".

[REDACTED] indicated that he began work at Salem/Hope Creek in August 2001 as the [REDACTED]. In spring 2002, departments were reorganized and [REDACTED]

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[redacted] became the [redacted] indicated that after writing [redacted] under the "guise" of another reorganization, he [redacted] was not selected to retain his [redacted] as the [redacted] 7C
[redacted] Since March 2004, he has been the [redacted] at the [redacted]

Coordination with Regional Staff

On September 16, 2004, a RI Allegation Review Board (ARB) was held to discuss this issue. The ARB determined that [redacted] had articulated a prima facie showing of discrimination and that the Office of Investigations (OI) should initiate a high priority investigation. Specifically, the ARB, including the NRC RI Regional Counsel, determined that [redacted] On October 1, 2004, because of higher priority cases and because [redacted] this investigation was transferred from OI:RI to OI:RII for completion of fieldwork and subsequent investigation as necessary (Allegation No. RI-2004-A-0128). 7C

On October 19, 2004, OI:RII provided an Interview Report with [redacted] to Karl FARRAR, Regional Counsel, RI, for review to determine if [redacted] was engaged in protected activity. FARRAR advised [redacted] 5

Interview of Allegor [redacted] (Exhibit 2)

On October 7, 2004, OI:RII interviewed [redacted] in Decatur, AL. During the sworn, recorded interview [redacted] related the following information in substance:

[redacted] reported that his first line supervisor at the time of his termination was [redacted] Hope Creek, who in turn reported to [redacted] Hope Creek.

[redacted] stated he began working as the [redacted] in the Spring of 2002, and was not selected to retain the position after a company re-organization in November 2003 (Exhibit 2, p. 5) [redacted] explained that the re-organization was a result of PSE&G obtaining new senior management, and not a direct attempt to eliminate him [redacted] Exhibit 2, p. 6). 7C

[redacted] disclosed he did not initiate the root cause analysis for the Hope Creek "B" re-circulation pump, but he [redacted] identified the issue (Exhibit 2, pp. 9-10).

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[redacted] reported he did not initiate the issue or participate on a root cause team (Exhibit 2, p. 10). [redacted] explained that during a refuel outage preparation meeting he raised the pump issue, resulting in [redacted] directing that a root cause analysis be performed on the issue. [redacted] reported [redacted] received adverse action after participating in the root cause evaluation (Exhibit 2, pp. 13-15). [redacted] stated [redacted] did not agree with the findings of the root cause evaluation.

[redacted] stated that in August 2003, [redacted] pertaining to lack of a quality WMAP. [redacted] reported Hope Creek management, including Dave CAMPBELL, Mechanical Maintenance Manager, Hope Creek did not agree with his [redacted] issue (Exhibit 2, p. 20). [redacted] reported CAMPBELL expressed a belief that the notification was written to preserve [redacted] job (Exhibit 2, pp. 20-22).

[redacted] provided information that as a result of the 2003 re-organization he had to compete for his job, but as the incumbent, he [redacted] had priority (Exhibit 2, p. 23). [redacted] noted this priority was identified in the job announcement. [redacted] reported there was no interview process for his former position, and subsequently, he was not selected. [redacted] reported [redacted] was selected for his [redacted] former position. [redacted] noted [redacted] worked for [redacted] Hope Creek, and TOCCI was on the selection committee for the mechanical maintenance supervisor's position. [redacted] stated he was more qualified for the position than [redacted] (Exhibit 2, pp. 27-28).

[redacted] advised CAMPBELL, TOCCI, WAGNER, and David PYSHER, Modification Manager, Hope Creek, were on the selection board for his former position. [redacted] explained that CAMPBELL and WAGNER reviewed [redacted] (Exhibit 2, p. 31).

[redacted] stated [redacted] was issued electronically, and he was able to view managers reviewing the document. [redacted] reported CRISAFULLI reviewed the document, and agreed with the content (Exhibit 2, p. 32). In addition, Kirk DOTEN, took the notification to incomplete pending discussion with the [redacted] (Exhibit 2, p. 32). [redacted] noted [redacted] According to [redacted]

[redacted] stated he met with [redacted] regarding the notification, and [redacted] asked him [redacted] to cancel the notification, which [redacted] refused to do (Exhibit 2, p. 36). According to [redacted]

[redacted] reported he was told by TOCCI and CAMPBELL that he was not selected for the position as the [redacted] reported CAMPBELL

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thought [redacted] was warranted, but thought [redacted] motivation for writing the report was an effort to keep his [redacted] job (Exhibit 2, p. 40).

[redacted] advised he did not have job performance issues that would have kept him from being competitive for a job position with PSE&G.

Review of Documentation

During the course of this investigation, documents provided to OI:RII were reviewed. The documents deemed pertinent to this investigation are delineated in this section.

[redacted] 2002 Performance Partnership, undated (Exhibit 3)

This document indicated that [redacted]'s performance evaluation for the period reviewed by the selection team, 2002, was not completed by Donald CARPENTER, Jr., former Mechanical Maintenance Manager, Hope Creek.

Employee Information of CARPENTER, various dates (Exhibit 4)

This document identified that CARPENTER discontinued employment at PSEG on October 26, 2002. CARPENTER's separation from PSEG was presented as the reason [redacted] 2002 performance evaluation was not completed.

PSEG Managers/Superintendents Ratings, dated July 17, 2003 (Exhibit 5)

This document provides an overall rating for managers/superintendents for 2001-2003. According to this document, [redacted] scored a [redacted] on his 2002 rating.

[redacted] 2003 Mid-Year Performance Evaluation, dated September 3, 2003 (Exhibit 6)

This document reveals that [redacted] scored marginal on behavioral indicators. Although the 2003 mid-year evaluation was not prepared prior to the selection process for the [redacted] [redacted] the comments in the behavioral section of the evaluation identifies that [redacted] manager, CAMPBELL, a selection team member, had concerns with [redacted] behavioral values. 7c

PSEG letter to [redacted] dated November 8, 2002 (Exhibit 7)

This documents identifies that [redacted] was [redacted] Although this letter was not specifically identified by the members of the PSEG selection team reviewing [redacted] qualifications for retention, the letter documented [redacted] interaction with associates.

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Nuclear Re-organization Objectives, undated (Exhibit 8)

This document outlines the process and selection guidelines used by PSEG in hiring an employee for the [REDACTED]. The outline identifies that the incumbent, in the case [REDACTED] was to be considered first.

[REDACTED] undated (Exhibit 9)

This document identifies that the notification identified by [REDACTED] as a portion of his protected activity did not pertain to the WMAP.

[REDACTED] dated August 22, 2004 (Exhibit 10)

This document identifies the notification referred to by [REDACTED]. The date of the notification discloses the report was written after [REDACTED] non-selection occurred.

Root Cause Analysis, dated April 14, 2004 (Exhibit 11)

This document identifies the concern that [REDACTED] identified as one of his protected activities. The corrective action for the concern calls for replacement of the "B" pump shaft in re-fueling cycle 12 (RF-12).

Selection Template, dated July 29 - July 31, 2003 (Exhibit 12)

This document identifies the selection team members, the threshold total, guidelines for rating factors, and candidates's scores. The template disclosed that [REDACTED] scores did not meet the threshold score to qualify for either the [REDACTED]

The document identifies that [REDACTED]

PSEG letter, dated September 18, 2003 (Exhibit 13)

This letter reports that [REDACTED] was not selected for a position following a re-organization at PSEG.

Testimonial /Evidence

OI:RII interviewed the following individuals regarding the allegation [REDACTED] was the subject of employment discrimination for reporting safety concerns.

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Interview of Willaim J. CAMPBELL (Exhibit 14)

On January 11, 2005, CAMPBELL was interviewed by OI:RII in Salem, NJ. CAMPBELL provided the following information in substance.

CAMPBELL reported he was the Mechanical Maintenance Manager at Hope Creek from January 2003, until September 2003, and during that time he reported to Mark SHIMAL, Director of Maintenance, Hope Creek. CAMPBELL noted he managed [REDACTED] while serving as the [REDACTED]

CAMPBELL disclosed he wrote [REDACTED] performance evaluation for the first half of 2003. CAMPBELL reported [REDACTED] received an overall satisfactory evaluation. According to CAMPBELL, the evaluation consisted of two parts. The first part consists of core job performance objectives, and the second portion identified behaviors (Exhibit 14, p. 11). CAMPBELL characterized [REDACTED] as a lower than average performer because of behavioral issues (Exhibit 14, p. 14).

CAMPBELL reported [REDACTED] was the incumbent for a position at Hope Creek during the re-organization in 2003, but he was judged along with other managers at Hope Creek for a position (Exhibit 14, p. 28). CAMPBELL explained through the re-organization the best superintendents were being selected because some positions were being eliminated.

CAMPBELL stated the selection process included looking at different dimensions of an employee, scoring the evaluation, and taking the best scores. CAMPBELL disclosed a minium score was required to be competitive for the available positions (Exhibit 14, p. 29).

CAMPBELL reported how the selection team was chosen (Exhibit 14, p. 30). According to CAMPBELL, the plant vice president selected the plant managers, the plant managers chose the plant superintendents, and the superintendents chose the supervisors. Therefore, the selection team for the position that [REDACTED] had applied, for [REDACTED], was made up of the newly selected supervisors, CAMPBELL, Pete TOCCI, Maintenance Manager, Hope Creek, and Dave PYSHER, Facilities Manager, Hope Creek. CAMPBELL disclosed that an outside company was hired to oversee the process, to ensure that none of the selection members held any bias against a candidate (Exhibit 14, pp. 31-33). CAMPBELL identified the outside company employee as Tony GONZALES.

CAMPBELL stated there were eleven candidates for six superintendent positions. In addition, two individuals of higher grade were deemed out of scope and automatically received superintendent positions for electronic and control at Hope Creek and Salem Nuclear Plant (Salem). CAMPBELL reported each of the eleven candidates were eligible for any one of the six positions (Exhibit 14, pp. 36-37).

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CAMPBELL stated each of the employees' five dimensions were rated and given a number between one and five with five being the highest score. CAMPBELL explained the total score of the five dimensions had to total eighteen or more to reach the minimum requirement to be considered for a position (Exhibit 14, p. 40).

CAMPBELL reported the performance dimension was based on the employees' 2002 performance evaluation, and first hand knowledge of the candidate by the selection members. (Exhibit 14, p. 47). CAMPBELL pointed out that regardless of which candidate that was chosen, someone on the selection team would have had a former connection to the selected employee.

CAMPBELL advised the top score for each of the six available positions was selected for retention. CAMPBELL noted that [REDACTED] did not make the threshold of eighteen for any of the six positions (Exhibit 14, pp. 54-55). CAMPBELL explained the experience level for each candidate was determined by whether the employee had a Bachelor of Science degree or ten years experience in nuclear power, had five years supervisory experience, and had a senior reactor operator (SRO) license or certification. CAMPBELL reported [REDACTED] did not have [REDACTED]. CAMPBELL noted each of the employees that met the threshold had at least five years supervisory experience. CAMPBELL reported the leadership segment of the rating factors involved personal observations of the candidates by the selection members and review of past documentation. CAMPBELL explained the behaviors rating factor again involved personal observations of the candidates by managers. CAMPBELL noted the selection team members had supervised each of the candidates at some point in time (Exhibit 14, p. 63).

CAMPBELL stated he was familiar with [REDACTED] notification involving the WMAP process at Hope Creek. According to CAMPBELL, he directed [REDACTED] the notification (Exhibit 14, pp. 69-71). CAMPBELL reported he was not aware that [REDACTED] was upset over the notification. CAMPBELL explained the notification may have been taken to incomplete because all the required questions had not been provided. CAMPBELL opined the notification may have been downgraded to a level three notification because the report was consolidated into an pre-existing notification (Exhibit 14, pp. 75-76).

CAMPBELL reported the notification [REDACTED] was not discussed during the selection process for the superintendent positions. In fact, the notification was not written until after the selection process was completed (Exhibit 14, pp. 77-78).

CAMPBELL stated he had knowledge that [REDACTED] was involved in the re-circulation pump issue. CAMPBELL reported he asked [REDACTED] to be involved in the root cause analysis for the re-circulation pump concern (Exhibit 14, p. 78). CAMPBELL advised [REDACTED] did not complain to him that [REDACTED] took adverse action against him [REDACTED] for raising safety concerns.

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Interview of Peter J. KOPPEL, Jr. (Exhibit 15)

On January 11, 2005, KOPPEL, Pump Engineer, Salem/Hope Creek, was interviewed by OI:RII at Salem, NJ. KOPPEL provided the following information in substance.

KOPPEL stated he was the initial root cause lead for the re-circulation pump issue. KOPPEL reported the problem with the re-circulation pump had been an issue at Hope Creek for years prior to the root cause analysis. KOPPEL advised he did not recall [REDACTED] raising the issue of the re-circulation pump during management meetings on the pump (Exhibit 15, p. 8). KOPPEL explained his root cause analysis recommended the pump be replaced during re-fueling (RF) 12, but the Engineering Review Board decided to wait until RF 13. KOPPEL recalled that [REDACTED] stated the pump should have been replaced during RF 11.

KOPPEL reported that as a result of his work on the root cause analysis and subsequent determination that the pump should be replaced during RF 12, [REDACTED] (Exhibit 15, p. 14). In addition, KOPPEL added that he had not heard that [REDACTED] claimed employment discrimination or that anyone was out to retaliate against [REDACTED] for voicing a concern regarding the replacement of the pump (Exhibit 15, p. 15).

Interview of Devon B. PRICE (Exhibit 16)

On January 11, 2005, PRICE, Refueling Outage Manager, PSEG, was interviewed by OI:RII at Salem, NJ. PRICE provided the following information in substance.

PRICE reported he was a proponent of conducting a root cause analysis on the re-circulation pump. PRICE recalled that prior to RF 11 [REDACTED] was opinionated about replacing the re-circulation pump as soon as possible. PRICE stated he and [REDACTED] had a differing opinion regarding the replacement of the pump (Exhibit 16, p. 8). PRICE explained he was a proponent of understanding the problem first, and [REDACTED] wanted to the problem fixed prematurely. PRICE explained the pump seal was replaced during a forced outage prior to RF 11 and again in RF 12. According to PRICE, the pump will be replaced in RF 13.

PRICE stated he did not have input into the selection process regarding [REDACTED] (Exhibit 16, p. 13). PRICE noted he did not receive feedback from [REDACTED] or anyone else that they were upset with [REDACTED] for wanting the pump replaced sooner. PRICE noted KOPPEL was also passionate about the pump issue and wanted the pump replaced prior to RF 13, but he (KOPPEL) accepted the decision to replace the pump in RF 13 (Exhibit 16, p. 21).

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Interview of David PYSHER (Exhibit 17)

On January 11, 2005, PYSHER, Manager of Facilities, PSEG, was interviewed by OI:RII at Salem, NJ. PYSHER provided the following information in substance.

PYSHER stated the selection team for the superintendents was made up individuals that had previously been selected as managers. PYSHER identified the selection team as CAMPBELL, TOCCI, and himself.

PYSHER noted [REDACTED] did not meet the threshold standard of eighteen for any of the available superintendent positions (Exhibit 17, p. 6). PYSHER reported a score was given to five different categories for each candidate. PYSHER identified the first category, experience, was scored by review of the candidates' resume. PYSHER explained the selection team looked for ten years experience or a BS degree, whether the individual had five years of supervisory experience, and/or if the individual had a SRO certification. PYSHER recalled [REDACTED] (Exhibit 17, p. 9). PYSHER pointed out [REDACTED] on the mechanical rating, as high as any other candidate.

~~PYSHER stated the next category, leadership, involved strategic, people, financial, and personal management (Exhibit 17, p. 13). PYSHER reported the behavioral category involved integrity, whole business, energy, competitive spirit, mutual respect, and trust. PYSHER disclosed that prior to the selection process he only supervised [REDACTED] for a couple of weeks. PYSHER noted he felt he could judge some of the qualities that made up the behavioral category without supervising an individual. PYSHER explained "seeing results" could provide a fair evaluation (Exhibit 17, p. 17). PYSHER maintained that the rating for the categories were determined through a team effort, and no one individual dominated the selection process. PYSHER added that after the selection team completed the rating process, the results had to be justified to a senior leadership team (Exhibit 17, p. 18).~~

PYSHER stated the topics of the re-circulation pump or the WMAP notification were never discussed in relation to [REDACTED] during the selection process (Exhibit 17, pp. 19-20). PYSHER reported he knew [REDACTED] was involved in the re-circulation pump issue because of his [REDACTED] job position.

PYSHER stated another category reviewed in the selection process was performance. PYSHER reported performance was judged by performance evaluations (Exhibit 17, p. 22). PYSHER revealed that a marginal performance received a two, a satisfactory evaluation received a three, and a highly competent performance received a four. PYSHER reported the 2002 performance evaluations were used in the process.

PYSHER described [REDACTED] as being very close to the bargaining unit, and enjoyed being the problem solver for the plant (Exhibit 17, pp. 29-30).

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Interview of [REDACTED] (Exhibit 18)

On January 11, 2005, [REDACTED] PSEG, was interviewed by OI:RII at Salem, NJ. [REDACTED] provided the following information in substance.

[REDACTED] advised he was previously the [REDACTED] Salem/Hope Creek.

[REDACTED] stated he was aware of the root cause analysis for the "B" re-circulation pump. [REDACTED] reported [REDACTED] asked him to sponsor the concern with the re-circulation pump (Exhibit 18, p. 6). [REDACTED] recalled the outcome of the root cause was to replace the pump in RF 13, and [REDACTED] felt the pump needed replacing sooner (Exhibit 18, p. 12). [REDACTED] explained he and [REDACTED] had a difference of opinion on the root cause finding (Exhibit 18, p. 14).

[REDACTED] reported that he did not play a role in [REDACTED] job selection (Exhibit 18, p. 15). [REDACTED] maintained the managers were selected first, and in turn selected the superintendents. In addition, all the superintendents for both Hope Creek and Salem were selected at the same time.

[REDACTED] stated he did not feel there were hard feelings between him and [REDACTED] over the findings of the root cause analysis.

[REDACTED] reported the selection process for the superintendents was conducted during July 29 - July 31, 2003 (Exhibit 18, pp. 22-23). [REDACTED] stated the release of non-selected personnel was done by September 15, 2003.

[REDACTED] reviewed [REDACTED] notification on WMAP. [REDACTED] opined the notification was taken to an incomplete because it did not warrant a Level 1 notification. According to [REDACTED], the WMAP notification was rolled into a pre-existing notification (Exhibit 18, p. 29). [REDACTED] advised he did not recall asking [REDACTED] to withdraw the notification, but he [REDACTED] did not see the need for "piling on another notification." (Exhibit 18, p. 30).

Interview of Peter TOCCI, Jr. (Exhibit 19)

On February 3, 2005, TOCCI, Maintenance Manager, Hope Creek, was interviewed by OI:RII at the NRC, RII, Atlanta, GA. TOCCI provided the following information in substance.

TOCCI reported the selection process for the 2003 re-organization defined that managers would make the selections for employees that would be reporting to them. TOCCI advised the criteria for the selection process was provided to the selection team by an outside firm that oversaw the selection process (Exhibit 19, p. 6). TOCCI identified the outside firm as Scott Madden, Inc.

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According to TOCCI, a representative from Scott Madden, Inc. was present during the entire selection process.

TOCCI reported eleven candidates competed for six positions under the Maintenance Superintendent. TOCCI stated the selection team evaluated the candidates' technical competencies, leadership, experience, performance, and behavior. TOCCI explained 18 was identified as a minimum threshold score for a candidate to be considered for a position (Exhibit 19, pp. 12-13). According to TOCCI, after the selections were made the scores had to be justified to a group of senior managers (Exhibit 19, p. 15).

TOCCI discussed [REDACTED]'s scores as compared to other applicants (Exhibit 19, pp. 16-21). TOCCI identified that [REDACTED] had lower scores compared to the applicants that met the threshold level. TOCCI addressed the differences in scores by reporting [REDACTED] had issues with leadership and providing factual information (Exhibit 18, p. 20). TOCCI reported his input on [REDACTED]'s scores were through personal observations.

TOCCI reported that [REDACTED] (TOCCI) prior to the re-organization, and also after the re-organization. TOCCI denied assisting [REDACTED] (Exhibit 19, pp. 22-25). TOCCI explained of the six employees that met the threshold, only three scored high enough on mechanical ability to compete for the position. Furthermore, of the three, only [REDACTED] (Exhibit 19, pp. 25-26).

TOCCI recalled asking [REDACTED] if he wanted to move offices prior to the re-organization, and [REDACTED] stated "I'm Fine." (Exhibit 19, p. 27). TOCCI noted that after the re-organization more office space was available and employees that shared space with [REDACTED] were able to relocate to other space.

TOCCI advised that he was facilities manager at the time of [REDACTED] protected activity, and was not involved in the issue involving the re-circulation pump. (Exhibit 19, p. 30). TOCCI reported the pump issue was not discussed during the selection process with the selection team (Exhibit 19, p. 32).

TOCCI substantiated the selection process occurred between July 29-July 31, 2003, (Exhibit 19, pp. 33-34). TOCCI opined [REDACTED] knew the results of the selection process prior to [REDACTED]

TOCCI noted that CAMPBELL was on the selection team and [REDACTED] worked for him (CAMPBELL) prior to the re-organization. TOCCI explained because of the selection process it would have been difficult for a candidate not to have worked for a selection team member at some time (Exhibit 19, p. 39).

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Analysis of Evidence

OI:RII analyzed the above evidence to determine if [REDACTED] was the subject of employment discrimination by management for reporting nuclear safety concerns.

Protected Activity

[REDACTED] reported he raised two safety concerns that resulted in his non-selection for the [REDACTED] position in the Fall of 2003.

[REDACTED] stated that in early 2003, prior to an outage at Hope Creek in 2003, he raised an issue concerning the Hope Creek "B" re-circulation pump. [REDACTED] reported he asked that repair of the pump be conducted during the 2003 refueling outage.

Secondly [REDACTED] stated he initiated a notification regarding the lack of a quality WMAP. [REDACTED] notification regarding the WMAP was identified as [REDACTED] dated August 22, 2003.

Review of the PSEG selection documentation disclosed [REDACTED] was not selected for a position at Hope Creek in July 2003, prior to [REDACTED] being initiated by [REDACTED]. Therefore, the notification could not be regarded as protected activity related to [REDACTED] non-selection for position 1.23.

Management Knowledge

[REDACTED] disclosed he raised the concern regarding the "B" re-circulation pump during a refuel outage preparation meeting attended by Hope Creek management. [REDACTED] stated [REDACTED] agreed to sponsor a root cause analysis regarding the repair of the pump. [REDACTED] substantiated that [REDACTED] raised an issue regarding the repair of the "B" re-circulation pump during the 2003 outage. However, [REDACTED] noted the pump repair had been a long standing issue, one that had been known prior to [REDACTED] employment at Hope Creek. [REDACTED] was not part of the selection team that evaluated [REDACTED] for a job position during the 2003 reorganization at Salem/Hope Creek. However, CAMPBELL, a selection team member, reported due to his position as the mechanical maintenance manager for Hope Creek, he was aware of [REDACTED] concern.

Adverse Action

On September 18, 2003, [REDACTED] was notified by PSEG that he was not selected for the [REDACTED]. The notification did not explain the process or provide an explanation why [REDACTED] was not selected.

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Personnel file

Adverse Action Caused by Protected Activity

This investigation was initiated to determine if [REDACTED] Hope Creek, was a victim of employment discrimination for reporting safety concerns related to the "B" re-circulation pump at Hope Creek.

[REDACTED] reported that during a re-organization at Salem/Hope Creek in 2003, he was not selected for a position because of his protected activity. According to [REDACTED] was responsible for his [REDACTED] non-selection. [REDACTED] opined [REDACTED] was upset because [REDACTED] did not agree with the findings of a root cause analysis related to the re-circulation pump.

The testimonies of CAMPBELL, PYSHER and TOCCI all appear to offer a recurring rationale that the selection process was not conducted in a manner discriminatory to [REDACTED]. The selection team members reported the selection criteria for superintendents was developed by an outside consulting firm and provided to the selection team. The selection team was made up of managers that had been identified through an ongoing process of having first line supervisors make the selections of their subordinates. The selection process was overseen by an independent contractor to ensure the process was fair. In addition, at the conclusion of the selection process, the selections had to be justified to a senior leadership team.

Interviews with the selection team members disclosed eleven superintendents at Salem/Hope Creek were competing for six positions (three at Hope Creek and Three at Salem). Review of the selection template used to assess the candidates revealed [REDACTED] did not meet the threshold requirement for any of the six positions. The selection template identified five areas of consideration that candidates were assessed in for each of the available jobs. The team assigned a number between one and five for each category with five being the highest. The total score had to meet or exceed eighteen.

The first category, experience, required a Bachelor of Science degree or 10 years experience, five years supervisory experience. Additionally, a RSO certification was preferred, [REDACTED]. Under technical competency for mechanical [REDACTED] received a [REDACTED] as high as any other candidate. Likewise [REDACTED] received a [REDACTED] under the category for performance. Again, a score as competitive as any of the employees selected for a position. However, [REDACTED] received a [REDACTED] for behaviors and a [REDACTED] for leadership. Both scores were much lower than the scores of his [REDACTED] counterparts. [REDACTED] 2003 mid-year performance evaluation was consistent with the low score for behavior.

[REDACTED] stated that prior to the re-organization the person selected for [REDACTED] was managed by TOCCI, the new mechanical maintenance manager after the re-organization. According to [REDACTED] the selection

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process was unfair in that after TOCCI was on the selection team that chose [REDACTED] [REDACTED] pointed to the fact that after the selection process, [REDACTED] was still working for TOCCI. Interview of TOCCI revealed that due to the procedure used to identify the selection team it was difficult for a candidate not to have worked for one of the selection team members prior to the reorganization. After all, [REDACTED] had reported to [REDACTED] prior to the selection process.

The most convincing argument that leads one to believe that the selection team's actions were not a deliberate attempt to discriminate against [REDACTED] was the absence of [REDACTED] from the selection process. [REDACTED] did not relate that CAMPBELL, PYSHER, or TOCCI were responsible for employment discrimination against him [REDACTED]

[REDACTED] and [REDACTED] related that [REDACTED] asked [REDACTED] for assistance in initiating a root cause analysis for the re-circulation pump problem. [REDACTED] obviously felt comfortable going to [REDACTED] for help in raising the issue on the re-circulation pump, and [REDACTED] sponsored the root cause. It is unreasonable to believe that [REDACTED] would retaliate against [REDACTED] for raising an issue that he [REDACTED] was willing to help have investigated.

Lastly, [REDACTED] proffered the idea that [REDACTED] also suffered adverse action as proof management discriminated against him [REDACTED]. Interview of [REDACTED] disclosed he felt the pump should be replaced in RF 12, but PSEG management felt the pump replacement could wait until RF 13. [REDACTED] stated he did not suffer employment discrimination as a result of his findings.

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Conclusion

Based on the evidence developed during this investigation, the allegation that [REDACTED] was the subject of employment discrimination for reporting safety concerns was not substantiated.

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LIST OF EXHIBITS

<u>Exhibit No.</u>	<u>Description</u>
1	Investigation Status Record, dated October 5, 2004 (1 page).
2	Transcript Interview of [REDACTED] dated October 7, 2004 (51 pages).
3	[REDACTED] 2002 Performance Partnership, undated (18 pages).
4	Employee Information of CARPENTER, various dates (2 pages).
5	PSEG Managers/Superintendents Ratings, dated July 17, 2003 (3 pages).
6	[REDACTED] 2003 Mid - Year Evaluation, dated September 3, 2003 (16 pages).
7	PSEG Letter to [REDACTED] dated November 8, 2002 (1 page).
8	Nuclear Re-Organization Objectives, undated (5 pages).
9	Notification Summary [REDACTED] undated (2 pages).
10	Notification Summary [REDACTED] dated August 22, 2003 (4 pages).
11	Root Cause Analysis, dated April 14, 2003 (20 pages).
12	Selection Template, dated July 29- 31, 2003 (1 page).
13	PSEG Letter, dated September 18, 2003 (1 page).
14	Transcript Interview of CAMPBELL, dated January 11, 2004 (87 pages).
15	Transcript Interview of KOPPEL, dated January 11, 2004 (17 pages).
16	Transcript Interview of PRICE, dated January 11, 2004 (23 pages).

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- 17 Transcript Interview of PYSHER, dated January 11, 2004 (33 pages).
- 18 Transcript Interview of ██████████, dated January 11, 2004 (36 pages).
- 19 Transcript Interview of TOCCI, dated February 3, 2005 (40 pages).
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