

May 9, 2006

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

RI-2005-A-0047

Subject: NRC Office of Investigations Report 1-2005-019

Dear Mr. Levis:

The Region III Field Office of the NRC Office of Investigations (OI), upon referral from OI Region I, initiated an investigation (OI Case No. 1-2005-019) on April 27, 2005, to determine if PSEG failed to provide complete and accurate information to the NRC in a letter dated March 21, 2005. This letter described the results of an independent review team (IRT) chartered by PSEG to investigate PSEG not using the Executive Review Board (ERB) process in January 2005, to review personnel actions taken at that time. The ERB review of personnel actions was a commitment made by PSEG to help improve the work environment at Salem and Hope Creek.

OI interviewed twenty-four individuals that were interviewed by the IRT. Most stated that they were not aware of any chilling effect from the personnel actions or from the failure to have the personnel actions reviewed by the ERB. OI determined that two interviewees made comments to the IRT regarding a chilling or potential chilling effect.

First, a PSEG manager stated to the IRT that he believed a chilling effect arose overnight as a result of the personnel actions. The NRC observed that this statement was referenced in the IRT report (Reference ADAMS ML060720437, page 45, footnote 235) and considered by the IRT in reaching overall conclusions regarding a possible chilling effect.

The OI investigation identified that a second individual, a former manager, stated to the IRT, as documented in his interview summary, that he was concerned about a possible chilling effect caused by the personnel changes. The former manager further stated to the IRT that various workers had called him and said in so many words, "If this can happen to you, what is going to happen to me?" The IRT interview summary did not go into further detail regarding this statement. Later in the interview summary, in regard to the general work environment, the former manager stated that, in his opinion, the workforce was comfortable raising concerns.

The NRC concluded that the IRT interview results were consistent with the summary of the IRT report submitted to the NRC. The NRC determined that the PSEG letter of March 21, 2005, providing the IRT report summary, was based on and consistent with, the information contained

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in the IRT documentation. Also, the OI interviews obtained information consistent with that contained in the IRT interview summaries, and the OI interviewees verified that the IRT interview summaries were accurate.

However, the NRC considers that the IRT report would have been enhanced by further developing these two interview statements. First, the statement by the former manager that he received several calls of concern from others could have been further developed during the IRT interview process and reflected in the interview summaries. It was determined through an NRC OI investigation that these calls were limited to one individual, who indicated to the IRT that they remained willing to raise safety concerns.

Second, the IRT report (page 45) stated that "In all but one instance, the interviewees responded that they were confident that the actions had not diminished the workers willingness to raise nuclear safety concerns." The one instance noted was in reference to the manager who indicated, in his opinion, a chilling effect arose overnight. This statement was referenced in the IRT summary provided to the NRC. The NRC considers that this statement could have been further developed by identifying that, while another interviewee was confident that the workforce was comfortable raising concerns, the individual also had concerns regarding a possible chilling effect. However, these instances did not change the conclusions of the IRT report or the NRC inspection results of this issue. It is important to note that the NRC did have available, and was aware, of both of these individuals' statements during our inspection in April 2005.

The NRC determined that further development of these two statements in the IRT report were not material to the IRT conclusions, and would not have changed the conclusions of the IRT summary report provided to the NRC.

In summary, based upon the evidence developed during the OI investigation, the NRC was unable to substantiate that PSEG failed to provide complete and accurate information to the NRC in a letter dated March 21, 2005.

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 the FOIA. Requests under the FOIA should be made in accordance with 10 CFR 9.23, Requests for Records, a copy of which is enclosed for your information.

Also, in accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter and its enclosure will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html> (the Public Electronic Reading Room).

Mr. W. Levis

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Should you have any questions regarding this letter, please feel free to contact Mr. M. Gray of my staff at (610) 337-5209.

Sincerely,

/RA/

Brian E. Holian, Director
Division of Reactor Projects

Enclosure:
10 CFR 9.23, Requests for Records

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ADAMS (Docket Nos. 50-272, 50-311 and 50-354)

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