

From: Robert Fretz ^{OE}
To: Chris Nolan; Daniel Collins; Daniel Holody; David Trimble; Ernest Wilson; Eugene Cobey; Frank Congel; Guy Caputo; Jeffrey Teator; Lisamarie Jarriel; Mary Kay Fahey; Rani Franovich; Richard Urban; Russell Arrighi; Sara Brock
Date: 3/25/05 3:17PM
Subject: EDO/Commissioner Merrifield Presentations March 28 and 29

Attached, please find a copy of the EDO/Commissioner Merrifield presentation, planned for March 28 and 29, for your review.

The Powerpoint presentation contains notes along with the slide. Therefore please take a look at our notes to ensure that what we will be saying is factually correct.

Please forward any comments or suggestions to Bob Fretz or Russ Arrighi. Thanks!

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Dr. Kymn Harvin, Ph.D. and Safety Concerns at PSEG's Salem and Hope Creek Generating Stations

Staff Presentation by:
Russell Arrighi
Senior Enforcement Specialist
March 28, 2005

Kymn Harvin, Ph.D

- Ph.D, Organizational Development and Spirituality,
Union Institute of Cincinnati, 1996
- Work History
 - Pennsylvania State Government
 - AT&T (1980 – 1990)
 - Private Consulting
 - Public Service Enterprise Group (PSEG)
 - PSEG Corporate Offices (1998 – 2001)
 - PSEG Nuclear (January 2002 – March 28, 2003)

Dr. Harvin's Concerns

- Provided several, specific examples that, in her view, demonstrated problems with the work environment for raising safety issues at Salem and Hope Creek (i.e., SCWE)

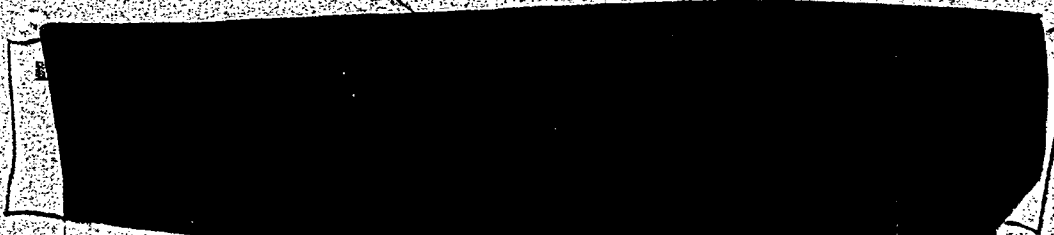


- Alleged wrongdoing/discrimination for raising these work environment (SCWE) issues and other safety concerns to the CNO

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OI Assist and Investigations

■ 1-2003-051F (OI Assist/SCWE Issues)



■ 1-2003-045 (Wrongdoing/Discrimination)

- Initiated investigation on September 8, 2003
- Report issued on December 28, 2004

Safety Conscious Work Environment Review

- NRC Supported SCWE Concern
 - Letter to Dr. Harvin dated July 30, 2004
 - Letter to PSEG dated July 30, 2004
 - Mid-Cycle Assessment Letter to PSEG dated August 30, 2004,
 - Substantial cross-cutting issue (SCWE)
 - Increased oversight at the stations
 - Special inspection in June 2005
- Region I continues to monitor PSEG's progress relating to SCWE issues

Alleged Wrongdoing/Discrimination NOT Substantiated

- ☒ Did Dr. Harvin engage in a Protected Activity?
 - March 20, 2003 discussion with Keiser
- ☒ Did management have knowledge of the Protected Activity?
- ☒ Was any adverse action taken?
- ☐ Is there a nexus between adverse action and the Protected Activity?
 - Legitimate business reasons identified
 - Insufficient evidence of discrimination

Protected Activity and Management Knowledge

- Dr. Harvin claims to have raised "safety issues" as early as 2001
- On March 20, 2003, Dr. Harvin raised nuclear safety concerns with [REDACTED], thus she engaged a protected activity

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Alleged Wrongdoing/Discrimination

Adverse Actions:

- Notified on February 26, 2003, that the Principle Organization Development Specialist position was eliminated
- Notified on March 24, 2003, that her last day of work was moved up from April 16, 2003, to March 28, 2003

Nexus to Protected Activity - Elimination of Position

- Voluntarily moved from corporate offices to PSEG Nuclear January 2002
- Moved with the knowledge that PSEG was downsizing and that there were no guarantees that her current or new assignment would extend beyond 2002
- GAP analysis for downsizing done in 2002
- Her position was viewed as "not adding value" to organization (e.g., not effective at achieving site culture improvements)

Nexus to Protected Activity - Change in Separation Date

- Notice given on 2/26/03 that position was eliminated
- Consistent with PSEG policy, her original separation date was 4/16/03
- PSEG offered her an alternate job within HR on or about 2/28/03 (less pay and responsibilities)
- Evidence shows that VP of PSEG Human Resources (HR) made the decision on 3/18/03 to accelerate her physical separation date
- New physical separation date chosen to coincide with departure of CNO on 3/28/03
- Pay and benefits remained unchanged

Conclusion

- The staff did not identify any evidence to indicate that the decision to eliminate the Principle Organization Development Specialist position was for any reason other than legitimate business reasons
- OI did not substantiate the allegation of discrimination

Public Perception

- Investigation Timeliness

February 25, 2005, letter from David Lochbaum (UCS) re: timeliness of the NRC staff to reach decision on allegations

- Other Potential Questions

(e.g., if the SCWE issues Dr. Harvin raised were legitimate, how could the NRC not substantiate her discrimination complaint?)

Public Perception - Investigation Timeliness

- Reasonable amount of time was taken, given the number and complexity of the issues raised
 - Priority given to work environment concerns
 - NRC Staff conducted over 100 interviews (>65 for SCWE concerns and >30 for alleged discrimination case)
 - Resource Issue: Initial OI investigator left the agency eight months into the investigation.

Public Perception - Key Messages

- Communications Plan prepared
 - Dr. Harvin's concerns were taken seriously
 - NRC conducted a thorough investigation
 - Dedicated a significant amount of resources
 - Carefully considered all issues she raised
 - The unsubstantiated discrimination allegation was based on the evidence obtained from over 30 interviews
 - Decision does not change our concerns regarding SCWE at Salem/Hope Creek

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