OE

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!

Bob Fretz
Enforcement Specialist
301-415-1980
rxf@nrc.gov

Information in this record was deleted
in accordance with the Freedom of Information
Act, exemptions 7C
FOIA- 2005-194

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

OI Assist and Investigations

- **1-2003-051F (OI Assist/SCWE Issues)**

[redacted] 1C

- 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

1C

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

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