

October 16, 2003

N. Kymn Harvin, Ph. D.

RI-2003-A-0110

[redacted]

Subject: Concerns You Raised to the NRC Regarding Salem/Hope Creek

Dear Dr. Harvin:

This letter refers to your conversations with me on September 3-4, 2003, during which you expressed concerns related to Salem/Hope Creek. You were concerned about the work environment for raising safety concerns, potential discriminatory action against you, [redacted] [redacted] After our initial contacts, we interviewed you at the NRC Region I office on September 9, 2003, to obtain additional specific detail from you regarding your concerns. NRC Office of Investigations (OI) personnel participated in that interview. You have had a number of subsequent conversations with me and other members of the NRC staff since that time and have provided the NRC with a significant amount of documentation related to site activities (e.g., transient review (TARP) reports, Nuclear Review Board (NRB) meeting summaries and input documentation) that you believe will provide additional insight into the work environment at Artificial Island. Additionally, you sent a letter (via e-mail) to the NRC Region I Regional Administrator on September 30, 2003, reiterating your overall concern about the work environment at Salem/Hope Creek, and requesting that the NRC consider immediate significant action against PSEG (i.e., plant shutdown). Lastly, you provided additional concerns in e-mail messages to me on October 9 and October 11, 2003.

Enclosure 1 to this letter documents your concerns as we understand them. We have initiated actions to examine your concerns and will inform you of our findings. If we have misunderstood or mischaracterized your concerns as described in Enclosure 1, please contact me so that we can assure that they are adequately addressed prior to the completion of our review.

In evaluating your concern related to the work environment for raising safety concerns at Salem/Hope Creek, and any technical matters related to that concern, the NRC intends to take all reasonable efforts not to disclose your identity to any organization, individual outside the NRC, or the public. However, I would like to point out that NRC licensees can and sometimes do surmise the identity of individuals who provide information to us because of the nature of the information or other factors beyond our control. In such cases, our policy is to neither confirm nor deny any licensee assumption as to the source of the information. Additionally, you should be aware that your identity could be disclosed regarding this matter if the NRC determines that disclosure is necessary to ensure public health and safety, to inform Congress or State or Federal agencies in furtherance of NRC responsibilities under law or public trust, to support a hearing on an NRC enforcement matter, or if you take actions that clearly indicate that you have no objection to being identified as the source of the concerns (such as providing information to the media).

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

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Act, exemptions 7C, 5
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Additionally, we note that if we determine that the information you provided indicates that PSEG or its employees submitted false or inaccurate information to the NRC, or deliberately violated NRC requirements, your identity may be disclosed at the NRC's discretion in order to pursue an investigation into a matter involving potential wrongdoing. Lastly, because you have raised a concern of employment discrimination for raising safety concerns, an evaluation of this matter without identifying you would be extremely difficult. Therefore, your identity will be disclosed as part of the NRC's investigation of your discrimination concern. We understand that, in addition to raising your discrimination concern to the NRC, on September 29, 2003, you filed a civil discrimination suit against PSEG in Morris County (NJ) Superior Court. It is likely that your name and the concerns you raised within your civil suit will become a matter of public record.

During a conversation on September 5, 2003, I informed you of your right to file a discrimination complaint with the U.S. Department of Labor (DOL), since DOL, not the NRC, is the federal agency with the authority to order back pay, reinstatement or compensatory damages in such matters. In order to protect one's right to file a discrimination complaint with DOL, one must file a written complaint with DOL Regional Offices for the Occupational Safety and Health Administration (OSHA) within 180 days of the date of the alleged discriminatory action or the date one receives any notice, in writing or otherwise, of an adverse personnel action, whichever occurred first. A complaint must describe the safety issues raised, the resulting adverse personnel action taken, and the causal relationship between the two. While you informed me that it was your choice to file a civil suit in this matter, as opposed to filing a discrimination complaint with DOL, I am enclosing a copy of Title 29 CFR Part 24, DOL's "Procedures for Handling of Discrimination Complaints Under Federal Employee Protection Statutes" for your information.

If a request is filed under the Freedom of Information Act (FOIA) related to your areas of concern, the information provided will, to the extent consistent with that act, be purged of names and other potential identifiers. Further, you should be aware you are not considered a confidential source unless confidentiality has been formally granted in writing.

Enclosed with this letter is a brochure entitled "Reporting Safety Concerns to the NRC," which provides a description of the NRC process in these matters.

Thank you for notifying us of your concerns. We will advise you when we have completed our review. Should you have any additional questions, or if the NRC can be of further assistance in this matter, please call me via the NRC Safety Hotline at 1-800-695-7403.

Sincerely,

David J. Vito
Senior Allegation Coordinator

Enclosure(s): As stated