

49 Brambling Lane
Voorhees, N.J. 08043
August 20, 1993

Regional Administrator
U.S. Nuclear Regulatory Commission
631 Park Avenue
King of Prussia, PA 19406

Dear Sir:

I am writing to you in connection with a complaint I have filed with the US Department of Labor under the provisions of 10CFR50.7, titled Employee Protection. I am an employee of Public Service Electric and Gas Company and work at Salem nuclear generating station.

The DOL is in the process of investigating my complaint. However, I am placed at a disadvantage relative to the Company because of what I believe is a lack of familiarity with the nuclear industry. I do not impugn the DOL, or its experienced investigator, but it appears they have not had enough of these cases to have developed familiarity with the nuclear industry and its unique characteristics. This seems to be a fundamental weakness in the process.

I am requesting that the Nuclear Regulatory Commission either conduct an investigation itself, or assign someone with the necessary expertise to deliberatively support the DOL. This is particularly important now; before a decision is made whether the evidence is sufficient to support the complaint. The attached copy of a recent letter to the DOL should shed further light on why this request is being made.

I can be reached by phone during working hours at 609/339-5486, and at other times at 609/424-5348.

I thank you for your attention to this matter.



Bert E. Williams, P.E.

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49 Brambling Lane
Voorhees, N.J. 08043
August 20, 1993

U.S. Department of Labor
3131 Princeton Pike
Building 5, Room 216
Lawrencevill, N.J. 08648

Attention: Mr. Enrique Lopez-Mena

Reference: File 93-214-30307

Dear Sir:

Further to our meeting on Tuesday, August 17, this is to restate some of the arguments I advanced so they will not be lost, and to present additional insights. It is a disadvantage to me, or an advantage to the Company, that neither you nor I have had previous experience with employee protection as it is applied to persons working in the nuclear industry. For example, I have mentioned a brief prepared by the Company's attorneys, Conner & Wetterhahn, P.C., which states in part:

"Proof. For an employee to make out a basic case of discrimination, he need only show that he was engaged in protected activity and fired, demoted, etc. under circumstances suggesting retaliation. The fact that the employee was not treated differently than others (e.g., part of a general lay-off or reassignment) is not an absolute defense. However, different treatment (e.g., other employees given more warnings and chances to improve) is evidence of discrimination."

This opinion is quite different to the DOL's need for a 'smoking gun' and leads me to conclude that prior experience with the law as it is applied to the nuclear industry is essential. To correct this deficiency, I am sending a copy of this letter to the NRC with a request that they either conduct an inquiry themselves, or provide someone with the necessary experience and expertise to assist the DOL. For this reason, I have not agreed to extension of your investigation beyond the 30-day deadline of August 26, 1993. A more intensive investigation is anticipated, rather than a scope reduction.

I gave you a copy of the Nuclear Safety Review (NSR) organization chart and explained that, while I am a member of Offsite Safety Review (OSR), I have been assigned to the Salem Safety Review Group (SRG) since April 1992. I have no authoritative information about the grade levels of persons in these groups, except that two Offsite Safety Review Engineer vacancies were advertised as grade

level 6, or the current level 14. A chart of grade levels and salaries is attached. I am a member of the Offsite Safety Review staff and compare myself with other members of that group, rather than the staff members of Salem SRG. I pointed out that Mr. E. Rozovsky is shown as a member of OSR but has been assigned to Hope Creek SRG for several years. Mr. Rozovsky was at one time my supervisor and, to my knowledge, was at least a grade 7. I do not know whether he is being paid at the level of his temporary assignment, or at the level corresponding to his position shown on the organization chart. My original assignment was for three months, but the GM decided to postpone filling the vacancy, and I have been left here to satisfy the staffing requirements of the Technical Specifications.

I showed you the OSR and SRG functions defined in the Salem Unit 2 technical specifications (Sections 6.5.2.4 and 6.5.2.5). Nuclear Safety Review was created, in response to NRC requests, after the Three Mile Island accident and its functions are written into the operating license for the Salem and Hope Creek nuclear stations, i.e. the technical specifications. You asked for job descriptions for my position and that of Offsite Safety Review Engineer. I suggested you obtain these from the Company, not just the latest versions, but all previous ones going back to 1988, when I joined the OSR group. You asked for a written description of my daily activities, functions and responsibilities for comparison with others. It is not a matter of what I think my job is, but what my job description requires of me. Many persons embellish their job descriptions with spare time activities that are not part of their jobs as members of NSR. The technical specifications are binding legal commitments and PSE&G must show it is satisfying them by writing them into the job descriptions and procedures of the NSR organization. Moreover, salaries and job classifications are determined by the official job descriptions and not by personal representations and embellishments.

The OSR staff is used as a manpower pool; persons are sent on temporary assignments that are unrelated to their safety review functions, which are suspended until they return. Mr. Hall's memorandum of June 30, describes these as special projects. My contention is that these manpower diversions are not part of the NSR function and job descriptions. Strictly speaking, this diversion of effort described by Mr. Hall is fraudulent, in that NSR is not doing what it is supposed to be doing. Moreover, a conflict of interest is created when NSR personnel are expected to 'run with the hare and hunt with the hound' simultaneously. The choice is always to run with the hare, because it does not cause retaliation. Any OSR job description that includes responsibilities other than those described by the technical specifications is invalid.

I took you through the correspondence provided with my letter of August 11 to the DOL and pointed out the statements I am citing as the basis for my complaint. The impression you gave me is that these are of no value since the actions and statements cited are

not shown to have resulted directly in the denial of promotion and increased salary. No one has told me they are denying me these things because of my whistleblowing, however my records show the basis for this conclusion. There is always a considerable time delay between an incident and retaliation, which comes at annual performance appraisal time, and application for another position. The expectation of a direct, instantaneous, overt reaction to whistleblowing is unrealistic in this work environment, and insistence on a 'smoking gun' in effect nullifies the provisions of 10CFR50.7.

We discussed my memorandum of June 6, 1990 to John Wiedemann, and my unissued memo of June 7, 1990 to E.A. Liden. I advised you that all documentation of the technical matter is on file and should be obtained from the Company, instead of my memory. Incidentally, everything I have done since I arrived here in 1984 should be on microfilm and can be retrieved.

The incident with John Wiedemann on June 6, 1990 is fundamentally the same as that with Mr. Cal Vondra on December 3, 1992, except that Mr. Vondra ordered me out of his office, and Mr. Wiedemann hung-up the phone. In both cases my effort to resolve significant safety issues was abruptly terminated because of the potential impact on plant operation. I explained that the technical specifications could require power reduction or reactor shutdown when safety related equipment is inoperable and that this effect on operations is the reason for their hostile reactions. On December 3, both reactors were at full power and it was possible that issue raised would affect at least one unit.

We did not discuss Mr. Hall's memorandum of June 30, 1993 and the following comments. His statement that "you have demonstrated a continued pattern of disrespect for authority as well as failure to demonstrate an adequate level of interpersonal skills." is based on the incident on December 3, 1992 involving the GM - Salem Operations, Mr. Cal Vondra, and my letter of January 27 to Mr. R.J. Dougherty Jr. I have bypassed authority when it was necessary for accomplishing the function assigned to me. A similar instance is my memorandum of August 18, 1987 to the GM - Nuclear Quality Assurance. That he should deny me a salary increase and promotion on the basis of this statement is a telling example of retaliation against whistleblowing. I do not know of any occasion when my interpersonal skills were less than adequate. However, based on the incidents cited my shortcoming appears to be that I am not conforming to the standards exemplified by Mr. Vondra and Mr. Wiedemann. Their behaviors are not unusual. Because of untrue statements of this type, which are embedded in performance appraisals, I have protested every performance appraisal and have not signed any.

At various times PSE&G has claimed there is no correlation between performance appraisals and salary, and on other occasions such as Mr. Hall's memorandum of June 30, my performance appraisals are cited as reasons for denial of a salary increase and promotion. I

gave the example that I have received a salary increase for 1993 but my performance appraisal has not been done. The Company's salary administration program has provision for discriminatory treatment for illegal reasons, such as whistleblowing, and is being used for this purpose.

You requested written permission to read my personnel file. I am attaching a statement to this effect. The Company maintains two files; one that is accessible to me contains only the three latest performance appraisals, and another containing everything else.

I thank you for your attention to this matter.



Bert E. Williams, P.E.

cc: NRC