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September 5, 1996

VIA FEDERAL EXPRESS

Mr. Larry E. Nicholson, Chief
 Reactor Projects Branch 3
 Nuclear Regulatory Commission
 Region 1
 475 Allendale Road
 King of Prussia, Pennsylvania 19406-1415

Re: Predecisional Enforcement Conference
Bruce E. Hall

Dear Mr. Nicholson:

Enclosed is an original and four copies of a Memorandum in Support of Bruce E. Hall and a Declaration of Bruce E. Hall. These documents set forth pertinent legal requirements and critical facts for the NRC to review as it considers possible NRC enforcement action against Mr. Hall in his personal capacity.

The NRC's predecisional enforcement conference relating to possible enforcement action against Mr. Hall in his personal capacity is scheduled to be held on September 11, 1996, immediately after the related predecisional enforcement conference against Public Service Electric & Gas Co. ("PSEG"). Mr. Hall looks forward to discussing the matters set forth in the enclosed filings and any other matters that the NRC would like to discuss at his upcoming enforcement conference.

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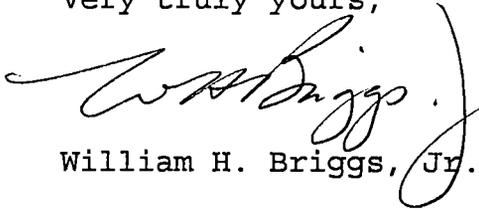
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ROSS, DIXON & MASBACK, L.L.P.

Mr. Larry E. Nicholson, Chief
September 5, 1996
Page 2

In addition, although we will not be a part of PSEG's presentation, both Mr. Hall and I plan to attend the PSEG conference. We understand that neither PSEG nor the NRC objects to Mr. Hall's attendance at the PSEG enforcement conference.

Very truly yours,



William H. Briggs, Jr.

WHB/jmh
Enclosures

cc: Mark J. Wetterhahn, Esquire

MEMORANDUM IN SUPPORT OF BRUCE E. HALL

MEMORANDUM IN SUPPORT OF BRUCE E. HALL

By letter dated July 1, 1996, Mr. Richard W. Cooper, Director, Division of Reactor Projects for Region I of the Nuclear Regulatory Commission ("NRC"), advised Mr. Bruce E. Hall that, based upon two investigations conducted by the NRC's Office of Investigations ("OI") Mr. Hall "apparently engaged in misconduct by taking retribution against [Mr. William Cianfrani and Mr. Paul Craig] for raising safety concerns." The letter further stated that Mr. Hall's actions "appear to be violations" of 10 C.F.R. § 50.5 (which prohibits "deliberate misconduct") because those actions "caused the licensee, Public Service Electric and Gas to be in apparent violation of 10 CFR 50.7 which prohibits taking action against individuals that identify safety concerns."

Based upon the OI investigations, Mr. Cooper's July 1 letter advised Mr. Hall that the NRC intended to hold a predecisional enforcement conference at which it would consider whether to take enforcement action against Mr. Hall in his individual capacity. Mr. Cooper invited Mr. Hall to attend that predecisional enforcement conference "to discuss any factual errors in [the OI] investigative report and for [Mr. Hall] to provide any information concerning [his] perspectives" on the proposed enforcement action.

This memorandum and the accompanying Declaration of Bruce E. Hall (the "Hall Declaration") are filed in support of Mr. Hall insofar as the NRC is considering enforcement action against him

in his individual capacity. As set forth in these documents, and as will be discussed in more detail at the upcoming predecisional enforcement conference, neither the facts nor the law support NRC enforcement action against Mr. Hall. First, as a matter of law, the only regulatory basis for taking enforcement action against a non-licensed individual such as Mr. Hall is 10 C.F.R. § 50.5 ("Section 50.5"). Mr. Hall did not violate Section 50.5 because he did not deliberately engage in any misconduct in evaluating Mr. Cianfrani or in transferring Mr. Craig -- he did not deliberately violate Section 50.7. Second, there are a number of extenuating and mitigating circumstances which we urge the NRC to consider before it decides whether or not to take enforcement action against Mr. Hall.

I. Mr. Hall did not violate 10 C.F.R. § 50.5.

A. Section 50.5 requires that an individual deliberately violate an NRC regulation -- here Section 50.7

Section 50.5 gives the NRC authority to take enforcement action directly against unlicensed persons, such as employees of licensees, when those individuals "engage in deliberate misconduct . . . ," which is defined as "an intentional act or omission that the person knows . . . would cause a licensee to be in violation of any rule, regulation, or order, or any term, condition, or limitation, of any license issued by the Commission"

When the Commission promulgated Section 50.5, it repeatedly made clear that that regulation reached deliberate misconduct, and only deliberate misconduct. 56 Fed. Reg. 40664, et seq.

(Aug. 15, 1991). The Commission emphasized that "the rule does not apply in cases of negligence, honest mistake, or ignorance." Id. at 40675. And in no uncertain terms, it described how narrow the rule's application would be:

the range of actions that would subject an individual to action by the Commission does not differ significantly from the range of actions that might subject the individual to criminal prosecution.

Id. (Emphasis added). As the Commission further elaborated:

It would be an erroneous reading of the final rule on deliberate misconduct to conclude that conscientious people may be subject to personal liability for mistakes. The Commission realizes that people may make mistakes while acting in good faith. Enforcement actions directly against individuals are not to be used for activities caused by merely negligent conduct. These persons should have no fear of individual liability under this regulation, as the rule requires that there be deliberate misconduct before the rule's sanctions may be imposed.

Id. at 40681.

Thus, in this case in order to find that Mr. Hall has violated Section 50.5, the NRC must first find that he deliberately violated Section 50.7.

B. Mr. Hall did not deliberately violate Section 50.7.

The charges against Mr. Hall all rest on two theories: first, Mr. Hall retaliated against Mr. Cianfrani and Mr. Craig because of their involvement in a December 3 incident at the Salem Generating Station; second, Mr. Hall retaliated against Mr. Cianfrani because he wrote an October 12, 1993 memorandum that raised a safety concern. With all due respect, both theories stretch the imagination beyond the breaking point.

1. The December 3 incident.

Mr. Hall was not involved in the December 3 incident or its aftermath; his conduct was not at issue during or following the December 3 incident; he did not even know Mr. Cianfrani or Mr. Craig until May 1993, six months after the December 3 incident, when he became the Manager of Nuclear Safety Review ("NSR"), the organization where Mr. Cianfrani and Mr. Craig worked. Perhaps even more importantly, Mr. Hall learned the details of the December 3 incident before he even met Mr. Cianfrani or Mr. Craig, at a PSEG presentation that fully exonerated the employees who had been involved (Mr. Craig and Mr. Bert Williams) and that disciplined the managers who had participated for their inappropriate conduct during the December 3 incident and its aftermath. Hall Declaration at ¶s 2a, 22.

In short, Mr. Hall had no motive to retaliate against either Mr. Cianfrani or Mr. Craig because of the December 3 incident. He was not personally or professionally threatened by the December 3 incident or its aftermath -- so Mr. Hall had no personal or professional reason to retaliate for the December 3 allegations. Moreover, PSEG had punished management for acting improperly during the incident -- so Mr. Hall had no reason to expect that PSEG would somehow be pleased if he retaliated to support those managers who were involved. Id. at ¶s 2a, 22. It is difficult, if not impossible, to even imagine a reason for Mr. Hall to retaliate on the basis of the December 3 incident -- and he did not do so.

2. The October 12 memorandum.

Nor is there any basis to assert that Mr. Hall retaliated against Mr. Cianfrani because he had raised a safety concern in an October 12 memorandum. To the contrary, Mr. Hall asked Mr. Cianfrani to write the October 12, 1993 memorandum so that Mr. Hall could forward the safety concern up the management chain. Mr. Hall did what he told Mr. Cianfrani he would do. The October 12 memorandum was forwarded to upper management, and the safety concern it raised was fully investigated. Id. at ¶s 2b, 14c. It makes no sense to speculate that Mr. Hall asked Mr. Cianfrani to write a memorandum outlining a possible safety concern -- just so he would be able to retaliate against Mr. Cianfrani for raising that concern. And he did not do so.

3. Mr. Cianfrani's evaluation/Mr. Craig's transfer.

The facts are set forth in detail in the attached Hall Declaration, and Mr. Hall is prepared to discuss these facts at the September 11 predecisional enforcement conference. Unlike the theories that form the bases for the charges against Mr. Hall, the facts do not require any stretch of the imagination. Mr. Hall gave Mr. Cianfrani an informal assessment and a formal evaluation that reflected Mr. Hall's judgment that Mr. Cianfrani's performance needed improvement. Id. at ¶s 3a, 9-17. Mr. Hall transferred Mr. Craig as part of an overall reorganization to improve NSR. Id. at ¶s 3b, 18-22. These are not unlawful activities. They are legitimate management

decisions that were made to improve NSR and the nuclear operations at PSEG.

Because he did not deliberately violate Section 50.7, Mr. Hall cannot lawfully be found to have violated Section 50.5.

II. Extenuating and Mitigating Circumstances Make This The Wrong Case For Individual Enforcement Action.

Even in cases of deliberate misconduct the Commission has recognized "that enforcement actions against individuals are significant actions that need to be closely controlled and judiciously applied." 56 Fed. Reg. 40676. To this end it has promised to temper its enforcement power with justice and to withhold enforcement action against an individual based upon various extenuating and mitigating circumstances. Mr. Hall asks the NRC to consider the following extenuating and mitigating factors.

A. Mr. Hall's actions were approved by his supervisors.

Both Mr. Cianfrani's evaluation and Mr. Craig's transfer were approved by Mr. Hall's supervisors. Mr. Hall discussed both actions at length with his management and no one ever suggested that either action was improper or inappropriate. Hall Declaration at ¶s 3, 17, 20, 24. Mr. Hall was certainly never advised that either Mr. Cianfrani's evaluation or Mr. Craig's transfer was illegal retaliation or was in some way a violation of PSEG's policies or the NRC's regulations.

B. Mr. Hall acted in complete good faith, for no personal benefit or gain.

In deciding whether to take enforcement action against an individual the NRC will consider "[t]he benefit to the wrongdoer, e.g., personal or corporate gain." Enforcement Policy at § VIII, ¶ 4. Mr. Hall's actions were not taken for any personal gain or benefit. To the contrary, Mr. Hall acted in complete good faith, with the best of intentions, and with the belief that what he was doing would strengthen NSR organization and the performance of its employees.

In short, this is not a case where someone has sought personal profit by cutting corners and avoiding regulatory requirements. If Mr. Hall made mistakes in dealing with Mr. Cianfrani and Mr. Craig, they were mistakes made in good faith, while he was acting in what he believed to be the best interest of everyone at the time.

C. Mr. Hall does not bear sole blame for the events at issue.

The NRC has also promised to consider "[t]he degree of management responsibility or culpability" in the conduct at issue. Enforcement Policy at § VIII, ¶ 8. If the NRC somehow concludes that Mr. Cianfrani and Mr. Craig were improperly treated because they raised safety concerns, it cannot be fairly concluded that Mr. Hall alone is responsible for anything that was "improperly" done to either of them.

- Mr. Hall's supervisors never told him that he was acting improperly. To the contrary, they reviewed his evaluations of Mr. Cianfrani and the transfer of Mr.

Craig and found these actions to be fair, honest, and entirely proper. Hall Declaration at ¶s 3, 17, 20, 24.

- Mr. Hall did not received adequate training in how to avoid Section 50.7 violations. In particular, he was never trained at all in how to supervise an employee who has perceived performance weaknesses but who has wrapped himself in the protections accorded to "whistleblowers." Id. at ¶24c.

D. Mr. Cianfrani and Mr. Craig Have Abused The Protections That Are Accorded Whistleblowers.

We recognize -- and do not question in the slightest -- the importance of protecting those who raise safety concerns from any retaliation. But there is a point where legitimate "whistleblower" protection can be abused and misused. Raising a safety concern does not insulate a "whistleblower" from any subsequent criticism or employment action with which he may be displeased.

The simple truth is that the only way Mr. Hall could have avoided the charges made by Mr. Cianfrani and Mr. Craig was to do exactly what they wanted done. In the words of Mr. Cianfrani "Don't screw with me -- Bert and Paul work for me." Hall Declaration at ¶s 13, 14b. A clearer case of "whistleblower extortion" is hard to imagine. With the exception of lying to inflate Mr. Cianfrani's performance and of treating Mr. Craig differently than the many other NSR employees who were transferred, there is no other way Mr. Cianfrani or Mr. Craig would have been placated and no other way Mr. Hall could have avoided their charges.

In hindsight, this would have been the "easy out." But this cannot be the "out" desired by anyone with responsibility for

effectively, efficiently and safely operating a nuclear power plant. There is nothing unlawful about pointing out weaknesses in the performance of an employee or transferring an employee as part of an overall reorganization -- even if the employee who gets a poor evaluation or who gets transferred to a position he does not like has raised safety concerns at some time earlier in his career.

E. Mr. Hall has been punished enough.

The NRC also pledged to consider "[t]he employer's response, e.g., disciplinary action taken." Enforcement Policy at § VIII, ¶ 6. Regardless of what the NRC does, Mr. Hall has been punished for the actions that are the subject of this enforcement conference. He has suffered and continues to suffer stress; dealing with the allegations raised by Mr. Cianfrani and Mr. Craig has been time consuming and distracting; he has lost his job -- at least indirectly because of the events at issue here. Further punishment by the NRC would be unjust to Mr. Hall and would not be necessary to fulfill any legitimate NRC regulatory purpose. Hall Declaration at ¶s 25-27.

F. Mr. Hall has fully cooperated with all investigations and has made no effort to hide any of his actions which are the subject of this enforcement conference.

Mr. Hall has fully cooperated with all investigations into the matters which are at issue here. He has answered all questions concerning each of these matters; he will continue to cooperate fully; he intends to answer all questions that may be asked him at the September 11 predecisional enforcement

conference. Mr. Hall has made no effort to cover up any actions that are the subject of this enforcement action.

G. Mr. Hall should be judged on his entire record, not just the events that are the subject of this enforcement conference.

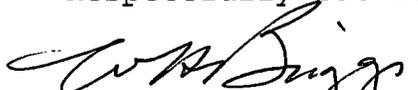
Finally, we ask the NRC to consider Mr. Hall's entire record before it takes any enforcement action against him personally. He has worked for over twenty years in the nuclear industry. Until he became the Manager of NSR, and had to deal with people who were committed to playing the system and to abusing the important protections that must be accorded to those who raise safety concerns, Mr. Hall's record was spotless. Id. at ¶ 28.

The actions that are the subject of these events should not be looked at in a vacuum. The NRC should consider Mr. Hall's entire record -- his demonstrated ability and outstanding performance over a lengthy career -- before deciding to impose its enforcement authority on Mr. Hall.

CONCLUSION

For the reasons set forth herein, in the Declaration of Bruce E. Hall, and for such further reasons that may come before the NRC at the September 11, 1996 predecisional enforcement conference, we urge the NRC not to take any individual enforcement action against Mr. Hall.

Respectfully submitted,



William H. Briggs, Jr.

September 5, 1996

MEMORANDUM IN SUPPORT OF BRUCE E. HALL

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This memorandum and the accompanying Declaration of Bruce E. Hall (the "Hall Declaration") are filed in support of Mr. Hall insofar as the NRC is considering enforcement action against him

in his individual capacity. As set forth in these documents, and as will be discussed in more detail at the upcoming predecisional enforcement conference, neither the facts nor the law support NRC enforcement action against Mr. Hall. First, as a matter of law, the only regulatory basis for taking enforcement action against a non-licensed individual such as Mr. Hall is 10 C.F.R. § 50.5 ("Section 50.5"). Mr. Hall did not violate Section 50.5 because he did not deliberately engage in any misconduct in evaluating Mr. Cianfrani or in transferring Mr. Craig -- he did not deliberately violate Section 50.7. Second, there are a number of extenuating and mitigating circumstances which we urge the NRC to consider before it decides whether or not to take enforcement action against Mr. Hall.

I. Mr. Hall did not violate 10 C.F.R. § 50.5.

A. Section 50.5 requires that an individual deliberately violate an NRC regulation -- here Section 50.7

Section 50.5 gives the NRC authority to take enforcement action directly against unlicensed persons, such as employees of licensees, when those individuals "engage in deliberate misconduct . . . ," which is defined as "an intentional act or omission that the person knows . . . would cause a licensee to be in violation of any rule, regulation, or order, or any term, condition, or limitation, of any license issued by the Commission"

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Thus, in this case in order to find that Mr. Hall has violated Section 50.5, the NRC must first find that he deliberately violated Section 50.7.

B. Mr. Hall did not deliberately violate Section 50.7.

The charges against Mr. Hall all rest on two theories: first, Mr. Hall retaliated against Mr. Cianfrani and Mr. Craig because of their involvement in a December 3 incident at the Salem Generating Station; second, Mr. Hall retaliated against Mr. Cianfrani because he wrote an October 12, 1993 memorandum that raised a safety concern. With all due respect, both theories stretch the imagination beyond the breaking point.

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Mr. Hall was not involved in the December 3 incident or its aftermath; his conduct was not at issue during or following the December 3 incident; he did not even know Mr. Cianfrani or Mr. Craig until May 1993, six months after the December 3 incident, when he became the Manager of Nuclear Safety Review ("NSR"), the organization where Mr. Cianfrani and Mr. Craig worked. Perhaps even more importantly, Mr. Hall learned the details of the December 3 incident before he even met Mr. Cianfrani or Mr. Craig, at a PSEG presentation that fully exonerated the employees who had been involved (Mr. Craig and Mr. Bert Williams) and that disciplined the managers who had participated for their inappropriate conduct during the December 3 incident and its aftermath. Hall Declaration at ¶s 2a, 22.

Ex. 5

When did this occur?
After Feb-1995
End Conf?
Time frame is critical.

In short, Mr. Hall had no motive to retaliate against either Mr. Cianfrani or Mr. Craig because of the December 3 incident. He was not personally or professionally threatened by the December 3 incident or its aftermath -- so Mr. Hall had no personal or professional reason to retaliate for the December 3 allegations. Moreover, PSEG had punished management for acting improperly during the incident -- so Mr. Hall had no reason to expect that PSEG would somehow be pleased if he retaliated to support those managers who were involved. Id. at ¶s 2a, 22. It is difficult, if not impossible, to even imagine a reason for Mr. Hall to retaliate on the basis of the December 3 incident -- and he did not do so.

When was this known?

2. The October 12 memorandum.

Nor is there any basis to assert that Mr. Hall retaliated against Mr. Cianfrani because he had raised a safety concern in an October 12 memorandum. To the contrary, Mr. Hall asked Mr. Cianfrani to write the October 12, 1993 memorandum so that Mr. Hall could forward the safety concern up the management chain. Mr. Hall did what he told Mr. Cianfrani he would do. The October 12 memorandum was forwarded to upper management, and the safety concern it raised was fully investigated. Id. at ¶s 2b, 14c. It makes no sense to speculate that Mr. Hall asked Mr. Cianfrani to write a memorandum outlining a possible safety concern -- just so he would be able to retaliate against Mr. Cianfrani for raising that concern. And he did not do so.

3. Mr. Cianfrani's evaluation/Mr. Craig's transfer.

The facts are set forth in detail in the attached Hall Declaration, and Mr. Hall is prepared to discuss these facts at the September 11 predecisional enforcement conference. Unlike the theories that form the bases for the charges against Mr. Hall, the facts do not require any stretch of the imagination. Mr. Hall gave Mr. Cianfrani an informal assessment and a formal evaluation that reflected Mr. Hall's judgment that Mr. Cianfrani's performance needed improvement. Id. at ¶s 3a, 9-17. Mr. Hall transferred Mr. Craig as part of an overall reorganization to improve NSR. Id. at ¶s 3b, 18-22. These are not unlawful activities. They are legitimate management

decisions that were made to improve NSR and the nuclear operations at PSEG.

Because he did not deliberately violate Section 50.7, Mr. Hall cannot lawfully be found to have violated Section 50.5.

II. Extenuating and Mitigating Circumstances Make This The Wrong Case For Individual Enforcement Action.

Even in cases of deliberate misconduct the Commission has recognized "that enforcement actions against individuals are significant actions that need to be closely controlled and judiciously applied." 56 Fed. Reg. 40676. To this end it has promised to temper its enforcement power with justice and to withhold enforcement action against an individual based upon various extenuating and mitigating circumstances. Mr. Hall asks the NRC to consider the following extenuating and mitigating factors.

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B. Mr. Hall acted in complete good faith, for no personal benefit or gain.

In deciding whether to take enforcement action against an individual the NRC will consider "[t]he benefit to the wrongdoer, e.g., personal or corporate gain." Enforcement Policy at § VIII, ¶ 4. Mr. Hall's actions were not taken for any personal gain or benefit. To the contrary, Mr. Hall acted in complete good faith, with the best of intentions, and with the belief that what he was doing would strengthen NSR organization and the performance of its employees.

In short, this is not a case where someone has sought personal profit by cutting corners and avoiding regulatory requirements. If Mr. Hall made mistakes in dealing with Mr. Cianfrani and Mr. Craig, they were mistakes made in good faith, while he was acting in what he believed to be the best interest of everyone at the time.

C. Mr. Hall does not bear sole blame for the events at issue.

The NRC has also promised to consider "[t]he degree of management responsibility or culpability" in the conduct at issue. Enforcement Policy at § VIII, ¶ 8. If the NRC somehow concludes that Mr. Cianfrani and Mr. Craig were improperly treated because they raised safety concerns, it cannot be fairly concluded that Mr. Hall alone is responsible for anything that was "improperly" done to either of them.

- Mr. Hall's supervisors never told him that he was acting improperly. To the contrary, they reviewed his evaluations of Mr. Cianfrani and the transfer of Mr.

Craig and found these actions to be fair, honest, and entirely proper. Hall Declaration at ¶s 3, 17, 20, 24.

- Mr. Hall did not received adequate training in how to avoid Section 50.7 violations. In particular, he was never trained at all in how to supervise an employee who has perceived performance weaknesses but who has wrapped himself in the protections accorded to "whistleblowers." Id. at ¶24c.

D. Mr. Cianfrani and Mr. Craig Have Abused The Protections That Are Accorded Whistleblowers.

We recognize -- and do not question in the slightest -- the importance of protecting those who raise safety concerns from any retaliation. But there is a point where legitimate "whistleblower" protection can be abused and misused. Raising a safety concern does not insulate a "whistleblower" from any subsequent criticism or employment action with which he may be displeased.

The simple truth is that the only way Mr. Hall could have avoided the charges made by Mr. Cianfrani and Mr. Craig was to do exactly what they wanted done. In the words of Mr. Cianfrani "Don't screw with me -- Bert and Paul work for me." Hall Declaration at ¶s 13, 14b. A clearer case of "whistleblower extortion" is hard to imagine. With the exception of lying to inflate Mr. Cianfrani's performance and of treating Mr. Craig differently than the many other NSR employees who were transferred, there is no other way Mr. Cianfrani or Mr. Craig would have been placated and no other way Mr. Hall could have avoided their charges.

In hindsight, this would have been the "easy out." But this cannot be the "out" desired by anyone with responsibility for

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F. Mr. Hall has fully cooperated with all investigations and has made no effort to hide any of his actions which are the subject of this enforcement conference.

Mr. Hall has fully cooperated with all investigations into the matters which are at issue here. He has answered all questions concerning each of these matters; he will continue to cooperate fully; he intends to answer all questions that may be asked him at the September 11 predecisional enforcement

conference. Mr. Hall has made no effort to cover up any actions that are the subject of this enforcement action.

G. **Mr. Hall should be judged on his entire record, not just the events that are the subject of this enforcement conference.**

Finally, we ask the NRC to consider Mr. Hall's entire record before it takes any enforcement action against him personally. He has worked for over twenty years in the nuclear industry. Until he became the Manager of NSR, and had to deal with people who were committed to playing the system and to abusing the important protections that must be accorded to those who raise safety concerns, Mr. Hall's record was spotless. Id. at ¶ 28.

The actions that are the subject of these events should not be looked at in a vacuum. The NRC should consider Mr. Hall's entire record -- his demonstrated ability and outstanding performance over a lengthy career -- before deciding to impose its enforcement authority on Mr. Hall.

CONCLUSION

For the reasons set forth herein, in the Declaration of Bruce E. Hall, and for such further reasons that may come before the NRC at the September 11, 1996 predecisional enforcement conference, we urge the NRC not to take any individual enforcement action against Mr. Hall.

Respectfully submitted,



William H. Briggs, Jr.

September 5, 1996

DECLARATION OF BRUCE E. HALL

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I, Bruce E. Hall, submit this sworn Declaration to the Nuclear Regulatory Commission ("NRC") for its consideration in connection with the upcoming September 11, 1996 predecisional enforcement conference.

INTRODUCTION

1. In a July 1, 1996 letter from Richard W. Cooper to me, I was advised that the NRC was considering whether to take enforcement action against me personally because of certain professional dealings I had with Mr. William Cianfrani and Mr. Paul Craig while I served as the Manager, Nuclear Safety Review ("NSR") for Public Service Electric & Gas Company ("PSEG"). I submit this Declaration for the NRC's consideration prior to and at the upcoming predecisional enforcement conference. In addition, I look forward to elaborating on the matters discussed in this Declaration at the September 11, 1996 conference and to answering any and all questions the NRC may have.

2. I understand that I am accused of retaliating against Mr. Cianfrani and Mr. Craig because of an incident that occurred on December 3, 1992; I also understand that I am accused of retaliating against Mr. Cianfrani because he raised a safety concern in an October 12, 1993 memorandum to me. At the outset, I want to emphasize that I had no reason to retaliate against anyone based upon either the December 3 incident or the October 12 memorandum -- and I did not do so.

a. **The December 3 incident.** The December 3 incident occurred at Salem Generating Station ("Salem"), when Mr. Craig and another safety engineer (Mr. Bert Williams) raised a safety concern and were retaliated against by the Salem General Manager and the Salem Operations Manager (Mr. Cal Vondra and Mr. Vince Polizzi). I understand that other managers later became involved in the aftermath of the December 3 incident. I was not personally involved in the December 3 incident or its aftermath; to the contrary, at the time I was working at Hope Creek Generating Station ("Hope Creek") and did not know Mr. Craig or Mr. Cianfrani. Indeed, I first learned the details of the December 3 incident in late April 1993, when PSEG publicly announced that: (1) the actions of the employees involved in the December 3 incident (Mr. Craig and Mr. Williams) were entirely appropriate; (2) the actions of the managers involved in the December 3 incident and its aftermath were entirely wrong; and (3) the managers involved were being disciplined for their conduct during and after the December 3 incident. In short, I had no personal or professional reason to retaliate against anyone because of the December 3 incident -- and I did not do so.

b. **The October 12 memorandum.** Nor did I retaliate against Mr. Cianfrani because he raised a safety concern in an October 12, 1993 memorandum that he wrote to me. To the contrary, I asked Mr. Cianfrani to write me the October 12 memorandum so I could forward his safety concern to the Vice President of Nuclear Operations. I forwarded the October 12

memorandum to the VP Ops, and he requested an investigation of the concern reported by Mr. Cianfrani in the October 12 memorandum. As a result, the concern Mr. Cianfrani reported (at my request) was fully and completely investigated. In short, I had no personal or professional reason to retaliate against Mr. Cianfrani for raising a safety concern in the October 12 memorandum -- and I did not do so.

3. My management decisions that are at issue here -- Mr. Cianfrani's performance evaluations and Mr. Craig's transfer -- were made because I thought they were the right thing to do, and I thought that they would improve the NSR and nuclear operations at PSEG.

a. **Mr. Cianfrani's evaluation.** I tried to evaluate Mr. Cianfrani's performance fairly and accurately in both the informal assessment and formal evaluation that I prepared. In my view, Mr. Cianfrani exhibited immaturity and lack of judgment as a supervisor, and the assessment and evaluation that I prepared reflected the shortcomings in his performance that I observed. At the same time that I rated Mr. Cianfrani, I also rated three other supervisors who reported directly to me; I held each of these individuals to the same high performance standards that I expected of Mr. Cianfrani; I gave each of them lower evaluations than they had received from their previous supervisor. Mr. Cianfrani's evaluation, like the other evaluations I gave, was given with the full knowledge and support of my supervisors, none

of whom advised me that my evaluation was improper, incorrect, or unlawful in any way.

b. **Mr. Craig's transfer.** I transferred Mr. Craig from the Salem Onsite Safety Review Group ("SRG") to the Hope Creek Onsite Safety Review Group as part of a major reorganization of NSR in which eleven of the nineteen employees who worked for me in NSR were either reassigned or discharged. A secondary consideration was that his reassignment would give him an opportunity for a fresh start and to work with new people. I believed that this would benefit Mr. Craig because, as set forth below, his personality was abrasive; he was a very difficult person to get along with; and he had upset quite a few people with whom he had worked at Salem. Again, my transfer of Mr. Craig was done with the approval and full support of my supervisors who agreed that it was a personnel action that would benefit both the company and Mr. Craig. None of my supervisors ever suggested to me that Mr. Craig's transfer was improper, incorrect, or unlawful in any way.

4. In sum, I did not deliberately take any actions against Mr. Cianfrani or Mr. Craig because either had raised any safety concerns. If I made mistakes in the decisions that I made, they were mistakes made in good faith; my only intention was to do the best that I could to try to improve the NSR organization and to increase the effectiveness of PSEG's nuclear operations.

5. In Part I, below, I will describe in more detail my dealings with Mr. Cianfrani and Mr. Craig. In Part II, below, I

will set forth some extenuating and mitigating facts that I request the NRC to consider before it decides whether to take any enforcement action against me. I am prepared to discuss each of these matters in greater detail at the predecisional enforcement conference on September 11, 1996.

DISCUSSION

I. My supervision and treatment of Mr. Cianfrani and Mr. Craig.

A. Background.

6. I joined PSEG in June, 1975 and worked in various jobs until I was reassigned to become the Manager of NSR in May, 1993. The mission of NSR was to perform independent assessments of plant equipment and activities and to inform senior management of concerns affecting nuclear safety. At the time I became NSR's Manager, the NSR organization consisted of two Onsite Safety Review groups ("SRG") (the Salem SRG and the Hope Creek SRG), an Offsite Safety Review group ("OSR"), and the Human Performance and Enhancement Systems group ("HPES").

7. When I became Manager, NSR, in May, 1993, Mr. Cianfrani was the Onsite Safety Review Engineer for Salem. In that position, he supervised the Salem SRG which consisted of three engineers, one of whom was Mr. Craig. I did not know either Mr. Cianfrani or Mr. Craig prior to becoming the Manager of NSR. Indeed, from April 1990 until May 1993 I was the Technical Manager for Hope Creek and did not have any dealings with the Salem SRG. As the Manager of NSR, I reported to Mr. Richard N. Swanson, who was the General Manager -- Quality Assurance/Nuclear

Safety Review ("QA/NSR") until his departure from PSEG on July 2, 1994.

8. Based upon discussions with my supervisor, Mr. Swanson, it was made clear that there were problems with the performance of NSR and that I was being brought into NSR with the expectation that I would make changes to improve the organization. I was expected to improve the performance of NSR's employees, to make the organization function more effectively, and to increase the usefulness of NSR to upper management. In meeting this charge, among other things, I raised the performance standards that I expected my employees to meet, and I reorganized NSR and reassigned most of the employees into new positions and reporting relationships within the organization. In implementing these changes, I made the decisions that are the subject of this enforcement conference.

B. Mr. Cianfrani's performance evaluations.

1. My performance evaluations at NSR.

9. As the Manager of NSR, I had the responsibility to prepare performance evaluations for the four supervisors who reported directly to me, including Mr. Cianfrani. Long before I became the Manager of NSR, based upon my experience preparing performance evaluations as a supervisor at PSEG, I had developed a strong belief that employee evaluations should be fair and realistic. I did not think it fair or realistic to inflate evaluations and to ignore performance shortcomings. Accordingly, it was my practice before I became the Manager of NSR to expect

my employees to meet high performance standards and to advise them when I felt their performance did not meet my expectations. I continued this practice for all performance evaluations I prepared as the Manager of NSR -- including the ones I prepared for Mr. Cianfrani.

10. Before I evaluated anyone in NSR, I wanted the opportunity to observe their performance personally. I conferred with Mr. Swanson and, at my suggestion, he agreed that we would defer formal written appraisals of my direct reports for one full year (he had to approve any evaluations I prepared). At the same time, we agreed that I would give an informal assessment of performance to each supervisor who I was to evaluate after I had observed his/her performance for six months. Mr. Swanson and I agreed that this informal assessment would give each of my direct reports a "heads up" on both the performance standards that I expected and my assessment of how they were meeting those standards and expectations. This informal assessment was not a formal appraisal and it was not intended to become a part of any individual's personnel records. Rather, it was intended to afford my direct reports an opportunity to understand my expectations and to improve their performance to meet my high standards. I advised the PSEG Human Resources Department of the informal assessment plan that Mr. Swanson and I agreed to, and I advised my direct reports that this was the performance evaluation system that I was going to use.

11. As I began to observe the actual performance of my direct reports within NSR, I concluded that their earlier appraisals had been unrealistically high. Each of the people whom I was to evaluate had areas of needed improvement which had not been noted on prior appraisals. I was determined to evaluate each of them fairly and realistically as I had done in other evaluations that I prepared before I ever arrived at NSR.

2. Mr. Cianfrani's informal assessment.

12. I prepared my informal, six month assessment for Mr. Cianfrani and my other three direct reports in November 1993. In this assessment, I advised Mr. Cianfrani that the assessment was intended to provide feedback on my perception of his performance to date and to give him the opportunity to improve his performance over the next six months. See Exhibit A. The six month assessments that I gave to my other direct reports contained the same advice.

13. Almost from my first meeting with Mr. Cianfrani, I observed shortcomings in his supervisory and management skills. From time to time, he exhibited a lack of maturity, a lack of judgment, and an inability or unwillingness to supervise his people.^{1/} When I prepared his six month informal assessment, I

^{1/} As the OI Report notes, my judgment about Mr. Cianfrani's shortcomings was shared by other PSEG managers who independently reached the same conclusion that I reached. For example, in the late summer of 1993 Mr. Robert Buricelli, a member of the PSEG task force that investigated the December 3 incident, advised me that the task force had found deficiencies in Mr. Cianfrani's performance as an SRG supervisor; similarly, Mr. Swanson, my boss, also advised me that he believed that Mr. Cianfrani's

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wanted to note fairly Mr. Cianfrani's strengths and weaknesses; however, I wanted to set forth clearly the deficiencies that I perceived and to give him the opportunity to correct those deficiencies and meet my performance expectations. Among the deficiencies that I observed were the following:

- Mr. Cianfrani missed deadlines. Exhibit A, item 1.
- Mr. Cianfrani needed to develop an overall game plan for the Salem SRG; his unit reacted to events, rather than proactively trying to accomplish a set of goals. Exhibit A, item 1.
- Mr. Cianfrani wrote official PSEG memoranda to his staff engineers regarding the December 3 incident and its aftermath. I regarded the timing of these memoranda as poor judgment. PSEG had assembled a task force that was thoroughly investigating the December 3 incident, Mr. Cianfrani was not a member of the task force and was not privy to the materials reviewed by the task force or its findings; indeed, the task force's report (and PSEG's response) had yet to be issued. Exhibit A, item 3.
- Mr. Cianfrani needed to manage his people; his style was to let them do what they felt like. Exhibit A, item 5.
- Mr. Cianfrani had used poor judgment in making up a business card that said "watch your ass" or "don't screw with me" on one side and "Bert [Williams] and Paul [Craig] work for me" on the other. While he thought this was a joke, I did not find it at all funny and, in fact, found it to be very poor judgment given the significance and seriousness of the December 3 incident. Exhibit A, item 5.
- Mr. Cianfrani refused to take a Tenera test that I required all the NSR engineering staff to take. He unilaterally decided that the test was unfair, and he refused to take the test until I told him that I would

^{1/} (...continued)

judgment and performance was questionable. Both of these men reached their conclusions independently of me, and I reached my conclusions independently of them. None of us was in any way involved in the December 3 incident or its aftermath.

take the test and throw it out if I felt it was unfair. Exhibit A, item 5.

Mr. Cianfrani was not careful and cautious about distinguishing between facts and opinion in written material. He wrote an October 12, 1993 memorandum about an incident which he entitled "ATMOSPHERE OF INTIMIDATION" and which included a sentence that said "This is testament to a Nuclear Department atmosphere of intimidation." In fact, the facts did not support his charge and the memorandum should have been more carefully drafted. Exhibit A, item 6.

My overall comments on Mr. Cianfrani's six month assessment noted

He must improve judgment in the areas of leadership and managing human resources. He needs to assure that he is aligned with the company and Nuclear Department goals and that he is providing an effective role model for his people.

This must be improved if Mr. Cianfrani is to remain in a supervisory position.

14. Although they are not the most important elements of my appraisal of Mr. Cianfrani, because they are of concern to this enforcement conference, I want to comment about three specific examples of what I considered to be Mr. Cianfrani's poor judgment.

a. **The April 7 memoranda.** I criticized Mr. Cianfrani because on April 7, 1993, he wrote memoranda to his subordinates concerning their involvement in the December 3 incident. Exhibits B and C. My problems with these memoranda had nothing to do with the underlying December 3 incident, I was not criticizing Mr. Cianfrani, Mr. Craig, or Mr. Williams for anything that happened on December 3 or afterwards, and I certainly wasn't defending the management people who were involved. My concern was that these memoranda were premature and, therefore, I believed, ill-advised because, at the time they

were written, the task force that PSEG had assembled to thoroughly investigate the December 3 incident had not yet issued its report. Mr. Cianfrani did not have first hand information of the December 3 incident, did not know the details of the information the task force had reviewed, did not know the results the task force had reached, and did not know the position the company would take based upon the task force report and all the facts. As a representative of PSEG management, I thought Mr. Cianfrani should not have prejudged the outcome of the task force report and management's response to the December 3 incident. I also thought that it was not appropriate for Mr. Cianfrani to use PSEG stationery and official correspondence to express his personal speculation that the cause of the December 3 incident was "retribution" for previous Salem SRG activities. It is a strong statement to accuse anyone of unlawful conduct; and, in my view, to do so without any factual basis in official correspondence demonstrates poor judgment.^{2/} In addition, my opinion that Mr. Cianfrani had acted prematurely in sending out his April 7 memoranda was also shared by Mr. Swanson, my supervisor.^{3/}

^{2/} Mr. Cianfrani's inability or unwillingness to separate facts from opinions was also the reason I criticized him for his choice of words in the October 12 memorandum. See ¶ 14 c, below.

^{3/} The OI report correctly notes that the April 7 memoranda were prepared before I became Manager of NSR and outside the "rating period" I chose to put on the informal performance appraisal and the formal evaluation. I felt that the timing of these memoranda and the speculation that they contained were errors of judgment, and I thought it important to tell Mr. Cianfrani my views. No one ever suggested that it was

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b. The "Don't screw with me" business card. I also criticized Mr. Cianfrani for making up a business card that told people to "watch your ass" or "don't screw with me," because "Bert and Paul work for me." Again, my problem with this card had nothing to do with the underlying December 3 incident -- I was not criticizing Mr. Cianfrani, Mr. Craig, or Mr. Williams for anything related to the incident or its aftermath, and I was not defending any management people that may have been involved. By the time I came to NSR, everyone viewed the December 3 incident as a unfortunate confrontation that should never have happened. Serious mistakes were made and PSEG had taken strong corrective action and had disciplined a number of managers for their role in the incident and its aftermath. I was not involved in the incident, but I certainly understood that neither of the SRG engineers involved had acted improperly, and that management had badly handled the matter. My view, however, was that everyone at the Company had learned a hard lesson from the incident and it was time to put the matter behind us. I believe that senior management reasonably expected the supervisors and managers throughout the organization to promote a calming, healing atmosphere. I did not believe Mr. Cianfrani's card helped us to achieve this goal. To the contrary, it seemed to me that Mr.

^{3/} (...continued)

inappropriate to use these memoranda as illustrations of the poor judgment I was trying to identify and correct. However, if it was error to mention these memoranda because they were written outside the "rating period," this was not something I deliberately did to punish Mr. Cianfrani for raising a safety concern related to the December 3 incident.

Cianfrani wanted to keep the entire incident alive, rather than moving on to build healthier, better working relationships and to solve the new problems we faced each day.

c. **The October 12, 1993 memorandum.** I also criticized Mr. Cianfrani for using sloppy language in an October 12, 1993 memorandum. Exhibit D. My problem with the memorandum was not that it raised a safety concern. To the contrary, I specifically asked Mr. Cianfrani to put his concern in writing so that I could raise it with senior management for appropriate action. When I got the memorandum it was forwarded to the Vice President of Nuclear Operations; the issue raised in the memorandum was thoroughly investigated and found not to raise any safety concern. What bothered me about the October 12 memorandum was the loose language and Mr. Cianfrani's inability to separate fact from opinion. The memorandum is entitled "ATMOSPHERE OF INTIMIDATION," and it has a sentence that categorically states the incident reported is "testament to a Nuclear Department atmosphere of intimidation." I criticized this language because I expected that memoranda from NSR should be factual and accurate. I firmly believed that it undermines credibility when someone reaches conclusions that are not supported by the facts. Similarly, I believed that it undermines effectiveness when someone reporting on an event fails to separate facts from subjective opinions. In my experience, people stop listening when they believe that someone reporting on a problem is not being factual, but rather is offering unsupported opinion as

fact. The last thing NSR needed then was to have people ignore its views because they believed NSR lacked credibility or could not tell fact from opinion. For these reasons I criticized Mr. Cianfrani for poor judgment in the wording he used in drafting his October 12 memorandum.

15. Mr. Cianfrani was not the only direct report whose performance was criticized in the interim assessments I prepared. He was, however, the only person I criticized who rejected my evaluation of him, in toto. Mr. Cianfrani adopted an argumentative and confrontational posture -- the issue was not what could he do to improve his performance; the issue became how could he demonstrate that I was wrong and he was right. Not one of my criticisms was accepted as remotely valid; Mr. Cianfrani made no attempt to come to grips with anything I suggested; everything was a vendetta against him.

3. Mr. Cianfrani's formal appraisal.

16. As noted above, Mr. Cianfrani basically ignored any criticisms I offered of his behavior. Moreover, in January 1994 he requested reassignment to another position. Ultimately, he was reassigned in April 1994. At about this same time I prepared formal evaluations for Mr. Cianfrani and the other supervisors whom I evaluated. Exhibit E. This evaluation was specifically reviewed and approved by my supervisor, Mr. Swanson. Essentially the formal evaluation I gave was the same as the informal evaluation; however, one additional deficiency was noted -- despite repeated requests from me, Mr. Cianfrani never completed

the three overdue performance evaluations for his subordinates. Exhibit E at item 5.

17. In sum, I evaluated Mr. Cianfrani as I evaluated everyone -- fairly and honestly, to the best of my ability. I did not downgrade him because he raised a safety concern related to the December 3 incident or because he raised a safety concern (at my request) in an October 12 memorandum. I gave him the appraisals and evaluations that I did, because they fairly and accurately reflected my view of Mr. Cianfrani's performance. Similarly, I evaluated the other people who reported to me fairly and accurately to the best of my ability.^{4/} My immediate supervisor also signed off on Mr. Cianfrani's evaluations because he agreed with my perception of Mr. Cianfrani's performance. Neither he nor any other PSEG official ever suggested to me that the evaluation should be changed because it was somehow wrong, unfair, improper, or illegal.

C. Mr. Craig's transfer.

18. Shortly after becoming Manager of NSR, I had a number of discussions with Mr. Swanson regarding the past effectiveness

^{4/} The standards I applied in these other evaluations, like the standards applied to Mr. Cianfrani were higher than the performance standards expected by my predecessor. Thus, every person I evaluated received appraisals and evaluations that were lower than their previous evaluations. As might be expected, these evaluations were not always well-received. For example, the OI Report vividly illustrates how dissatisfied Fernando Ricart was with the evaluation I gave him. Mr. Ricart apparently even advised OI that my evaluation was "retaliation" -- however, he never says why I allegedly retaliated against him. I did not "retaliate" against Mr. Ricart, and, to my knowledge, he has never even alleged that I lowered his evaluation because he raised some safety concern.

of NSR (or lack thereof) and how we could improve the effectiveness of NSR in the future. To assist our efforts, Mr. Swanson arranged for an in depth review of NSR by Tenera. As a result of our discussions and the Tenera report on NSR, Mr. Swanson and I shared the view that major reassignments would strengthen both the organization and personnel of NSR. In keeping with these discussions, on December 23, 1993 I advised Mr. Swanson that it was my intention "to rotate as many NSR personnel as possible within NSR in order to break as many NSR paradigms (such as how and what we review) to bring fresh approaches and thoughts as we develop standards and define how each group functions in the new NSR." Exhibit F.

19. Mr. Craig's reassignment from the Salem SRG to the Hope Creek SRG on August 1, 1994 was part of this overall NSR employee rotation. Mr. Craig was by no means singled out for a new assignment on August 1, 1994; to the contrary, eleven of the nineteen engineers and supervisors I managed in NSR were reassigned or discharged from PSEG.

20. As noted above Mr. Swanson and I viewed the reassignments as strengthening the NSR organization and as providing opportunities for individual growth. These reassignments were primarily intended to strengthen the organization by "break[ing] as many NSR paradigms (such as how and what we review) as possible." Exhibit F. By this I intended to break up reporting relationships that had become too comfortable, to change jobs being done by personnel and thereby

to infuse new ideas and new ways of doing business into the organization, and to create enthusiasm and fresh approaches to the way we had been doing the job in the past. Frankly, I expected that there would be less resistance to the long-term changes that were needed within NSR once these personnel reassignments were in place.

21. A secondary benefit of these reassignments was to provide opportunities for individual growth and development -- such as broadening individual experiences and teaching new job skills. For Mr. Craig, I viewed his reassignment as providing a different sort of individual opportunity -- an opportunity to put past unpleasant working relationships behind him and to start fresh with new people in a new environment. Although I did not know Mr. Craig before I became the Manager of NSR, I quickly learned that he was a difficult personality to deal with. He was arrogant and abrasive; he belittled people; he argued at length over any and everything; and he left a trail of very unhappy people in most of his dealings at Salem. For example,

a. In my first meeting with Salem SRG, a meeting where I simply expected to say hello, to be cordially welcomed as the new Manager, and to generally have a constructive "let's get-to-know each other" session, I was met with a complaining, argumentative Paul Craig.

b. During the next year I quickly learned that Mr. Craig turned every request, comment or subject into a major debate. At times Mr. Craig was so argumentative that people

(even in his own group) would literally walk out of meetings when he insisted on debating every irrelevant and tangential point.

c. Several times people at Salem complained to me about having to deal with Mr. Craig.

d. Mr. Craig complained to me about assignments I gave him, about having to give me advance notice of vacation schedules (in accordance with PSEG policy), and frankly about almost anything else that we talked about.

e. While some of Mr. Craig's argumentative behavior involved his belief that he had been treated unfairly during the December 3 incident and those with whom he had his confrontation had not been punished to his satisfaction, that was by no means the only basis for his arguing, his complaining, and his condescending attitude.

f. In July 1994, as part of an initiative applicable to the entire PSEG Nuclear Department, supervisors were asked to list people who were their worst performers and whose performance was not likely improve. I put five names on my list -- one of whom was Paul Craig. Although I understood that the people on the list might be discharged, I put Mr. Craig's name on the list because his interpersonal behavior caused so many problems with so many people that he was one of my worst performers; moreover, I believed that his personality was not likely to change and his interpersonal skills and performance were not likely to improve. Exhibit G. Later Mr. Craig's name was removed from the list at upper management's request because they were afraid that Mr.

Craig would allege that he was the victim of discriminatory action because he had raised a safety concern during the December 3 incident. I can state categorically, however, that was not the reason that I put Mr. Craig on the list or that I felt his performance was poor. To the contrary, I put his name on the list because his behavior jeopardized the improvement and credibility of NSR. Exhibit G.

22. I understand that I have been accused of transferring Mr. Craig to Hope Creek because of his involvement, more than a year and a half earlier, in the December 3, 1992 incident. This accusation is simply wrong. I was not involved in the December 3 incident or its aftermath; indeed, at the time I worked at Hope Creek. I did not know Mr. Craig until I became Manager of NSR in May, 1993. I did not have any personal and only very limited professional dealings with either of the two Salem managers involved in the incident.^{5/} I learned the details of the December 3 incident before I even met Mr. Craig, at a manager's meeting in

^{5/} The OI Report suggests that I may have retaliated against Mr. Craig because the December 3 incident led to punishment for Mr. Larry Reiter, who was a friend of mine. This is simply not so. While Mr. Reiter is someone I knew professionally when we both worked at PSEG (we did not socialize outside the workplace), I did not hold Mr. Craig responsible for anything that happened to Mr. Reiter or any other PSEG manager who was punished as a result of the December 3 incident or its aftermath. If Mr. Reiter was disciplined because of his involvement with the December 3 incident, it was because of Mr. Reiter's own inappropriate conduct, not because of anything Mr. Craig may have done. Indeed, I have absolutely no basis on which to blame Mr. Craig for any punishment that may have resulted from the December 3 incident; to the contrary, PSEG has strongly supported Mr. Craig's actions and has found that management acted inappropriately.

April 1993. At that meeting senior management explained that Mr. Craig and Mr. Williams had acted appropriately and professionally on December 3, 1992 and that the confrontation occurred because of unprofessional and inappropriate behavior by the two Salem managers. Both Salem managers publicly acknowledged their wrongdoing at that meeting; both apologized for their actions. From my perspective -- both now and in May 1993, when I first met Mr. Craig -- Mr. Craig's conduct at the December 3, 1992 incident has only been praised by PSEG, and the conduct of the managers involved has only been criticized. I don't know how to prove a negative -- but I can state without qualification Mr. Craig's involvement in the December 3 incident had no role in his transfer to Salem on August 1, 1996.

II. Extenuating and Mitigating Circumstances.

23. Supervising Mr. Cianfrani and Mr. Craig was as difficult a professional experience as I have ever had. Both had serious performance problems, but any attempt on my part to address those problems was met with the charge that I was discriminating against them because they were "whistleblowers." Undoubtedly I made mistakes in trying to supervise Mr. Cianfrani and Mr. Craig; but whatever mistakes I may have made, I did not take any action against either man in retaliation for his raising a safety concern. I tried to treat them both honestly and fairly; the actions I took were done in an effort to improve their performance and to strengthen NSR and PSEG's nuclear operations.

24. If I have wronged either Mr. Cianfrani or Mr. Craig that action was not intentional; nor should I be singled out for blame.

a. My evaluation of Mr. Cianfrani was reviewed by Mr. Swanson, my supervisor. He approved the evaluation on May 5, 1994. He agreed that the evaluation was fair, honest, and entirely proper. Never did he, PSEG's attorneys, or anyone else (other than Mr. Cianfrani), suggest to me that the evaluation was illegal, improper, or in retaliation for Mr. Cianfrani's filing of a safety concern.

b. My transfer of Mr. Craig (along with many other NSR employees) was discussed with, and approved by, Mr. Swanson, my supervisor, and Mr. Miltenberger, Mr. Swanson's boss. Upper management agreed that these transfers, including Mr. Craig's, were entirely proper. Neither Mr. Swanson nor Mr. Miltenberger, PSEG's attorneys, or anyone else (except Mr. Craig) ever suggested that Mr. Craig's transfer was unlawful, improper, or in retaliation for Mr. Craig raising a safety concern.

c. I have had some training in Section 50.7, and I am well aware that it is unlawful to take any retaliation against anyone because they have raised a safety concern. I strongly believe in Section 50.7 and would never deliberately do anything to retaliate against someone for raising a safety concern. But I have never had any training in the issue I faced in dealing with Mr. Cianfrani and Mr. Craig -- if it becomes necessary to take some action that a "whistleblower" does not like, how can that be

done without appearing to retaliate against the "whistleblower?" I still do not have an answer for that question.

25. Dealing with charges filed by Mr. Cianfrani and Mr. Craig has been difficult, time consuming and distracting. I no longer am employed at PSEG and I believe at least one reason that I lost my position as Manager, NSR was because the distractions of dealing with these complaints affected my ability to do my job effectively and to PSEG's satisfaction.

26. This entire experience has been very stressful on me, my wife, and my children. I have lost sleep because of this experience. My family has suffered from watching me have to deal with this matter and from worrying about the effect it could have on me and on them. It is very difficult to have your integrity challenged by false accusations and to face disciplinary actions for simply trying to do what you and your supervisors believed to be the right thing.

27. I ask the NRC to judge me on my entire record, not just on the difficulties I had in dealing with Mr. Cianfrani and Mr. Craig.

a. I have worked in the nuclear power industry since 1972. More than twenty years of my career was spent with PSEG. I have received commendations and awards and I have a record that I am proud of.

b. Before I became the Manager of NSR, I was never accused of taking any action against anyone who raised a safety concern. Indeed, early in my career I served in same SRG

positions later held by Mr. Cianfrani and Mr. Craig. I believe in and fully understand the importance of independent safety review, of encouraging people to speak up when they have safety concerns, and of protecting people who raise such concerns. My career and my record demonstrate my beliefs and understanding of this issue.

28. Although I have left PSEG, I want to continue to work in the nuclear industry. It is the profession for which I have formal education and a lifetime of experience. It is a career for which I am highly qualified, a service that I enjoy performing, and the best way I have to support myself and my family. I have suffered enough for any mistakes I may have made in my dealings with Mr. Cianfrani and Mr. Craig. I ask the NRC not to take any further action against me and to permit me to put this matter behind me and to go on with my career and my life.

CONCLUSION

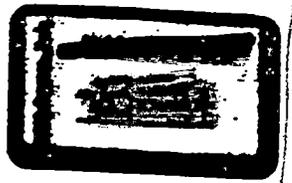
I appreciate the opportunity to file this statement with the NRC. I look forward to discussing this matter in further detail at the September 11 predecisional enforcement conference.

September 3, 1996

Bruce E Hall

BRUCE E. HALL

[REDACTED]



[REDACTED]

Ex 6

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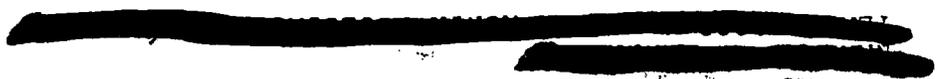
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PSE&G

Public Service Electric and Gas Company P. O. Box 106 Hancocks Bridge, New Jersey 08038

Salem Generating Station



TO: B. E. Williams
Acting Safety Review Engineer - Salem

FROM: W. Cianfrani *W. Cianfrani*
Onsite Safety Review Engineer - Salem

SUBJECT: DECEMBER 3, 1992, INCIDENT AND ENSUING EVENTS

OUR REF: SRGC 93-009

DATE: April 7, 1993

Now that the technical issues associated with the Unit 1 Containment Fan-coil Unit (CFCU) Setpoint Flow Controllers have been directed onto a path toward proper resolution and the independent investigation will conclude as it will, I believe it is appropriate to communicate my assessment of this situation and your conduct in relation to it.

Though I don't know, and probably never will, the true reason that Messrs. Polizzi and Vondra turned a routine concern into a confrontation, I believe it was retribution for previous SRG reports, specifically, 2PTR9201, 2PTR9202, and our review of the ATS tasks which resulted from the Unit 2, November 9, 1991, Reactor Trip and Turbine Generator failure. Station management's response to our review of the ATS tasks was one of extreme defensiveness. I can offer no explanation other than my confusion because we delivered what was requested. The Post Trip Review reports were pointedly critical of some operator actions, and I believe necessarily so, due to the categorical denial of facts and procedure adherence concerns related to these two reactor trips by the GM-SO and Operations Department management. While I continue to firmly endorse the content of these reports, I regret that my actions possibly led to your being a target for the resentment they may have generated. For this, I apologize.

I feel safe in stating that there is unanimous agreement that this incident was unfortunate and unnecessary. Some people would undoubtedly behave differently if they were given the opportunity to do so. However, I can't consider you as someone in this "regrets" category. Rather, you demonstrated what "LIVING OUR VISION" means and should be raised as an example to us all.

000728

The focus of the original concern was CFCU reliability and, ultimately, Plant and Public Safety. Throughout the course of this situation, you maintained focus on this concern and ensured it was addressed. This exemplifies that "Safety is your #1 Priority". You consistently requested compliance to established processes and procedures as mandated by management, from Mr. Miltenberger down. This demonstrates your support of management, the Public and our Stockholders.

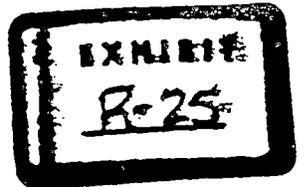
When it was necessary, you remained steadfast and refused to compromise, even in the face of anger and animosity from management personnel. You believed in yourself and the organization. This quiet confidence, consistent focus and belief that the correct actions would be taken bolstered my belief and was a source of leadership for me.

In summary, you remained an example of the Nuclear Department Vision Goals: Safety Is Our #1 Priority; Meeting the Needs of Our Stakeholders; Leadership; Belief in Ourselves; and Being a Winner. Thank you.

WC:gma

C Vice President and Chief Nuclear Officer
General Manager - QA/NSR

PSE&G



Public Service Electric and Gas Company P. O. Box 336 Montross Bridge, New Jersey 08038

Salem Generating Station

TO: P. R. Craig
Safety Review Engineer - Salem

FROM: W. Cianfrani *W. Cianfrani*
Onsite Safety Review Engineer - Salem

SUBJECT: DECEMBER 3, 1992, INCIDENT AND ENSUING EVENTS

OUR REF: SRGC 93-017

DATE: April 7, 1993

Now that the technical issues associated with the Unit 1 Containment Fan-coil Unit (CFCU) Setpoint Flow Controllers have been directed onto a path toward proper resolution and the independent investigation will conclude as it will, I believe it is appropriate to communicate my assessment of this situation and your conduct in relation to it.

Though I don't know, and probably never will, the true reason that Messrs. Polizzi and Vondra turned a routine concern into a confrontation, I believe it was retribution for previous SRG reports, specifically, 2PTR9201, 2PTR9202, and our review of the ATS tasks which resulted from the Unit 2, November 9, 1991, Reactor Trip and Turbine Generator failure. Station management's response to our review of the ATS tasks was one of extreme defensiveness. I can offer no explanation other than my confusion because we delivered what was requested. The Post Trip Review reports were pointedly critical of some operator actions, and I believe necessarily so, due to the categorical denial of facts and procedure adherence concerns related to these two reactor trips by the GM-SO and Operations Department management. While I continue to firmly endorse the content of these reports, I regret that my actions possibly led to your being a target for the resentment they may have generated. For this, I apologize.

I feel safe in stating that there is unanimous agreement that this incident was unfortunate and unnecessary. Some people would undoubtedly behave differently if they were given the opportunity to do so. However, I can't consider you as someone in this "regrets" category.

000730

Your involvement in this affair was solely to support Bert Williams in addressing the concerns related to the CFCUs. This support was offered because I was unavailable (in training) that day and Bert is temporary within our group. In providing this support you willingly assumed a leadership role. This was in emulation of the support I have given in the past and would have provided myself had I been there.

I am proud that the Onsite Safety Review Group members stand together and support each other as a team. I am honored that you consider me a supervisor worthy of emulation. I regret that this emulation has led to the strain which you have been forced to bear.

When you were left waiting outside of Mr. Vondra's office while Mr. Polizzi spoke to him alone, you immediately contacted the NSR Manager to apprise him of the situation. This was a demonstration of good judgement and logical thinking. During the meeting in Mr. Vondra's office, it was apparent to him that you acted in a supervisory or supportive role (to Bert Williams). You made no statements and took no actions which were construed as inflammatory in any manner. In short, you were recognized as having a supervisory function and as having conducted yourself in a thoroughly professional manner.

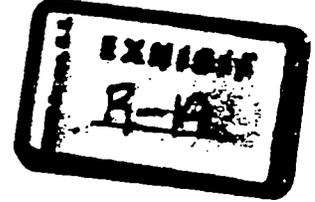
WC:gma

C Vice President and Chief Nuclear Officer
General Manager - QA/NSR

PSE&G

Public Service Electric and Gas Company P.O. Box 236 Hancocks Bridge, New Jersey 08038

Salem Generating Station



TO: B. E. Hall
Manager - Nuclear Safety Review

FROM: W. Cianfrani *W. Cianfrani*
Onsite Safety Review Engineer - Salem

SUBJECT: ATMOSPHERE OF INTIMIDATION

OUR REF: SRGC 93-040

DATE: October 12, 1993

On October 4, I relayed to you the circumstances described below and explained my indecision on how to proceed with it in the most effective manner. You suggested, and I agreed, that I provide you this memorandum and you would escalate the issue to the Vice President - Nuclear Operations.

The System Engineer presented Temporary Modification (T-Mod) 93-106 to SORC at meeting 93-086 on September 30. It proposed to use jumpers to tie the 1A 125 volt battery into the 1C 125 volt bus and chargers and the 1C 125 volt battery into the 1A 125 volt bus and chargers. The purpose was to avoid extending 1R11 by up to 12 days for replacement of the 1C 125 volt battery.

The SRG became aware of this proposal prior to SORC as part of our Outage Schedule Risk Review for 1R11. We voiced our concerns to the System Engineer and the Outage Manager but the Outage Manager decided to let SORC provide the final decision. I took the lead in the detailed, extensive SORC discussion. The more the members learned the more uncomfortable they became. The Chairman proposed to table it due to safety concerns but I requested that we vote on it. The result was a unanimous "NO." I praised SORC for their courage and clear message of Safety as our Number 1 Priority.

After the meeting, two members expressed anticipation of Senior Management criticism for the SORC "no" vote. They expressed that they will not allow their SORC votes to be controlled. I reminded them that SORC membership is a 10CFR50.7 protected activity and that I would be interested in any pressure regarding SORC votes. To date, I am not aware that any SORC member has been pressured or criticized regarding this vote.

000991

B. E. Hall

- 2 -

10/12/93

SORC members anticipating criticism for acting in support of Nuclear Safety is a concern to me. Especially, since, excluding the SRG, Station Department Managers and Engineers are the SORC members. This is testament to a Nuclear Department atmosphere of intimidation.

Please provide me a summary of your discussion with the Vice President - Nuclear Operations and corrective actions he will take in response to it.

WC:gma

C General Manager - QA/NSR

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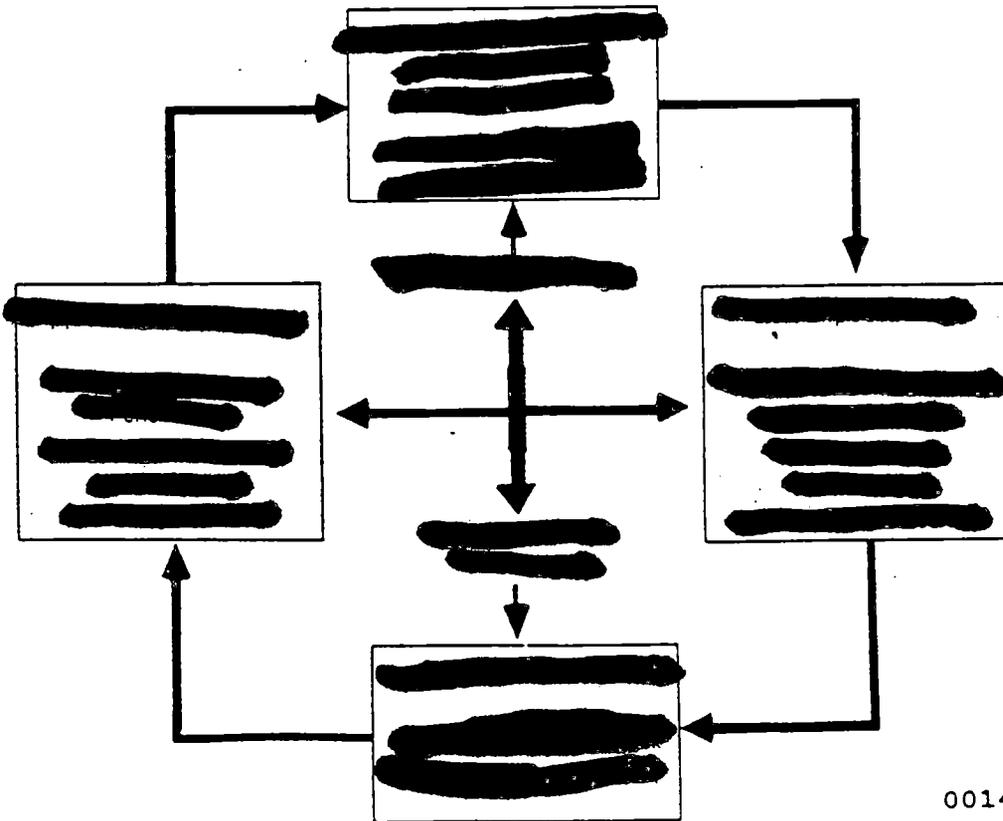
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TO: R. N. Swanson
General Manager - QA/NSR

FROM: B. E. Hall
Manager - Nuclear Safety Review

SUBJECT: **FUTURE NSR**

OUR REF: NSR 93-073

DATE: December 23, 1993

In response to the Tenera report, my own observations, and numerous discussions both internal and external, I propose to change NSR as described in the attached white paper.



BEH:tlw
Attachment

FUTURE NSR

NSR FOCUS

The focus of the NSR organization will be shifted from a narrow technical focus to a more global, "big picture" perspective. I will accomplish this in several ways.

First, I expect the SRGs to monitor the status of the plant and events occurring at the plant and provide a monthly summary of events and their significance. I am currently in the process of initiating this within the SRGs.

Secondly, NSR will monitor and evaluate key parameters to assess and report the status of safety on a monthly basis. The difference between what I expect NSR to do and what others have done and are doing is that I expect them to assess the significance of trends and to look at different data sets. This would include, for example, status control errors (inadvertent change of status) rather than just personnel error.

Implementation

Risk: Must make the transition and still maintain Technical Specification requirements.

Options: None - needs to be done if NSR is to effectively carry out its role.

ORGANIZATIONAL CHANGES

The first phase of organizational changes recognizes the need to deploy the resources differently to increase effectiveness and support an NRB, which will assume some of the responsibilities of the OSR.

OSR and HPES will be the focus of the organizational changes in this first phase; the SRGs will remain intact.

OSR will be split into two groups, Support and Assessment. The Support Group will support the NRB. This will include 50.59 reviews and other tasks/reviews assigned by the Board. Support will also identify trends significant to plant safety and provide administrative support to the department (i.e, budget, training coordinator, reports, etc.). I propose four engineers and a group head for this function.

The Assessment Group will perform independent assessments. These will be performed at the direction of the Manager - Nuclear Safety Review. The results of these evaluations will assist other groups in focusing resources in areas needing attention. Other groups will also input into this

group to help prioritize candidate evaluations. Requests for assessments received from other departments will be strongly considered.

HPES evaluations and SSFRs will be run out of the Assessment Group. I propose five engineers and a group head for this function. With this staffing level, many evaluations could be completed with internal resources although some evaluations would and should require team members from other departments.

Implementation

Risk: NSR will be less effective near term.

Option: Delete this function entirely. This is not recommended because the NRB will need full-time support and the need for assessments is real and continuous.

ROTATION

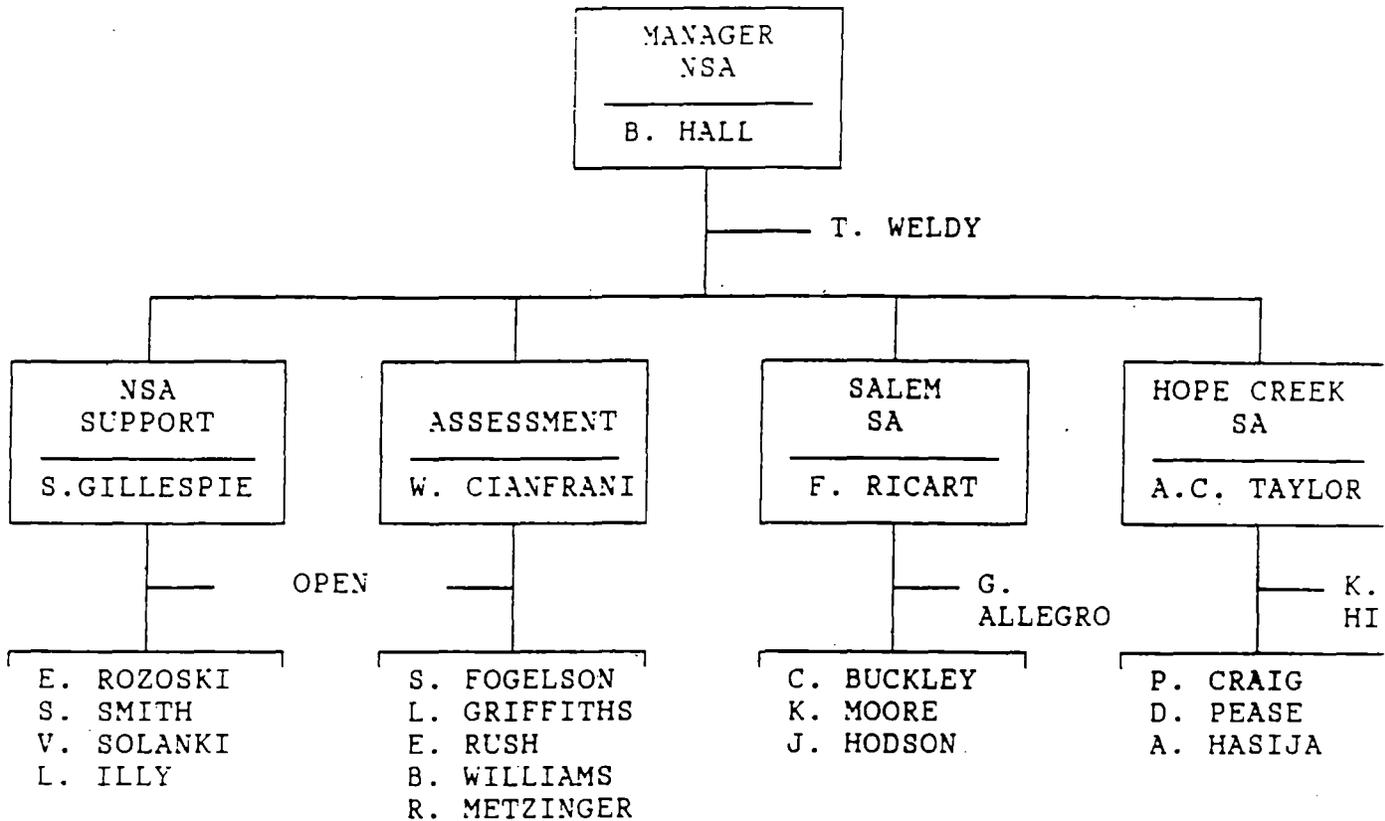
I intend to rotate as many NSR personnel as possible within NSR in order to break as many NSR paradigms (such as how and what we review) as possible to bring fresh approaches and thoughts as we develop standards and define how each group functions in the new NSR.

Implementation

Risk: NSR may be less effective near term. It will require significant HR support. Once the changes have been completed, job descriptions will have to be rewritten and an evaluation made to determine the appropriate grade levels within the department.

Option: Don't rotate people. Paradigms will be substantially more difficult to change without changing the makeup of the work groups.

Once the changes above have been implemented, I plan to take a longer term look at the organization and establish rotational slots within the nuclear organization to cross fertilize both NSR and potentially other Nuclear Department organizations. This will require the support of the Nuclear Senior Management Team (NSMT).

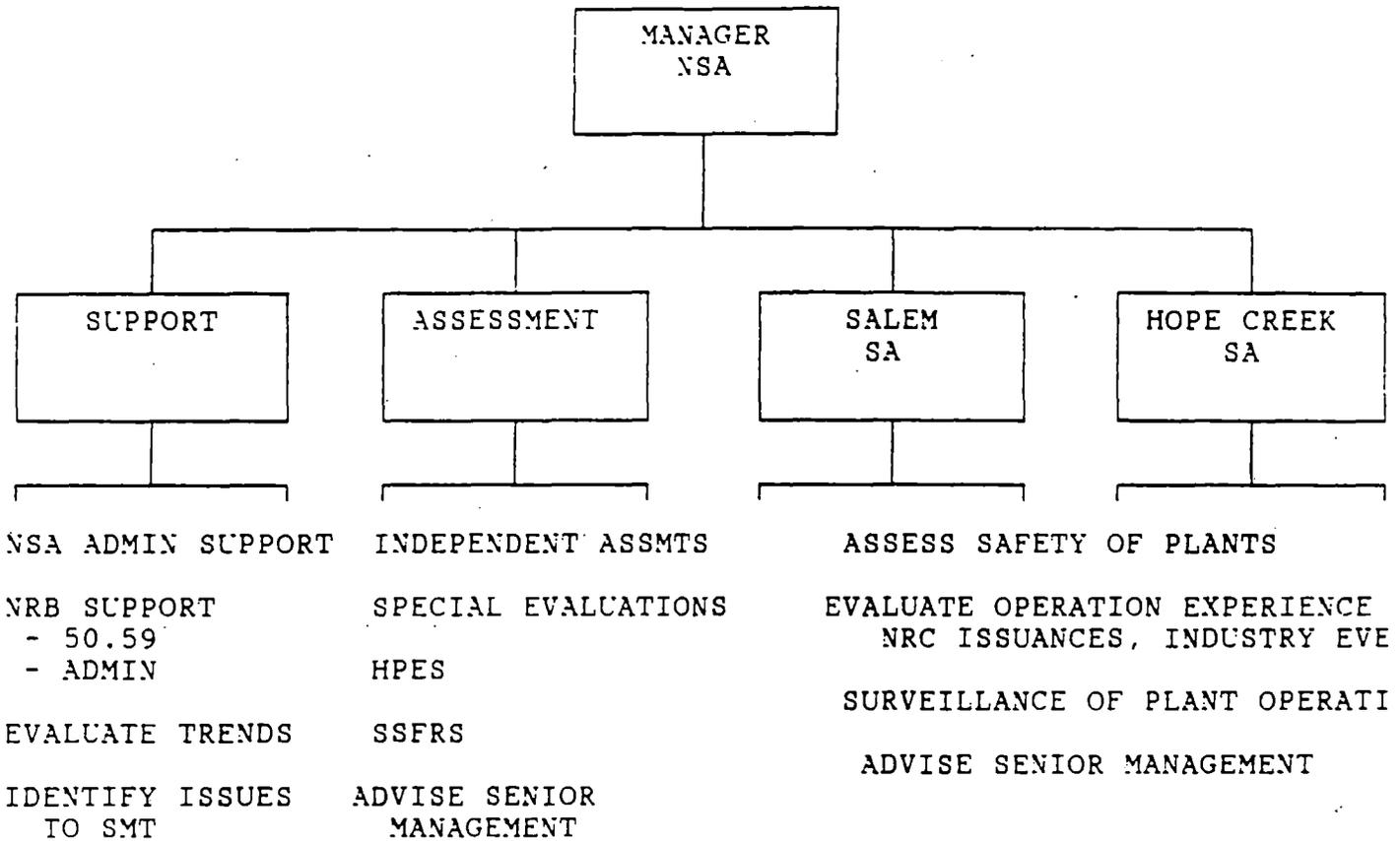


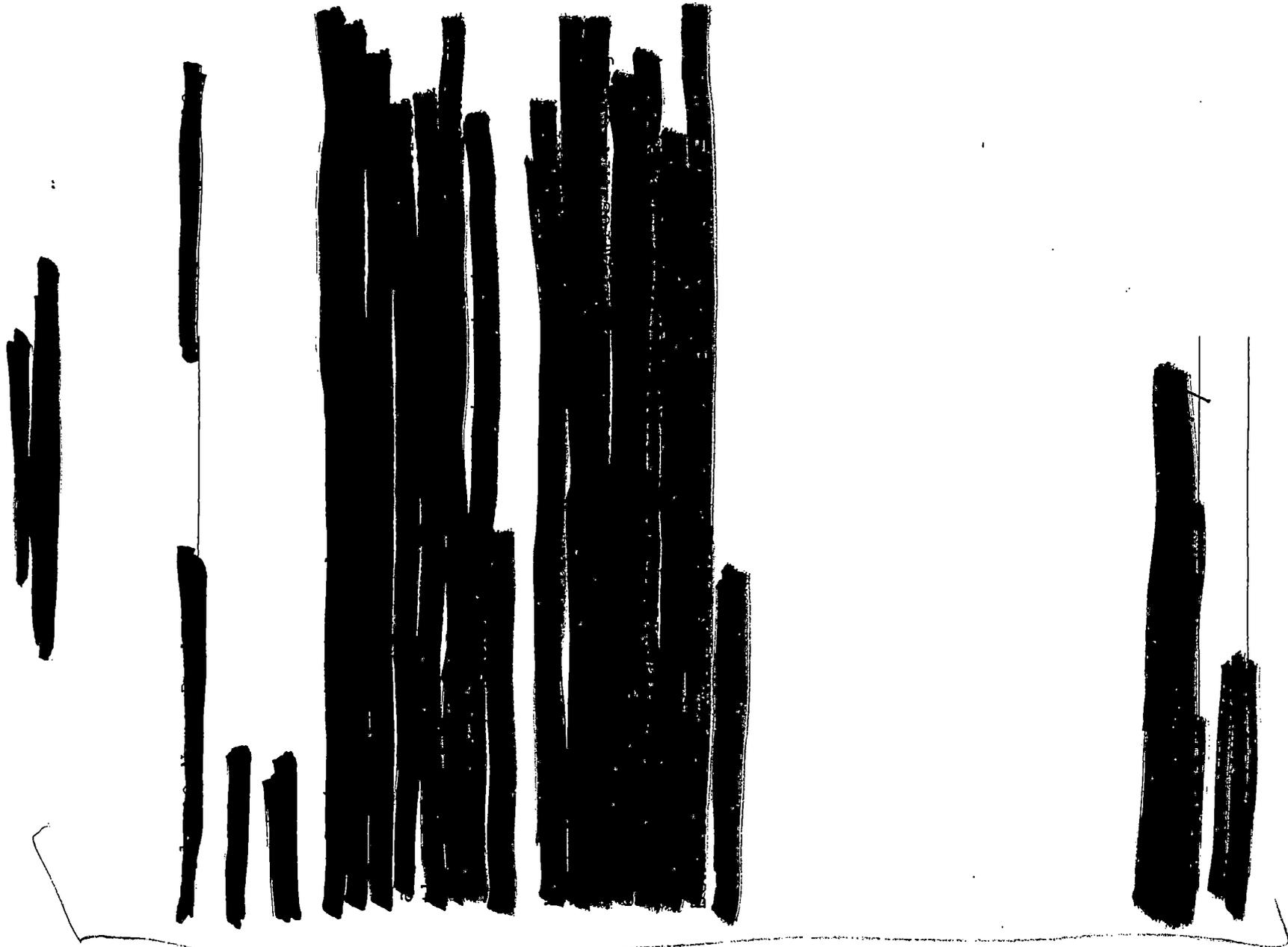
ISSUES:

- GRADE LEVELS MIXED AT THE GROUP HEAD AND WORKING LEVEL

PLUSES:

- BRINGS FRESH OUTLOOKS WHILE MAINTAINING SOME EXPERIENCE WITHIN THE GROUP
- NET REDUCTION IN STAFFING: TWO POSITIONS





File