

U.S. NUCLEAR REGULATORY COMMISSION  
REGION I

Meeting No. 50-354/88-020  
License No. NPF-57  
Licensee: Public Service Electric and Gas Company  
P. O. Box 236  
Hancocks Bridge, New Jersey 08038  
Facility Name: Hope Creek Nuclear Generating Station  
Meeting At: USNRC, Region I, King of Prussia, Pennsylvania  
Meeting Conducted: June 9, 1988  
Approved By: *P. D. Swetland* 6/17/88  
P. D. Swetland, Chief date  
Reactor Projects Section 2B

Meeting Summary: Enforcement conference at NRC Region I on June 9, 1988 to discuss the Department of Labor's determination that a contractor (Bogan) discriminated against an employee for raising safety concerns. The items discussed include review of the case history, the licensee's controls to prevent discrimination against employees who report safety concerns, and the potential chilling effect Bogan's actions had on reporting safety concerns.

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q PNU

## DETAILS

### 1.0 Participants

#### 1.1 Public Service Electric and Gas (PSE&G)

- S. Miltenberger, Vice President and Chief Nuclear Officer
- L. Reiter, General Manager Licensing and Reliability
- B. Preston, Manager, Licensing and Regulation
- C. Johnson, General Manager of Quality Assurance
- D. Fryling, Attorney
- M. Wetterhahn, Attorney
- M. Sesok, Site Representative for Atlantic Electric
- A. Giardino, Manager Station Quality Assurance - Hope Creek

#### 1.2 U.S. Nuclear Regulatory Commission (NRC)

- W. Kane, Director, Division of Reactor Projects (DRP)
- J. Gutierrez, Regional Attorney
- R. Rosano, Office of Enforcement
- D. Holody, Enforcement Officer
- R. Capra, Acting Chief, Projects Branch No. 2, DRP
- P. Swetland, Chief, Reactor Projects Section 2B, DRP
- D. Allsopp, Resident Inspector, Hope Creek
- R. Borchardt, Senior Resident Inspector, Salem
- G. Rivenbark, Project Manager, PDI-2, NRR
- B. Hayes, Director, Office of Investigation

### 2.0 Purpose

The enforcement conference was held at the request of NRC Region I, to discuss the Department of Labor's determination that a licensee contractor (Bogan) discriminated against an employee for raising safety concerns.

### 3.0 Presentation and Discussion

The Director of the Division of Reactor Projects opened the conference and requested the licensee to present their perspective on the Department of Labor's discrimination finding. The licensee was asked to specifically address what controls were in place to prevent discrimination for employees who reported safety concerns and the potential chilling effect Bogan's actions had on safety concern reporting.

The senior licensee representative, disagreed with the Department of Labor's finding and felt Bogan had ample adverse performance indications to warrant demoting the subject employee. The licensee explained the Safeteam and Quality Concern Reporting Programs and how they would allow an employee to report safety concerns without fear of reprisal. They

further stated that Safeteam monthly reporting statistics indicated that there was no chilling affect on other employees' reporting of safety concerns.

The licensee claimed that the reporting of five safety concerns was not a basis for the employee demotion since the individual had actually been promoted from a technician to a supervisor after all five safety concerns had been reported. The licensee indicated that there was no evidence that the individual's immediate supervisor had knowledge of the employee's safety concerns prior to demoting the subject employee.

The licensee's representatives proceeded to explain their long term corrective actions which included their intentions to strengthen contract requirements regarding employee protection provisions specified in 10CFR 50.7 and to send letters to present contractors reemphasizing employee protection requirements. In addition, the licensee intends to require contractors to notify them when the contractor becomes aware of cases of discrimination alleged against them. The licensee's presentation material appears as attachment 1 to this report.

#### 4.0 Concluding Statements

The Director of the Division of Reactor Projects thanked the licensee for their presentation and stated that this information would be considered in the NRC's determination of enforcement actions related to these issues.

NRC/PSE&G MEETING  
JUNE 9, 1988  
AGENDA

- OPENING STATEMENT - S. MILTENBERGER
  
- CHRONOLOGY OF EVENTS - B. PRESTON
  
- DISCUSSION OF SELECTED DOL TRANSCRIPT REFERENCES-  
B. PRESTON
  
- QUESTIONS REGARDING DOL FINDINGS - B. PRESTON
  
- SAFETEAM AND QUALITY CONCERN PROGRAMS - C. JOHNSON
  
- CLOSING REMARKS - S. MILTENBERGER



EMPLOYMENT OF AL FRANCIS  
CHRONOLOGY

<u>Date</u>	<u>Event</u>
June 17, 1984	Date of hire
August 1984	Promotion to supervisor, walk-down crew
August 7, 1984	First field questionnaire filed
August 21, 1984	Second field questionnaire filed
October 23, 1984	Third field questionnaire filed
November 14, 1984	Fourth field questionnaire filed
January 15, 1985	Fifth field questionnaire filed
April 1985	Return to technician level at Francis' request
May 1985	Promotion to supervisor
August 24, 1985	Demotion to technician
August 26, 1985	Contact with SAFSTEAM
August 27, 1985	Contact with NRC
September 11, 1985	Francis files with DOL
October 18, 1985	DOL investigators determination of possible violation
December 19, 1985	DOL hearing
March 21, 1986	Administrative Law Judge Recommended Decision and Order
January, 1987	Francis leaves site for other employment with Bogan
April 1, 1988	Secretary of Labor Final Decision and Order
May 3, 1988	NRC letter re enforcement conference

SSINS No.: 6835  
IN 84-08

UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
OFFICE OF INSPECTION AND ENFORCEMENT  
WASHINGTON, D.C. 20555

February 14, 1984

IE INFORMATION NOTICE NO. 84-08:  
10 CFR 50.7, EMPLOYEE PROTECTION

Purpose:

This information notice calls attention to 10 CFR 50.7, which prohibits discrimination against an employee for engaging in certain protected activities, such as providing the Commission information about possible violations of requirements imposed by the Atomic Energy Act or the Energy Reorganization Act.

We urge you to review your activities to ensure that (1) a mechanism exists for employees to raise safety issues free from discrimination and (2) employees are notified about this mechanism. Your contractors also should be aware of this matter.



# HOPE CREEK SAFETEAM™



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Wilmington, DE 19850

# HOPE CREEK CURRENT



Volume 6, Number 8



September, 1984

## SAFETEAM™ ARRIVES!

Just as an army brings in the reserves to ensure victory, so PSE&G is drawing upon the best available resources to ensure that all quality and safety concerns are resolved before construction is complete. PSE&G's implementation of SAFETEAM® at Hope Creek represents a major effort to safeguard against technical problems that could impede licensing or fuel load.

SAFETEAM® fills a critical niche in communication on the job. The program's basic function is to provide employees with a responsive, confidential service where concerns about plant or job safety and quality can be discussed. The program also oversees investigation of these concerns, and documents any corrective actions that are taken.

The program has two branches. It has assumed command of the Hope Creek Hotline; and it also performs exit interviews. PSE&G has retained the services of Utility Technical Services (UTS), a third party agency, to administer the program. UTS, in turn has retained a separate organization to perform the interviews and man the phones. This builds an element of "confidence-in-depth;" in other words, any employee who participates in this program is guaranteed anonymity as far as PSE&G, Bechtel, or any other company contracted to perform work at Hope Creek is concerned.

*(Continued on Page 3)*





**SAFETEAM<sup>®</sup>***(Continued from Page 1.)*

The SAFETEAM concept was developed by Detroit Edison for use at its Fermi 2 nuclear power plant under construction in Michigan. The program has attracted quite a bit of attention, all of it positive, from utilities, contractors, and government agencies. SAFETEAM is in operation at plants under construction for Commonwealth Edison and Houston Power & Light, which puts us in the forefront of this "new wave" in quality communication.

**How SAFETEAM<sup>®</sup> Works:****1. The Hotline**

The Hope Creek Hotline is a toll-free line to SAFETEAM headquarters. Any Hope Creek employee or former employee may use the hotline to express concerns about the design, construction, or management of the project. The line is "manned" five days a week - from 8:30 a.m. to 4:30 p.m. Monday through Friday, and from 4:30 p.m. to 8:30 p.m. on Tuesdays and Thursdays. An answering machine records calls made during off-hours; and team members will respond to those calls at the start of the next day of normal operation.

The Hotline will also make write-in forms available, and welcomes employee communication by this means. Employees are not required to identify themselves when dealing with the hotline, but if they want follow-up information, their name and address will be requested.

**2. Exit Interviews**

When an employee terminates employment at Hope Creek, he or she will be invited, on their last day of work, to the SAFETEAM Appreciation Center (located in a trailer between TB1 and the powerblock.) The purpose of this visit is two-fold. It gives PSE&G a chance to thank the employee for participating in this project; and it gives the employee a chance to discuss any concerns that he or she might have about the project. Exit interviews are strictly confidential. All records of interviews (including Hotline interviews) are anonymous when they are routed for evaluation and investigation.

Employees who visit the appreciation center on their last day of work are given SAFETEAM coffee mugs and bumper stickers as an added expression of appreciation.

Concerns are classified into categories including nuclear safety, security, industrial safety, site management, and miscellaneous. All concerns except nuclear safety are investigated by PSE&G. Nuclear safety concerns are investigated by an outside agency, and their reports are reviewed by a special panel of PSE&G representatives. This panel is responsible for ensuring that corrective actions are taken. At that point, SAFETEAM sends the employee a letter outlining what was found and what was done as a result of the employee's concern.

SAFETEAM is waiting to hear from you!

Hope Creek  
Hotline:

**1-800-932-0593**

(Toll free from NJ, MD, PA, DE)



**Hope Creek  
Current**



Published monthly for employees at the Hope Creek Project and their families.

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Bechtel Construction, Inc.  
P.O. Box B  
Hancock's Bridge, NJ 08038

An Equal Opportunity Employer—M/F

Bill McCune,  
*Editor & Photographer*

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*Assistant Editor*

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*Contributing Artist*

Letters and articles authored by Hope Creek employees are welcome. Please include your name, ID number, and craft/discipline so that we can return material. All questions and comments regarding this publication should be directed to: Bill McCune, Editor; c/o Bechtel Construction Inc.

The views stated by our contributors are not necessarily the views held by Public Service Electric & Gas Co., or of Bechtel Construction, Inc., or of any other company or organization involved in the construction of Hope Creek Generating Station.



**RESULTS:**

Personnel Visits to SAFETEAM	7,733
Interviews Conducted	2,551
Concerns Identified	853
Industrial Safety.....	178
Management.....	323
Nuclear Safety.....	310
Security.....	39
Miscellaneous.....	3





Public Service Electric and Gas Company P.O. Box 236 Hancocks Bridge, NJ 08038 609 339-4800

Corbin A. McNeill Jr. Vice President — Nuclear

November 3, 1985

To the Nuclear Department Employees

Assuring a high level of Quality and Nuclear Safety in the Operations of our facilities is the responsibility of all personnel.

The Nuclear Department has implemented a Quality Concerns Reporting Program designed to provide a means for an individual to report any Significant Safety or Quality Concern, while maintaining a high degree of individual confidentiality.

This Quality Concern Program is not intended to replace the normal lines of communication through appropriate supervisory levels or the many reporting systems such as regulatory reporting, Suggestion Plan Program or the Miss Peggy column of the PSE&G news. This system does provide an alternate, confidential means by which any individual can identify a Significant Quality or Safety Concern which he or she feels may have and adverse impact on safe operation.

I have assigned the General Manager - Nuclear Quality Assurance as the Quality Concerns contact. A concern can be initiated in two ways. An individual can complete a Quality/Safety Concern Form and forward it to the General Manager - Nuclear Quality Assurance, or an individual can report the concern by calling 935-6000 extension 3400 and providing the necessary description information. Calls may be made between 3:30 and 4:30 pm, Monday through Friday.

Although it is recommended that the individual reporting a concern provide his/her identification so that the result of the evaluation of the concern can be provided to the individual, it is not necessary.

This program will provide another way in which we can improve upon overall quality and safety performance.

I want to emphasize my commitment to the program and assure you that we will maintain confidentiality of all reported concerns and provide a complete response as quickly as possible.

A handwritten signature in black ink, appearing to read "Corbin", with a stylized flourish at the end.

# muskrat info line!



Nuclear Department  
Artificial Island  
Dial INFO (Ext 4636)



Friday, November 15, 1985

Both Salem Units head into the weekend at full reactor power: Unit 1 is producing 1,125 megawatts and Unit 2 is turning out 1,150 megawatts of electricity.

\* \* \* \*

The training center got the good news yesterday that all 10 Salem station programs are now accredited by the Institute of Nuclear Power Operations. According to center manager H. Denis Hanson, Salem is the second nuclear station in the country to have all programs pass the test to join the INPO National Academy of Training. Hanson says they've set a goal to get applications for the Hope Creek accreditation program completed in 1986.

\* \* \* \*

Attention PSE&G employees who are currently receiving mortgage interest differential payments for relocation: Administrators of the corporate refinancing program will be available in the administration building cafeteria from 9 to 11 a.m. and from 2 to 4 p.m. today to answer your refinancing questions.

\* \* \* \*

The Nuclear Department has started a "Quality Concerns Reporting Program" beginning today. This new program, outlined in a letter to all employees, provides a means for anyone to confidentially report a quality or safety concern to top management. Chuck Johnson, General Manager - Nuclear Quality Assurance, has been designated as the Quality Concern contact. Employees can either complete a form outlining their concern or can call 935-6000, extension 3400, between 3:30 and 4:30 PM, Monday through Friday.

That's Muskrat Info Line for today--thanks for calling.

HERE'S MY QUALITY/SAFETY CONCERN

No 2816 W

Here's MY CONCERN. Describe quality/safety condition that should be improved, changed, or corrected.  
Please print, type, or write clearly — use black ink. If more room is needed, attach additional sheet(s).

Here's MY RECOMMENDED CORRECTIVE ACTION

OPTIONAL

NAME: \_\_\_\_\_ TRADE or DISCIPLINE: \_\_\_\_\_

ADDRESS: \_\_\_\_\_ BADGE NO.: \_\_\_\_\_

RECEIPT ACKNOWLEDGED: \_\_\_\_\_

TELEPHONE #/EXT.: \_\_\_\_\_





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APPEARANCES:

On Behalf of the Claimant:

JAMES KATZ, ESQUIRE  
TOMAR, PARKS, SELIGER, SIMONOFF & ADOURIAN  
41 South Haddon Avenue  
Haddonfield, NJ 08033

On Behalf of the Respondent:

CHARLES W. BOOHAR, ESQUIRE  
PERLINO & LENTZ  
2300 Packard Building  
Philadelphia, PA 19102



I N D E X

	<u>WITNESSES:</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>VOIR DIRE</u>
1						
2	<u>WITNESSES:</u>					
3	A. FRANCIS	9	83	105 117	114 119	50 97
4	D. DAVIS	121	139	143	--	--
5	J. STROSNIDER	155	161	165	--	--
6	E. JONES	169	187	--	--	--
7	D. CAMPBELL	201	208	230	237	--
8	R. CLASS	241	247	256	--	--
9	D. DAVIS	260	265	267	--	--
10						
11						
12	<u>EXHIBITS:</u>					
13	<u>EXHIBIT NO.</u>		<u>IDENTIFICATION</u>		<u>EVIDENCE</u>	
14	D-1 thru 3		9		9	
15	C-1		13		--	
16	C-2		17		17	
17	C-3		21		22	
18	C-4 and 5		98		98	
19	C-6		49		57	
20	D-3		96		96	
21	D-4		96		98	
22	D-5		98		98	
23	D-6		101		--	
24	C-7		121		122	
25						

<u>1</u>	<u>EXHIBIT NO.</u>	<u>IDENTIFICATION</u>	<u>EVIDENCE</u>
2	C-8	127	128
3	C-9	129	130
4	C-10	131	--
5	D-7	157	161
6	C-11	269	271
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1 supervisory position again?

2 A Yes.

3 Q And do you remember approximately when that  
4 took place?

5 A It was in the latter part of May.

6 Q In between May and August 24th, 1985, the date  
7 of your demotion, did you continue to work as a super-  
8 visor?

9 A Yes, sir.

10 Q And could you please tell me, Mr. Francis,  
11 did PSE&G provide any on-the-job training?

12 A Yes, sir, they do.

13 Q And could you describe the kinds of things  
14 that are emphasized in that on-the-job training?

15 A Always they emphasized the need to follow  
16 procedure, to do quality work, but really to stick to  
17 the procedure and do it like you are supposed to do it.  
18 The documentation is critical in a nuclear plant.

19 Q What do you mean by "the documentation is  
20 critical"?

21 A That the work you do has to be documented  
22 on the correct paper, in the correct way, and the work  
23 provides traceability, where you can always go back and  
24 tell when an instrument was calibrated, what test in-  
25 strument was used doing the calibration. You have got

1 to be able to prove that the work was done.

2 Q And that the work was done properly?

3 A Yes, sir.

4 Q I would like to show you what I would like to  
5 have marked for identification purposes of Plaintiff's  
6 Exhibit No. 3.

(The document referred to was  
7 marked for identification  
8 as Claimant's Exhibit No. 3)

9  
10 BY MR. KATZ:

11 Q Would you please identify that document for  
12 me?

13 A This is a page out of the General Employment  
14 Training Manual, and this is basically what all of the  
15 training sessions emphasized.

16 Q Who provides you that General Employment  
17 Training Manual?

18 A The utility, PSE&G.

19 Q Did you receive a copy of that manual?

20 A Yes, sir.

21 MR. KATZ: I would like to offer that as  
22 Plaintiff's Exhibit No. 3.

23 JUDGE TEITLER: Any questions?

24 MR. BOOHAN: Well, aside from relevance, no.

25 JUDGE TEITLER: Okay. As far as --

1           or, were you specifically assigned to work on test  
2 packages.

3           A     Not specifically. All of the supervisors  
4 worked, at that time, on test packages and were asked  
5 to support special projects as they came up.

6           Q     Did you work with your tools during that  
7 time?

8           A     No, sir. You can't. As a supervisor, you  
9 can't work with your tools.

10          Q     At any time, were you ever told that your  
11 crew needs to complete a certain number of test packages  
12 per evening?

13          A     No, sir.

14          Q     At any time, were you ever told, or were  
15 requirements ever set by Bogan or PSE&G that a certain  
16 number of test packages need to be completed each  
17 evening?

18          A     No, sir.

19          Q     At any time, were you ever told that you only  
20 have a certain amount of time each evening to complete  
21 the calibration and all of the work in each individual  
22 test package?

23          A     No, sir.

24          Q     At any time, was a benchmark ever set by  
25 Bogan or PSE&G mandating that a certain amount of time

1 be spent on each individual package?

2 A No, sir.

3 Q Why not?

4 A It's because the important thing in a nuclear  
5 plant is quality work, and you can't place a time limit  
6 on it, that would compromise the quality of the work.  
7 The instruments themselves vary in how long it would  
8 take to calibrate them, so many things affect them.

9 Q What kinds of things would affect how long  
10 it might take to calibrate one work package, one instrument  
11 as opposed to another?

12 A Oh, it would depend on the type of instrument.  
13 The device in a package could be a simple gauge, which  
14 would take a short time, or it could be a complex  
15 controller, which could take hours and hours.

16 Also, the location of the device. The first thing  
17 a technician had to do was to locate the device in the  
18 plant, and sometimes it took hours to actually find  
19 the instrument.

20 Q Is it possible to mandate that a certain  
21 number of devices be completed by each crew every  
22 evening?

23 A Not without compromising the quality of the  
24 work.

25 Q And, once again, why is that?



1 ~~long in August, about the middle of August, I~~  
2 ~~noted that they were discussing the testing on this~~  
3 ~~particular MCC and knew that some were along the~~  
4 ~~line, I had to bring it to someone else's attention.~~

5 On August 22nd, we were having GET training and  
6 at the halfway point of the training, I went into the  
7 instructor's office and asked for his advice as to  
8 what I should do now. And he advised me, at that time,  
9 that -- he was a little hesitant as to what I should  
10 do after he found out what all I had done but he said  
11 if I mentioned it to an NRC inspector, then I would  
12 get some action taken on it. And I asked him if they  
13 had -- if those people were assigned there to the plant  
14 and he said, yes, there were two or three on site all  
15 the time, and their offices were in the Admin. Building.

16 Q And what happened after that conversation?

17 A Well, the following day --

18 Q Strike that. Who provided GET training?

19 A The utility, PSE&G.

20 Q And the instructor is a PSE&G --

21 A Employee, that's right. I believe so.

22 ~~Q And what did you do after that conversation?~~

23 ~~A Immediately after the conversation?~~

24 ~~Q No, subsequently, in order to try to resolve~~  
25 ~~this problem.~~

1 JUDGE TEITLER: Okay, this is marked Exhibit 5.

2 (The document previously mark-  
3 ed for identification  
4 as Claimant's Exhibit 5, was  
5 received into evidence.)

6 BY MR. KATZ:

7 Q And was the MCC device subsequently corrected?

8 A Yes, sir.

9 Q Did you know when approximately that occurred?

10 A Within two to three weeks after I brought it  
11 up to them. This wasn't only on one MCC, it was on --

12 Q You had brought it up to whom?

13 A I had brought it up to the safe team on the  
14 26th and the NRC on the 27th. And this involved more  
15 than one motor control center. There was four of them  
16 within the plant that had the same problem.

17 Q Now previously you mentioned that on August  
18 26th, you brought this up to the safe team. Now, could  
19 you please tell me what the safe team is?

20 A The safe team is an independent group that  
21 is on site, supposedly to allow workers or anybody to  
22 raise safety questions that would affect the plant and  
23 by going through the safe team, supposedly you had a  
24 certain degree of anonymity.

25 Q And you sent some concerns or you spoke to

1 the safe team on the 26th of August?

2 A I spoke to the safe team because I felt that  
3 was the next step. I think that you owe the company  
4 the responsibility to proceed step by step, as they lay  
5 it out for you, and that's what I had done.

6 Q The next step, the next step towards what?

7 A If you have something, a problem, you find  
8 the problem or the deficiency, and you take the first  
9 step to get it corrected, and if you don't receive  
10 satisfaction, you proceed a little higher and a little  
11 higher. The last step in the chain, I guess, is the  
12 NRC.

13 Q All right. Now, can you tell me generally  
14 what the quality of the work packages that you were  
15 receiving?

16 A I considered the work packages to be very poor  
17 and a large number of them had to be sent back,  
18 modified, before we could even start to work.

19 Q Were there others who shared your feelings  
20 as to the quality of the work packages?

21 A I think basically all of the supervisors did.

22 Q And what would you do if the work package was  
23 poor and inadequate?

24 Sometimes it could be easily corrected,  
25 sending it back to the test engineer to get him to do

~~(The document previously marked for identification as Plaintiff's Exhibit 9 was received into evidence.)~~

~~BY MR. KATZ:~~

Q Now, Mr. Davis, between the period of May 1985 and August 1985, were any production quotas set for supervisors on the night shift that you were providing work to?

A None.

Q Between May in 1985 and August 1985, were you ever told that a specific crew had to complete a certain number of packages that evening?

A There were a number of instances where a few TPR's had to be completed in order to complete functional testing or support pre-ops. However, there was never any number assigned a supervisor that had to be completed that evening.

Q So if I understand your testimony, there might have been a requirement that a specific job be completed, but not a requirement that a specific number of test packages for each individual crew be completed that evening?

A That is correct.

Q Were -- are you aware of any benchmarks set

1 requiring that a specified number of test packages be  
2 completed by a specific crew each evening?

3 A There was no such quota.

4 Q Let me show you what I would like to have  
5 marked as Plaintiff's 10.

6 (The document referred to was  
7 marked for identification as  
8 Claimant's Exhibit 10.)

9 BY MR. KATZ

10 Q Please describe what this document is, and  
11 how it came into your possession?

12 A Yes, sir. This document, again, was drawn up.  
13 Ted Robbins had requested that Dan Gage and myself  
14 sit down and draw up departmental responsibility list,  
15 that was to include responsibilities of coordinators,  
16 supervisors, technicians and everybody in the department.

17 The first page was my responsibility; the second  
18 page was the supervisor's responsibility; the third  
19 page, the technicians'; and the fourth page was  
20 requirements, work assignments by coordinators and it  
21 also includes the flow chart, for the department.

22 Q Was this the procedures and the requirements  
23 that were followed, to your knowledge, during your  
24 tenure from May to August 1985?

25 A Yes. To the best of my ability, these were



1 Q What is the correct program?

2 A The correct program would be you would bring  
3 it up to the system test engineer, and that test  
4 engineer would initiate that document.

5 Q If he does not do so, may any person initiate  
6 the document?

7 A The way our program was initiated or imple-  
8 mented, yes.

9 Q And was that so throughout the period of your  
10 employment with Bogan from September through November  
11 of this year?

12 A I really don't understand, the way you put  
13 that question.

14 Q Well, you said that your program included the  
15 ability of any responsible person to initiate an SDR,  
16 if the test engineers didn't do it, right?

17 A Your program was one that was constantly  
18 changing, okay? It wasn't necessarily being implemented  
19 the same each day. We had a lot of problems.

20  
21 Q Have you ever gone to the NRC or the safe team  
22 at Hope Creek?

23 A Yes, I have.

24 Q When did you do this?

25 A I went to the --



1 MR. KATZ: Objection, Your Honor.

2 JUDGE TEITLER: On what grounds?

3 MR. KATZ: I don't know what this has --

4 JUDGE TEITLER: It's cross examination. Go ahead.

5 BY MR. BOOHAR:

6 Q When did you do that?

7 A I went to the safe team to find out what the  
8 safe team was all about, and I am going to say probably  
9 sometime in June.

10 Q Of 1985?

11 A That is correct.

12 Q Was any retaliatory action ever taken against  
13 you for going to the safe team?

14 A No, I wanted to find out what involvement  
15 they actually had on the site.

16 Q Where did you learn about the existence of  
17 it?

18 A It was advertised all over the plant.

19 Q So everybody was well aware that you could go  
20 to the safe team, right?

21 A I think so.

22 Q Is that true also with respect to the NRC?

23 A Yes. The NRC, you should have been allowed  
24 to go to, because that was part of your QA training  
25 program, okay. You should have been able to go to the

1 NRC at any time.

2 Q And everybody that you worked with, who worked  
3 for Bogan, was pretty well aware of that, right?

4 A I believe so.

5 Q Do you know of any instance where anybody  
6 in Bogan's chain of command took any retaliatory action  
7 against anybody for going to the NRC or to the safe  
8 team?

9 A No, I don't.

10 Q In fact, it is fair to say that people were  
11 encouraged to bring their concerns to the safe team and  
12 the NRC; is that not so?

13 A I would not say that.

14 Q Everybody knew that they were there and what  
15 the purpose was, right?

16 A No, that's not true.

17 Q What is true?

18 A You say everybody knew.

19 Q Yes.

20 A Okay. Well, you know, based on my assumption  
21 and my opinion, okay, it is very hard for everybody,  
22 okay, to have 100 percent awareness of what is going on  
23 all the time.

24 Q Okay. But this is a subject that was covered  
25 in QA training, that was attended by yourself and

1 Mr. Francis and other Bogan supervisors?

2 A That is correct.

3 Q Did you ever hear anybody say that Al Francis  
4 was demoted because he initiated or participated in  
5 an investigation of Bogan or the utility by the NRC  
6 or by PSE&G's safe team?

7 A No, I didn't.

8 Q Do you have any reason to believe that that  
9 was the basis of his demotion?

10 A No, I have no comment as to that.

11 MR. BOOHAR: I have no further questions.

12 JUDGE TEITLER: Do you have any questions, counsel?

13 MR. KATZ: I just have one final question.

14 REDIRECT EXAMINATION

15 BY MR. KATZ:

16 Q In terms of -- in terms of being the super-  
17 visor -- in terms of being the work coordinator on the  
18 night crew, were you directly responsible for distribu-  
19 ting work to all of the crews?

20 A Yes, I was.

21 Q Did anyone else have that responsibility, under  
22 Bogan management?

23 A No, at that time -- are you asking about that  
24 time frame?

25 Q Yes, between May and August, 1985.

1 regarding employee protection."

2 You weren't there in the meeting that took place,  
3 were you, sir?

4 A No, I wasn't.

5 Q And you have no personal knowledge of whether  
6 he specifically requested that, do you, sir?

7 A I don't know if specifically asked for  
8 that, no.

9 Q Is it not true that it is standard policy  
10 that when anyone brings a 210 complaint or a whistle-  
11 blower complaint, that those regulations, as a matter  
12 of course, are provided to that individual?

13 A Yes.

14 Q Are you the one that would be aware of any  
15 210 or whistle-blower complaints that were raised by  
16 individuals at the Hope Creek Nuclear Power Plant?

17 A Yes, I was.

18 Q Are you aware of anyone else having raised  
19 such a complaint?

20 A No.

21 Q Sir, would you be aware if safety complaints  
22 were raised by individual employees at that plant?

23 A Yes, I would.

24 Q And could you say, sir, approximately during  
25 the past two years, how many safety complaints would

1 you say have been raised?

2 MR. GUTIERREZ: Just for point of clarification,  
3 I assume in that question you mean brought to the NRC?

4 MR. KATZ: Yes, that's correct. Brought to the  
5 NRC.

6 JUDGE TEITLER: If you have any recollection.

7 BY MR. KATZ:

8 Q If you have any knowledge?

9 A I have not been associated with the Hope  
10 Creek Project for two years, but in the last year,  
11 there has been approximately a half dozen.

12 Q Could be less?

13 A Could be a few less than that.

14 Q Now, in the course of this investigation  
15 did the NRC have an opportunity to -- or staff people  
16 from the NRC, have an opportunity to review the safe  
17 team report that related to claims that were brought  
18 by Mr. Francis?

19 A Yes, we did.

20 Q And can you tell me did the NRC or -- did  
21 you do that review?

22 A I have reviewed the response, yes.

23 Q And what was your reaction to the safe team's  
24 findings?

25 A I am not sure that I understand, reaction?

1 goes through a process. It is reviewed by the  
2 engineer, a response comes back to the originator  
3 and he approves or disapproves of the disposition.  
4 And if he disapproves of it, it has to go back to site  
5 engineering and the process can continue until some  
6 agreeable solution can be reached.

7 Q During the period from August of 1984 through  
8 the time that Mr. Francis left the walk down area, do  
9 you know how many questionnaires were generated by  
10 Bogan's people?

11 A There were approximately 514 to 520 field  
12 questionnaires that were written by our group. Mr.  
13 Francis originated four field questionnaires.

14 Q Okay. And I would like to show you the  
15 documents that have been marked as C-4, Claimant's 4;  
16 Defendant Exhibits 3, 4, 5 and 6, and ask you what  
17 those documents are, sir?

18 A These are field questionnaires. I believe  
19 it is in their entirety. I don't think I ever saw this  
20 particular one.

21 Do you want to know what they are?

22 Q Are these -- you said that Mr. Francis had  
23 been involved in approximately four of these. Are  
24 these the four?

25 A Yes, sir, I believe they are.



1 his field questionnaire was reopened at a later date,  
2 and a CP, Design Change Package, was issued, ECN

3 Q Who was responsible for putting forth the  
4 effort that it takes to resolve the situation set forth  
5 in that --

6 A It was our responsibility, Bogan's.

7 Q And who within the Bogan organization, whose  
8 particular responsibility?

9 A It was either -- whoever had that particular  
10 system, it was either mine or Al's, and in this  
11 particular case, Al had this particular system.

12 Q Mr. Jones, are you familiar with the existence  
13 on the site of an NRC inspection team?

14 A Yes.

15 Q What is their job?

16 A Basically to look at items that are Q-related  
17 items and make sure that work was performed in accord-  
18 ance with procedures. Be sure that the people that  
19 worked are qualified to do the job.

20 Q When you say "Q-related", does that mean  
21 safety-related?

22 A Yes, safety-related. In terms of the safety  
23 relation to the board, to the nuclear board itself.

24 Q Now, they're there to receive concerns from  
25 all of the people on site?

1 A Absolutely. Everybody is completely open and  
2 anyone can go to the NRC if they have any problems  
3 whatsoever, and make those claims.

4 Q Have you ever heard of anyone in Bogan  
5 management criticize anybody for going to the NRC?

6 A No, sir.

7 Q Have you ever heard anyone in Bogan manage-  
8 ment suggest that they discourage people from going  
9 to the NRC?

10 A No, absolutely not. As a matter of fact,  
11 on the contrary, if there were problems, it has always  
12 been encouraged, open policy to do whatever is necess-  
13 ary -- in most cases, that's not even the avenue that  
14 needs to be gone to because it can be corrected before  
15 you get to that point, intercept the problems that  
16 have been identified.

17 Q When you say management, you included not only  
18 the Bogan management, but also management for the  
19 utility?

20 A Utility, absolutely.

21 ~~MR. BOOHAR: I have no further questions for this~~  
22 ~~witness.~~

23 ~~JUDGE TEITLER: I just have a one question for~~  
24 ~~clarification. You are saying now, in your testimony,~~  
25 ~~that there are, to your knowledge, approximately 500~~

1 Pe Creek Nuclear Power Plant?

2 I really don't have the foggiest idea, other  
3 than I guess Al must have wrote a letter. Some is the  
4 only one that I know of.

5 Q He's the only one that you know of?

6 A I have no idea who else has gone to the NRC.

7 Q Okay. And can you tell me, sir, when you were  
8 on the walk down crew when you were the supervisor of  
9 the walk down crew and Al was the supervisor of the  
10 walk down crew, you had no supervisory responsibilities  
11 over Mr. Francis' work, did you?

12 A That is correct. Unfortunately correct.

13 Q Now, if a field questionnaire does not get  
14 responded to, and if corrective action is not taken,  
15 what should an employee do?

16 A Well, I guess it depends on what avenue is  
17 open to the employee. If the employee has the avenue  
18 to go to the -- have an SDR written, he could write  
19 an SDR. If, in that case, he can't do it, like any  
20 other chain of command, go to his supervisor and say,  
21 look, I have a problem here, we are conforming to this,  
22 in this case we had a -- one, two-tier hierarchy above  
23 us, and if that fails, go over to the INC engineer.  
24 We have a problem here and it needs to be resolved.  
25 And I do not know of a single case where, if it had to

1 go to that level, where we did not get the backing to  
2 resolve the problem.

3 Q What happens if the problem didn't get re-  
4 solved? What should an employee do?

5 A It's up strictly to -- I have never been able  
6 to have a situation where I couldn't get a problem  
7 resolved.

8 Q You would agree, sir, that safety is of utmost  
9 concern to all --

10 A Absolutely.

11 Q And you would agree, sir, would you not, that  
12 if an individual sees a safety violation, they have a  
13 responsibility to do everything they can to correct  
14 that violation?

15 A You betcha I do.

16 Q And wouldn't you also agree that if correcting  
17 that violation meant going to the NRC, that would be  
18 appropriate action, wouldn't that not be correct, sir?

19 A If there was absolutely no other alternative  
20 left, because that is to get the job done.

21 Q That would be appropriate action to get the  
22 job done.

23 Now, sir, it's true as it is, as far as you  
24 understand, that it would --

25 A Excuse me. Pardon me. You are talking a

1 supervisors INC and five coordinators.

2 Q How many technicians work under those super-  
3 visors, that are employed by Bogan?

4 A At present, it is 140.

5 Q In the course of your duties as lead INC  
6 supervisor, have you had occasion to supervise Mr. Al  
7 Francis?

8 A Only as a lead supervisor and he was a super-  
9 visor at the time.

10 Q Okay. So that you had -- you were his next  
11 boss; is that correct?

12 A Yes.

13 Q And was that in August of 1985?

14 A Yes, sir.

15 Q There came a time in August of 1985 when  
16 Mr. Francis was demoted; is that not so?

17 A Yes.

18 Q And was that on or about August the 2<sup>nd</sup>?

19 A Yes.

20 Q Were you involved in the decision to demote  
21 Mr. Francis?

22 A Yes.

23 Q Would you tell His Honor the basis of that  
24 decision?

25 A Well, the basis of the decision was from

1 various conversations with coordinators and Public  
2 Service management, my personal observations, tech-  
3 nicians' comments, and that is about it.

4 Q And what were the grounds on which the demotion  
5 was made?

6 A Productivity, continuing or solving problems  
7 that were arising and holding test packages, observation  
8 of knowing where his technicians were, working close in  
9 hand with his technicians, coordination with the  
10 coordinators and the start-up engineers.

11 Q What were your personal observations of  
12 Mr. Francis' performance of duties in his role as an  
13 INC supervisor?

14 MR. KATZ: Objection, Your Honor. There has been  
15 no foundation laid that this witness had any personal  
16 observations of what the nature --

17 MR. BOOHAR: He --

18 JUDGE TEITLER: I think the last question laid the  
19 foundation. He said he supervised him. He made the  
20 decision to demote him.

21 MR. BOOHAR: And said he had personal observation.

22 JUDGE TEITLER: And said he had personal obser-  
23 vation.

24 Go ahead.

25



1 BY MR. BOOHAR:

2 Q What were your personal observations of  
3 Mr. Francis' performance of duties?

4 A Well, my personal observations were that you  
5 have to continually monitor the amount of production  
6 that the supervisors that are under my control put out,  
7 and the relationship that they have with their techni-  
8 cians.

9 That's a very important thing because every package  
10 or every test function that the supervisors do perform  
11 with the technicians that they have under them, is to  
12 meet a certain schedule of completion. This schedule  
13 of completion has to be met, one way or the other.

14 Q Sir, prior to August 24, 1985, had you had  
15 occasion to discuss with Mr. Francis his performance  
16 of duties --

17 A Yes.

18 Q -- as an INC supervisor?

19 A Yes.

20 Q Approximately when did that occur?

21 A Well, it happened a few times, but the last  
22 time, I think, was about two weeks prior to his demotion.

23 Q And were there other INC supervisors who  
24 were --

25 A One other.

- 1 Q -- cautioned at the same time?
- 2 A One other supervisor.
- 3 Q And who is that?
- 4 A Joseph Pinski.
- 5 Q Would you relate the general nature of that  
6 conversation, sir?
- 7 A Generally, it was just a pep talk to describe  
8 that more production, I think, had to be warranted and  
9 that a better relationship had to be established with  
10 the techs.
- 11 Q Sir, at the time -- well, when did you make  
12 the decision to recommend the demotion of Mr. Francis?
- 13 A Oh, approximately about the time that he did  
14 get demoted.
- 15 Q Okay. At that time, were you aware that  
16 Mr. Francis had raised any safety concern in the employ-  
17 ment training environment?
- 18 A Nope.
- 19 Q Were you aware that Mr. Francis had or was  
20 about to institute an investigation by the NRC or by  
21 the safe team?
- 22 A No.
- ~~23 Q Were you in the vicinity when the demotion  
24 actually occurred?~~
- ~~25 A Was I in view of it?~~

1 Q And accordingly, Mr. Francis objected to  
2 being that, right?

3 A Yep.

4 Now, would you explain to His Honor how you  
5 keep track of these test packages?

6 A Well, the test packages are computerized.  
7 They are received, they are given a number, they are  
8 assigned to the systems and the responsible INC  
9 supervisors. I have the number of packages. They have  
10 work sheets that they have to comply with, to bring this  
11 up to date of what they're doing on a continuous basis.

12 Q Now, that computer, is that available to you;  
13 the computer read-out, is that available to you?

14 A At any time.

15 Q And do you regularly review it, like each  
16 morning?

17 A Yes.

18 Q That would show you who had packages and  
19 how many had not been complied with?

20 A Right. Any of them that are on hold, any  
21 of them that are being working, any of them that are  
22 being completed or whatever.

23 Q What did you observe with respect to the test  
24 packages that were assigned to Mr. Francis as opposed  
25 to the ones that were assigned to other supervisors?

1           A     There were constant complaints from the  
2 coordinators that these devices that Mr. Francis was  
3 holding had to be worked in order to continue on with  
4 the system. We would get the packages and either turn  
5 them over to another supervisor to work -- it seemed  
6 funny that the ones that we did turn over were completed.

7           Q     Now, when you say "completion," does that  
8 necessarily mean that the test is done and the data is  
9 accepted?

10          A     No.

11          Q     What does completion of a test package mean?

12          A     Completion doesn't necessarily mean that  
13 everything in the package is to the prescribed written  
14 details that it came with. There are certain occasions  
15 where on-the-spot changes can be made by the test  
16 engineers on procedures if the procedure does not  
17 comply to what or how you are testing a device or  
18 calibrating a device. If the data taken on the ICD  
19 card, which is the instrument calibration data sheet,  
20 is not correct, the test engineer associated in that  
21 system has the authority to come up and change that  
22 data, and initial it.

23                If you have an exception to a calibration or a  
24 device or to a procedure, you can write an exception  
25 to that, and send it back through channels to the test

1 engineer to be dispositioned, if he is not available.

2 Q Or if the package just can't be worked, when  
3 is it considered complete? When it is sent back to the  
4 test engineer?

5 A Complete as far as the INC supervisor is  
6 concerned, yes.

7 When it leaves his house.

8 Q So that to the extent that you may have testi-  
9 fied on direct examination that it's important to get  
10 completion accomplished, that means doing whatever your  
11 job is on the package, right?

12 A Yes.

13 Q Whether doing that job results in acceptance  
14 of the system as it is and as calibrated and moving on,  
15 or whether that is send back the package and get me  
16 one that will work?

17 A Exactly.

18 Q Okay. Now, you are on day shift and Mr.  
19 Francis is on night shift, or was. Is there a consider-  
20 able overlap between the shifts, especially at the  
21 supervisory level?

22 A Not really.

23 Q What time do you come to work?

24 A Not.

25 In August?

1 Q Okay. And is that what is called the INC  
2 contract?

3 A Yes, INC. Yes.

4 Q Does Bogan have other subcontracts with the  
5 utility?

6 A Yes, we do. We have roughly seven of them.

7 Q And does your function encompass not only  
8 the INC contract, but all of the other contracts of  
9 the --

10 A Yes, all contracts on site.

11 Q So you are a Bogan senior representative on  
12 the Hope Creek site?

13 A Yes, sir.

14 Q In the performance of your duties, sir,  
15 as a Bogan senior representative at the Hope Creek  
16 site, have you had occasion to observe the performance  
17 of Mr. Al Francis as an INC supervisor?

18 A Yes.

19 Q And what were your observations?

20 A My observations were that his productivity  
21 was low; that he did not have full control over his  
22 crew; did not utilize his people properly.

23 Q Can you give us any specific examples of  
24 your own personal observation of Mr. Francis' --

25 A I can give you a couple, when I was coordin-



1 ator, not as the project manager, but back when I was  
2 coordinating, back in the first part of my job.

3 JUDGE TEITLER: When was that?

4 THE WITNESS: That was from March 25th to roughly  
5 the 1st of August, I was an INC coordinator, before I  
6 took over as the site project manager.

7 JUDGE TEITLER: Is that day shift or night shift?

8 THE WITNESS: On day shift.

9 It was -- oh, let's see -- one specific, where  
10 we had a package that Mr. Robbins asked me why it was  
11 on hold, and I said, well, it's on hold because there  
12 is scaffolding in the way. At least, this is what is  
13 on the computer print-out. So I went and pulled the  
14 package off Mr. Francis' desk, and went over and asked  
15 one of the day supervisors if they would take the  
16 package and go out and look and see if the scaffolding  
17 was -- had been removed, if it was possible to work  
18 the package.

19 Well, the package went out, the scaffolding -- and  
20 came back finished, and the scaffolding had not been  
21 removed. It was still there. The only problems they  
22 encountered was it was a very hot area and a very dirty  
23 area.

24 Q Are there any other examples of similar  
25 problems that --

1 A. There was one other that --

2 Q -- in your own personal experience --

3 A. Well, there are several, but there is one  
4 more that I can think of, that really comes to mind,  
5 is one with the TPR was on hold because of a broken  
6 supply air line. And, again, one of my duties was  
7 to look out for hold packages for Mr. Robbins, so I  
8 went and got the package off of Mr. Francis' desk, and  
9 again I asked another day supervisor to investigate  
10 and see what exactly the problem was, and could we get  
11 it expedited and taken care of.

12 They went out, and found that the broken air line  
13 was merely a quarter-inch piece of tubing. They  
14 replaced the piece of tubing and completed the package.

15 Q Sir, are you the gentleman who actually  
16 informed Mr. Francis of the decision to demote him?

17 A Yes, I did. Yes, I was.

18 Q And when did that occur?

19 A It was August 24th, somewhere around --  
20 between 3:30 and 4:00, in the afternoon of the 24th.

21 Q And would you relate what happened at the  
22 time of the demotion?

23 A Well, as I remember it, Al came in, like I  
24 said, it was around 3:30, going on to 4, somewhere in  
25 that area. I asked him to step across the hall to

1 MR. BOOHAR: I will object, Your Honor, "general  
2 sense." If he wants to get specific statements to that  
3 effect, other conduct to that effect --

4 JUDGE TEITLER: He's right, counsel. The question  
5 is poorly phrased.

6 BY MR. KATZ:

7 Q Is it your belief, based on having worked  
8 at Hope Creek Nuclear Power Plant, having observed  
9 actions of other individuals, having spoken with other  
10 individuals, that it was a general feeling among those  
11 other employees, that raising safety concerns was not  
12 operating according to the program?

13 MR. BOOHAR: I am going to object again, Your  
14 Honor, if he wants to get specific statements from  
15 anybody --

16 JUDGE TEITLER: Let me just ask one question, and  
17 maybe I can end the inquiry.

18 Did you feel that there would be retaliation on  
19 the job if anybody reported a violation to any entity?

20 THE WITNESS: I don't feel that there is going to  
21 be retaliation on that job, specifically. Okay.

22 BY MR. KATZ:

23 Q What do you feel?

24 A My personal feelings are that, you know, if  
25 somebody raises too many questions or complaints, that,

1 you know, the next job you won't be working for that  
2 organization. That's a personal feeling.

3 Q Can you tell me, Mr. Davis, during the time  
4 that you were a work coordinator on the night shift,  
5 from May 1985 to August 1985, were there individuals  
6 from the various crews who were assigned to special  
7 assignments?

8 A That is correct. They were.

9 Q And would you say that there was a substantial  
10 number or a fair number of individuals

11 A At times, most definitely there were.

12 Q At times, they were substantial?

13 A That is correct.

14 Q And at times, would you say that Mr. Francis  
15 had a substantial number of individuals from his crew  
16 assigned to special assignments?

17 A He did.

18 Q And would you say during August 1985, there  
19 would be times when Mr. Francis would have a substantial  
20 number of his crew members assigned to special assign-  
21 ments?

22 A To the best of my knowledge, okay, without  
23 looking at the records, I would have to say yes.

24 Q And if individuals are assigned to special  
25 assignments, they wouldn't be working on normal cre

1 correct?

2 Yes, that's correct.

3 Q As opposed to other supervisors being a  
4 stickler for procedure?

5 A Yes.

6 Q And do you recall when those conversations  
7 took place?

8 A I had a conversation with Mr. Class, this  
9 was -- this was on the Thursday before Al was demoted.

10 Q Let me ask you did he ever say that his  
11 performance was inadequate?

12 A No, I never heard him mention that.

13 Q Did he ever say his performance was sub-  
14 standard?

15 A No.

16 R. KATZ: No further questions.

17 CROSS EXAMINATION

18 BY MR. BOOHAR:

19 Q You said that you had a feeling that if you  
20 went to the NRC or someone went to the NRC, that they  
21 wouldn't be working on the next job with the organ-  
22 ization.

23 A That is my personal feeling. That is  
24 correct.

25 Q Can you give me any specific statement to



1 that effect, by anyone in Bogan management?

2 A No. Like I say, that's human nature. Okay?  
3 That's my personal feeling.

4 Q Can you give me any specific statement to  
5 that effect, from anyone in the utility's management,  
6 to the fact that you won't be brought back on the site  
7 on the next job if you go to the NRC?

8 A No.

9 Q So that feeling is based on your understanding  
10 of human nature?

11 A That feeling is based on a number of things,  
12 okay. My employment history, my past employment history  
13 and my personal feelings. That is correct.

14 Q But not on anything that anybody from Bogan  
15 or --

16 A No. No.

17 Q -- or PSE&G has ever done or said?

18 A No.

19 Q You were responsible, at night, for assigning  
20 work to Francis' crew, were you not?

21 A No, to Mr. Francis.

22 Q To Mr. Francis?

23 A That is correct.

24 Q For performance of his crew?

25 That is correct.