

September 10, 2001
2130-01-20128

U.S. Nuclear Regulatory Commission
ATTN: Document Control Desk
Washington, DC 20555-0001

**SUBJECT: OYSTER CREEK GENERATING STATION
FACILITY OPERATING LICENSE NO. DPR-16
NRC DOCKET NO. 50-219
FORKED RIVER PROPERTY THAT IS NOT PART OF THE
CURRENT OYSTER CREEK GENERATING STATION SITE**

- References:
- (1) Letter from NRC to AmerGen, Re: "Sale of Land that is Part of the Oyster Creek Generating Station Site Including a Portion of the Exclusion Area" dated December 28, 2000
 - (2) Application for Order and Conforming Administrative Amendments for License transfer dated November 5, 1999
 - (3) "Order Approving Transfer of License and Conforming Amendment" and accompanying Safety Evaluation dated June 6, 2000

This letter is to confirm our receipt of Reference 1 and acknowledge that NRC has concluded its review of the proposed sale of the Forked River Property that was formerly part of the Oyster Creek Generating Station (Oyster Creek) site, including a portion of the exclusion area, from Jersey Central Power & Light Company (JCP&L) to Sithe Energies. It is our understanding that JCP&L no longer plans to sell the Forked River Property to Sithe Energies. This letter also clarifies that JCP&L's ownership interests in the Forked River Property, including property within the Oyster Creek exclusion area, were not transferred to AmerGen Energy Company, LLC (AmerGen), and any future sale of the Forked River Property would be by JCP&L and not AmerGen.

As you know, GPU Nuclear, Inc. (GPUN), AmerGen and JCP&L executed the Oyster Creek Purchase and Sale Agreement on October 15, 1999. Under this agreement, JCP&L and GPUN agreed to transfer their respective ownership and operating interests in Oyster Creek to AmerGen, excluding, *inter alia*, the Forked River Property. On November 5, 1999, AmerGen and GPUN applied to the NRC for consent to the transfer of the Oyster Creek license (Reference 2). Following issuance on June 6, 2000, of the NRC's order consenting to the transfer (Reference 3), AmerGen became the sole-licensed owner and operator of Oyster Creek, but did not acquire the Forked River Property.

ADD1

In the license transfer application, the applicants noted that:

The assets that JCP&L will sell and transfer to AmerGen do not include the land on the opposite side of the intake and discharge canal (the Forked River property running west to the Garden State Parkway) that JCP&L has previously agreed to sell to Sithe Energies. However, JCP&L intends to transfer its interests to the meteorological tower, firing range, emergency fire pond, simulator, and other buildings and improvements (except for the transmission facilities, switchyard, and combustion turbines discussed later in this application) located on the Forked River Property and used to support Oyster Creek operations. Further, AmerGen and the NRC will have all necessary access to these facilities through easements appurtenant to the Oyster Creek station.

Application at p. 4-5.

In Reference 2, the applicants further acknowledged that because AmerGen would not be acquiring the Forked River Property, following the sale there would be certain land that was within the Oyster Creek exclusion area, but not owned by the new licensee -- AmerGen. Thus, the applicants noted:

[P]ursuant to an easement appurtenant to Oyster Creek, AmerGen will have control over the Exclusion Area, including the authority to determine all activities in the Exclusion Area, and to exclude or remove personnel and property from the area, and all other authority necessary to comply with applicable NRC requirements.

Application at p. 26.

These rights have been provided for in an executed "Easement, License and Restrictive Covenant Agreement dated as of August 8, 2000 by and between Jersey Central Power & Light Company AmerGen Energy Company, LLC" (Easement), which was delivered in connection with the Oyster Creek closing.

In addition to issues involving the exclusion area, JCP&L's ownership of the Forked River Property combustion turbines, switchyard and transmission facilities required that AmerGen make certain arrangements to ensure compliance with requirements for reliable offsite power, the station blackout rule, and any other applicable NRC requirements related to AmerGen's interconnection with JCP&L at Oyster Creek. These issues are addressed in an "Interconnection Agreement for the Oyster Creek Nuclear Generating Station Between AmerGen Energy Company, LLC and Jersey Central Power & Light Company d/b/a GPU Energy," dated as of

October 15, 1999 (Interconnection Agreement), and a "Station Blackout Agreement Between GPU Energy and AmerGen Energy Company, LLC," dated as of April 14, 2000 (SBO Agreement). Upon request, the Easement, Interconnection Agreement and SBO Agreement can be made available for inspection at the Oyster Creek site.

Prior to the transfer of Oyster Creek to AmerGen, GPUN applied for an amendment to the Oyster Creek license to remove a provision that required the licensee to own all property within the exclusion area of the plant. On May 12, 1999, the NRC issued the license amendment removing this restriction (thereby allowing the Forked River property and the Oyster Creek property to be owned by separate entities).

Thereafter, in connection with the proposed sale of the Forked River Property from JCP&L to Sithe Energies, which was expected to occur before or after the transfer of Oyster Creek to AmerGen, the NRC considered the further steps that would be necessary to allow the Forked River Property to be separated from the Oyster Creek site and released. As reflected in SECY-99-238 (Sept. 27, 1999) and in an August 12, 1999 letter to the State of New Jersey, the NRC determined that release of a portion of a site would need to be supported by an acceptable safety evaluation pursuant to 10 CFR 50.59 and surveys to establish that the standards for unrestricted release of property in 10 CFR Part 20, Subpart E, were met. NRC also held a transcribed public meeting at Oyster Creek on October 29, 1999.

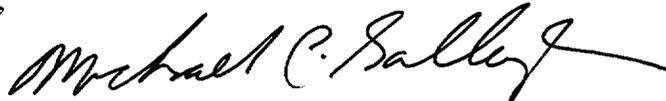
Consistent with the NRC staff's guidance, GPUN prepared a safety evaluation pursuant to 10 CFR 50.59 to change the description of the site boundary. The NRC reviewed this safety evaluation and, as documented in an NRC inspection report dated January 21, 2000, concluded that GPUN's safety evaluation was sufficient to demonstrate that the separation of the Forked River property would not result in an unreviewed safety question.

In addition, GPUN performed surveys to show that the Forked River property met the criteria in 10 CFR Part 30 Subpart E, for unrestricted release. Moreover, an independent survey was performed for NRC, and under the NRC's supervision, by the Oak Ridge Institute for Science and Education. In an Inspection Report dated March 2, 2000, the NRC noted that a safety inspection of the Forked River Property was conducted on November 15-18, 1999. A confirmatory survey was completed as part of the inspection. The NRC concluded "that residual radioactive material from plant related activities were well below the dose based release criteria of 10 CFR Part 20, Subpart E." However, NRC noted that the switchyard had been excluded from the scoping survey, and it was unable to confirm the switchyard's status as a non-impacted area. Inspection Report No. 05000219/1999013, at p. 1. GPUN committed to perform a radiological scoping survey of the switchyard during an upcoming Oyster Creek refueling outage. AmerGen has fulfilled this commitment and confirmed that the switchyard is a non-impacted area.

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If you have any questions regarding the matters discussed in this letter, please contact George Rombold at (610) 765-5516.

Sincerely,

A handwritten signature in black ink, reading "Michael P. Gallagher". The signature is written in a cursive style with a long, sweeping underline.

Michael P. Gallagher
Director, Licensing & Regulatory Affairs
Mid-Atlantic Regional Operating Group

cc: H. J. Miller, Administrator, USNRC Region I
H. N. Pastis, USNRC, Senior Project Manager, OCGS
L. A. Dudes, USNRC, Senior Resident Inspector, OCGS
File No. 99139