

January 9, 2006

EA-05-199

Mr. Christopher M. Crane
President and CEO
AmerGen Energy Company, LLC
200 Exelon Way, KSA 3-E
Kennett Square, PA 19348

SUBJECT: FINAL SIGNIFICANCE DETERMINATION FOR A WHITE FINDING AND
NOTICE OF VIOLATION
(NRC Event Followup Inspection Report No. 05000219/2005011)
Oyster Creek Generating Station

Dear Mr. Crane:

This letter provides the final results of our significance determination for a preliminary White finding and associated apparent violation identified at the Oyster Creek Generating Station. The finding was identified during our followup inspection of an event involving sea grass intrusion into the Oyster Creek intake structure. The results of the inspection were discussed with Mr. C. N. Swenson, Site Vice President, and other members of your staff during an exit meeting held on September 23, 2005. The inspection finding was assessed using the significance determination process and was preliminarily characterized as White, a finding with low to moderate importance to safety that may require additional NRC inspection. The basis for this preliminary White finding was explained in our letter dated November 4, 2005, which transmitted the subject inspection report.

This preliminary White finding involved the failure to properly utilize the Oyster Creek Emergency Plan emergency action level (EAL) matrix during an actual event. This resulted in operators not recognizing that plant parameters met the EAL thresholds for declaring an unusual event (UE) and a subsequent Alert. Specifically, a large amount of sea grass had clogged the north side intake structure screens resulting in a decrease in the intake structure water level. Subsequently, the intake water level decreased over a period of approximately 60 minutes meeting the values expected for UE and then Alert declarations. Since an Alert was not declared, AmerGen personnel did not activate their emergency response organization to assist operators in mitigating the event. Additionally, had the event degraded further, State and local agencies, who rely on information provided by the facility licensee, might not have been able to take initial offsite response measures in as timely a manner had the event degraded further.

In our letter dated November 4, 2005, the NRC provided you an opportunity to either request a Regulatory Conference to discuss this finding or to explain your position in a written response. On November 10, 2005, Ms. J. Kandasamy of your staff informed Mr. R. Lorson of my staff that AmerGen could not contest the preliminary White finding, declined the offer to attend a Regulatory Conference, but would provide a written response. AmerGen's response from Mr. C. N. Swenson was provided to the NRC on December 9, 2005, and described the reasons

for the violation as well as the corrective steps taken and planned to correct the violation and prevent recurrence.

After considering the information developed during the inspection and the information contained in your response, the NRC has concluded that the inspection finding is appropriately characterized as White, an issue with low to moderate increased importance to safety that may require additional inspection. You have 30 calendar days from the date of this letter to appeal the staff's determination of significance for the identified White finding. Such appeals will be considered to have merit only if they meet the criteria given in NRC Inspection Manual Chapter 0609, Attachment 2.

The NRC has also determined that this finding is a violation of 10 CFR 50.54(q) and 10 CFR 50.47(b)(4). The circumstances surrounding the violation are described in detail in the enclosed Notice of Violation as well as the subject inspection report. In accordance with the NRC Enforcement Policy, this Notice of Violation is considered escalated enforcement action because it is associated with a White finding.

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken and planned to correct the violation and prevent recurrence, and the date when full compliance was achieved is already adequately addressed on the docket in NRC Inspection Report No. 05000219/2005011 and in your December 9, 2005, response. Therefore, you are not required to respond to this letter unless the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice.

Plant performance for Oyster Creek has been determined to be in the Degraded Cornerstone Column because this is the second White finding in the Emergency Preparedness Cornerstone during the past four quarters. Therefore, we will use the NRC Action Matrix to determine the most appropriate NRC response. We will notify you, by separate correspondence, of that determination.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of the NRC's Agencywide Documents Access and Management System (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html> (the Public Electronic Reading Room). The NRC also includes significant enforcement actions on its Web site at www.nrc.gov; select **What We Do, Enforcement**, then **Significant Enforcement Actions**.

Sincerely,

/RA/

Samuel J. Collins
Regional Administrator

Docket No. 50-219
License No. DPR-16

Enclosure: Notice of Violation

cc w/encl:

Chief Operating Officer, AmerGen
Site Vice President, Oyster Creek Nuclear Generating Station, AmerGen
Plant Manager, Oyster Creek Generating Station, AmerGen
Regulatory Assurance Manager, Oyster Creek, AmerGen
Senior Vice President - Nuclear Services, AmerGen
Vice President - Mid-Atlantic Operations, AmerGen
Vice President - Operations Support, AmerGen
Vice President - Licensing and Regulatory Affairs, AmerGen
Director Licensing, AmerGen
Manager Licensing - Oyster Creek, AmerGen
Vice President, General Counsel and Secretary, AmerGen
T. O'Neill, Associate General Counsel, Exelon Generation Company
J. Fewell, Assistant General Counsel, Exelon Nuclear
Correspondence Control Desk, AmerGen
J. Matthews, Esquire, Morgan, Lewis & Bockius LLP
Mayor of Lacey Township
K. Tosch, Interim Assistant Director of Radiation Programs, State of New Jersey
Acting Manager, Bureau of Nuclear Engineering, NJ Dept. of Environmental Protection
R. Shadis, New England Coalition Staff
N. Cohen, Coordinator - Unplug Salem Campaign
W. Costanzo, Technical Advisor - Jersey Shore Nuclear Watch
E. Gbur, Chairwoman - Jersey Shore Nuclear Watch
E. Zobian, Coordinator - Jersey Shore Anti Nuclear Alliance
J. Picciano, Acting Regional Director, FEMA Region II

NOTICE OF VIOLATION

AmerGen Energy Company, LLC
Oyster Creek Generating Station

Docket No. 50-219
License No. DPR-16
EA-05-199

During an inspection conducted from August 25, 2005, through September 23, 2005, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

10 CFR 50.54(q) states, in part, that a licensee authorized to possess and operate a nuclear power reactor shall follow and maintain in effect emergency plans which meet the standards in 10 CFR 50.47(b).

10 CFR 50.47(b)(4) requires the facility licensee to have a standard emergency classification and action level scheme in use, and State and local response plans call for reliance on information provided by facility licensees for determinations of minimum initial offsite response measures.

The Oyster Creek Emergency Plan Emergency Action Level (EAL) matrix requires, in part, the declaration of an Unusual Event when the intake canal water level differential pressure drops below 0.94 pounds per square inch gauge (psig) and the declaration of an Alert when the intake canal water level differential pressure drops below 0.50 psig.

Contrary to the above, on August 6, 2005, between 2:35 a.m and 3:40 a.m., licensed operators did not properly utilize the Oyster Creek Emergency Plan EAL matrix during an actual event to determine that plant conditions warranted declaration of an Unusual Event and a subsequent Alert. Specifically, when the intake canal water level differential pressure dropped below 0.94 psig, an Unusual Event was not declared; and when the intake canal water level differential pressure dropped below 0.50 psig, an Alert was not declared. During the event, the intake canal water level differential pressure decreased to 0 psig. Since an Alert was not declared, AmerGen personnel did not activate their emergency response organization to assist operators in mitigating the event. Additionally, State and local agencies, who rely on information provided by the facility licensee, might not have been able to take initial offsite response measures in as timely a manner had the event degraded further.

This violation is associated with a WHITE significance determination process finding.

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken and planned to correct the violation and prevent recurrence, and the date when full compliance was achieved is already adequately addressed on the docket as summarized in your response. However, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201 if the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation; EA-05-199," and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555, with a copy to the Regional Administrator, Region I, and a copy to the NRC Resident Inspector at the facility that is the subject of this Notice within 30 days of the date of the letter transmitting this Notice of Violation (Notice).

If you contest this enforcement action, you should also provide a copy of your response, with the basis for your denial, to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

Because your response, if provided, will be made available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS), to the extent possible, it should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the public without redaction. ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html> (the Public Electronic Reading Room). If personal privacy or proprietary information is necessary to provide an acceptable response, then please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request withholding of such material, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.390(b) to support a request for withholding confidential commercial or financial information). If safeguards information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21.

In accordance with 10 CFR 19.11, you may be required to post this Notice within 2 working days.

Dated this 9th day of January 2006