RAS 11528

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
OFFICE OF THE SECRETARY

ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:
E. Roy Hawkens, Chair
Dr. Paul B. Abramson
Dr. Anthony J. Baratta

In the Matter of	)	
	)	Docket No. 50-0219-LR
AMERGEN ENERGY COMPANY, LLC	)	
	)	ASLB No. 06-844-01-LR
(License Renewal for the Oyster Creek Nuclear Generating Station)	)	April 6, 2006

MOTION FOR RECONSIDERATION OF MOTION TO ADD NEW CONTENTIONS OR SUPPLEMENT THE BASIS OF THE CURRENT CONTENTION AND LEAVE TO FILE SUCH A MOTION

PRELIMINARY STATEMENT

Nuclear Information and Resource Service, Jersey Shore Nuclear Watch, Inc., Grandmothers, Mothers and More for Energy Safety, New Jersey Public Interest Research Group, New Jersey Sierra Club, and New Jersey Environmental Federation (collectively "Citizens") submit this Motion because the Atomic Safety and Licensing Board ("ASLB") in its decision dated March 22, 2006 (the "Decision") made clear factual and legal errors in rejecting Citizens' motion to amend the basis of their existing contention, and add new contentions regarding the need for further root cause analysis and measurement of corrosion in the embedded region of the drywell liner. Thus, the ASLB should reconsider its decision and grant the motion.

TEMPLATE = SECY-037

SECY-02

BACKGROUND

On February 7, 2006, Petitioners sought leave to add two contentions to the admitted contention and to add to the basis of their initial contention.[1] The first new contention related specifically to the potential for corrosion in the embedded area of the drywell, below the sand bed region; the second contention related to the need for further root cause analysis and subsequent verifiable elimination of the root cause. On February 27, 2006, the ASLB admitted a narrowed version of Citizen's initial contention, restricting it to only the sand bed region of the drywell liner. On March 22, 2006, the ASLB rejected Citizens' motion to add contentions or supplement the basis of the initial contention, primarily on grounds of timeliness.

On March 24, 2006, AmerGen notifed the Commission and the ASLB that a statement in its Answer to the initial Petition "could cause confusion" and needed to be amended. Letter from Polonsky to Hawkens, dated March 24, 2006. The issue on which AmerGen may have confused the ASLB is that, in direct conflict with AmerGen's Answer, the record clearly shows that corrosion is ongoing in the upper drywell, above the sand bed region. E.g. License Renewal Application at 3.5-20 to 21.

ARGUMENT

I. Legal Requirements For Reconsideration

Pursuant to 10 C.F.R. § 2.323(e), parties may request reconsideration of a Board decision. That Section states that motions for reconsideration may be filed "upon showing of compelling circumstances, such as existence of a clear and material error in a decision, which could not have been anticipated, that renders the decision invalid." Thus, a request for reconsideration involves showing either that the ALSB has "overlooked or

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[1] Citizens refer the ALSB to that motion for a statement of background up to February 7, 2006.

misunderstood" relevant facts or law. Philadelphia Electric Co. (Limerick Generating Station, Units 1 and 2), LBP-83-25, 17 NRC 681, 687 (1983); see Private Fuel Storage, LLC (Independent Spent Fuel Storage Installation), CLI-00-21, 52 NRC 261, 264 (2000)("[R]econsideration motions are an opportunity to request correction of a Board error by refining an argument, or by pointing out a factual misapprehension or a controlling decision or law that was overlooked").

As discussed in more detail below, this request for reconsideration is also based on: i) the ASLB's misinterpretation of the law on when new information allows intervenors to add or amend contentions; ii) the ASLB's failure to note a key fact; and iii) the ASLB's erroneous ruling on the adequacy of the pleading of the motion. Because the motion to add contentions and supplement the basis met the legal requirements imposed by the Part 2 regulations, the ASLB should reverse its decision and grant the motion.

II. The ASLB Erred In Finding The Motion Untimely

The ASLB correctly decided that the legal test for timeliness is given by 10 C.F.R. § 2.309(f)(2). Decision at 5-6. There is no dispute that Citizens filed in a timely manner after the conference call on which the new information was disclosed. Thus, in order to obtain permission to amend or add a safety-related contention, Citizens must show that the information upon which the amended or new contention is based is new and is materially different from previously available information. Contrary to the ASLB's ruling, Citizens met this requirement.

A. The Timeliness Requirement Does Not Create An Evidentiary Barrier

The preliminary stage of license renewal proceedings are designed to admit contentions that have some minimal factual and legal support. ALSB Decision dated February 27, 2005. Section § 2.309(f)(2) is designed to allow new information to be

incorporated into the license renewal proceedings. This provision makes no specification about the form of the "new information." At this stage, Citizens are unable to call as witnesses NRC staff who spoke on the call, although Citizens would welcome the opportunity to do so at a later date. Although Staff asserted Citizens' account of an official NRC conference call cannot form the basis of a new contention, because it cannot be tested, Staff Ans. dated February 17, 2006 at 4, this assertion is wrong. In fact, at the evidentiary stage of the hearing the timeliness of contentions based on new oral information could be rigorously examined. Furthermore, if the ASLB wishes to resolve conflicting accounts of oral statements made by NRC staff at this stage, it must hold a preliminary evidentiary hearing to resolve those conflicts. What the ALSB may not do is precisely what it did here; adjudicate an evidentiary issue to eliminate a contention at the preliminary stage and thereby turn the timeliness factors into a fortress to deny Citizens any ability to add new contentions based on disputed oral statements. See ALSB Decision dated February 27, 2005 at 43-44.

B. The NRC Staff's Articulated Concern in a Pending Application Constitutes New Information

The ASLB incorrectly found that the information upon which Citizens' Motion was based was not new. Decision at 6. In fact, there is no dispute that on January 31, 2006 NRC Staff released new information outlining its concerns regarding aging management of identified drywell liner corrosion at GE Mark 1 boiling water reactors ("Mk 1 BWRs"). In the Motion, Citizens provided documentary evidence that NRC Staff held a conference call regarding new proposals to amend the provisions of the Generic Aged Lessons Learned ("GALL") Report, which relate to drywell liner corrosion. In addition, Citizens provided a brief summary of what Staff said on the call. While AmerGen and Staff disputed that account in their pleadings, they did not present any evidence on the issue.

Thus, the ALSB incorrectly found that the information was "not new," even though Citizens were previously unaware of Staff's concerns about the adequacy of the monitoring regimes and the root cause analyses contained in the license renewal applications it had reviewed. On the call, the Staff stated that the motivation for amending GALL was because of problems that had arisen during licensing renewals. The Oyster Creek renewal application is one of the applications that the Staff had reviewed at that point, and Oyster Creek was repeatedly mentioned on the call as a reactor with corrosion problems. Thus, the new information presented was not purely generic, as AmerGen incorrectly alleged.

When the NRC Staff publicly voices concern over a particular matter for the first time, such concern may be deemed to be new information, allowing parties to add or amend related contentions. For example, the ASLB has previously found that a party may include in the basis of a contention NRC staff identification of potential deficiencies in an application. In the Matter of Louisiana Energy Services, LP (Claiborne Enrichment Center), 34 NRC 332, 1991 NRC LEXIS 68, *9, 13-15 (1991). While a contention may not rely soley on a Staff decision to voice concern on a particular matter, such concern may serve as a "starting point," for supporting a contention. Id. at 14. This is precisely the role of the Staff information in the motion at issue.

The ASLB appears to have incorrectly based its decision on cases involving only requests for additional information ("RAI") and failed to consider the Louisiana Energy Services case, which is much more on point. The Decision incorrectly analogized the NRC conference call to a standard RAI, even though, unlike an RAI, the Staff was not requesting information, but was stating its growing concern over the inadequacy of aging management programs and root cause analyses presented in license renewal applications to date, and was proposing a solution. Because Staff had reached conclusions that problems

existed, that was sufficient to allow Petitioners to make a timely application to add or amend contentions that relate to Staff's conclusions. Thus, the ASLB must reconsider its decision.

C. New Information Allows a Party to Add *or* Amend Contentions Even If a New Issue Is Not Raised

By regulation, the Commission has decided to allow a party to amend an existing contention or add a new one, if it obtains information that was not previously available and is materially different. 10 C.F.R. § 2.309(f)(2). However, here the Board incorrectly concluded that because Citizens' could have originally pleaded their additional contentions, they could not add them based on new information. Decision at 7-8, 12. This approach to timeliness is at odds with the text of the regulation and with previous Commission decisions.

As the ASLB obliquely acknowledged in its Decision, under 10 C.F.R. § 2.309(f)(2), a party may add *or* amend a contention. Decision at 4-5. To have a contention admitted that a party could then seek to amend, it must have already supplied information regarding that contention. Thus, timeliness of motions to amend contentions cannot hinge on whether the new information raises a new issue, because any motion to amend a contention would necessarily present new information that relates to an issue that had already been raised. In addition, applying a different timeliness test to motions to add contentions would defy the text of the regulation, which applies the same approach to timeliness to motions to add contentions and to motions to amend contentions. Thus, the ASLB may not require that a party's new information must raise a new issue to be timely, as it erroneously did so here. Decision at 7-8, 12.

The specific timing in this case further illustrates that the ASLB should not apply a different timeliness test for motions to add contentions compared to motions to amend

contentions. Had Citizens known at the time they filed the motion at issue that the ASLB was going to admit only a portion of their original contention, they could have pleaded the contention regarding the embedded area as an amendment to the admitted contention, rather than as a new contention. Thus, if different tests were applied, the timing of the availability of new information relative to the ASLB's decision on the original contention could become outcome determinative. This would be wholly arbitrary and would deprive Citizens of their rights to participate fully in license renewal proceedings.

Furthermore, the test for material difference in Section 2.309(f)(2)(ii) also acknowledges that information could already be available about the new or amended contention, but still allows it to be timely if the new information adds anything material over and above the information that was already available.

Here the new information was materially different from that which was previously available. Because Staff has access to far more information than Citizens at the preliminary stage, Citizens reasonably inferred that when Staff indicated that they had found problems with the license renewal applications and named Oyster Creek as one of four particularly problematic plants, this indicated a solid basis for contentions regarding those concerns. Staff stated that license renewal applications for problematic plants had generally provided inadequate information regarding the aging management programs and needed further root cause analysis. It was hardly a great leap for Citizens to infer that Staff had found that the license renewal application for Oyster Creek was deficient in these areas. Indeed, since the call, AmerGen's appeal brief has confirmed Citizens' inference, by stating that the NRC Staff license renewal audit team made comments that caused AmerGen to agree to perform UT measurement in the sand bed region once every ten years, as opposed to once only, as previously proposed. AmerGen App. Br. at 5.

In summary, although Citizens had previous concerns about corrosion in areas of the drywell beyond the sand bed region and about the adequacy of the root cause analysis, they did not know that Staff shared these concerns, until they discovered this fact on the conference call. Citizens' decision not to initially plead the new contentions does not act as a bar to pleading the new contentions at a later date. The regulations specifically contemplate new contentions based on a combination of materially different new information and previous information. The ASLB made a clear error of law when it reasoned that because the new contentions were based, in part, on information that was previously available, the information provided on the conference call could not be materially different. It should therefore reconsider.

III. The ASLB Failed to Note That Ongoing Corrosion Is Occurring Above The Sand Bed Region

As discussed above, AmerGen has now corrected its Answer to make clear that corrosion is ongoing in two of four regions in the upper area of the drywell liner that are being monitored. The ASLB failed to mention this critical fact in either of its decisions. This fact shows that the sand is not the cause of the corrosion, contrary to statements in AmerGen's License Renewal Application at 3.5-19. In addition, to demonstrate the significance of this omission, Citizens have obtained a new memorandum from Dr. Hausler evaluating the results that were obscured. Hausler Memorandum dated April 4, 2006, attached as Exhibit RM 1. Most importantly, the information shows that even though AmerGen claimed it had already carried out an adequate root cause analysis, AmerGen Ans. to Mot. To Add Contentions at 7-8, it has actually failed to correct the leakage of water onto the drywell liner. Id. at 3. Dr. Hausler confirms the need for elimination of the root cause of the corrosion, noting that "corrosion can be unpredictable and affected areas can deteriorate unexpectedly." Id. at 3-4. Dr Hausler concludes that

"until the corrosive environments in this annulus [between the drywell liner and the concrete] are successfully prevented, there can be no certainty that the corrosion in the most deteriorated areas has been arrested for good." Id. at 4.

Dr. Hausler also notes that the relatively low corrosion rate at the upper region is not indicative of a similarly low rate in the sand bed or embedded regions, because the corrosive power of the water will increase as the temperature decreases and the water becomes more oxygenated. Id. at 2-3. Furthermore, because the sand bed region is operating on razor-thin to non-existent safety margins, *any* additional corrosion could be critical. Id. Thus, because critical facts were obscured by AmerGen's misleading pleading when the ASLB made its decision on the new contentions, it must now reconsider.

IV. The Contentions Satisfied the Admissibility Requirements

The ASLB also found that the new contentions did not meet the requirements of Section 2.309(f)(1), because the motion did not specify a genuine dispute on a material issue and did not specify faulty portions of the License Renewal Application. Decision at 5, 9, 12. This conclusion is erroneous.

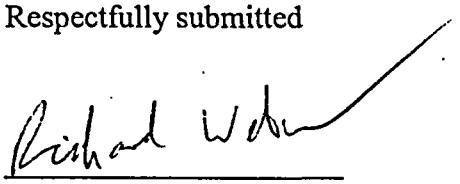
With respect to the root cause analysis contention, AmerGen provided a specific reference to the portion of the License Renewal Application that is deficient, namely 3.5-19. AmerGen Ans. to Mot. To Add Contentions at 7. Further, AmerGen stated that the root cause analysis it had already carried out was sufficient, id., whereas Citizens allege that further root cause analysis and a verifiable program to prevent leakage is required. Citizens' Mot. To Add Contentions at 13-15. Thus, the pleadings showed a genuine dispute about material issues, namely the adequacy of the root cause analysis and leakage prevention, and the portion of the License Renewal Application at issue was specifically identified.

With respect to the contention about the embedded area, Citizens included all the information submitted to support the previous contention in the basis. Id. at 11. The ASLB has found that those pleadings were adequate with regard to the admitted contention. It previously denied the inclusion of the embedded area because this issue was not properly raised until the reply. Because the reply, which identifies specific portions of the License Renewal Application that are inadequate, was properly incorporated into the pleading for the new contention, the pleading of the new contention regarding the embedded region met all the requirements of Section 2.309(f)(1). The genuine material issues in dispute are whether the inspection regime for the embedded region must include regular, direct measurements of thickness and clear acceptance criteria for those measurements.

CONCLUSION

For the forgoing reasons, the ASLB should reconsider and grant Citizens' motion to add contentions and add the new information to the basis of the admitted contention.[2]

Respectfully submitted



Richard Webster, Esq
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Attorneys for Citizens

Dated: April 6, 2006

[2] Although supplementing the basis of the contention may not affect the ASLB decision, it could affect the outcome of an appeal.

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MEMORANDUM

APRIL 4, 2006

To: Richard Webster, Esq.
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Paul Gunter
Reactor Watchdog Project
Nuclear Information and Resource Service
Washington, DC 10036

Subject: **Oyster Creek Dry Well Corrosion**
Additional Evidence for Continued Corrosion

I. Background

AmerGen asserts that previously observed corrosion damage on the dry well steel liner is now under control, that an effective monitoring program is now in place, and that an aggressive aging management program is being pursued. In fact, in light of previously published observations and measurements, as well as facts that have recently come to my attention, I believe these measures to be less than is required to ensure safe operation of the reactor during any license renewal period. Some of my concerns have been discussed in my previous Memoranda [1)2)]. However, I was not previously aware that, according to UT measurements taken and visual inspection made through 2004, continuing corrosion has been observed in at least two areas in the upper elevations of the drywell, where corrosion had been observed previously, but had previously been thought to have been arrested. This ongoing corrosion indicates that water seepage from the reactor cavity into the area between the dry well and the concrete containment has not been corrected, as previously maintained. I therefore believe that the actions implemented to prevent water leakage and additional corrosion have not been as effective as had been expected and are insufficient to ensure safety for any license renewal period.

[1)] Corro-Consulta, Memorandum to Mr. Paul Gunter, NIRS, 11/10/05: Oyster Creek Dry Well Liner Corrosion;
[2)] Corro-Consulta, Memorandum to Mr. Paul Gunter, NIRS, 2/4/06: Oyster Creek Dry Well Liner Corrosion

II. Details

1. Continued Corrosion Observed in 2004

Oyster Creek had committed itself in 1995 to perform UT measurements during each second RO. Such measurements were made in 2004 and in 2000[3]. (It had also agreed to perform such measurements within 3 months of having detected water in the gap between drywell and concrete containment [4]). The license renewal application states on page 3.5-21 that the corrosion rate at two areas in the upper region of the drywell varied from 0.4 to 1.2 mpy between 1996 to 2004. These observations clearly indicate the continued presence of water in the area between the drywell and the concrete containment.

2. Discussion of Consequences on the Spherical Portion of the Dry Well

The corrosion rate in the upper regions of the drywell is controlled by various factors. First, water leakage may or may not be continuous. Oyster Creek has not yet performed, by its own admission, a root cause analysis, and water leakage is likely to occur outside of refueling outages. (A leak of less than 12 gal/min is not considered a major leak and therefore not subject for concern or special corrective measures [5].) For corrosion to occur on carbon steel, all that is necessary is water and oxygen. In the upper regions of the drywell temperatures are high (200 ^{0}F and above). Under such conditions the oxygen content in the water is low, and absent aggressive salts, the corrosion rate is low. The low corrosion rate is not only due to low oxygen concentration, but also to the formation of protective corrosion product layers, such as magnetite (Fe_3O_4). If, however, the water, which spills into the "gap", contains salts (even at low concentrations) these will accumulate in the filler material in the gap, decrease the water vapor pressure and eventually become very aggressive.

As the water flows down the "gap" and accumulates on the concrete floor outside the drywell liner, where the temperature is lower, it becomes enriched in oxygen and hence more aggressive. Simultaneously, the corrosion product layers (hematite, FeOOH, Fe_2O_3) are less protective, and again, if salts are present in the water, pitting rates can be quite high. Since the average remaining corrosion allowance in the former sand bed region (the sand having been removed in 1986) according to the ASME code already was less than 65 mils in 1992 with numerous penetrations having been below the limiting remaining wall thickness of 0.736 inches, any additional corrosion due to the continued presence of water on the outside of the spherical portion of the drywell liner needs to be considered critical.

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[3] US NRC 11/1/95, Safety Evaluation By the Office of Nuclear Reactor Regulation, Dry Well Monitoring Program, GPI Nuclear Corporation, Oyster Creek Nuclear Generating Station, Docket No. 50-219

[4] US Nuclear Regulatory Commission, 2/15/1996, to GPU Nuclear Corporation, "Changes in the Dry Well Corrosion Monitoring Program (TAC No. M 92688)

However, I continue to believe that the situation on the floor of the former sand bed region is potentially much worse due to the continued presence of water in the "gap."

First, it has been clearly established that in the sand bed region not only the liner deteriorated, but the concrete floor as well. Furthermore, it has also been established that drainage of the former sand bed region was insufficient or in fact absent [5]. As a consequence, not only did the liner corrode on the outside, the concrete floor had deteriorated as well, to the point were the floor "was cratered, with some craters adjacent to the shell. Some of these craters were 12 to 20 inches deep and concrete reinforcement bars were laid bare and could be seen in many bays". Petition Ex. 5, page 9.

It is not clear from the corrosion history of the drywell what preventive measures exactly were taken. It has been mentioned repeatedly that the metal was sandblasted and coated with an epoxy resin. Nothing has been mentioned about precautions taken to protect the region below the concrete floor. Furthermore, it has been mentioned that the coating had been visually inspected, but nothing has been said about whether the floor has continued to deteriorate.

If in fact, as is now highly likely, water continued to leak into the gap and to accumulate on the floor, where it could not be properly drained, it can be said with certainty that corrosion continued (as discussed in our memorandum of 2/4/2006), particularly in the crevices (craters), which cannot be visually inspected, and that the concrete floor continued to deteriorate, primarily because of rebar corrosion.

On that basis it is quite possible the corrosion allowance (based on stress analyses) has now been exceeded or could be exceeded during the license extension period in many more places than previously thought.

These facts and considerations make it, in my opinion, imperative that the entire drywell liner be thoroughly inspected using quantitative measurement techniques, such as ultra-sonic testing, on a regular basis while the reactor remains operational. Particular attention should be paid to areas of the spherical portion where corrosion had previously been detected and the area of the sphere where the metal is between concrete, which my previous memorandum referred to as the embedded portion.

Furthermore, although Amergen has claimed that it has addressed the root cause of the corrosion of the drywell liner, its efforts have clearly not been entirely successful. The recent spillage of oil from the Alaska pipeline[6] shows anecdotally that corrosion can be unpredictable and affected areas can deteriorate unexpectedly. Thus, it is dangerous to rely on inspection programs alone to address corrosion. In this safety critical environment, where margins are already razor-thin, the only way to ensure

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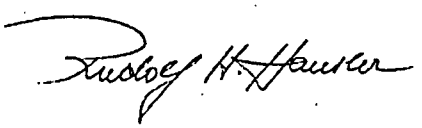
[5] GPU Nuclear Corporation to US NRC 9/15/1995, Oyster Creek Nuclear Generating Station, Docket No 50-219, Facility Operating License No DPR-16, Drywell Corrosion Monitoring Program.

[6] See attached article from the New York Times, dated March 15, 2006.

that no dangerous level of corrosion will occur during the extended licensing period is to ensure that a corrosive environment does not exist on the outside of the drywell shell. To date, the root cause analysis identifying the sand as the problem has not gone far enough. The sand was merely the immediate cause of the corrosion, it was not the root cause. The root cause is the continued presence of moisture on the outside of the drywell liner. Until corrosive environments in this annulus are successfully prevented, there can be no certainty that the corrosion in the most deteriorated areas has been arrested for good, because measurements are inherently backward looking and are not predictive.

Signed



Rudolf H. Hausler

The New York Times
nytimes.com

March 15, 2006

Large Oil Spill in Alaska Went Undetected for Days

By FELICITY BARRINGER

WASHINGTON, March 14 — The largest oil spill to occur on the tundra of Alaska's North Slope has deposited up to 267,000 gallons of thick crude oil over two acres in the sprawling Prudhoe Bay production facilities, forcing cleanup crews to work in temperatures far below zero to vacuum and dig up the thick mixture of snow and oil.

The spill went undetected for as long as five days before an oilfield worker detected the acrid scent of hydrocarbons while driving through the area on March 2, Maureen Johnson, the senior vice president and manager of the Prudhoe Bay unit for BP, said at a news conference in Anchorage on Tuesday.

At the conference, officials from BP, the company pumping the oil, and from the Alaska Department of Environmental Conservation said they believed that the oil had escaped through a pinprick-size hole in a corroded 34-inch pipe leading to the Trans-Alaska Pipeline System.

The pressure of the leaking oil, they said, gradually expanded the hole to a quarter- or half-inch wide. Most of the oil seeped beneath the snow without attracting the attention of workers monitoring alarm systems.

The leak occurred in a section of pipe built in the late 1970's, in the earliest days of oil production at Prudhoe Bay. The larger pipeline, which carries North Slope oil across the state, was completed in 1977.

Environmental groups were quick to point out that the spill raises doubts about the continuing reliability and durability of the infrastructure of North Slope production.

The current spill is among the worst in the pipeline's history, and the first of such a magnitude likely to be blamed on the decay of the aging system. In 1989, about 11 million gallons fouled Prince William Sound after the Exxon Valdez tanker ran aground. About 700,000 gallons escaped from the pipeline after vandals blew up a section of it in 1978, and about 285,000 gallons spilled in 2001 when a hunter shot the pipeline.

Asked later on Tuesday about how company and state officials arrived at their tentative conclusions about the cause of the spill, Ms. Johnson said investigators had "looked at the leak investigation system, at all the logs and all the charts" that measure oil volume and pressure at different times and in different areas.

At the news conference, Ms. Johnson said that although routine inspections last year indicated increasing corrosion in the pipe, the severity of corrosion found since the leak pointed to a swift and sudden deterioration. "We had no reason to expect" that this pipe, which carried 100,000 barrels of oil to the Alaska pipeline a day, "was going to leak," she said.

Ms. Johnson also said the leak was "smaller than our system would detect," adding that it was "still not acceptable to BP."

The normal fluctuations of oil flow in this particular pipe could have masked warning signals, state environment officials said.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE COMMISSION

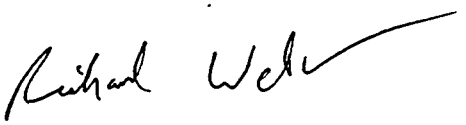
In the Matter of	)	
	)	
AMERGEN ENERGY COMPANY, LLC	)	Docket No. 50-219LR
	)	
(Oyster Creek Nuclear Generating Station)	)	

CITIZENS NOTICE OF APPEAL OF LBP-06-11

Out of an overabundance of caution, and in order to ensure their rights are preserved, Nuclear Information and Resource Service, Jersey Shore Nuclear Watch, Inc., Grandmothers, Mothers and More for Energy Safety, New Jersey Public Interest Research Group, New Jersey Sierra Club, and New Jersey Environmental Federation (collectively "Citizens") file this Notice of Appeal of the Atomic Safety and Licensing Board's March 22, 2006, Memorandum and Order, pursuant to 10 C.F.R. § 2.311and 10 C.F.R. § 2.341. That decision denied Citizen's motion to amend the basis of their existing contention and add new contentions regarding the need for further root cause analysis and measurement of corrosion in the embedded region of the drywell liner. To support this notice, Citizens rely on their brief submitted in support of their Motion for Reconsideration of Motion to Add New Contentions or Supplement the Basis of the Current Contention and Leave to File Such a Motion.

To support their appeal, Citizens rely on the same brief as is being simultaneously submitted to the Atomic Safety and Licensing Board regarding reconsideration of the decision at issue.

Respectfully submitted,



Richard Webster, Esq
RUTGERS ENVIRONMENTAL
LAW CLINIC
Attorneys for Petitioners

Dated at Newark, New Jersey
this 6th day of April, 2006

UNITED STATES OF AMERICA
BEFORE THE NUCLEAR REGULATORY COMMISSION
OFFICE OF THE SECRETARY

In the Matter of	)	
	)	Docket No. 50-0219-LR
AMERGEN ENERGY COMPANY, LLC	)	
	)	ASLB No. 06-844-01-LR
(License Renewal for the Oyster Creek	)	
Nuclear Generating Station)	)	April 6, 2006
	)	

CERTIFICATE OF SERVICE

I hereby certify that I caused the foregoing motion with any exhibits and a Notice of Appeal to be sent this 6th day of April, 2006 via email and U.S. Postal Service, as designated below, to each of the following:

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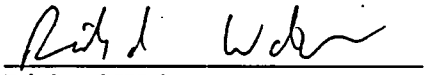
Signed: 
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