RAS 12445

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)	)	October 20, 2006

MOTION FOR LEAVE TO FILE FOR RECONSIDERATION AND MOTION FOR RECONSIDERATION OF ORDER PARTIALLY GRANTING PETITION TO FILE A NEW CONTENTION

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" or "Board") made clear factual and legal errors in parts of its decision on their proposed new contention, dated October 10, 2006 (the "Decision"). Specifically, the ASLB made clear errors in rejecting challenges one, five, six and seven contained in the contention set forth in Citizens' Petition to Add a New Contention and Supplement Thereto (the "Second Petition"). See Decision at 9. With respect to the denial of challenges three and four Citizens reserve the right to ultimately appeal the Decision, but do not seek reconsideration at this time. With respect to challenge two, Citizens believe the Decision is correct in this regard and therefore do not seek reconsideration of that part of the Decision.

To ensure that the Part 2 hearing process retains a vestige of legitimacy with the public, Congress, and the judiciary, the Board must reconsider its Decision regarding the challenges at issue. The Decision

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misconstrues the facts against Citizens without any support, asks for evidentiary standards to be met at a non-evidentiary stage, and confuses knowledge about what happened in the past with knowledge about what is going to happen in the future. Unless the Decision is thoroughly revised and corrected, it will become the poster-child for what is wrong with the Part 2 process. The Board should therefore reconsider the Decision and reverse it with regard to certain challenges that were rejected on grounds that were clearly legally or factually erroneous.

RELEVANT FACTS AND PROCEDURAL HISTORY

AmerGen's position on the need for UT measurements during the period of extended operation has changed three times, on December 9, 2006, on April 4, 2006, and on June 20, 2006. On each of these dates, AmerGen formally docketed with the NRC Staff additional commitments regarding its testing regime for the sand bed region of the drywell liner. The first change in the proposed UT testing regime came soon after Citizens filed their initial Petition. The second came after the ASLB admitted Citizens' initial contention and ultimately caused the ASLB to find the initial contention moot. The third came just before Citizens were to file their Second Petition and resulted in supplemental briefing on the proposed new contention.

Initially, AmerGen did not propose to conduct any tests in the sand bed region prior to the period of extended operation or during that period. The first change to this approach came on December 9, 2005, when AmerGen docketed a commitment to perform a set of one-time UT thickness measurements in the sand bed region. Letter from Michael P. Gallagher, AmerGen, to NRC (Dec. 9, 2005) ("December 9 Commitments"). The December 9 Commitments merely specified that the "locations of these [UT] measurements will be a sample of areas previously inspected (in the 1990s) and identified as having corrosion." Id. at 3. It made no mention of how AmerGen would analyze the results to allow comparison with the previous results. It also stated that the tests were designed to confirm that the actions taken in 1992 had arrested the corrosion, but it made no mention of how the results would be treated if the results showed further corrosion. Id.

Second, on April 4, 2006, AmerGen docketed a commitment to perform periodic UT

measurements in the sand bed region throughout the period of extended operation. Enclosure to Letter from Michael P. Gallagher, AmerGen, to NRC (Apr. 4, 2006) ("April 4 Commitments.") Specifically, AmerGen committed to performing UT measurements in the sand bed region at the same locations where UT measurements were conducted in 1996 prior to any license extension, and at ten year intervals thereafter. Id. Statistically significant deviations from the 1992, 1994, and 1996 UT results will result in various follow up actions including performing additional confirmatory UT testing and performing an operability determination and justification for operation until the next inspection.

On June 20, 2006, AmerGen docketed its third set of commitments, in which it declared that – after performing the initial set of UT measurements in the sand bed region prior to the period of extended operation – it would perform an additional set of measurements two refueling outages later, with "[s]ubsequent inspection frequency . . . established as appropriate, not to exceed 10-year intervals." Letter from Michael P. Gallagher, AmerGen, to NRC, Encl. 2, at 2 (June 20, 2006) ("June 20 Commitments"). In addition, AmerGen committed to evaluating the UT results due to the presence of water "per the existing program." Id. at 3, 4.

On June 20, 2006, AmerGen also submitted a considerable amount of new information on engineering and other issues in response to a Request for Additional Information from NRC Staff and in support of the new commitments. Letter from Michael P. Gallagher, AmerGen, to NRC, Enclosure 1 ("New Information") at 3-4. (June 20, 2006).

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." As discussed in more detail below, this request for reconsideration is primarily based on: i) the ASLB's misinterpretation of the law on timeliness and availability of new information; and ii) the ASLB's failure to note that Citizens could not have known how AmerGen was

going to conduct tests that it had not even proposed at the time Citizens' filed their initial petition. Because the Second Petition clearly met the legal requirements imposed by the Part 2 regulations with respect to challenges one, five, six, and seven, the ASLB should grant this motion and reverse its decision denying these challenges.

II. The ASLB Clearly Erred In Rejecting Certain Challenges

It is not disputed that new materially different information that became available on or after April 4, 2006, could be used to submit a timely contention. The ASLB correctly decided that the legal test for timeliness is governed by 10 C.F.R. § 2.309(f)(2). Decision at 6. Thus, if Citizens can show that the information upon which a challenge was based was new and materially different from information available prior to April 4, 2006, the challenge is timely. As detailed below, contrary to the ASLB's ruling, Citizens clearly showed that challenges one, five, six, and seven met this threshold. In addition, Citizens clearly met all other requirements for these challenges.

A. Challenge One Regarding Acceptance Criteria Is Timely

The Decision is clearly erroneous when it states that Citizens should have challenged the acceptance criteria for the sand bed region at the time of the initial Petition. Decision at 12-14. Specifically, the ASLB clearly erred when it stated that Citizens' assertion that "neither [the] NRC Staff, nor Citizens knew what statistical technique AmerGen would employ to analyze the future UT measurements until" June 20, 2006 was "simply incorrect." Decision at 14. In fact, this statement is entirely correct.

Most obviously, for the UT measurements during any license renewal period, which Amergen did not even agree to take until April 4, 2006 and June 20, 2006, Citizens had no way of knowing in advance whether AmerGen would even do these measurements, let alone whether it would adopt the old acceptance criteria or derive new, more rigorous criteria. Citizens simply could not have contended that the acceptance criteria to be used for these measurements were inadequate before AmerGen had agreed to take them and had decided what acceptance criteria would be applied. Citizens could hardly contend that the procedures for a non-existent UT monitoring program were inadequate.

In fact, AmerGen did not agree to take any UT measurements at all in the sand bed region during any period of extended operation until April 4, 2006. Furthermore, although the April 4 Commitments required AmerGen to perform an operability determination if the UT results to be taken at ten year intervals showed statistically significant corrosion, it did not specify how this operability determination would be made. April 4 Commitments at 2.

In the June 20 Commitments AmerGen proposed, for the first time, follow-up UT testing if water is detected in the sand bed drains and the coating inspection reveals deterioration. June 20 Commitment at 3-4. For any such UT monitoring AmerGen proposed to evaluate the results "per the existing program." Id. In addition, AmerGen added another scheduled UT measurement during the second refueling outage. Id. at 2.

With regard to the UT measurements to which AmerGen committed on December 9, 2005, AmerGen failed to state which acceptance criteria it would apply. In this regard, the Decision misquotes Citizens' previous pleadings about the acceptance criteria issue, stating "Citizens directly challenged the adequacy of Amergen's acceptance criteria in their February 2006 motion." Decision at 13. In fact, at that time Citizens stated "it is currently unclear how AmerGen changed the evaluation basis to evaluate the acceptability of the next round of measurements . . ." Citizens' Motion for Leave to Add Contentions or Supplement the Basis of the Current Contention, February 7, 2006 at 2-3. Citizens so stated because at that time they thought that AmerGen was only using the 0.736" acceptance criterion, not the multiple criteria that were laid out in Ex. NC 1, which was submitted by AmerGen to the NRC on April 5, 2006, one day after the April 4 Commitments.

In summary, because Citizens lack clairvoyance, they had no way of knowing how the results of the UT testing to which AmerGen committed after Citizens filed their initial Petition on November 14, 2005 would be evaluated until April 5, 2006. In addition, AmerGen did not even commit to taking any measurements during the license renewal period until April 4, 2006.

It appears that the Decision rests on a misapprehension. Citizens could not and did not attempt to challenge the adequacy of the acceptance criteria used in the past. Instead, Citizens actually challenged

the acceptance criteria for proposed future measurements soon after April 4, 2006, when AmerGen committed to UT measurements during any license renewal period, and clearly stated for the first time it would apply the old acceptance criteria to the future results. Thus, the challenge regarding the acceptance criteria is timely. Because the Decision raises no other reason for rejecting this challenge, the ASLB should reverse its initial decision and admit this challenge.

B. Challenge Five Regarding The Spatial Scope of Monitoring Was Timely

Once again, the ASLB clearly erred when it found that the appropriate time to challenge the scope of the UT testing was promptly after AmerGen had docketed its December 9 Commitments. Decision at 29-30. Citizen's initial contention alleged a failure on the part of AmerGen to propose UT testing of the sand bed during the license renewal period. AmerGen did not correct this failure until April 4, 2006. Thus, in December or January 2005, Citizens could not have alleged that the then non-existent UT testing program for any license renewal period was inadequate.

With regard to the UT measurements proposed in the December 9 Commitments, it is not at all clear that these relate solely to the license renewal decision. In fact, the open items in the Safety Evaluation Report and the subsequent meeting of the Advisory Committee on Reactor Safeguards (ACRS) made it clear that these results are necessary to determine the current margin of safety, if any, at Oyster Creek. This information can then be used as the basis to design the monitoring program for any extended licensing period. As the Decision makes clear, the scope of this proceeding does not extend to matters that relate to the current licensing basis ("CLB"). Decision at 32. Thus, Citizens could not have challenged the spatial scope of the measurements proposed in the December 9 Commitments because they relate to the CLB. Thus, Citizens challenge to the proposed scope of the UT measurements, made in the Second Petition, was entirely timely and could not have been made earlier.

Finally, in its reasoning on timeliness, the ASLB confuses information about past UT programs with information about future UT programs. Decsion at 29. Although Citizens certainly were aware of the scope of the past UT program on November 14, 2005, when they submitted their initial Petition, they were unaware of any proposal to take UT measurements in the future. Citizens could not have contended

that the spatial scope of the measurements taken in the 1990s was inadequate to determine safety margins because that would have constituted an impermissible challenge to the CLB. Decision at 32. Indeed, if knowledge about past programs could preclude challenges to future programs under the Part 2 rules, this would violate the Administrative Procedure Act and the Atomic Energy Act because Citizens would never be able get a hearing when an applicant decides to revive old methods for new aging management programs. Thus, the challenge regarding the spatial scope of the UT monitoring was timely. Because the Decision raises no other problems with this challenge, the ASLB should reverse its decision and admit the challenge.

C. The ASLB's Ruling Regarding Challenge Six Is Clearly Erroneous

At this preliminary stage, the ASLB cannot make factual findings about contested facts that are beyond the record, because no evidentiary hearing has been held. Citizens do not have to submit admissible evidence to support their contention, rather they have to "[p]rovide a brief explanation of the basis for the contention," 10 C.F.R. § 2.309(f)(1)(ii), and "a concise statement of the alleged facts or expert opinions which support the ... petitioner's position." 10 C.F.R. § 2.309(f)(1)(v). The Commission has clarified that, "an intervener need not . . . prove its case at the contention stage. The factual support necessary to show a genuine dispute exists need not be in affidavit or formal evidentiary form, or be of the quality necessary to withstand a summary disposition motion." In the Matter of Georgia Institute of Technology, CLI-95-12, 42 N.R.C. 111, 118 (1995).

Because dismissal of a petition is dispositive and the ASLB is not in a position to make factual findings about issues that are beyond the record, it should therefore construe the facts in favor of petitioners, in a similar manner to judges deciding on motions to dismiss. The rationale for this approach is that errors of fact in favor of the petitioners can be corrected at a later stage in the proceeding, whereas dismissals based on erroneous findings of fact are much harder to correct. Thus, like a judge deciding on a motion to dismiss, the ASLB should be careful to avoid making factual findings that reach beyond the record or are open to dispute.

Here, the ASLB failed to take such a cautionary approach, and admonished Citizens for failing to

seek the UT results taken in 1996, even though Petitioners stated in their reply brief that AmerGen "consistently refused to provide the 1996 data to Citizens." Decision at 31-32, Note 27. Although the Decision states that Citizens did not provide any affidavit to support this statement, the Commission has confirmed that affidavits are simply not necessary at this early stage.

In fact, as shown by Exhibit RC 1, Citizens made a request for the 1996 data to AmerGen on September 6, 2005. AmerGen denied that request on October 10, 2005 on the erroneous grounds that the data were proprietary. Ex. RC 1, Decision at 31-32. Thus, Citizens find themselves in the bizarre position of being accused by the ASLB of failing to make a timely request for the information, when in fact they made such a request and were improperly denied by AmerGen. Here, the only information the ASLB had on the matter was Citizens pleading that AmerGen had denied their request for the data. Instead of construing the facts in favor of Citizens, as is legally required, the ASLB here actually misconstrued them against Citizens without any support whatsoever. This was clearly erroneous and must be corrected.

Furthermore, this episode illustrates the asymmetrical nature of the obligations that the Commission has placed on petitioners and applicants. Apparently, the ASLB believes that while petitioners have an affirmative duty to seek documentation from applicants to support contentions, applicants do not have a corresponding duty to respond in good faith. This approach actually encourages applicants to omit critical information from their renewal applications and then be obstructive if prospective intervenors ask for the omitted information. Because applicants are in possession of the critical information and decide whether to include it in licensing applications, a far more equitable approach would be to construe information deficiencies in the renewal application against applicants, not against petitioners.

Finally, the ASLB asserts that Citizens are attempting to attack the CLB with this challenge or alternatively that the allegation is bald or conclusory. Decision at 32-33. Both assertions are patently incorrect. First, Citizens are challenging the quality assurance for the measurements to be taken during any extended licensing period, not the assurance for the measurements to be taken during the current

licensing period. Thus, there is no attack on the CLB. Second, both AmerGen and NRC staff have now acknowledged that while they initially accepted the 1996 results as valid, they are actually erroneous. AmerGen even offered improvements to the quality assurance program in the New Information. Thus, this challenge is well supported by the record and is certainly not conclusory.

At minimum here, the ASLB must reconsider its findings on challenge six in the light of AmerGen's denial of Citizens' legitimate request for supporting information on specious grounds. To discourage applicants using such tactics in the future, Citizens suggest that part of the appropriate remedy would be to admit the Challenge six about quality assurance.

D. Challenge Seven Regarding Statistical Methods for Analyzing UT Results Was Timely

Once again, the Decision regarding the timeliness of the challenge to the statistical methods AmerGen adopted for its UT monitoring program in the sand bed region is clearly erroneous. The Decision points out that the License Renewal Application ("LRA") contained references to calculations to track corrosion rates. Decision at 34. Although corrosion rates had been calculated prior to the removal of the sand, Citizens have shown that AmerGen merely assumed that corrosion rates in the sand bed would be zero thereafter, but did not obtain sufficient valid data to justify this. In addition, because the LRA contained no proposals to take any measurements in the sand bed region, no new calculations of corrosion rates for that region would have been required.

Furthermore, although Citizens knew how AmerGen had calculated past corrosion rates, they did not know, and could not have known how AmerGen would use UT results taken during any license renewal period to calculate new corrosion rates, because AmerGen did not propose to take any such results until April 4, 2006. The Decision erroneously suggests that NRC Staff knew how AmerGen would analyze these results. Decision at 35. This is impossible, because AmerGen did not even commit to taking the results until April 4, 2006 and could then have decided to use more rigorous techniques to analyze the results than it had in the past. In addition, the record actually supports the proposition that NRC Staff were not aware until April 5, 2006 of how AmerGen had derived its conclusion that no

corrosion had occurred after the sand was removed. On that date, AmerGen answered a Request for Additional Information that asked for precisely this information. Ex. NC 1 at 1, 15-30.

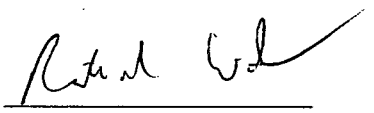
Moreover, until AmerGen proposed measurements during the license renewal period and specified how it would analyze the results of those measurements, Citizens could not have formed a contention about the statistical treatment of those results, because attack on statistical treatment of past results would have been an impermissible attack on the CLB.

In addition, because AmerGen omitted information on the statistical treatment from the December 9 Commitments, the reasoning in Decision on the challenge regarding the spatial scope actually suggests that the challenge to the statistical methods was timely. The Decision states that because AmerGen included some vague details about spatial scope in the December 9 Commitments, Citizens' challenge to the spatial scope in response to the April 4 Commitments was untimely. Decision at 29-30. Here the corollary applies. Because AmerGen failed to specify how the results would be analyzed in the December 9 Commitments, the challenge to this aspect of the UT monitoring regime made in response to the April 4 Commitments was timely. Because the Decision raises no other problems with this challenge, the ASLB should reverse its decision and admit the challenge.

CONCLUSION

For the forgoing reasons, the ASLB should reconsider and admit challenges one, five, six, and seven contained within the contention set forth in the Second Petition.

Respectfully submitted



Richard Webster, Esq
RUTGERS ENVIRONMENTAL LAW CLINIC
Attorneys for Petitioners

Dated: October 20, 2006

Exhibit RC 1

Exhibit RC 1

From: "Paul Gunter" <pgunter@nirs.org>
To: <rwebster@kinoy.rutgers.edu>
Date: 5/4/2006 12:57 PM
Subject: FW: Resler response to 9/6 request for information
Attachments: drywell corrosion issue summary.doc

From: pete.resler@exeloncorp.com [mailto:pete.resler@exeloncorp.com]
Sent: Monday, October 10, 2005 4:22 PM
To: gbur1@comcast.net; Paul Gunter
Cc: CommissionerCampbell@dep.state.nj.us
Subject: Response to 9/6 request for information

Ms. Gbur, Mr. Gunter:

In response to your request for information dated Sept. 6, 2005, concerning the Oyster Creek drywell liner, AmerGen will not provide proprietary business information. The results of equipment testing, analysis and other operational and regulatory documentation are available at the station to the U.S. Nuclear Regulatory Commission and the New Jersey Bureau of Nuclear Engineering for review at any time.

Much of the information you have requested is available to the public in the Oyster Creek license renewal application available on the NRC web site, as well as in a summary of this issue that was provided to the NJ BNE. I have attached that document below for your information.

In addition, the NRC approved the initial analysis and corrective actions taken after corrosion was discovered in 1980, as well as the ongoing inspection and evaluation program to ensure the corrective actions continue to be effective. Regular inspections and analyses of the drywell liner have confirmed that corrosion is managed effectively and that the drywell liner can perform its intended function.

<<drywell corrosion issue summary.doc>>

Peter C. Resler
Manager, Nuclear Communications
Exelon Corporation
610-765-5530

Assessment of Primary Containment Drywell Corrosion
For the Period of Extended Operation

Oyster Creek License Renewal Review

1. Issue: How will corrosion of the primary containment drywell be monitored during the period of extended plant operation?

The primary containment is a General Electric Mark I design and consists of a drywell, a pressure suppression chamber, and a vent system connecting the drywell and the suppression chamber. The drywell is a steel pressure vessel, in the shape of an inverted light bulb, with a spherical section and an upper cylindrical section. The spherical section is partially embedded in reinforced concrete and transitions into the non-embedded section through a sand bed region. The non-embedded portion of the drywell is enclosed by a reinforced concrete shield wall, separated by a gap designed to allow for expansion of the drywell shell.

The primary containment is a safety related structure, required to control the release of fission products to the secondary containment in the event of a design basis loss-of-coolant accident (LOCA) so that off site consequences are within acceptable limits (Ref. 5.3).

The potential for corrosion of the drywell was first recognized in 1980 when water was noticed coming from the sand bed drains. Water leakage from the sand bed drains indicates the potential for a moist environment in contact with exterior surfaces of the drywell shell. Extensive investigations to identify the source of water and the leak path were undertaken during the 1980, 1983, and 1986 refueling outages (Ref. 5.1, 5.2, 5.3). Results of the investigation indicated that:

- Leakage was observed during refueling outages;
- Leakage was attributed to cracks in the reactor cavity liner; and
- The leakage path was through the seismic/expansion gap between the drywell and the reactor building, down to the sand bed region within the reactor building.

To determine if water leakage had an adverse effect on the drywell shell, a series of ultrasonic testing (UT) measurements of the drywell shell thickness were made. Results of UT measurements confirmed that:

- Corrosion was occurring in the sand bed region and in the upper regions of the drywell.
- The most severe corrosion was found in the sand bed region (35.2±6.8 mils/year) (Ref. 5.4).
- The highest corrosion rate above the sand bed region was 4.6±1.6 mils/year (Ref. 5.4).

2. Corrective Actions:

Upon identification of drywell corrosion, several corrective actions, including the following, were initiated in 1980 to:

- Prevent water intrusion into the sand bed region.
  - Apply strippable paint to the reactor cavity walls liner during refueling outages; and
  - Monitor leakage of water from the sand bed region drains.
- Determine the extent of corrosion and wall thinning.
  - Take additional UT measurements to identify areas that exhibited worst metal loss and map them for future monitoring; and
  - Take core samples of the drywell shell to validate UT results.
- Arrest accelerated corrosion in the sand bed region.
  - Install a cathodic protection system to prevent corrosion. (The system was later determined to be ineffective and removed from service);
  - Remove sand and corrosion products from the sand bed region; and
  - Apply protective epoxy coating to the exterior surfaces of the drywell in the sand bed region.
- Establish a corrosion allowance by demonstrating, through analysis, that the original drywell design pressure was conservative.
- Establish a drywell corrosion-monitoring program to ensure that loss of material is detected, evaluated, and that required corrective actions are taken before the primary containment intended function is adversely impacted. The program's elements are as follows:
  - Periodic UT inspections of the shell thickness at critical locations;
  - Calculations which establish conservative corrosion rates;
  - Projections of the shell thickness based on the conservative corrosion rates;
  - Demonstration that the minimum required shell thickness is in accordance with applicable ASME Code requirements; and
  - Periodic monitoring of protective coating of the exterior surfaces of the drywell in the sand bed region.

3. Corrosion Assessment:

Evaluation of UT measurements at the four monitored elevations taken through the year 2000 concluded that the corrective actions are effective in reducing corrosion rates. The measurements show that:

- Corrosion is no longer occurring at two (2) elevations, which previously experienced corrosion.
- A third elevation is subject to a corrosion rate of 0.6 mils/year.
- A fourth elevation is subject to a corrosion rate of 1.2 mils/year.

Recent UT measurements (2004) confirmed that corrosion rates continue to decrease:

- Two elevations that previously exhibited no increase in corrosion continue the "no corrosion" trend;
- Rate of corrosion for the third elevation decreased from 0.6 mils/year to 0.4 mils/year; and
- Rate of corrosion for the fourth elevation decreased from 1.2 mils/year to 0.75 mils/year.

Inspection of the protective coating on exterior surfaces of the drywell in the former sand bed region (1996, 2000, and 2004) confirmed that corrosion has been arrested and that the coating is performing satisfactorily.

4. Conclusion:

These corrosion assessment results demonstrate that corrective actions taken at Oyster Creek have been effective in reducing the rate of corrosion in the upper regions of the drywell. The corrective actions also have been effective in arresting corrosion of the drywell shell in the sand bed region. Analysis performed following 2004 UT inspections show that the drywell shell will not corrode to less than minimum required thickness before the year 2029. Continued implementation of corrective actions described above and as described in "ASME Section XI, Subsection IWE" program, "Protective Coating Monitoring and Maintenance Program" (Ref. 5.3, Appendix B), and in the "Drywell Corrosion" time-limited aging analyses (Ref. 5.3, Section 4.0), will provide reasonable assurance that loss of material of the drywell shell will be detected before a loss of the containment drywell intended function.

5. References:

5.1 Oyster Creek Generating Station Updated Final Safety Analysis Report, Section 3.8.2.8, Revision 13.

5.2 NUREG-1382, Safety Evaluation Report related to the full-term operating license for Oyster Creek Nuclear Generation Station, Docket No. 50-219, dated January 1991.

5.3 Oyster Creek Generating Station License Renewal Application, July 2005.

5.4 NRC Information Notice No. 86-99, Supplement 1: Degradation of Steel Containment.

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)	)	October 20, 2006
	)	

CERTIFICATE OF SERVICE

I hereby certify that I caused the foregoing Motion for Reconsideration to be sent this 20th day of October, 2006 via email and U.S. Postal Service, as designated below, to each of the following:

Secretary of the Commission (Email and original and 2 copies via U.S Postal Service)
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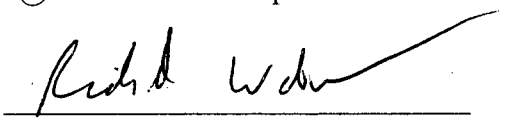
Signed: 

Richard Webster

Dated: October 20, 2006