

January 10, 2007

E. Roy Hawkens, Chair
Administrative Judge
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Mail Stop: T-3F23
Washington, DC 20555-0001

Anthony J. Baratta
Administrative Judge
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Paul B. Abramson
Administrative Judge
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Mail Stop: T-3F23
Washington, DC 20555-0001

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

Dear Administrative Judges:

Pursuant to 10 C.F.R. §§ 2.1203(c) and 2.336(d), the staff of the Nuclear Regulatory Commission ("Staff") herein notifies the Licensing Board and the parties that it has updated the hearing file and disclosures for this proceeding in accordance with the Board's Memorandum and Order of April 19, 2006, and LBP-06-22, 64 NRC ___ (Oct. 10, 2006). Materials in this supplement may be accessed through the Agencywide Documents Access and Management System ("ADAMS"). An index containing the ADAMS accession number, date, and title or description of each item in this supplement is appended hereto as Attachment 1. In addition, on or about Wednesday, January 10, 2007, materials in this supplement will be made available via the Electronic Hearing Docket ("EHD"), which may be accessed at the following URL: <http://www.nrc.gov/reading-rm/ehd.html/>. Materials in Supplement 5 will be contained in a sub-folder entitled, "Hearing File Supplement 5" in the "Oyster Creek_50-219-LR" folder of the EHD. This update contains documents not identified in time for inclusion in previous updates.

The Staff is also updating its deliberative process privilege log at this time, which is appended hereto as Attachment 2 and a proprietary information privilege log appended hereto as Attachment 3. The Staff will preserve and maintain all privileged documents during the pendency of this proceeding. Also attached, are the Affidavit of Donnie J. Ashley, as required by 10 C.F.R. § 2.336(c), and the Declaration of Pao-Tsin Kuo Acting Director of License Renewal, formally invoking the deliberative process privilege.

As requested by the Board, see April 19 Order at 5, the Staff hereby provides notice that the final Safety Evaluation Report will be published following the January meeting of the Plant License Renewal Subcommittee of the Advisory Committee on Reactor Safeguards. The date for issuing the Supplemental Environmental Impact Statement remains January 19, 2007.

Sincerely,

/RA/

Jody C. Martin
Counsel for the NRC Staff

Enclosures: Attachment 1: Hearing File Index – Supplement 5
Attachment 2: Privilege Log - Deliberative Process – Supplement 5
Attachment 3: Privilege Log - Proprietary Information - Supplement 5
Declaration of Pao-Tsin Kuo
Affidavit of Donnie J. Ashley

cc: See attached Service List

ATTACHMENT 1

**OYSTER CREEK HEARING FILE AND MANDATORY DISCLOSURES
HEARING FILE INDEX
Supplement 5 –January 10, 2007**

Supp No.	Accession Number	Document Date	Title/Description:
05-01	ML070080434	9/25/2006	E-mail: Oyster Creek Drywell Inspections
05-02	ML070050038	9/26/2006	E-MAIL: Oyster Creek, Drywell and Torus related Inspection Schedule
05-03	ML070050016	10/10/2006	E-MAIL: Oyster Creek Outage Inspection
05-04	ML070050030	10/12/2006	E-mail: Re: Oyster Creek Outage Inspection [10/12/06 2:05pm]
05-05	ML070050033	10/12/2006	E-MAIL: RE: Oyster Creek Outage Inspection
05-06	ML070050043	11/4/2006	E-MAIL: Responses to Questions from the 11/3/06 conf call
05-07	ML070100412	11/5/2006	E-mail: Incidental Sea Turtle Take Report 2006-6
05-08	ML070080226	11/6/2006	E-MAIL: Fwd: Questions
05-09	ML070050050	11/10/2006	E-MAIL: Fwd: FW: SUPERVISORY BRIEF: Switch to Startup Today and Synch to the Grid tomorrow
05-10	ML070100415	11/13/2006	E-mail: NJ Fact Sheet
05-11	ML070100418	11/14/2006	E-MAIL: Extension for EFH consult Oyster Creek TAC MC7625
05-12	ML070050014	11/14/2006	E-MAIL: OC Exit Meeting Conference Call for Insp Rpt 2006-013 Nov. 16 at 3:30 pm
05-13	ML070050048	11/15/2006	E-MAIL: Aging Management Program for Feedwater Nozzles - Operating Experience
05-14	ML063610232	11/27/2006	E-mail: NRC Inspection Reports
05-15	ML063540629	11/28/2006	E-mail: OCGS Fishkill Information

Supp No.	Accession Number	Document Date	Title/Description:
05-16	ML063330514	11/28/2006	Excel Charts for Fish Kills at Oyster Creek Nuclear Generating Station Provided by Malcolm Brown, OCNCS
05-17	ML070100396	11/28/2006	E-MAIL: Fwd: OCGS Fishkill Information
05-18	ML070100395	11/28/2006	E-MAIL: Updated Biological Opinion
05-19	ML070100397	11/29/2006	E-mail: Submittal of Oyster Creek CZMA Certification
05-20	ML070100411	12/1/2006	E-MAIL: OC CZMA Submittal for Masnik
05-21	ML063380071	12/1/2006	Attachment A to Federal consistency Certification for Oyster Creek Generating Station License Renewal Application
05-22	ML063380062	12/1/2006	Federal consistency Certification for Oyster Creek Generating Station License Renewal Application
05-23	ML063380056	12/1/2006	Letter from AmerGen re: Federal consistency Certification for Oyster Creek Generating Station License Renewal Application
05-24	ML063400155	12/1/2006	Oyster Creek, Federal Consistency Certification for Oyster Generating Station License Renewal Application
05-25	ML063390664	12/3/2006	Oyster Creek - Information from October 2006 Refueling Outage Supplementing AmerGen Energy Company, LLC (AmerGen) Application for a Renewed Operating License
05-26	ML063540534	12/4/2006	E-mail: Oyster Creek - Update Letter
05-27	ML063380366	12/4/2006	Email from William Maher, Exelon Corp., re: Non-rad Wastes at Oyster Creek Nuclear Generating Station
05-28	ML070100392	12/4/2006	E-MAIL: FW: Oyster Creek EIS - Question on Strontium-90 Emissions
05-29	ML070100420	12/4/2006	E-mail: Oyster Creek Biological Opinion
05-30	ML070100393	12/4/2006	E-MAIL: Re: Non-Rad Wastes

Supp No.	Accession Number	Document Date	Title/Description:
05-31	ML070100422	12/6/2006	E-mail: Fwd: Immediate Public ML063400124 has been replicated
05-32	ML070100421	12/6/2006	E-MAIL: Re: NRC's EFH Response Letter
05-33	ML063540546	12/6/2006	E-mail: Oyster Creek - Information from the October 2006 refueling outage supplementing the LRA
05-34	ML070050020	12/6/2006	E-MAIL: Re: Oyster Creek - Information from the October 2006 refueling outage supplementing the LRA
05-35	ML063240600	12/6/2006	G20060940/LTR-06-0584 - Russell Goyette Ltr. Re.: Relicensing of Oyster Creek
05-36	ML070100398	12/7/2006	E-mail: Oyster Creek Biological Opinions
05-37	ML063460131	12/7/2006	Attachment 11, Exelon/Amergen Response to the Request for Additional Information, EP-EAL-0611, Criteria for Choosing Containment Radiation Monitor Reading Indicative Loss of the RCS Barrier
05-38	ML063460121	12/7/2006	Attachment 7, Amergen Response to the Request for Additional Information Regarding the Oyster Creek Generating Station EAL Revision, EP-OC-1010
05-39	ML063540545	12/7/2006	E-mail: Re: Oyster Creek - Information from the October 2006 refueling outage supplementing the LRA
05-40	ML063550348	12/7/2006	Oyster Creek Relicensing
05-41	ML063490294	12/8/2006	Oyster Creek - Submittal of Information to ACRS Plant License Renewal Subcommittee Related to AmerGen's Application for Renewed Operating License
05-42	ML063490295	12/8/2006	Oyster Creek License Renewal Project, Drywell Monitoring Program, Information for ACRS Subcommittee Reference Material, Volume 1
05-43	ML063490343	12/8/2006	Oyster Creek License Renewal Project, Drywell Monitoring Program, Information for ACRS Subcommittee Reference Material, Volume 2

Supp No.	Accession Number	Document Date	Title/Description:
05-44	ML063490344	12/8/2006	Oyster Creek License Renewal Project, Drywell Monitoring Program, Information for ACRS Subcommittee Reference Material, Volume 4
05-45	ML063550048	12/11/2006	E-MAIL: Re: AmerGen Response to ACRS due 12082006?
05-46	ML063530009	12/11/2006	Letter from R. Goyette to M. Masnik re: Oyster Creek Nuclear Generating Station
05-47	ML063470557	12/13/2006	Collection of documents for the ACRS License Renewal Subcommittee meeting on January 18, 2007 associated with the Oyster Creek drywell
05-48	ML063460399	12/14/2006	Review Materials for the Meeting of the License Renewal Subcommittee on January 18, 2007 Related to the Interim Review of the License Renewal of the Oyster Creek Generating Station
05-49	ML070100424	12/15/2006	E-MAIL: NMFS/NRC EFH Ltr
05-50	ML070080320	12/15/2006	Letter from AmerGen to NMFS and NRC regarding Essential Fish Habitat Consultation and License Renewal of Oyster Creek Nuclear Generating Station
05-51	ML063530042	12/15/2006	Oyster Creek Editorial Correction to AmerGen's Letter 2130-06-20426 "Information from October 2006 Refueling Outage Supplementing AmerGen Energy Company Application for Renewed Operating License," dated December 3, 2006

ATTACHMENT 2

**OYSTER CREEK HEARING FILE AND MANDATORY DISCLOSURES
PRIVILEGE LOG - DELIBERATIVE PROCESS PRIVILEGE
Supplement 5 – January 10, 2007**

Certain documents otherwise subject to inclusion in the hearing file and mandatory disclosures for this proceeding have been determined by the NRC Staff to contain information subject to withholding from public disclosure as predecisional, deliberative information. Pursuant to 10 C.F.R. § 2.336(b)(5), the Staff is providing this log to identify the following documents withheld under the “deliberative process” privilege.

PDP No.	Accession Number	Author Name/ Affiliation:	Title/Description:	Document Date	Document Type	Addressee / Addressee Affiliation	Comment	Page Count
DP-05-01	ML070080090	Conte R J, NRC	E-MAIL: (PD) Re: Oyster Creek License Renewal.	10/10/2006	E-Mail	Johnson G A, NRC	Discussion re scope of upcoming inspection	2
DP-05-02	ML070080045	Conte R J, NRC	E-MAIL: (PD) Re: Notes From Oyster Creek Commitment Inspection.	10/18/2006	E-Mail	Ashley D J, Bellamy R R, Blough A R, Fuhrmeister R L, Gamberoni M K, Kaufman P D, Modes M C, O'Hara T L, White J R, NRC	Update re preliminary inspection results	10
DP-05-03	ML070080121	Conte R J, NRC	E-MAIL: (PD) Re: 10119/06: Oyster Creek LR 71003 Update.	10/19/2006	E-Mail	Modes M C, O'Hara T L, NRC	Update re preliminary inspection results	4
DP-05-04	ML070080093	Conte R J, NRC	E-MAIL: (PD) Re: Fwd: Notes From Oyster Creek Commitment Inspection.	10/19/2006	E-Mail	Chaudhary S K, Modes M C, NRC	Discussion re preliminary inspection results	2

PDP No.	Accession Number	Author Name/ Affiliation:	Title/Description:	Document Date	Document Type	Addressee / Addressee Affiliation	Comment	Page Count
DP-05-05	ML070080123	Conte R J, NRC/RGN-I	E-MAIL: (PD) Re: Notes From Oyster Creek Commitment Inspection [dated 10/19/06].	10/19/2006	E-Mail	Ashley D J, Bellamy R R, Blough A R, Fuhrmeister R L, Gamberoni M K, Modes M C, O'Hara T L, White J R, NRC	Update re preliminary inspection results	4
DP-05-06	ML070080115	Conte R J, NRC	E-MAIL: (PD) Re: Oyster Update.	10/19/2006	E-Mail	Ashley D J, Bellamy R R, Fuhrmeister R L, Modes M C, O'Hara T L, White J R, NRC	Update re preliminary inspection results	3
DP-05-07	ML063520012	O'Hara, T.	OC-71003-Plan (10/6).	10/19/2006	Inspection Plan		Draft Inspection Plan	2
DP-05-08	ML070080052	Conte R J, NRC	E-MAIL: (PD) Fwd: Re: OC liner issue.	10/24/2006	E-Mail	Ferdas M S, Fuhrmeister R L, Kauffman J V, Modes M C, White J R, NRC	Discussion re preliminary inspection results	3
DP-05-09	ML070090227	White J R, NRC	E-MAIL: (PD) Fwd: Re: OC liner issue [discuss at 9].	10/24/2006	E-Mail	Conte R J, NRC	Discussion re preliminary inspection results	2

PDP No.	Accession Number	Author Name/ Affiliation:	Title/Description:	Document Date	Document Type	Addressee / Addressee Affiliation	Comment	Page Count
DP-05-10	ML070090175	Modes M C, NRC	E-MAIL: (PD Update: Oyster Creek Drywell Inspections (10/25).	10/25/2006	E-Mail	Conte R J, Ferdas M S, Kaufman P D, NRC	Preliminary inspection update	3
DP-05-11	ML070090166	Kaufman P D, NRC	E-MAIL: (PD) Fwd: Re: Update: Oyster Creek Drywell Inspections (10/24) [1:00 am].	10/25/2006	E-Mail	O'Hara T L, NRC	Discussion re preliminary inspection results	7
DP-05-12	ML070090165	Modes M C, NRC/RGN-I/DRS	E-MAIL: (PD) Re: Update: Oyster Creek Drywell Inspections (10/24) [M. Modes Reply].	10/25/2006	E-Mail	O'Hara T, NRC	Discussion re preliminary inspection results	3
DP-05-13	ML063480154	NRC/RGN-I	10/25/06 - Status Update OC Drywell, Drywell Inspections During Refueling Outage 21.	10/25/2006	Inspection Report, Status Report		Update re preliminary inspection results	5
DP-05-14	ML063480148	NRC/RGN-I	10/25/06 - Status Update OC Drywell; Drywell Inspections During Refueling Outage 21.	10/25/2006	Inspection Report, Status Report		Update re preliminary inspection results	6
DP-05-15	ML070080050	Conte R J, NRC	E-MAIL: (PD) Re: Update: Oyster Creek Drywell Inspections (10/24).	10/25/2006	E-Mail	Modes M C, NRC	Discussion re preliminary inspection results	3

PDP No.	Accession Number	Author Name/ Affiliation:	Title/Description:	Document Date	Document Type	Addressee / Addressee Affiliation	Comment	Page Count
DP-05-16	ML063480182	NRC/RGN-I	10/26/06 - Status Update 11:50 AM OC Drywell, Changes Since Previous Update are Noted in Bold Under Each Heading.	10/26/2006	Inspection Report, Status Report		Update re preliminary inspection results	5
DP-05-17	ML063480170	NRC/RGN-I	10/26/06 - Status Update 5:00 PM OC Drywell, Update as of 5:00pm, Changes Since Previous Update are Noted in Bold Underneath Each Heading.	10/26/2006	Inspection Report, Status Report		Update re preliminary inspection results	3
DP-05-18	ML063480158	NRC/RGN-I	10/27/06 - Status Update 1:10 PM OC Drywell, Changes Since Previous Update are Noted in Bold Under Each Heading.	10/27/2006	Inspection Report, Status Report		Update re preliminary inspection results	3
DP-05-19	ML063480165	NRC/RGN-I	10/29/06 - Status Update 3:30 PM OC Drywell Inspections During Refueling Outage 21.	10/29/2006	Inspection Report, Status Report		Update re preliminary inspection results	3

PDP No.	Accession Number	Author Name/ Affiliation:	Title/Description:	Document Date	Document Type	Addressee / Addressee Affiliation	Comment	Page Count
DP-05-20	ML070090336	Kaufman P D, NRC	E-MAIL: (PD) Re: Update: Oyster Creek Drywell Inspections (10/29) 3:30 pm.	10/29/2006	E-Mail	Modes M C, NRC/RGN-I/DRS	Discussion re preliminary inspection results	2
DP-05-21	ML070090180	Chaudhary S K, NRC	E-MAIL: (PD) Assessment of OC drywell interior concrete floor slab, and steel liner.	10/30/2006	E-Mail	Blough A R, Conte R J, NRC	Discussion re preliminary inspection results	4
DP-05-22	ML070090577	Chaudhary S K, NRC	E-MAIL: (PD) Assessment of OC drywell interior concrete floor slab, and steel liner.	10/30/2006	E-Mail	Blough A R, Conte R J,	Discussion re preliminary inspection results	3
DP-05-23	ML063480143	NRC/RGN-I	10/24/06 - Status Update OC Drywell.	10/31/2006	Inspection Report, Status Report		Update re preliminary inspection results	5
DP-05-24	ML070080062	Conte R J, NRC	E-MAIL: (PD) Re: Assessment of OC drywell interior concrete floor slab, and steel liner.	10/31/2006	E-Mail	Chaudhary S K, Miller M T, NRC	Update re preliminary inspection results	6
DP-05-25	ML070080133	Conte R J, NRC	E-mail: (PD) Re: OC drywell issues.	10/31/2006	E-Mail	Johnson G, NRC	Discussion re scope of inspection	2

PDP No.	Accession Number	Author Name/ Affiliation:	Title/Description:	Document Date	Document Type	Addressee / Addressee Affiliation	Comment	Page Count
DP-05-26	ML070090251	Trapp J M, NRC/RGN-I	E-MAIL: (PD) Corrosion.	11/2/2006	E-Mail	O'Hara T L, NRC	Discussion re preliminary inspection results	2
DP-05-27	ML070090254	Conte R J, NRC/RGN-I	E-MAIL: (PD) Re: OC Startup & LR Issues with Possible Startup Implications.	11/2/2006	E-Mail	Ashar H G, Ashley D J, Bellamy R R, Chaudhary S K, Fuhrmeister R L, Miller G E, Modes M C, O'Hara T L, White J R, NRC	Discussion re preliminary inspection results	4
DP-05-28	ML070080127	Conte R J, NRC	E-MAIL: (PD) Re: Oyster Creek Drywell Concrete Berm.	11/2/2006	E-Mail	Bellamy R R, Blough A R, Bream J R, Cureton R E, Ferdas M S, Fuhrmeister R L, Rosebrook A A, Treadway R I, NRC	Discussion re preliminary inspection results	3
DP-05-29	ML070090163	Fuhrmeister R L, NRC	E-MAIL: (PD) Oyster Creek Drywell Concrete.	11/6/2006	E-Mail	Bream J R, NRC	Discussion re preliminary inspection results	2
DP-05-30	ML070090568	O'Hara T L, NRC	E-MAIL: (PD) Review Status-11/7/06.	11/7/2006	E-Mail	Kaufman P D, NRC	Preliminary inspection update	2

PDP No.	Accession Number	Author Name/ Affiliation:	Title/Description:	Document Date	Document Type	Addressee / Addressee Affiliation	Comment	Page Count
DP-05-31	ML070080068	Conte R J, NRC	E-MAIL: (PD) Re: OC Startup & Further Review Re: Review Status - 11/07/06.	11/8/2006	E-Mail	Bellamy R E, Fuhrmeister R L, NRC	Discussion re scope of inspection	3
DP-05-32	ML070090203	Fuhrmeister R L, NRC	E-mail: (PD) Call from Richard Webster (dated 11/09/06).	11/9/2006	E-Mail	Ashley D, Bellamy R R, Blough A, Chernoff H K, Clifford J M, Conte R J, Gamberoni M K, Lew D C, Miller E, Modes M C, O'Hara T, Randolph A L, White J, Young M, NRC	Discusses possible allegation	3
DP-05-33	ML070090347	Kaufman P D, NRC	E-MAIL: (PD) Re: OC Report Shell 2006013.	11/13/2006	E-Mail	O'Hara T L, NRC	Discussion re preliminary inspection results	2
DP-05-34	ML070090335	Kaufman P D, NRC	E-MAIL: (PD) Fwd: Re: Oyster Creek 71003 Exit Notes [FYI to J. White].	11/14/2006	E-Mail	White J R, NRC	Discussion re preliminary inspection results	3
DP-05-35	ML070090315	Modes M C, NRC	E-MAIL: (PD) Re: Fwd: Re: Oyster Creek 71003 Revised Exit Notes.	11/15/2006	E-Mail	O'Hara T L, NRC	Discussion re preliminary inspection results	2

PDP No.	Accession Number	Author Name/ Affiliation:	Title/Description:	Document Date	Document Type	Addressee / Addressee Affiliation	Comment	Page Count
DP-05-36	ML070090401	Kaufman P D, NRC	E-MAIL: (PD) Re: Oyster Creek 71003 REVISED Exit Notes [P. Kaufman reply].	11/15/2006	E-Mail	O'Hara T L, NRC	Discussion re preliminary inspection results	3
DP-05-37	ML070090442	Kaufman P D, NRC	E-MAIL: (PD) Fwd: Oyster Creek 71003 Exit Notes (11/16/06) [exit at 3:30pm].	11/16/2006	E-Mail	Ashley D J, NRC	Discussion re preliminary inspection results	3
DP-05-38	ML070090238	Conte R J, NRC	E-MAIL: (PD) Fwd: Re: Need Guidance on Potential 10 CFR 54.13 Issue At Oyster Creek.	11/18/2006	E-Mail	Blough A R, Kaufman P D, O'Hara T L, NRC	Discussion re preliminary inspection results	3
DP-05-39	ML070090235	Modes M C, NRC/RGN-I	E-MAIL: (PD) Re: Fwd: Re: Need Guidance on Potential 10 CFR 54.13 Issue At Oyster Creek.	11/18/2006	E-Mail	Blough A R, Conte R J, Kaufman P D, O'Hara T L, NRC	Discussion re preliminary inspection results	3
DP-05-40	ML063420512	O'Hara T L, NRC	E-MAIL: (PD) OC Memory Test.	11/28/2006	E-Mail	Ferdas M S, NRC	Discussion re preliminary inspection results	2
DP-05-41	ML063610224	Dudley N F, NRC	E-MAIL: (PD) Fwd: OCGS dw bitmaps.	11/29/2006	E-Mail	Hessheimer M F, Petti J P, Sandia National Labs (SNL)	Preliminary analysis of pictures	2

PDP No.	Accession Number	Author Name/ Affiliation:	Title/Description:	Document Date	Document Type	Addressee / Addressee Affiliation	Comment	Page Count
DP-05-42	ML063540733	Ashley D J, NRC	E-MAIL: (PD) Fwd: Questions on Exelon Ltr. 2130-06- 20426.	12/12/2006	E-Mail	Dudley N F, NRC	Analyses of Applicant submittal	3
DP-05-43	ML063610411	Dudley N F, NRC/NRR	E-MAIL: (PD) Subject of Call to AmerGen.	12/12/2006	E-Mail	Ashley D J, NRC	Analyses of Applicant submittal	3

ATTACHMENT 3

**OYSTER CREEK HEARING FILE AND MANDATORY DISCLOSURES
PRIVILEGE LOG - PROPRIETARY INFORMATION
SUPPLEMENT 5 – January 10, 2007**

Certain documents otherwise subject to inclusion in the hearing file and mandatory disclosures for this proceeding have been determined by the NRC Staff to contain trade secrets, privileged or confidential commercial or financial information subject to withholding from public disclosure pursuant to 10 C.F.R. § 2.390. Pursuant to 10 C.F.R. § 2.336(b)(5), the Staff is providing this log to identify the following documents, designated “proprietary,” and subject to protected status under Section 2.390.

PDP No.	Accession Number	Author Name/ Affiliation:	Title/Description:	Document Date	Document Type	Addressee / Addressee Affiliation	Comment	Page Count
PPI-05-1	ML061930404	AmerGen Energy Co, LLC	Attachment 1 - List of Selected Oyster Creek Containment Fabrication Drawings requested to withhold Information From public Disclosure Under 10 CFR 2.390.	7/7/2006	Drawing, License-Application for Facility Operating License (Amend/Renewal) DKT 50	NRC	Proprietary drawings from Chicago Bridge and Iron Company. The non-proprietary portions of this document are publicly available at ML063490343 starting at p. 244.	36

January 10, 2007

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

DECLARATION OF PAO-TSIN KUO

I, Pao-Tsin Kuo, do hereby state as follows:

1. I am employed as the Acting Director of the Division of Licensing Renewal (“DLR”) in the Nuclear Regulatory Commission’s (“NRC”) Office of Nuclear Reactor Regulation (“NRR”). My supervisory responsibilities include oversight of the NRC Staff’s review and evaluation of the Oyster Creek Nuclear Generating Station license renewal application.

2. As part of their responsibilities in preparing the hearing file and mandatory disclosures for these proceedings, NRC staff members under my supervision identified several documents as privileged because they contained information concerning the Staff’s deliberative process. Those documents are listed in Attachment 2 to the January 10, 2007, submission of Supplement 5 to the Staff’s Hearing File.

3. I have personally reviewed the documents identified as privileged in Attachment 2, and have determined, in accordance with the guidance set forth in Management Directive 3.4, that they contain predecisional information concerning the Staff’s review of the license renewal application. All documents contain either the Staff’s analyses, recommendations, opinions, or evaluations, and may not necessarily reflect the final agency position with respect to the matters discussed therein. Each of the documents comprises part

of the deliberative process necessary to the Staff's review of the pending license renewal application.

4. Further, I have determined that disclosure of the documents could result in harm to the agency, in that it would (a) prematurely disclose the preliminary views of individual Staff members and/or the Staff prior to reaching a final agency decision, and could thus create confusion as to the actual policy or views of the NRC Staff; (b) hinder the efficiency of the Staff, in that forced disclosure of its internal discussions on an unresolved issue would tend to chill all future deliberations and would interfere with the Staff's ability to engage in a free exchange of opinions and analyses prior to publishing its final review documents; and (c) imply or suggest incorrectly that the opinions of the Staff members involved in these communications are actually the final decisions of the agency, while no such final decision has yet been made.

5. Accordingly, I formally invoke the deliberative process privilege with respect to each of the documents listed in Attachment 2 to the January 10, 2007, submission of Supplement 5 to the Staff's Hearing File.

6. I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

/Original Signed By/

Pao-Tsin Kuo

Executed in Rockville, MD
this 10th day of January, 2007

January 10, 2007

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

AFFIDAVIT OF DONNIE J. ASHLEY CONCERNING MANDATORY DISCLOSURE
REQUIREMENT OF 10 C.F.R. § 2.336(c)

I, Donnie J. Ashley, do hereby state as follows:

1. I am employed as a Project Manager in the Division of License Renewal in the Nuclear Regulatory Commission's ("NRC") Office of Nuclear Reactor Regulation. I serve as a project manager for the Oyster Creek Nuclear Generating Station's license renewal application ("LRA"). Among other things, I am managing the preparation of the hearing file and mandatory disclosures in connection with the LRA at issue in this proceeding.

2. I hereby certify that all relevant materials required to be disclosed pursuant to 10 C.F.R. § 2.336 (b) and (c) in the captioned proceeding have been disclosed, and that the disclosures are accurate and complete as of the date of this certification.

3. I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

/Original Signed By/

Donnie J. Ashley

Executed in Rockville, MD
this 10th day of January, 2007.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

CERTIFICATE OF SERVICE

I hereby certify that copies of the NRC Staff letter dated January 10, 2007, providing notice of the availability of Supplement 5 to the Hearing File, with attachments, together with the Affidavit of Donnie Ashley and the Declaration of P.T. Kuo in the above-captioned proceeding have been served on the following by electronic mail with copies by deposit in the NRC's internal mail system or, as indicated by an asterisk, by electronic mail, with copies by U.S. mail, first class, this 10th day of January, 2007.

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