

RUTGERS ENVIRONMENTAL LAW CLINIC

123 Washington Street
Newark, NJ 07102-3094
Phone: (973) 353-5695

Rutgers, The State University of New Jersey
School of Law - Newark
Fax: (973) 353-5537

PRM-51-10
(71FR64169)

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March 5, 2007

DOCKETED
USNRC

March 6, 2007 (12:14pm)

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

VIA EMAIL AND U.S. MAIL

Secretary
Chief, Rules Review and Directives Branch
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
SECY@nrc.gov

Attn: Rulemakings and Adjudications Staff

Re: Docket No. PRM-51-10 – Petition of Massachusetts Attorney General Regarding High-Density Spent Fuel Pool Storage

Please accept these written comments submitted on behalf of 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") concerning the Petition of Massachusetts Attorney General Regarding High-Density Spent Fuel Pool Storage (the "Petition").

In short, Citizens wholeheartedly support the effort of the State of Massachusetts to prompt the United States Nuclear Regulatory Commission (the "NRC") into doing what it should have already done: make realistic assessments of the risk generated by the vulnerability of high-density spent fuel pools to terrorist attack and require operators to take appropriate measures to mitigate that risk. Citizens' comments on the plant specific vulnerabilities at Oyster Creek Nuclear Generating Station ("Oyster Creek") show that if an attack lowered the water level in the spent fuel pool significantly, the

Carter H. Strickland, Jr., Esq.+ Acting Director cstrickland@kinoy.rutgers.edu	Julia L. Huff, Esq.** Staff Attorney jhuff@kinoy.rutgers.edu	Kathleen J. Shreckgast, Esq.# Staff Attorney kshreckgast@kinoy.rutgers.edu	Richard Webster, Esq.+ Staff Attorney rwebster@kinoy.rutgers.edu
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* Admitted in New Jersey Pursuant to 1:21-3(c)

+ Also admitted in New York

Also admitted in Pennsylvania

Template = SECY-067

SECY-02

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resulting fire could cause around 24,000 lung cancers and over \$1.8 trillion of damage. Letter of Webster to NRC, dated September 8, 2006 (available on ADAMS at ML06261035). The economic damage would therefore be around ten times that caused by hurricane Katrina. At an assumed frequency of one in ten thousand per year, the present value of the spent fuel pool risk is of the order of \$200 million to \$3.6 billion over a twenty year period. This risk could be reduced, but not totally eliminated, by moving to low density storage of fresh spent fuel and on-site hardened dry cask storage for fuel that is over 5 years old at a cost of \$30 to \$100 million. This figure actually overstates the cost of mitigation because the spent fuel would eventually have to be removed from the fuel pool either to make room for fresh spent fuel or during decommissioning. Thus, it is economically irrational for NRC to allow high-density spent fuel pools at Oyster Creek and other similar plants. Moreover, at the human level it is unconscionable that the NRC has placed tens of thousands of residents of the Mid-Atlantic Region at risk to save money. From a national security perspective, the government is spending huge sums to prevent terrorist attacks. The expenditure required to eliminate high-density spent fuel pools and thus remove one set of attractive targets pales into insignificance in comparison.

Because the NRC has chosen to exclude the consideration of spent fuel pool risk from its regulatory processes, this huge risk has been endured by the nation for over five years too long. As the Court of Appeals for the Ninth Circuit has recognized, the events of September 11, 2001 showed that an aircraft attack on a nuclear power plant in the United States is no longer a remote and speculative event. *San Luis Obispo Mothers For Peace v. NRC*, 449 F.3d 1016 (9th Cir. June 2, 2006) (petition for certiorari denied). Given the magnitude of the risk and the availability of an interim mitigation option at an economic cost, it is astonishing that NRC has not already required reactor operators to reduce the risk from high-density spent fuel pools.

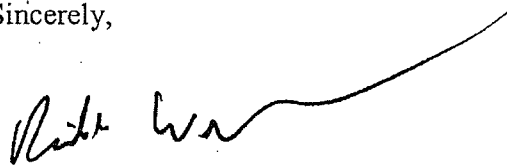
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Even more surprising is that NRC has so far excluded any consideration of terrorism from relicensing proceedings. For example, in the relicensing proceeding for Oyster Creek, the State of New Jersey tried to intervene to raise the need to assess the potential consequences of a terrorist attack. However, the Atomic Safety and Licensing Board ("ASLB") rejected this intervention on grounds inconsistent with the 9th Circuit ruling. On appeal, the Commission decided to uphold the ASLB in an apparent attempt to inspire litigation that might provide an opportunity for Supreme Court review of the 9th Circuit decision. *In the Matter of AmerGen Energy Co. (License Renewal for Oyster Creek Nuclear Generating Station), LLC*, CLI-07-08 (February 26, 2007). A cogent dissent by Commissioner Jaczko stated that the NRC should undertake the requested analysis to maintain national uniformity and forestall years of regulatory uncertainty caused by litigation. Id.

It is now high time for the NRC to decisively deal with this issue. It is illogical that the NRC has chosen to assign responsibility for dealing with this problem to other parts of the Government when the NRC is the regulatory body that has the power and expertise to be a major part of the solution. Citizens therefore fully support the Petition, which would at least require the NRC to consider the risks caused by high-density spent fuel pools in relicensing proceedings, as requested by the State of New Jersey and the Massachusetts Attorney General.

We thank you for the opportunity to submit these written comments and your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Rich Webster', with a long, sweeping horizontal line extending to the right.

Richard Webster, Esq.
Rutgers Environmental Law Clinic, Counsel for Citizens

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c.c. Valerie Gray, Esq., New Jersey DAG
Jill Lipoti, New Jersey DEP
D. Curran, Esq., Counsel for Massachusetts Attorney General

From: "Richard Webster" <rwebster@kinoy.rutgers.edu>
To: <SECY@nrc.gov>
Date: Mon, Mar 5, 2007 5:40 PM
Subject: Docket No. PRM-51-10 - Comments of Citizens Regarding Spent Fuel Pool Risks

Please see comments attached.

Thank You.

Richard Webster

Richard Webster
Staff Attorney
Rutgers Environmental Law Clinic
123 Washington Street
Newark, NJ 07102
Phone: 973-353-5695
Fax: 973-353-5537

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CC: <Jill.Lipoti@dep.state.nj.us>, <Valerie.Gray@dol.lps.state.nj.us>, <dcurran@harmoncurran.com>

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Subject: Docket No. PRM-51-10 - Comments of Citizens Regarding Spent Fuel Pool Risks

Creation Date Mon, Mar 5, 2007 5:40 PM

From: "Richard Webster" <rwebster@kinoy.rutgers.edu>

Created By: rwebster@kinoy.rutgers.edu

Recipients

nrc.gov

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SECY (SECY)

harmoncurran.com

dcurran CC

dol.lps.state.nj.us

Valerie.Gray CC

dep.state.nj.us

Jill.Lipoti CC

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TWGWPO02.HQGWDO01

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