

April 11, 2007

E. Roy Hawken, Chair
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
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Washington, DC 20555-0001

Anthony J. Baratta
Administrative Judge
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Paul B. Abramson
Administrative Judge
Atomic Safety and Licensing Board
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 229 (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, April 11, 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 8 will be contained in a sub-folder entitled, "Hearing File Supplement 8" in the "Oyster Creek_50-219-LR" folder of the EHD.

The Staff is also updating its deliberative process privilege log at this time, which is appended hereto as Attachment 2. 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 Director of License Renewal, formally invoking the deliberative process privilege.

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The final Safety Evaluation Report was issued on March 29, 2007, and distributed to the Board and the Parties by letter dated April 2, 2007.

Sincerely,

/RA/

Mary C. Baty
Counsel for the NRC Staff

Enclosures: Attachment 1: Hearing File Index – Supplement 8
Attachment 2: Privilege Log - Deliberative Process – Supplement 8
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 8 –April 11, 2007

Supp. No.	Accession Number	Document Date	Title/Description:
08-01	ML070260177	1/17/2007	Fwd e-mail from R. Webster re material condition of the containment drywell shell at Oyster Creek
08-02	ML070380481	1/30/2007	G20070092/LTR-07-0087 - Letter from Rep. Jim Saxton re Oyster Creek - Floor Structure of the Spent Fuel Pool
08-03	ML070400355	1/31/2007	Y020070034 - Letter from State of New Jersey requesting that the NRC require the Oyster Creek Licensee to submit a drywell structural analysis similar to the analysis performed by Sandia National Laboratories
08-04	ML070710422	3/2/2007	Letter from Richard Webster to the NRC re NRC's Response to Violation of NRC Regulations at Oyster Creek Nuclear Power Plant
08-05	ML070440018	3/2/2007	P.T. Kuo letter responding to request to have the NRC require the Oyster Creek Licensee to submit a drywell structural analysis similar to the analysis performed by Sandia National Laboratories
08-06	ML070660411	3/5/2007	2007/03/05-Comment (25) submitted by Richard Webster on Behalf of NIRS, Jersey Shore Nuclear Watch, Inc., Grandmothers, Mothers and More for Energy Safety, and NJ Public Interest Research Group, NJ Sierra Club, and NJ Environmental Federation on PRM-51-10
08-07	ML070650376	3/8/2007	Memo re ACRS Review of the Oyster Creek Nuclear Generating Station, License Renewal Application Safety Evaluation Report.
08-08	ML070460091	3/8/2007	G20070105/LTR-07-0104 - Ltr. William J. Shack, re Report on the Safety Aspects of the License Renewal Application for the Oyster Creek Generating Station
08-09	ML070440039	3/16/2007	G20070092/LTR-07-0087 - L. Reyes Response to Rep. Jim Saxton Ltr re Oyster Creek - Floor Structure of the Spent Fuel Pool

Supp. No.	Accession Number	Document Date	Title/Description:
08-10	ML070660182	3/16/2007	C. Haney Lrt to R. Webster re Webster's November 9, 2006 e-mail to Fuhrmeister re material condition of the containment drywell shell at Oyster Creek

ATTACHMENT 2**OYSTER CREEK HEARING FILE AND MANDATORY DISCLOSURES
PRIVILEGE LOG - DELIBERATIVE PROCESS PRIVILEGE
Supplement 8 – April 11, 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-08-01	ML070870677	Pham B M, NRC/NRR/ ADRO/DLR	E-mail: (NPA-PD) Re: Oyster Creek License Condition for Endangered Species Act (ESA)	3/16/2007	E-Mail	Benner E J, Emch R L, Franovich R L, NRC/NRR	Discussing environmental requirements	3
DP-08-02	ML070870683	Benner E J, NRC/NRR/ ADRO/DLR	E-mail: (NPA-PD) Re: Oyster Creek license condition for ESA	3/11/2007	E-Mail	Franovich R L, NRC/NRR	Discussing environmental requirements	2
DP-08-03	ML070870680	Emch R L, NRC/NRR	E-mail: (NPA-PD) Re: Oyster Creek license condition for ESA	3/16/2007	E-Mail	Benner E J, Franovich R L, NRC/NRR	Discussing environmental requirements	3
DP-08-04	ML070870604	Franovich R L, NRC/NRR	E-mail: (NPA-PD) Re: Oyster Creek license condition for ESA	3/10/2007	E-Mail	Brenner E B, NRC/NRR	Discussing environmental requirements	3

April 11, 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 Director of the Division of License 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 April 11, 2007, submission of Supplement 8 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 April 11, 2007, submission of Supplement 8 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 11th day of April, 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 11th day of April, 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 April 11, 2007, providing notice of the availability of Supplement 8 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 11th day of April, 2007.

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/RA/

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