

February 14, 2008

Dr. Jill Lipoti, Director
Division of Environmental Safety and Health
P.O. Box 424
Trenton, NJ 08625-0424

Dear Dr. Lipoti:

In your letter dated October 12, 2007, on behalf of the New Jersey Department of Environmental Protection, you provided the Nuclear Regulatory Commission (NRC) staff your recommendations with regard to AmerGen's new structural analysis and suggested real-time drywell thickness measurements. I provided an interim reply to your letter, dated November 15, 2007, advising you that the NRC staff was awaiting the decision of the Atomic Safety and Licensing Board (ASLB) regarding the hearing conducted for Oyster Creek, and therefore could not comment on potential decisions of the ASLB. It would have been premature for the staff to comment on issues that were being considered by the ASLB. Based on the decision issued by the ASLB on December 18, 2007, I am providing a response to the recommendations in your letter of October 12, 2007 and your subsequent letter of February 6, 2008.

Let me first state that the NRC agrees with you that any sound regulatory relationship should be transparent. Being open to public scrutiny and discourse is one of the guiding principals of this agency and we strive, whenever possible, to conduct our business in the light of public scrutiny. However there are legal limits to the information that we can make available, and the actions we take must be balanced between the competing need of transparency and burden on the licensee.

You expressed your expectation that the calculations performed by AmerGen for the 3-D finite-element analysis of the drywell shell be released as non-proprietary. The NRC staff has made clear its expectation that AmerGen provide a summary report of their findings, rather than providing the actual calculations. Because the calculations contain design information that is considered proprietary, and owned by General Electric and other entities outside of AmerGen, a non-proprietary summary report is our customary practice for making the findings of this type of analysis available to the public. As discussed in our regulations, 10 CFR 2.390, the staff is required to protect from public disclosure information that has been legitimately found to be proprietary, and a summary report balances the need to protect proprietary data with the necessity to make the findings of the analysis public. If the staff has any concerns or questions about the findings in the report, the staff will perform an on-site audit of the analysis including all the proprietary information.

Moreover, as we have discussed with you, the NRC Regional Office, using inspection procedure (IP) 71003, has begun a sequence of inspections to confirm that the licensee's commitments and license conditions, tied to license renewal, have been met prior to entering the period of extended operation. The commitment to perform the 3-D analysis is only one of many commitments that AmerGen will be required to complete prior to the period of extended operation. If the license is renewed, the NRC staff will be inspecting these commitments and license conditions using IP 71003, sending an inspection team to the site. Headquarters staff will provide additional technical expertise, as needed. As is consistent with our memorandum of agreement with the State of New Jersey Department of Environmental Protection, your staff is welcome to participate in the aforementioned audit or inspections, as they have been for the other inspections that have been performed on site at Oyster Creek.

With regard to your October 12, 2007, recommendation that real-time drywell thickness measurements be performed, the Atomic Safety and Licensing Board's initial decision found:

“... that AmerGen has demonstrated that the frequency of its planned UT measurements, in combination with the other elements of its aging management program, provides reasonable assurance that the sand bed region of the drywell shell will maintain the necessary safety margin during the period of extended operations.”

An appeal of the Licensing Board decision is now before the Commission.

Thank you for your comments and recommendations regarding the license renewal process.

Sincerely,

/RA/

Pao-Tsin Kuo, Director
Division of License Renewal
Office of Nuclear Reactor Regulation

Docket No. 50-219

cc: See next page

J. Lipoti

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Pao-Tsin Kuo, Director
Division of License Renewal
Office of Nuclear Reactor Regulation

Docket No. 50-219

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Letter to J. Lipoti, from P.T. Kuo, dated February 14, 2008

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