



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

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LISA P. JACKSON
Commissioner

February 6, 2008

Dr. Pao-Tsin Kuo
Director Division of License Renewal
U. S. Nuclear Regulatory Agency
One White Flint North (Mail Stop 11-F1)
11555 Rockville Pike
Rockville, MD 20852

Subject: Oyster Creek Drywell Corrosion Analysis

Dear Dr. Kuo:

In your letter of November 15, 2007, you declined to comment on the request related to the Oyster Creek drywell made by the New Jersey Department of Environmental Protection (NJDEP) by letter dated October 12, 2007. In that letter the NJDEP requested that Oyster Creek should be required by the NRC to submit a complete, detailed, state-of-the-art, 3-D (dimensional) finite element analysis, for the existing and projected deteriorated condition of the drywell shell, to confirm that all required safety margins and current licensing bases requirements are satisfied currently and during the proposed period of extended operation.

Your reason for rejecting NJDEP's request was that the NRC "...is awaiting the decision of the ASLB and therefore cannot comment on potential decisions of the Board." As you are aware, the ASLB's decision was issued on December 18, 2007 and became final 40 days later on January 27, 2008. As such, there remains no reason to further delay your response to NJDEP's request.

As you must also be aware, by letter submitted under oath to the NRC, dated January 14, 2008, by AmerGen Energy Company, LLC, Vice President of License Renewal, Michael P. Gallagher, P.E., AmerGen stated

"After the 3D structural analysis is finalized, which will be prior to the period of extended operation, AmerGen will submit to the NRC Staff a summary of the 3D analysis. This will confirm AmerGen's completion of the 3D analysis."

NJDEP finds this position to be wholly inadequate on many points. First, it is not clear that this "summary" would be submitted as a non-proprietary, fully accessible to the public,

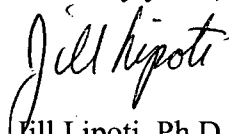
document. Secondly, a "summary" document would not provide the necessary detailed information for either the NRC or NJDEP to conduct an independent evaluation of the technical merit for this new design basis analysis of the drywell. Thirdly, submittal of a "summary" document "prior to the period of extended operation" could be submitted without sufficient time to conduct an independent review of the analysis by either the NRC or NJDEP.

Accordingly, NJDEP reiterates the request made in our October 12, 2007 letter that

"...as supported in your letter to the NJDEP dated March 2, 2007, that AmerGen should not only prepare the state-of-the-art analysis of the Oyster Creek drywell prior to the period of extended operation, but that AmerGen should submit it to the NRC. The NRC should perform a thorough review to verify that the current and projected deteriorated condition of the drywell satisfies all required safety margins. The NRC must confirm the drywell meets the current licensing basis, i.e., the applicable ASME code. It would be prudent for the submittal to be made well before the current commitment deadline (April 2009) to allow for proper reviews to be completed before Oyster Creek enters the extended operating period...We expect more than just a summary...We expect all calculations to be released by AmerGen as non-proprietary so the public would have full access."

I presume both AmerGen and the NRC share NJDEP's position that a thorough, transparent review of the technical basis justifying the current and projected condition of this critical component at Oyster Creek will serve the public's best interest by ensuring the continued safe operation of this nuclear facility.

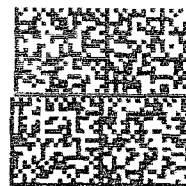
Sincerely yours,



Jill Lipoti, Ph.D.
Director

- c. Michael P. Gallagher, P.E., Vice President, License Renewal Projects,
AmerGen Energy Company, LLC
- Christopher M. Crane, Executive Vice President, Exelon Corporation;
Chief Operating Officer, Exelon Generation
- USNRC Executive Director for Operations, Luis A. Reyes

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