



UNITED STATES  
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

September 25, 2008

OFFICE OF THE  
SECRETARY

DOCKETED  
USNRC

September 25, 2008 (4:00pm)

OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

**SERVED September 26, 2008**

Director Jill Lipoti, Ph.D.  
State of New Jersey  
Department of Environmental Protection  
Division of Environmental Health and Safety  
P.O. Box 424  
Trenton, New Jersey 08625-0424

Dear Dr. Lipoti,

I am responding to your letter of September 16, 2008, sent to the Commissioners, in which you state the New Jersey Department of Environmental Protection's expectations regarding the Oyster Creek three-dimensional structural analysis of the drywell and the Nuclear Regulatory Commission's review of that analysis.

Under agency regulations, the Commission has an adjudicatory role in the Oyster Creek license renewal proceedings. While an Atomic Safety and Licensing Board will review the three-dimensional structural analysis of the drywell, ultimately, the Commission itself may address this issue on administrative appeal. Due to the nature of the Commission's role, I trust you will understand that all members of the Commission must remain impartial while the case is pending. It would be inappropriate at this time for any of them to discuss or comment on issues involved in this matter.

A copy of your letter and this response will be served on the participants in the Oyster Creek proceeding.

Sincerely,

A handwritten signature in cursive script, reading "Annette L. Vietti-Cook", is written over a horizontal line.

Annette L. Vietti-Cook  
Secretary of the Commission

cc: Oyster Creek Service List



State of New Jersey  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

JON S. CORZINE  
*Governor*

Division of Environmental Safety and Health  
P.O. Box 424  
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LISA P. JACKSON  
*Commissioner*

September 16, 2008

United States Nuclear Regulatory Commission  
Document Control Desk  
Washington, DC 20555-0001

Subject: Oyster Creek Generating Station  
Facility Operating License No. DPR-16  
Docket No. 50-219  
Drywell Analysis ASLB

Dear Commissioners:

The New Jersey Department of Environmental Protection (NJDEP) has been closely following the developments related to the Atomic Safety and Licensing Board's (ASLB) actions on the drywell corrosion monitoring issue at Oyster Creek. Most recently, the ASLB has determined that a public hearing to conduct oral arguments on this issue will be held on September 18, 2008 to try to clarify whether the three-dimensional structural analysis of the drywell, that AmerGen committed to perform prior to entering the proposed period of extended operation, will satisfy Judge Baratta's concerns. While NJDEP is not a party to the hearing, it seems timely for us to communicate our expectations on this issue.

NJDEP expects that the Oyster Creek three-dimensional structural analysis of the drywell will:

- be based upon actual thickness measurements, including those to be taken during the upcoming October 2008 refueling outage;
- determine if all ASME Code allowables are being met for every current licensing basis drywell load combination;
- be submitted to the NRC and the NJDEP in its entirety;
- if necessary, additionally be submitted to the NRC in a non-proprietary version (with absolute minimal, specifically justified redactions) in sufficient detail to allow for independent third party review of the analysis including detailed methodology of the drywell modeling, complete design and analysis assumptions with supporting justifications, and detailed discussion of inputs and results including justification for any capacity reduction factors if used in the evaluation.

NJDEP expects the NRC to:

- review the documentation as submitted, and provide a detailed description of their methodology used to evaluate the analysis in a supplemental Safety Evaluation Report (SER);
- discuss uncertainties in the model, uncertainty in inputs to the model, and any other measurement uncertainties that could contribute to the overall uncertainty of the result;
- summarize its findings about the margin available above the current licensing basis.

NJDEP intends to review the drywell analysis and provide any comments to the NRC. It would, therefore, be prudent for Oyster Creek's drywell submittal to be made well before the current commitment deadline (April 2009) to allow for proper reviews and comment resolution by all parties to be completed before the Commission reaches a decision on allowing Oyster Creek to enter a period of extended operation.

Should you have any questions or need additional information, please contact me directly at (609) 633-7964 or Mr. Patrick Mulligan, Manager of the Bureau of Nuclear Engineering, at (609) 984-7701.

Sincerely yours,



Jill Lipoti, Ph.D.  
Director

c: E. Roy Hawken, USNRC Chairman, Administrative Judge, Atomic Safety and Licensing Board  
Nancy T. McNamara, USNRC State Liaison Officer, Region 1  
G. Edward Miller, USNRC Senior Project Manager, Oyster Creek  
Marc S. Ferdas, USNRC Senior Resident Inspector, Oyster Creek  
Donnie J. Ashley, USNRC License Renewal Project Manager, Oyster Creek  
Michael P. Gallagher, P.E., Vice President, License Renewal Projects, AmerGen Energy Company, LLC  
Timothy S. Rausch, Site Vice President, Oyster Creek Nuclear Generating Station

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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 foregoing LETTER FROM THE SECRETARY TO JILL LIPOTI, DIRECTOR, DEPARTMENT OF ENVIRONMENTAL PROTECTION, STATE OF NEW JERSEY, DATED SEPTEMBER 25, 2008 (RE: DRYWELL ANALYSIS ASLB) ; AND A COPY OF LETTER FROM JILL LIPOTI TO THE COMMISSION (WITH CC: JUDGE E. ROY HAWKENS, ASLB), DATED SEPTEMBER 16, 2008 have been served upon the following persons by U.S. mail, first class, or through NRC internal distribution.

Office of Commission Appellate  
Adjudication  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

Administrative Judge  
E. Roy Hawkens, Chair  
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Administrative Judge  
Paul B. Abramson  
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Administrative Judge  
Anthony J. Baratta  
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Docket No. 50-219-LR

LETTER FROM THE SECRETARY TO JILL LIPOTI, DIRECTOR, DEPARTMENT OF ENVIRONMENTAL PROTECTION, STATE OF NEW JERSEY, DATED SEPTEMBER 25, 2008 (RE: DRYWELL ANALYSIS ASLB) ; AND A COPY OF LETTER FROM JILL LIPOTI TO THE COMMISSION (WITH CC: JUDGE E. ROY HAWKENS, ASLB), DATED SEPTEMBER 16, 2008

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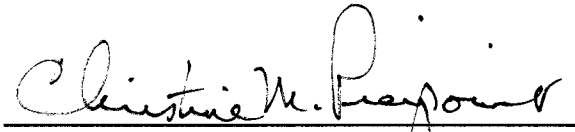
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Docket No. 50-219-LR

LETTER FROM THE SECRETARY TO JILL LIPOTI, DIRECTOR, DEPARTMENT OF ENVIRONMENTAL PROTECTION, STATE OF NEW JERSEY, DATED SEPTEMBER 25, 2008 (RE: DRYWELL ANALYSIS ASLB) ; AND A COPY OF LETTER FROM JILL LIPOTI TO THE COMMISSION (WITH CC: JUDGE E. ROY HAWKENS, ASLB), DATED SEPTEMBER 16, 2008

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Office of the Secretary of the Commission

Dated at Rockville, Maryland  
this 26<sup>th</sup> day of September 2008