

From: Mary Baty
Sent: Friday, January 09, 2009 5:07 PM
To: Richard Webster
Cc: Arvin Ganeson; mary.mcdnoonan@mail.house.gov; Janet Tauro; Julia LeMense
Subject: RE: Oyster Creek Exit meeting closed to the public

Mr. Webster

I understand that yesterday afternoon you contacted NRC Region I staff asking about the timing of exit the meeting and the inspection report. The Region I staff member explained to you that an exit meeting between NRC Staff and Oyster Creek representatives occurred on December 23, 2008, and that the inspection report will be issued no later than February 6, 2009. The NRC staff member explained to you that the inspection exit meeting was conducted in accordance with established Commission procedures. In addition, NRC Regional I Counsel has explained and discussed the Commission's policy on public meetings with you in the past. Your correspondence with Region I Counsel is available in ADAMS at ML070600505 and ML070600512.

There was no decision to close the exit meeting from the public. Rather, the meeting was conducted in accordance with established policy in Management Directive 3.5, which provides that routine inspection exit meetings are not open to the public except "in significant cases of high public interest" as determined by the Regional Administrator or Office Director in consultation with Director of the Office of Public Affairs.

I further understand from the Region I staff member that you intend to file a FOIA request for documents related to the exit meeting. Upon receipt, the NRC will process your request consistent with its FOIA procedures. The ADAMS Accession number for MD 3.5 is ML071220010.

Finally, your e-mail speculates that the Staff has failed to inform the Commission of information that is relevant and material to your pending petition for Commission review of the Licensing Board decision on Citizens challenge to Oyster Creek's aging management program for the drywell shell. If you or the state of New Jersey is aware of new and significant information that is relevant and material to Citizens' pending petition for review, you or the state should prepare and serve a Commission notification on the parties. However, Board or Commission notifications are not an opportunity to present merit arguments on a litigated contention. See CLI-08-28, 68 NRC __, __ (slip op. at 25-26 n.74) ADAMS Accession No. ML083110766 (Nov. 6, 2008).

-----Original Message-----

From: Richard Webster [mailto:rwebster@easternenvironmental.org]

Sent: Friday, January 09, 2009 10:33 AM

To: Mary Baty

Cc: Arvin Ganeson; mary.mcdnoonan@mail.house.gov; Janet Tauro; Julia LeMense

Subject: Oyster Creek Exit meeting closed to the public

Ms. Baty,

If you are providing legal advice to Region 1 regarding the last inspection at Oyster Creek, please respond to my query below. Otherwise, please pass along my query to the attorney who is handling this matter.

I found out yesterday that the exit meeting that discussed the October 2008 inspection at Oyster Creek was held on December 23, 2008 and was designated a non-public meeting. My clients therefore had no opportunity to attend, despite their longstanding interest in the issues identified during the inspection. Please provide the legal and policy reasons that this meeting was not open to the public. Please also let us know who within the NRC Staff was responsible for the decision to close the meeting. On the face of it, this decision seems to fly in the face of the Commission's general policies on transparency and specific calls from both Senator Lautenberg and Congressman Smith for more openness regarding NRC oversight of Oyster Creek.

Finally, I believe it is entirely possible that matters that we discussed at the exit meeting could be material to relicensing. Please advise whether the Staff has decided if the matters that were discussed at the exit meeting are material to relicensing and has notified the Commission of such issues. If not, please let me know if the Staff has decided that the matters discussed at the meeting are not material to relicensing or if the Staff intends to notify the Commission at some point in the future.

I look forward to your prompt response.

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E-mail Properties

Mail Envelope Properties ()

Subject: RE: Oyster Creek Exit meeting closed to the public
Sent Date: 1/9/2009 4:49:25 PM
Received Date: 1/9/2009 5:07:00 PM
From: Mary Baty

Created By: Mary.Baty@nrc.gov

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Files	Size	Date & Time
MESSAGE	9087	1/9/2009

Options

Expiration Date:
Priority: olImportanceNormal
ReplyRequested: False
Return Notification: False

Sensitivity: olNormal

Recipients received: