## Elizabeth Keighley

**From:** John Richmond, RI
**Sent:** Saturday, November 15, 2008 4:45 PM
**To:** Ed Miller
**Cc:** Richard Conte; David Pelton; Doug Tifft
**Subject:** FW: OC and NJ DEP Insight
**Attachments:** OC Regional Administrator Brief_Post_Mtg (10-1-08).doc

Outside of the scope

outside of scope

John Richmond

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**From:** Richard Conte
**Sent:** Wednesday, November 12, 2008 7:11 AM
**To:** John Richmond; Robert Summers
**Cc:** Diane Screnci; Ed Miller; David Pelton; Marjorie McLaughlin; Nancy McNamara; Neil Sheehan; Ronald Bellamy
**Subject:** RE: OC and NJ DEP Insight

Ed Miller I understand you have an action in this area. Please call, I will be back in the area on Thursday PM and Friday AM only of this week.

Expanding cc due to interest in this topic and need to brief EDO or deputy on the matter. The impetus statement to the daisy chain email here is as follows:

Rich didn't really have much to say, but he seemed to believe the NRC could "enforce" commitments, and could [or should be able to] change commitments and require a licensee to implement a new commitment

He or the state of New Jersey may need to be calibrated in order to increase their understanding of what we can and can not do legally vs regulatory tools. Before we approach the state we might want to get our own act together by answering the following quesitons again from a legal vs regulatory tools viewpoint:

1. Since commitments are not requirements and therefore unenforceable, what then is the industry's and NRC's definition of a commitment and how is it used?

2. In the licensing process, exactly how does the agency rely on commitments and how do they get converted into requirements by license or license conditions.

3. In the inspection process and, again, if commitments are unenforceable, how does the agency hold the licensee or applicant accountable to those commitments.

4. How can the NRC initiate a change to a licensee commitment after the current licensing basis has been approved such as by a renewed license and on what basis can the agency take that action.

Information in this record was deleted in accordance with the Freedom of Information Act.
Exemptions 5, 6
FOIA/PA 2009-0070



J/11

5. For Oyster Creek and in light of the hold on the new license and the change in the current licensing basis, can the NRC hold Amergen accountable for the commitments through the inspection process for commitments made in the license renewal licensing process.

6A. And the boss question of all, does the NRC have reasonable assurance that Amergen can continue to operate into the period of extended operations without the renewed license and change in the current licensing basis to reflect the many condition and commitments made during the license renewal process OR

6B. Has that reasonable assurance changed since the agency issued its exemption for timely license renewal.

An orderly answer to these questions would help - part of Comm Plan for April 9, 2009.

Richard J. Conte
Chief, Engineering Branch No. 1, DRS, Reg. I
[ (b)(6) ]
Off. 610-337-5183
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Ex. 6

**From:** John Richmond
**Sent:** Tuesday, November 11, 2008 9:32 AM
**To:** Robert Summers; Richard Conte
**Cc:** Diane Screnci
**Subject:** RE: OC and NJ DEP Insight

Bob, you're comments are on target. Commitments are NOT enforceable.

[ (b)(5) ]

Ex. 5

Commitments are proposed by the licensee in their LR Application. During the Application review and approval process, the licensee will revise and add additional commitments, in response to NRC questions (RAIs, regional inspection, ACRS). When the SER is written, the list of commitments, from the licensee's Application is cut & pasted into the SER. Short of a supplemental SER (as in the case of OC), there is no mechanism for the NRC to change a specific license renewal commitment.

**From:** Robert Summers
**Sent:** Monday, November 10, 2008 4:59 PM
**To:** Richard Conte
**Cc:** Diane Screnci; John Richmond
**Subject:** RE: OC and NJ DEP Insight

beyond commitments, if a state feels that a safety issue has not been adequately addressed by a licensee, they ought to provide a 2.206 petition/request.

(b)(5)

EX.5

**From:** Richard Conte
**Sent:** Tuesday, November 04, 2008 8:41 AM
**To:** Diane Screnci; John Richmond; Marjorie McLaughlin; Neil Sheehan; Ronald Bellamy
**Cc:** Robert Summers; Darrell Roberts
**Subject:** RE: OC and NJ DEP Insight

Bob I have been anxious to talk with you about commitments in the CLB

this is another twist to the commitments issue; if the NRC pressured by the state feels a commitment is inadequate.

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EX.6

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**From:** Diane Screnci
**Sent:** Tuesday, November 04, 2008 7:48 AM
**To:** John Richmond; Richard Conte; Marjorie McLaughlin; Neil Sheehan; Ronald Bellamy
**Subject:** RE: OC and NJ DEP Insight

Guess I wouldn't mind a little tutorial on the same information.

*DIANE SCRENCI*
*SR. PUBLIC AFFAIRS OFFICER*
*USNRC, RI*
*610/337-5330*

**From:** John Richmond
**Sent:** Tuesday, November 04, 2008 7:22 AM
**To:** Richard Conte; Marjorie McLaughlin; Diane Screnci; Neil Sheehan; Ronald Bellamy
**Subject:** OC and NJ DEP Insight

An insight as to where the State of NJ may be headed, regarding the current OC drywell coating issue.

Yesterday, during the day, Rich Pinney asked about how the NRC would change a "commitment" if Exelon needed to do more than a current commitment required. We talked, in general, about commitment management, SERs, enforceability, and what might constitute a violation of a requirement.

Rich didn't really have much to say, but he seemed to believe the NRC could "enforce" commitments, and could [or should be able to] change commitments and require a licensee to implement a new commitment.

During the 4 pm telecom with Exelon, near the end, Rich showed me a note that he'd written. "Increase sand bed inspections to every 2 years." The current commitment is to inspect the drywell shell, in the sand bed bays, every other outage [every 4 years].

I'll update if more comes to light.
John R.

Received: from R1CLSTR01.nrc.gov ([148.184.99.7]) by R1MS01.nrc.gov
([148.184.99.10]) with mapi; Sat, 15 Nov 2008 16:44:43 -0500
Content-Type: application/ms-tnef; name="winmail.dat"
Content-Transfer-Encoding: binary
From: John Richmond <John.Richmond@nrc.gov>
To: Ed Miller <Ed.Miller@nrc.gov>
CC: Richard Conte <Richard.Conte@nrc.gov>, David Pelton
<David.Pelton@nrc.gov>, Doug Tifft <Doug.Tifft@nrc.gov>
Date: Sat, 15 Nov 2008 16:44:43 -0500
Subject: FW: OC and NJ DEP Insight
Thread-Topic: OC and NJ DEP Insight
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