From:	Richard Webster
To:	Lamb, John
Cc:	Khanna, Meena; Burnell, Scott; Banic, Merrilee; Bergman, Thomas; Evans, Michele; Mensah, Tanya; Hair, Christopher; Sheehan, Neil; Screnci, Diane; Pelton, David; Kulp, Jeffrey; Hunegs, Gordon; Dacus, Eugene; Weil, Jenny; Lund, Louise; "Connolly, Hal (Menendez)"; "carolyn_fefferman@menendez.senate.gov"; "Mary McDermott Noonan"; Janet Tauro; "David Pringle"; Adam Cohen
Subject:	RE: Oyster Creek 2.206 Petition - PRB Immediate Action Decision
Date:	Friday, November 30, 2012 5:47:17 PM
Attachments:	20121129 v2 PRB request.pdf

As mentioned earlier today. Please find my response attached. I would like to emphasize that to date we do not believe the NRC has conducted sufficient analyses to assure safety, but we are seeking additional information from you to fully understand what has and has not been done by the NRC. I would also like to request that the PRB hearing to be held on January 3, 2012 is held close to Oyster Creek in New Jersey, because this is an issue of intense public interest.

Regards

Richard Webster

From: Lamb, John [mailto:John.Lamb@nrc.gov]
Sent: Monday, November 26, 2012 4:20 PM
To: Richard Webster
Cc: Khanna, Meena; Burnell, Scott; Banic, Merrilee; Bergman, Thomas; Evans, Michele; Mensah, Tanya; Hair, Christopher; Sheehan, Neil; Screnci, Diane; Pelton, David; Kulp, Jeffrey; Hunegs, Gordon; Dacus, Eugene; Weil, Jenny; Lund, Louise
Subject: Oyster Creek 2.206 Petition - PRB Immediate Action Decision
Importance: High

Dear Mr. Richard Webster:
I have been assigned as the Petition Manager for the 10 CFR 2.206 petition you submitted to the NRC on November 19, 2012, regarding your concerns on Oyster Creek.
Section 2.206 of Title 10 of the Code of Federal Regulations describes the petition process – the primary mechanism for the public to request enforcement action by the NRC in a public process. This process permits anyone to petition NRC to take enforcement-type action related to NRC licensees or licensed activities. Depending on the results of its evaluation, NRC could modify, suspend or revoke an NRC-issued license or take any other appropriate enforcement action to resolve a problem. The NRC staff's guidance for the disposition of 2.206 petition requests is in Management Directive 8.11, which is publicly available. I have attached it for your reference.
In accordance with Management Directive 8.11, Part III.A.1 (page 7), the Petition Review Board (PRB) met internally on November 26, 2012, to discuss the request for immediate action regarding your emergency 2.206 petition regarding lack of adequate protection of safety at Oyster Creek.

The PRB denied the request for immediate action to take emergency enforcement action to prevent Oyster Creek from starting up from its refueling outage, because there was no immediate safety concern to Oyster Creek, or to the health and safety of the public for the

following reasons:

(1) On November 13, 2012 (Agencywide Documents Access Management and Documents System Accession No. ML12319A627), the Federal Emergency Management Agency (FEMA) concluded that offsite radiological emergency preparedness is adequate to provide “Reasonable Assurance” and that appropriate measures can be taken to protect the health and safety of the public, in the event of a radiological emergency at Oyster Creek in Ocean County, New Jersey.

(2) Currently, 3 emergency notification sirens are inoperable out of a total of 42 emergency notification sirens, which does not exceed Exelon's reporting threshold of 25 percent or more sirens out of service. Exelon is working to restore the 3 inoperable sirens. FEMA’s assessment determined that, in the areas where the sirens were determined to be inoperable, the FEMA-approved backup notification method of route alerting could be conducted, if needed.

(3) Hurricane Sandy did not exceed Oyster Creek’s maximum flood level due to probable maximum hurricane (PMH). As reported in the Oyster Creek Final Safety Analysis Report (FSAR), Subsection 2.4.5, the maximum flood level due to PMH will be at elevation 22 feet (ft) mean sea level (MSL). The plant grade, elevation 23 ft MSL, is one foot above the PMH flood level. Therefore, the flood will not find its way into the plant buildings, the floor levels of which are generally 6 inches above grade at elevation 23 ft and 6 inches. The circulating water intake structure, with its deck at elevation 6 ft, will be under water. This deck supports, apart from the other equipment, the circulating water pumps and the emergency service water pumps. During a PMH flood, the circulating water and service water pumps will become inoperable and, thus, emergency plant procedures have been instituted which require the plant to be shutdown when flood waters reach a pre-determined level, as to ensure the capability for safe shutdown under either normal or abnormal conditions.

(4) During a planned, routine inspection program, Exelon discovered control rod drive return nozzle safe end to pipe weld indications. These indications were determined to be surface in nature and did not result in any leakage. Exelon completed a structural weld overlay in accordance with the ASME Code.

Per Management Directive 8.11, all of the information in your petition will be made public, including your identity. I would appreciate if you could advise me by November 30, 2012, if you:

- Agree to the NRC’s processing your request under the 2.206 process.
- Request an opportunity to address the PRB. If you would like to meet in person, I will need to schedule a public meeting at the NRC Headquarters in Rockville, MD. If you would prefer to address the PRB via phone, I will also work with you to coordinate a date/time during the upcoming weeks.

Thank you.

Sincerely,

John G. Lamb
Senior Licensing Project Manager
NRC/NRR/DORL/LPL1-2
(301)-415-3100

Via email Friday November 30

John Lamb
U.S. Nuclear Regulatory Commission,
Washington, DC 20555-0001

Follow up re: Emergency 2.206 Petition regarding lack of adequate protection of safety at Oyster Creek Nuclear Generating Station, Lacy, NJ

Dear Mr. Lamb::

On November 19, 2012, I filed an emergency 2.206 petition on behalf of The New Jersey Environmental Federation (NJEF),[1] the grassroots group Grandmothers, Mothers, and More for Energy Safety (GRAMMES), and Beyond Nuclear, Inc. ("Citizens"). Citizens urged the NRC to keep the Oyster Creek Nuclear Generating Station in Lacey Township, NJ offline while various safety issues are resolved. In summary those reasons were:

1) Ongoing disaster recovery from Hurricane Sandy
2) Inoperable emergency sirens;
3) Need to reassess flood levels during storms; and
4) Cracks (or their pre-cursors) on the "control rod drive return nozzle safe end to pipe weld." (Event No. 48491) leading to the need to a) repair the nozzle; and b) to re-evaluate aging management predictions to assure compliance with the Current Licensing Basis ("CLB") until the next inspection.

We therefore urged you to ensure Oyster Creek does not restart until the following conditions are met:

1) The evacuation plan is updated to reflect the new reality post-Sandy - including evacuation shelters, blocked roads, emergency responders farther away and more distracted, etc.; and the sirens are repaired
2) The design storm for flood defense purposes is updated to reflect the recent spate of storms and climate change and, additional flood protection is put in place as appropriate;
3) The "indications" (cracks or their precursors) are investigated* and the public is assured through release of additional data* and analysis* they pose no additional risk of a nuclear catastrophe;
4) Exelon reviews whether the indications were predicted by its modeling and whether it can predict that no problematic indications will develop before the next inspection cycle and proof of ability to predict fatigue* accurately is released to the public.
5) To ensure transparency, a public meeting with NRC is held at which staff can satisfactorily answer the public's concerns, including those above.

In response on November 26,2012, you notified me in writing that the PRB denied the request for immediate action to take emergency enforcement action to prevent Oyster Creek from

[1] NJEF is a chapter of Clean Water Action, and the state's largest environmental organization with 150,000 individual members and 150 environmental and grassroots member organizations.

starting up from its refueling outage, because there was no immediate safety concern to Oyster Creek, or to the health and safety of the public for the following reasons:

(1) On November 13, 2012 (Agencywide Documents Access Management and Documents System Accession No. ML12319A627), the Federal Emergency Management Agency (FEMA) concluded that offsite radiological emergency preparedness is adequate to provide "Reasonable Assurance" and that appropriate measures can be taken to protect the health and safety of the public, in the event of a radiological emergency at Oyster Creek in Ocean County, New Jersey.

(2) Currently, 3 emergency notification sirens are inoperable out of a total of 42 emergency notification sirens, which does not exceed Exelon's reporting threshold of 25 percent or more sirens out of service. Exelon is working to restore the 3 inoperable sirens. FEMA's assessment determined that, in the areas where the sirens were determined to be inoperable, the FEMA-approved backup notification method of route alerting could be conducted, if needed.

(3) Hurricane Sandy did not exceed Oyster Creek's maximum flood level due to probable maximum hurricane (PMH). As reported in the Oyster Creek Final Safety Analysis Report (FSAR), Subsection 2.4.5, the maximum flood level due to PMH will be at elevation 22 feet (ft) mean sea level (MSL). The plant grade, elevation 23 ft MSL, is one foot above the PMH flood level. Therefore, the flood will not find its way into the plant buildings, the floor levels of which are generally 6 inches above grade at elevation 23 ft and 6 inches. The circulating water intake structure, with its deck at elevation 6 ft, will be under water. This deck supports, apart from the other equipment, the circulating water pumps and the emergency service water pumps. During a PMH flood, the circulating water and service water pumps will become inoperable and, thus, emergency plant procedures have been instituted which require the plant to be shutdown when flood waters reach a pre-determined level, as to ensure the capability for safe shutdown under either normal or abnormal conditions.

(4) During a planned, routine inspection program, Exelon discovered control rod drive return nozzle safe end to pipe weld indications. These indications were determined to be surface in nature and did not result in any leakage. Exelon completed a structural weld overlay in accordance with the ASME Code.

As we have discussed by telephone this response is not complete. Most importantly, I understand that Exelon is claiming that the indications are caused by chlorides introduced by the fitting of strain gauges. If correct, this leads to the need to change the AMP for the areas that could be potentially affected by the chlorides to take account of the changed conditions. In addition, the Staff must fully understand why Exelon failed to exclude chlorides from the containment and whether other areas could be affected by the chlorides. I understand from you that the AMP has not yet been revised to reflect the newly found conditions. Pleas e confirm in writing whether this is correct, and, if so, how the agency can have reasonable assurance of safety in the absence of an updated AMP. In addition, please advise whether

Exelon has modified its procedures to ensure that chlorides are not introduced again, and if so, what that modification consists of.

In the alternative, if fatigue of recirculation water nozzles caused the cracking, this was an issue by the coalition fighting relicensing during NRC hearings. We will forward these materials in due course. However, our warnings were ignored, but all except Judge Baratta, who recognized their importance. To testing Exelon's ability to predict fatigue is in question, we ask you to confirm whether ultra-sonic testing of the reactor vessel has been conducted. If so, please provide us with the results and the NRC's evaluation of whether the fatigue AMP is adequate to ensure that the plant is not only safe to restart, but in a condition to last until the next scheduled outage and inspections in a minimum of 2 yrs.

With regard to the flooding, while we understand that the flood levels did not exceed design criteria, we believe that Sandy illustrates that beyond design basis storms are now more probable than NRC has been assuming since 1969, when the plant was first licensed. Therefore the risk of operating the reactor exceeds the design basis risk. We understand that no reanalysis of the probable maximum flood has been done. This is inadequate. It is not sufficient to study the problem while Oyster Creek operates. At minimum, the NRC should do a preliminary analysis and require temporary additional flood defenses if that analysis indicates they are needed.

With regard to Emergency Preparedness, we do not believe a single conclusory e-mail from FEMA provides sufficient cover for the NRC to approve operation. At minimum, the NRC should discuss with FEMA the situation on the ground and the basis of its conclusions to ensure they are rational.

With regard to the issue of transparency, we thank you for your offer of a PRB meeting on January 3, 2013. This should be satisfactory, provided we are able to understand in more detail the basis of the NRC's decision to allow restart and we are given the opportunity to make a written submission to the Board along with an oral presentation. Therefore, so that we can make an informed presentation to the PRB, we ask that you provide the documents that the restart decision has been based upon and an opportunity for us to discuss those documents informally with you or other knowledgeable individuals.

Finally, since we filed the emergency petition, a leak that has been detected in the reactor spray system at Oyster Creek. Earlier today I asked you to respond to the questions below:

i) Has NRC evaluated this issue? If so,
ii) Is the plant currently safe to operate?
iii) What was the root cause of the leak?
iv) If the cause is age related, was the leak predicted by the AMP and is NRC confident that the AMP is sufficient to ensure operability to the next inspection cycle?

Once we receive your response to these issues, we will determine whether to add these issues into a new petition or deal with them in combination with the issues above. At minimum we believe we should be provided with this information before the reactor restarts. Thank you for

the dialog we have had to date and look forward to receiving further information from you prior to the PRB hearing.

Sincerely,

/s

Richard Webster, counsel to GRAMMES and NJEF
Power-Cotchett Attorney, Environmental Enforcement Project, Public Justice