

RUTGERS ENVIRONMENTAL LAW CLINIC

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VIA E-MAIL AND US MAIL

The United States Nuclear Regulatory Commission
Region 1
475 Allendale Road
King of Prussia, PA 19406-1415

ATTENTION: Mr. Richard J. Conte, Chief
Engineering Branch 1

March 20, 2007

**Re: Follow Up Regarding Violations of NRC Regulations at Oyster Creek
Nuclear Power Plant**

Dear Mr. Conte:

On behalf of my clients, the Coalition to Stop the Relicensing of Oyster Creek ("STROC"), I am following up on my letter of March 2, 2007 regarding potential violations. This is because some additional relevant information has come to light that adds to our concerns about the licensee's actions regarding its failure to implement its water monitoring commitments. First, in contrast to the statements of American Energy Company (AmerGen) to the NRC, the motivation for emptying the bottles was because three of them were full. Second, AmerGen first identified the missed commitment in June 2005, at least eight months before it was allegedly "self-reported." Third, contrary to the account offered to NRC inspectors, the emptying of the bottles was not something that AmerGen technicians took it upon themselves to do and AmerGen appears to have taken samples of the water in the bottles prior to their emptying.

In legal terms, a violation of 10 C.F.R. § 50, Appendix B occurs when a licensee fails to take appropriate corrective action to resolve a significant condition adverse to quality. Furthermore, licensees and their employees have a duty to promptly provide to the NRC complete and accurate information and avoid making material false statements. E.g. 18 U.S.C. § 1001; 10 CFR 50.9; 10 C.F.R. § 53.13(a).

Your letter of November 9, 2006 states:

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During the inspection, the NRC inspection team overheard an AmerGen technician talking about cleaning the torus room for the NRC walkdown and emptying some bottles he found. AmerGen told the NRC that a member of AmerGen's staff was sent into the torus room, on the day before the NRC inspection team entered, in order to make sure the area was safe for the NRC inspection team walkdown. The AmerGen staff took it upon themselves to empty the collection bottles into the floor drains . . . before the [NRC] team entered the torus room.

Because the bottles were emptied prior to any sampling, the source of the water was not determined and there was no determination about whether the water contained any radioactivity. . . The technician responsible for emptying the bottles was asked about over-flow and indicated that only two of the five bottles were filled with water, and that no water was flowing out of the filled bottles.

This account is contradicted by several documents. First, AR 00470325, dated March 24, 2006, (attached) states that while performing a routine walkdown Robert Barbieri observed that three of the five bottles were full, but were not overflowing. He suggested that the bottles "should be emptied and monitored for further leakage." According to the same document, after review by two other staff members, AmerGen emptied the bottles five days later "to allow trending of sand bed leakage."

Thus, it appears that contrary to the AmerGen's statements reported in your November 9, 2006 letter, the bottles were not emptied to ensure the safety of the inspectors, they were not found during a special clean up of the torus room one day before the NRC walkdown, and AmerGen staff did not take it "upon themselves" to empty the water. In addition, it appears that three bottles were full, not two as AmerGen reported during the inspection.

Furthermore, AR 00348545, dated June 29, 2005 shows that AmerGen first noticed the missed commitment in June 2005. Follow up action in that AR shows that AmerGen decided in August 2005 that the event was not reportable, even though the commitment to carry out routine walkdowns of the sand bed drains was added to UFSAR in April 1997 and was therefore part of the design basis documentation.

Finally, an e-mail from Tom Quintenz to Robert Barbieri and others, dated May 19, 2006 (attached) states that "there were actions taken to collect the water from the poly bottles some time ago for the reason to analyze the water . . ." The e-mail asks about the status of the analysis and further states that the "Senior Resident" participated in the retrieval of the samples.

Thus, it appears that AmerGen failed to notify the NRC about the missed commitment for at least six months and, in contrast to the statements in your letter, the water in the poly bottles was actually sampled prior to the bottles being emptied.

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Because there was not an adequate system to track the water in the bottles or trace the source of the water by the time the inspection occurred, we believe AmerGen failed to take prompt corrective action in violation of NRC's regulations. Please review this matter and let us know whether you agree.

Even more seriously, the major discrepancies between the account offered in your letter and AmerGen's own documents raise troubling questions about the veracity of the information supplied by AmerGen to the NRC about this incident. Given the documents, it is hard to see how the statements of AmerGen employees referred to in your letter could have been entirely truthful. Please add this issue to the issues I raised in the March 2, 2007 letter and let us know whether NRC believes AmerGen gave complete and accurate information to the NRC during the March 2006 inspection. If so, please resolve the discrepancies in the accounts offered. If not, please advise what action NRC intends to take.

Thank you for your further consideration. I look forward to your response.

Yours sincerely,

Richard Webster, Esq.
Rutgers Environmental Clinic

cc: Mitzi Young, Esq.
D. Silverman, Esq.
Jill Lipoti, New Jersey DEP

Attachments

AR - Assignment Report

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AR 00470325 Report

Aff Fac:	Oyster Creek	AR Type:	CR	Status:	APPROVED
Aff Unit:	01	Owed To:	ACAPALL	Due Date:	04/23/2006
Aff System:	187			Event Date:	03/24/2006
CR Level/Class:	4/D			Disc Date:	03/24/2006
How Discovered:	H02			Orig Date:	03/24/2006
WR/PIMS AR:		Component #:	TORUS		

Action Request Details

Subject: TORUS/TORUS ROOM MINOR DEFICIENCIES

Description: Originator: ROBERT J BARBIERI Supv Contacted: H. Ray

Condition Description:

While performing a routine walkdown, the following minor deficiencies were noted:

1. Three of the five buckets which collect water from the sandbed drains were full. There is no leakage currently as there was no water on the floor or evidence of flow in the lines. However, the buckets should be emptied and monitored for possible future leakage.
2. Most of the baseplate supports were in excellent condition. However there was one which should be cleaned and coated. This is not a major concern at this time but needs to be captured in a PIMS AR.
3. There were some mid bay supports which should be cleaned and coated. This should include the vertical members. This condition is not a major concern at this time but should be captured in a PIMS AR.
4. There was a chip in the coating on a mid-bay strap. This chip is located near the floor drain riser. It is not an immediate concern and can be performed later.
5. Some of the radiation barrier ropes and signs were down, but the barrier perimeter could be identified. All ropes and signs should be restored and the contamination and high radiation areas should be clearly marked. This should include the areas under and behind the Torus. This is of particular importance so that routine inspections can be made and which includes all areas behind the Torus.
6. There were some minor housekeeping items which should be removed, such as a screw driver and pliers under the Torus.

Immediate actions taken:

Verified that all conditions noted were minor in nature and were not an immediate concern.

Recommended Actions:

Create PIMS AR/s to include the following:

1. Empty all buckets in the Torus room and ensure that tubing is properly connected after buckets are emptied.
2. Perform coating repairs to all supports and mid bay strap. All areas should be cleaned and recoated in accordance with existing procedures.
3. Perform necessary radiation surveys and restore all signs and barriers as appropriate.
3. Perform a housekeeping tour of the area a remove all unnecessary debris.

AR - Assignment Report

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Operable Basis:

GRH: The primart containment is not impacted by any of these defficiencies, they are all minor in nature, and do not affect any SSC.

Reportable Basis:

not reportable.

Reviewed by: **GLENN R HUTTON** 03/24/2006 13:16:18 CST

Reviewer Comments:

no comments.

SOC Reviewed by: **THOMAS A POWELL** 03/30/2006 05:48:42 CST

SOC Comments:

3/26/06 tas Close to PIMS AR for coating

3/27/06 ARJ - To follow up for the IR that talked about radiological postings within the torus room. RPTs made an inspection and updated / straightened up the radiological postings. It should be noted that "there were no ropes or signs found down in the torus Rm as the IR had stated. At one spot the rope was moved inward so that work support could recoat a section of the torus and the rope had to be lowered to the floor where the torus wall drops to near floor level".

Followup Engineering

3/29/06 TAP - buckets have been emptied to allow trending of sand bed leakage. Close to PIMS AR.

Followup Engineering

3/30/06 TAP - Torus leak monitoring activities are being tracked on IR 348545. Close to PIMS AR.

Assignments

Assign #:	01	Assigned To:		Status:	AWAIT/C
Ass Fac:	Oyster Creek	Prim Grp:	ACAPALL	Due Date:	03/29/2006
Assign Type:	TRKG	Sec Grp:		Orig Due Date:	mm/mm/yyyy
Priority:					
Schedule Ref:					
Unit Condition:					
Subject/Description:	TORUS/TORUS ROOM MINOR DEFICIENCIES				

From: Quintenz, Tom <Tom.Quintenz@exeloncorp.com>
Sent: Friday, May 19, 2006 4:55 PM
To: Barbieri, Robert J <u777rjb@ucm.com>; Hutchins, Steven P <u001sh0@ucm.com>; Frank, James E <u777jef@ucm.com>
Cc: O'Rourke, John F. <t925jfo@ucm.com>; Ray, Howie <u001fhr@ucm.com>; Tamburro, Peter <na379@ucm.com>; Hufnagel Jr, John G <u000jgh@ucm.com>; Ouaou, Ahmed <u999ao2@ucm.com>; Warfel Sr, Donald B <u001dbw@ucm.com>; Polaski, Frederick W <u000fwp@ucm.com>
Subject: Leakage Monitoring for DW Corrosion Concerns.

Just got a phone call from John Hufnagel. He talked to Don Ashley our project manager for License Renewal today. The subject of the Poly Bottles for the monitoring of leakage from the sand bed came up. John is of the opinion based on the discussion, the NRC is going to be interested in hearing about our leakage monitoring program for the DW corrosion concern.

The lack of a formal program was documented previously in an IR, and some actions have been initiated to formalize the program and start the monitoring. I believe the message here is: We will be going to Public meetings in June with the NRC, specifically concerning the DW Corrosion concerns, and it would be good for us to be able to say we have a formal program which meets are present commitments (those made back in the 1995 time frame). I would expect also that we would like to be able to say that it has been implemented (completion of leakage monitoring activities in the field) and we know whether there is any leakage or not.

In addition, there were actions taken to collect the water from the poly bottles some time ago for the reason to analyze the water to determine if the source of the water could be determined, and whether the water was "old water" from leakage years ago, or whether the water was recent leakage. I do not know the status of this analysis. I also understand the Senior Resident was the person who participated in the retrieval of the samples.

Sorry for putting this in an e-mail today, but it appeared personnel were either not here or consumed by other activities today. Otherwise I would have had a face to face with you.

This is to serve as a way to formulate a discussion on this subject, and agree on a plan, which would benefit us in the upcoming discussions with the NRC and the Public.