



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
REGION I  
475 ALLENDALE ROAD  
KING OF PRUSSIA, PA 19406-1415

May 4, 2007

Richard Webster, Esq.  
Rutgers Environmental Law Clinic  
123 Washington Street  
Newark, NJ 07102-3094

Dear Mr. Webster:

This letter responds to the four issues you raised in your letters, dated March 2 and 20, 2007. In your letters you asked our views on the following four issues:

- 1) whether AmerGen should be cited for a violation of NRC regulations related to the discovery of water in collection bottles in the torus room during the Region I license renewal inspection during March 2006,
- 2) whether "conflicting accounts of the incident", when AmerGen disposed of the water in the collection bottles, may have misled the NRC about the incident,
- 3) whether AmerGen violated NRC regulations when it "failed to submit full and accurate information" in its license renewal application regarding the presence of water in the interior of the drywell, and
- 4) whether a torus inspection commitment, contained in an AmerGen letter to the NRC, dated May 1, 2006 (ML0612401710), was fulfilled during the 2006 fall outage at Oyster Creek.

An expanded response is attached to this letter addressing these issues.

In summary, the first two issues were addressed in NRC Inspection Report 05000219/2006007, dated September 21, 2006 (ML062650059), pages 23 and 24 and were discussed with you at the public inspection exit meeting on September 13, 2006. The first two issues were also discussed in the NRC's "Safety Evaluation Report Related to the License Renewal of Oyster Creek Generating Station," dated March 2007 (ML063630424), pages 3-130. We have reviewed the information you supplied and conclude the issues you refer to were dispositioned appropriately. In your letters, you did not provide information that was not already reviewed by the NRC during or subsequent to the inspection of March 2006. Failure to implement these commitments to the NRC, or to notify the NRC of these missed commitments, are not violations of NRC requirements.

R. Webster, Esq.

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For the remaining two issues, our inspection of the water found in the drywell trenches and Amergen's inspection of the torus was documented in NRC Inspection Report IR 05000219-06-013, dated January 17, 2007 (ML070170396). This document reports our review of AmerGen's implementation of license renewal commitments and its Inservice Inspection program, during the period October 16 to December 6, 2006. The inspection did not identify any significant issue and concluded license renewal commitments were dispositioned correctly.

I trust this letter is responsive to your request.

Sincerely,



Richard J. Conte, Chief  
Engineering Branch 1  
Division of Reactor Safety

Docket No: 50-219  
License No: DPR-16

Enclosure: Response to Issues Raised in Letters of March 2 and 20, 2007

cc w/Encl: See Attached

R. Webster, Esq.

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Site Vice President - Oyster Creek  
Nuclear Generating Station  
AmerGen Energy Company, LLC  
P.O. Box 388  
Forked River, NJ 08731

Senior Vice President of  
Operations  
AmerGen Energy Company, LLC  
200 Exelon Way, KSA 3-N  
Kennett Square, PA 19348

Kathryn M. Sutton, Esquire  
Morgan, Lewis, & Bockius LLP  
1111 Pennsylvania Avenue, NW  
Washington, DC 20004

Kent Tosch, Chief  
New Jersey Department of  
Environmental Protection  
Bureau of Nuclear Engineering  
CN 415  
Trenton, NJ 08625

Vice President - Licensing and  
Regulatory Affairs  
AmerGen Energy Company, LLC  
4300 Winfield Road  
Warrenville, IL 60555

Mayor of Lacey Township  
818 West Lacey Road  
Forked River, NJ 08731

Senior Resident Inspector  
U.S. Nuclear Regulatory Commission  
P.O. Box 445  
Forked River, NJ 08731

Director - Licensing and Regulatory Affairs  
AmerGen Energy Company, LLC  
Correspondence Control  
P.O. Box 160  
Kennett Square, PA 19348

Manager Licensing - Oyster Creek  
Exelon Generation Company, LLC  
Correspondence Control  
P.O. Box 160  
Kennett Square, PA 19348

Regulatory Assurance Manager  
Oyster Creek  
AmerGen Energy Company, LLC  
P.O. Box 388  
Forked River, NJ 08731

Assistant General Counsel  
AmerGen Energy Company, LLC  
200 Exelon Way  
Kennett Square, PA 19348

Ron Bellamy, Region I  
U.S. Nuclear Regulatory Commission  
475 Allendale Road  
King of Prussia, PA 19406-1415

Correspondence Control Desk  
AmerGen Energy Company, LLC  
200 Exelon Way, KSA 1—1  
Kennett Square, PA 19348

Oyster Creek Nuclear Generating Station  
Plant Manager  
AmerGen Energy Company, LLC  
P.O. Box 388  
Forked River, NJ 08731

## ENCLOSURE

### RESPONSE TO ISSUES RAISED IN LETTERS OF MARCH 2 AND 20, 2007

1. Whether AmerGen should be cited for a violation of NRC regulations related to the discovery of water in collection bottles in the torus room during the Region I license renewal inspection in March 2006.
2. Whether "conflicting accounts of the incident" in which AmerGen disposed of the water in the collection bottles, may have misled the NRC about the incident.

These issues are related to the monitoring of the drains of the former sand bed at Oyster Creek Generating Station and how the NRC addressed the licensee's performance deficiency. We have carefully reviewed the information you supplied and conclude you have not supplied information the NRC had not already reviewed during or subsequent to the inspection.

For example, Amergen does not necessarily document an action on the day the action was taken. Amergen documents that the action has been completed. Amergen did not hold on to the water for analysis for several days prior to disposal. Amergen simply documented the actions that had been taken several days earlier. NRC inspectors were on site at the time of the action and accurately reported what happened. Failure to implement these commitments to the NRC, or to notify the NRC of these missed commitments, are not violations of NRC requirements.

NRC Inspection Manual Chapter 0612, Appendix B "Issue Screening", (ML061300434), page B-3 describes the method used to characterize the licensee performance deficiency identified above. As stated on page 24 of Inspection Report 2006-007: "As long as the coating of the exterior surface of the former sand bed area is maintained, any amount of water can be present and have no affect on the corrosion rate." There is no impact on the intended function of containment, if the licensee does not monitor the drains at the former sand beds, because the impact to the intended function is managed by the coating integrity program, and thickness gauging of the upper portion of containment. All the questions on page B-3, Section 3, Minor Questions, are therefore answered no. This means, in turn, that the performance deficiency with respect to implementing a commitment was characterized, correctly, as not-greater-than-minor in the flow chart on page B-1 and, under normal circumstances, would not have been documented.

Therefore, we conclude the matters were dispositioned appropriately.

3. Whether AmerGen violated NRC regulations when they "failed to submit full and accurate information" in its License Renewal application regarding the presence of water in the interior of the drywell.

With respect to the third issue, you noted that corrective action was not taken when a condition adverse to quality was first identified in 1992. This issue was documented in NRC Inspection Report No. 2006-013 (page 9). The inspection report documents that the issue was subsequently entered into the Amergen's issue reporting process in a timely fashion and appropriately evaluated as not significant. You also noted that AmerGen did not include this condition in it's original License Renewal Application and, when AmerGen amended their application it mis-characterized the condition as a new finding.

In our inspection report, we documented that Amergen included the information, and an extent-of-condition review, in a letter to the NRC, dated December 3, 2006. We noted that the information was being reviewed by the NRC Office of Nuclear Reactor Regulation staff and would be included in the final safety evaluation report.

Finally, you noted that the missing information in the original License Renewal Application was a material fact that should be enforced in accordance with 10 CFR 54.13(a). Because the matter was included in an amendment to the application, we treated the additional information supplied by Amergen as a normal part of the application process and not something that was withheld with the intent of misleading the NRC.

4. Whether a torus inspection commitment from an AmerGen letter to the NRC, dated May 1, 2006 (ML0612401710), was met during the 2006 fall outage.

The second commitment enclosed in the AmerGen letter, dated May 1, 2006, was to update the acceptance criteria for the torus inspections. The commitment was subsequently eliminated in AmerGen correspondence, dated June 23, 2006 (ML061800302,) a change which was further reflected in a supplement of July 7, 2006 (ML061940020). This commitment was replaced by another commitment in the July 7<sup>th</sup> correspondence to conduct the inspection in accordance with ASME Code Section XI, Subsection IWE requirements.

You asserted the NRC did not review AmerGen Specification SP-1302-52-120 Revision 3, "Specification for Inspection and Localized Repair of the Torus and Vent System Coating," dated August 9, 2006 (ML070600397) during the fall outage of 2006. The specification was AmerGen's procedure for the inspection of the torus and it was reviewed as part of the documentation in NRC Inspection Report IR 05000219-06-013, dated January 17, 2007 (ML070170396) on page A-5.

On page 6 of the report, the inspector documented that the commitment was related to the visual inspection of the coating inside the torus. On page 8 of the report, the inspector noted that the VT (visual test) inspection procedure contained appropriate criteria for reporting nonconforming conditions and for dispositioning nonconforming conditions.