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 RE Oyster Creek Nuclear Power Plant

Docket Number: 50-219

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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10 CFR 2.206 PETITION REVIEW BOARD (PRB)

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TELECONFERENCE

+ + + + +

In the Matter of:

OYSTER CREEK

+ + + + +

Thursday, April 18, 2013

BEFORE:

ALLEN G. HOWE, Chairman

JOHN G. LAMB, Petition Manager

TANYA M. MENSAH, 2.206 Coordinator

PRESENT:

MERRILEE J. BANIC, NRR

JIM BARSTOW, Exelon

BRIANA G. BOLLINGER, Reactor Engineer, NRC

Region I

JEFF BROWN

PAULA GOTSCH

RICHARD GROPP, Licensing, Exelon

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PRESENT (Continued):

CHRISTOPHER C. HAIR, Esquire, Office of General
Counsel

GORDON K. HUNEGS, NRC Region I, Division of
Reactor Projects, Reactor Projects Branch 6

JEFFREY A. KULP, Senior Resident Inspector, NRC
Region I

AMAR C. PATEL, Resident Inspector, NRC Region I

DIANE P. SCRENCI, Public Affairs, NRC Region I

DOUGLAS B. TIFFT II, State Liaison Officer, NRC
Region I

RICHARD WEBSTER, Petitioner

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P-R-O-C-E-E-D-I-N-G-S

(8:01 a.m.)

MR. LAMB: I would like to thank everyone for attending this meeting. My name is John Lamb. And I am the Oyster Creek Senior Project Manager. We are here today to allow the petitioner, Mr. Webster, to address the Petition Review Board, PRB, regarding the 2.206 petition dated November 19th, 2012, as supplemented November 30th, 2012 and January 3rd, 2013. I am the Petition Manager for the Petition. The PRB Chairman is Allen Howe.

As part of the PRB's review of this petition, Mr. Richard Webster has requested this opportunity to address the PRB. This meeting is scheduled from 8:00 a.m. to 10:00 a.m. Eastern time. The meeting is being recorded by the NRC Operations Center and will be transcribed by a court reporter. The transcript will become a supplement to the petition. The transcript will also be made available to the public.

I would like to open this meeting with introductions. As we go around the room, please be sure to clearly state your name, your position, and the office that you work for within the NRC for the record. I will start off.

Once again, I am John Lamb, the Senior

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1 Project Manager for Oyster Creek and Seabrook in the
2 Division of Operating Reactor Licensing, DORL, in the
3 Office of Nuclear Reactor Regulation, NRR.

4 CHAIRMAN HOWE: Good morning. I am Allen
5 Howe. I am the Deputy Director in the Division of
6 Inspection and Regional Support in the Office of NRR. I
7 am also the Petition Review Board Chairman.

8 MR. HAIR: Good morning. This is Chris
9 Hair, attorney in the Office of General Counsel.

10 MS. BANIC: Lee Banic, NRR.

11 MS. MENSAH: Tanya Mensah, 2.206
12 Coordinator in the Office of NRR, Division of Policy and
13 Rulemaking.

14 MR. LAMB: Okay. And, Region I, can you
15 go?

16 MR. HUNEGS: Good morning. Gordon Hunegs,
17 Region I, Division of Reactor Projects, Reactor Projects
18 Branch 6, responsible for Oyster Creek.

19 MR. LAMB: And the residents?

20 MR. KULP: This is Jeff Kulp, one of the
21 senior resident inspectors of Oyster Creek for the NRC.

22 MR. PATEL: Amar Patel, resident inspector
23 on Oyster Creek for the NRC.

24 MS. BOLLINGER: Briana Bollinger, reactor
25 engineer for Region I, NRC.

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1 MR. HUNEGS: John, we have one more person
2 joining us here in Region I.

3 MR. TIFFT: Doug Tifft, State Liaison
4 Officer, NRC Region I.

5 MR. LAMB: Okay. Thank you.

6 MS. SCRENCI: John, this is Diane Screnci,
7 Region I Public Affairs also.

8 MR. LAMB: Okay. Thank you.

9 Representatives of the licensee, are you on
10 the phone?

11 MR. BARSTOW: Yes, John. Jim Barstow at
12 Oyster Creek with Exelon.

13 MR. GROPP: This is Richard Gropp from
14 Licensing.

15 MR. LAMB: Exelon, right?

16 MR. GROPP: Correct.

17 MR. LAMB: Okay. And the petitioners?
18 Mr. Webster, would you introduce yourself for the record
19 and any other petitioners you have on with you?

20 MR. WEBSTER: Certainly. I'm Richard
21 Webster from Public Justice in Washington, D.C. And I
22 think on a separate line, actually, are a few residents.
23 I'll let them introduce themselves.

24 MS. GOTSCH: Paula Gotsch.

25 MR. BROWN: Jeff Brown.

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1 MR. LAMB: Okay. Is that all the
2 petitioners on the line?

3 MR. WEBSTER: I believe so.

4 MR. LAMB: Okay. I would like to emphasize
5 that we each need to speak clearly and loudly to make sure
6 that the Court Reporter can accurately transcribe this
7 meeting. If you do have something that you would like
8 to say, please first state your name for the record.

9 For those dialing into the meeting, please
10 remember to mute your phones to minimize any background
11 noise or distractions. If you do not have a mute button,
12 this can be done by pressing the keys *6. To unmute the
13 button -- to unmute the phone, press the *6 key again.
14 Okay. Thank you.

15 At this time, I am going to turn it over to
16 the PRB Chairman, Allen Howe.

17 CHAIRMAN HOWE: Good morning. And thank
18 you, John, for starting the meeting. This is a meeting
19 regarding a 2.206 petition that was submitted by Mr.
20 Richard Webster.

21 Let me just start out by giving a little bit
22 of background on our process. Section 2.206, Title 10
23 of the Code of Federal Regulations describes the petition
24 process. It is the primary mechanism for the public to
25 request enforcement action by the NRC in the public

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1 process. This process permits anyone to petition the
2 NRC to take enforcement-type action related to NRC
3 licensees or license activities.

4 Depending on the results of its evaluation,
5 NRC could modify, suspend, or revoke an NRC-issued
6 license or take other appropriate enforcement action to
7 resolve a problem.

8 The NRC staff guidance for the disposition
9 of 2.206 petition requests is in Management Directive
10 8.11, which is publicly available.

11 The purpose of today's meeting is to allow
12 the opportunity for the petitioner to provide additional
13 support for the petition following the Petition Review
14 Board's initial recommendation.

15 This meeting is not a hearing, nor is it an
16 opportunity for the petitioner to question or examine the
17 PRB on the merits of the issues presented in the petition
18 request. No decisions regarding the merits of this
19 petition will be made at this meeting. Following the
20 meeting, the PRB will conduct an internal deliberation.
21 The outcome of this internal meeting will be discussed
22 with the petitioner.

23 The PRB typically consists of a chairman,
24 usually a manager at the Senior Executive level at the
25 NRC. It has a petition manager. And other members of

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1 the Board are determined by NRC staff based on the content
2 of the information in the petition request. Let me
3 introduce the Board at this point in time.

4 Again, I am Allen Howe and the PRB Chairman.
5 John Lamb is the Petition Manager for the petition under
6 discussion today. Tanya Mensah is the 2.206
7 Coordinator. Our technical staff includes Ms. Nancy
8 McNamara from Region I office; Doug Tifft, also from the
9 Region I office; Gordon Hunegs from the Region I office.
10 We also obtained advice from the Office of General
11 Counsel, who today is represented by Mr. Chris Hair.

12 As described in our process, the NRC staff
13 may ask some clarifying questions in order to better
14 understand the petitioner's presentation and to reach a
15 reasoned decision on whether to accept or reject a
16 petitioner's request for review under our 2.206 process.
17 Also as described in our process, the licensee has been
18 invited to participate in today's meeting to ensure that
19 they understand the concerns about their facility or
20 activities.

21 While the licensee may also ask questions
22 to clarify the issues raised by the petitioner, I want
23 to stress that the licensee is not a part of the Petition
24 Review Board's decision-making process.

25 Let me move forward to summarize the PRB's

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1 understanding of the scope of the petition under
2 consideration. And after that, I will also discuss the
3 NRC's activities to date. We received the petition on
4 November 19th, 2012. It was supplemented on November
5 30th, 2012. And on January 3rd, 2013, Mr. Webster, who
6 will be referred to as petitioner, submitted a petition
7 under Title 10 of the Code of Federal Regulations, Part
8 2.206.

9 The requests from the petitioner were to
10 keep Oyster Creek from restarting until the following
11 conditions are met. And I am going to read these
12 conditions. These are from the petition itself.
13 Number one, the evacuation plan is updated to reflect the
14 new reality post-Sandy, including evacuation to
15 shelters, off roads, emergency responders being further
16 away and more distracted, et cetera, and that the sirens
17 are repaired; the design storm for flood defense purposes
18 is updated to reflect the recent state of storms and
19 climate change and additional flood protection is put in
20 place as appropriate; the indications of cracks or their
21 precursors are investigated and the public is assured
22 through the release of additional data and analysis that
23 they pose no additional risk of nuclear catastrophe;
24 four, Exelon reviews whether the indications were
25 predicted by its modeling and whether it can predict that

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1 no problematic indications will develop before the next
2 inspection cycle; and proof of ability to predict fatigue
3 accurately is released to the public; and, five, to
4 ensure transparency, a public meeting with NRC is held
5 at which staff can satisfactorily answer the public's
6 concerns, including those above.

7 All right. Let me now discuss NRC
8 activities to date. Again, we received the petitions on
9 November 19th, 2012. On November 23rd, 2012, the
10 Petition Manager contacted the petitioners to discuss
11 the 2.206 process and offer the petitioners an
12 opportunity to address PRB by phone or in person. The
13 petitioners requested to address the PRB prior to its
14 internal meeting, make an initial recommendation to
15 accept or reject the petition for review.

16 The petitioners were informed on November
17 26th, 2012 via email of the Petition Review Board's
18 decision to deny the petitioners' request for immediate
19 action not to allow Oyster Creek to restart from its
20 refueling outage.

21 On November 28th, 2012, the petitioners
22 requested to have a public meeting to address the PRB.
23 On November 30th, the petitioners requested information
24 related to the reactor spray flange leak. On November
25 30th, 2012, the petitioners provided a supplement to the

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1 petition and requested that the public PRB meeting be
2 held close to Oyster Creek.

3 Following is a summary of the issues the
4 petitioners are concerned about: Number one, the root
5 cause of the control rod drive return nozzle safe and pipe
6 weld indications and the implications on the license
7 renewal aging management program; two, that Sandy
8 illustrates that beyond design basis storms are now more
9 probable than NRC has been assuming since 1969, when the
10 plant was first licensed; three, emergency preparedness
11 in the situation on the ground; and, four, the root cause
12 of the leak on the reactor spray system and the
13 implications on the license renewal aging management
14 program.

15 NRC communicated with the petitioners on
16 November 30th and December 6th of 2012 regarding
17 arrangements for the public PRB meeting. On December
18 12th, the NRC issued a public meeting notice for this
19 meeting and placed the notice on the public web page. On
20 December 31st, 2012, petitioners made a request for the
21 NRC to provide all of the documents the NRC staff reviewed
22 in its decision-making.

23 On January 2nd of 2013, the NRC informed the
24 petitioners that the public meeting would be held at the
25 NRC headquarters in Rockville, Maryland. The NRC also

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1 outlined information on the purpose and the format of the
2 public meeting, the public PRB meeting, as had been done
3 in the November 30th and December 6th, 2012
4 communications.

5 On January 3rd, 2013, the petitioners
6 addressed the Petition Review Board in a public meeting
7 held in the Commissioners' Hearing Room in Rockville,
8 Maryland. On January 3rd, 2013, the petitioners asked
9 further technical questions regarding the Oyster Creek
10 servicewater system.

11 On January 10th, 2013, the NRC issued the
12 special inspection team report regarding emergency
13 preparedness program performance and organizational
14 decision-making associated with Oyster Creek's response
15 to Hurricane Sandy on October 29th and 30th, 2012.

16 On January 11th, 2013, the NRC informed the
17 petitioners that the NRC's special inspection team
18 report was issued and available to the public. On
19 January 15th, 2013, the NRC informed the petitioners that
20 the transcript of the public Petition Review Board
21 meeting held on January 3rd, 2013 was available to the
22 public.

23 On January 15th, 2013, the petitioners
24 acknowledged reading the special inspection team report.
25 The petitioners had questions regarding servicewater

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1 cooling to the Oyster Creek emergency diesel generators.
2 On January 15th, the NRC responded to the petitioners'
3 questions regarding servicewater cooling to the Oyster
4 Creek emergency diesel generators.

5 On April 3rd, 2013, the Petition Review
6 Board met to discuss the petition. This was an internal
7 meeting. The Petition Review Board's initial
8 recommendation was that the petition did not meet the
9 criteria for review under 10 CFR 2.206. The petition
10 raised issues at Oyster Creek that have already been
11 reviewed, evaluated, and resolved by the NRC.

12 On April 5th, 2013, the Petition Manager
13 informed the petitioner of the Petition Review Board's
14 initial recommendation and asked the petitioner if he
15 desired another opportunity to address the PRB.
16 Petitioner requested another opportunity to address the
17 PRB, which is the purpose of today's teleconference.

18 Just one other note that I want to make is
19 that I've gone through a lot of activities and
20 interactions, communications with the petitioners. All
21 of these documents that I referenced are available in
22 our public document system, which is referred to as
23 ADAMS. I have accession numbers. I did not read all of
24 the accession numbers to identify the documents to you,
25 but if you have any questions on that, we can certainly

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1 provide those to you.

2 Moving forward, just as a reminder today for
3 this meeting for any of the participants at the meeting,
4 please identify yourself if you make any remarks as this
5 will help us in the preparation of the meeting transcript
6 that will be made publicly available.

7 At this point in time, Mr. Webster, I will
8 now turn the meeting over to you to allow you to provide
9 any additional information that you believe that the
10 Petition Review Board should consider as part of this
11 petition. At this time, you will have about an hour and
12 a half to make your presentation. So, with that, let me
13 turn it over to you, Mr. Webster.

14 MR. WEBSTER: Thanks so, Mr. Chairman. I
15 shouldn't need an hour and a half, I don't think. So I'll
16 try and be as brief as possible. And hopefully we can
17 wrap up a little bit early.

18 First of all, I want to thank you for the
19 opportunity to make another presentation to the PRB. I
20 would like to start by putting kind of a note in the record
21 about the process here. Normally, I believe the PRB is
22 supposed to have some degrees of separation from the
23 staff itself. The title is Petition Review Board. The
24 implication is that it is a separate entity from the NRC
25 staff, though it may be composed of members of the NRC

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1 staff.

2 However, functionally, the
3 Board -- functionally there is no separation between the
4 Board and the staff. And we see that, in particular,
5 because the Board regards the staff presentation to the
6 Board as an internal communication and has, therefore,
7 denied us access to that staff presentation.

8 Now, I believe that this degrades the
9 quality of the process for two reasons. First, to the
10 extent the Board and the staff are one, it is extremely
11 difficult for the Board to review any actions of the staff
12 because generally when somebody reviews their own
13 action, they conclude their own action was perfectly
14 fine. And so a lack of separation between the Board and
15 the staff degrades the ability of the Board to review
16 staff action.

17 And the other component is that this lack
18 of separation, of course, which uses the transparency of
19 the process because we, the petitioners, have been unable
20 to see what the staff has presented to the Board.

21 And so I think here that this process isn't
22 working as effectively as it could. And we should
23 consider, first of all, is this the way the process is
24 designed; and, second of all, if it is the way the process
25 is designed, could the process be changed.

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1 Well, I think, actually, with Management
2 Directive 8.11, I don't think this is the way the process
3 is designed. I think that within that document, that
4 there is discussion of separation between the staff and
5 the Board. And particularly, as we discussed at a
6 previous meeting, there is discussion about a staff
7 presentation to the PRB. Now, if the staff and the PRB
8 are one, obviously that concept doesn't really make
9 sense.

10 And so I do think, Mr. Chairman, that we have
11 a situation where there needs to be greater attention
12 paid to separation between the Board and the staff.

13 I'll pause there if anybody else wants to
14 put in any discussion on that.

15 MR. LAMB: This is John Lamb with the NRC.
16 The attachment that I sent to you on the email about the
17 initial recommendation, that attachment was what I
18 presented to the PRB Board.

19 MR. WEBSTER: The attachment that is
20 entitled "2.206 Petition by New Jersey Environmental
21 Federation, et al."?

22 MR. LAMB: Yes, the one where it goes
23 through each one of the issues: The sirens --

24 MR. WEBSTER: Okay.

25 MR. LAMB: That was what I presented to the

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1 PRB Board members.

2 MR. WEBSTER: Okay. And the PRB Board
3 members, then it's up to them in its entirety?

4 MR. LAMB: Yes. That was their initial
5 recommendation.

6 CHAIRMAN HOWE: Yes. Let me clarify.
7 That is the information that we -- this is Allen Howe,
8 the Board Chairman. That's the information that was
9 presented to the Board. You used the term "adopted it."
10 I wouldn't say that we adopted it, but we used that as
11 our deliberation and decision-making.

12 MR. WEBSTER: Okay. But, then, the
13 Board's initial decision was the same as the staff's
14 recommendation, it appears.

15 CHAIRMAN HOWE: Yes.

16 MR. WEBSTER: Okay. Well, that kind of
17 answers, I guess, my second question, which was with
18 regard to the -- Mr. Lamb and I had an email exchange,
19 where I made some comments upon that initial decision.
20 This is my email dated -- let's see -- my email. Well,
21 Mr. Lamb responded to my email on April 11th,
22 clarifying -- oh, my email is dated April 9th, clarifying
23 some issues. And I wonder to the extent, was that
24 response from the PRB or was that from Mr. Lamb?

25 MR. LAMB: That's from me.

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1 MR. WEBSTER: Okay. And the PRB reviewed
2 it?

3 MR. LAMB: They are copied on any email I
4 sent to you. I copy them.

5 MR. WEBSTER: Okay. Perhaps I can ask the
6 Chair. Mr. Chairman, is this a supplement to the PRB's
7 initial decision or where does this lie, this additional
8 communication with Mr. Lamb, with the Board?

9 CHAIRMAN HOWE: Okay. Mr. Webster, give
10 me just a minute.

11 MR. WEBSTER: Okay.

12 (Pause.)

13 CHAIRMAN HOWE: Okay. Mr. Webster, thank
14 you for waiting for a moment.

15 Let me ask you a couple of questions here
16 with regard to the email from Mr. Lamb. Are you asking
17 that this information be supplemented to the petition?

18 MR. WEBSTER: Well, no. I mean, let me be
19 clear. What I am asking is, is this response from Mr.
20 Lamb response from the NRC staff or a response from the
21 PRB?

22 MR. LAMB: The staff.

23 MR. WEBSTER: Okay. And then I'm asking,
24 will the PRB consider incorporating this response into
25 its decision or will the PRB consider this additional

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1 staff response to me in its final decision?

2 CHAIRMAN HOWE: Mr. Webster, the question
3 that we have right now is, are you asking that this be
4 considered as supplemental to the petition? The purpose
5 of the meeting today is to allow you to provide any
6 additional information that you choose to provide to
7 supplement the petition.

8 MR. WEBSTER: Yes. I mean, let me be
9 clear. I want to understand what the -- before I go on
10 to that, I want to be clear what the additional decision
11 and what the recommended decision of the PRB is that we're
12 discussing. And at the moment, I am unclear about the
13 status of this additional response.

14 I don't think it's -- see, the reason
15 I'm -- don't want to ask for it to be a supplement is
16 because I haven't asked that in my email, I don't go
17 beyond the scope of my initial or of our initial petition.
18 I just point out that the decision failed to address
19 certain things that were already included in our
20 petition.

21 And so, really, I don't need to -- there is
22 no need for me to supplement the petition. The petition
23 included these issues. It's just the decision did not
24 include these issues.

25 And so what I am asking is, will the PRB

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1 consider actually -- sort of I am asking the same question
2 in reverse. Well, is the PRB going to consider
3 supplementing its initial recommended decision with
4 these additional items, which will make it more complete?

5 CHAIRMAN HOWE: Mr. Webster, I understand
6 what your question is. And when the PRB reconvenes
7 following this call, we will review the information that
8 Mr. Lamb provided to you with regard to the context of
9 the petition that you submitted.

10 MR. WEBSTER: Okay. Thank you.

11 I think, again, this is an illustration of
12 the lack of clarity of separation between the Board and
13 the staff. I think it's very easy for everybody to get
14 confused about who is speaking for whom. And so, again,
15 I would recommend that it would be fairer and more
16 effective to have a much clearer separation and to allow
17 the public access to the communications to the PRB from
18 the staff at the time those communications are made.

19 Moving on, I really only want to deal with
20 a couple of issues. The main issue I want to deal with
21 concerns flooding. General design criterion 2 states
22 the design bases for the structures, systems, and
23 components, which are basically the safety systems,
24 shall reflect appropriate consideration of the most
25 severe natural phenomena that have been historically

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1 reported to the site and surrounding area with sufficient
2 margin for the limited accuracy, quantity, and period of
3 time in which the historical data have been accumulated.

4 Now, I have looked back to see what
5 natural -- what was the extreme natural phenomena that
6 were incorporated into design basis. And I found a
7 document dated December 23rd, 1968 entitled "Safety
8 Evaluation" by the Division of Reactor Licensing, U.S.
9 Atomic Energy Commission in the matter of Jersey Central
10 Power and Light Company, Oyster Creek Nuclear Power Plant
11 Number 1, Docket Number 50-219. And that's at
12 ML041690070.

13 MR. LAMB: Mr. Webster, it is John. Could
14 you repeat that ML number again?

15 MR. WEBSTER: Yes, 041690070.

16 MR. LAMB: Okay. Thank you.

17 MR. WEBSTER: Okay. And on page 2, it has
18 a little note on hydrology. And it says, "Flood
19 protection is provided so the plant can be safely shut
20 down for a flooding level as high as approximately 23 feet
21 above mean sea level. The maximum flood height recorded
22 at this facility is 4.5 feet above mean sea level." So
23 the natural phenomenon, the worst natural phenomenon,
24 that formed the design basis at the plant was a 4.5 feet
25 flood.

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1 Now, according to I think the inspection
2 team report, the flood associated with Sandy was at 7.4
3 feet. So it's not quite twice as much, but I think you
4 can see it's --

5 MR. LAMB: Mr. Webster, this is John Lamb
6 again. I believe in the FSAR, there are probable maximum
7 hurricanes that they looked at and also some noreasters.
8 I believe there was something from 1956 that came up with
9 the 23 feet. And that's the maximum flood level that
10 they are or 22 feet, I think, is what it came to with the
11 wave runup and wind and all that stuff. I believe --

12 MR. WEBSTER: That's right.

13 MR. LAMB: I believe that's why the
14 number -- that's why they put it at 23 feet, because I
15 think the design was at 22 for some hurricane. And I
16 think it was 1956, but I would have to look at that. But
17 I believe that is where that --

18 MR. WEBSTER: Yes.

19 MR. LAMB: -- information is coming from.

20 MR. WEBSTER: Yes. I think that's
21 correct. I mean, to be clear, I think that what has been
22 done -- and, actually, I have another document I am moving
23 on to in a minute. I think what has been done is that
24 they have taken the observed worst-case natural
25 phenomenon and then have made extrapolations for what the

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1 worst case could be given additional combinations of
2 phenomena. So, basically, if you have a flood
3 associated with a hurricane, then you can combine, you
4 know, flood surge with storm surge and tide surge and all
5 of these other things and end up with a probable maximum
6 flood.

7 But my point is that the natural phenomenon
8 record was the time the design basis was established, the
9 probable maximum flood was established didn't include
10 Hurricane Sandy, which has a much greater flood level
11 than had been previously experienced.

12 And so the question comes, then, GDC2
13 requires appropriate consideration that the most severe
14 natural phenomena have been historically reported. So,
15 then, the question comes, well, what is appropriate
16 consideration?

17 At the moment, the way the staff, as I
18 understand it, Mr. Lamb, -- feel free to correct me, but,
19 as I understand it, what the staff has done is compared
20 the flood height observed, which was 7.4 feet, with the
21 maximum design flood, which is 23 feet, I think 00 let
22 me just correct that -- the maximum design flood, which
23 will be 22 feet, and say, "Well, it's less. 7.4 is less
24 than 22. So there's not a problem." Well, I think that
25 is overly simplistic because the way the flood is

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1 calculated is, as I say, taking a combination of unlikely
2 events together. And so I think it would be worth really
3 running this flood analysis.

4 Now, actually, just to give perhaps some
5 comfort, the staff did do some more work on the flooding
6 issue in around 2000. There's a document entitled
7 "Transmittal of Research Information, Letter RIL0001,
8 "Probabilistic Storm Surge Elevations for the Atlantic
9 and Gulf Coasts," which is dated November 16th, 2000 and
10 it's ML003756965 and actually describes in a little more
11 detail this research information letter how the floods
12 were calculated and does some recalculations of floods.

13 And what it finds is that, actually, for
14 Oyster Creek, the recalculated flood was considerably
15 lower than the design levels. For Oyster Creek, it was
16 actually -- the recalculated flood by a different method
17 was 12.1 feet lower. So the staff, therefore, left the
18 flood height, the flood design height, at 22 feet.

19 So it's quite possible that after
20 appropriate consideration of this Hurricane Sandy flood,
21 that the staff would decide to leave the probable maximum
22 flood the same level. But at the moment, we haven't had
23 appropriate consideration because appropriate
24 consideration requires the staff to review how the worst
25 natural phenomenon experience affects the calculation of

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1 the probable maximum flood. And the staff simply hasn't
2 done that yet unless I'm mistaken.

3 And perhaps I could pause there and see if
4 the staff has a comment.

5 MR. LAMB: This is John Lamb again. As
6 part of the Japanese Lessons Learned Task Force, all
7 licensees are redoing their flood analysis. So what
8 you're asking is in the process of being done.

9 MR. WEBSTER: Well, right. I understand
10 that there was a process, which is due March 2015, I
11 think, but what that would mean is if appropriate
12 consideration hasn't been given yet to Hurricane Sandy,
13 that the plant is currently out of compliance with GDC2.

14 And so, if that were the case, I would expect
15 the staff would issue some sort of enforcement discretion
16 letter or something. I mean, the whole point of this
17 process, the process as I understand it, is to determine
18 whether the plant is in compliance with the regulations.
19 The regulations require appropriate consideration. And
20 that is why we asked for no restart, so appropriate
21 consideration was given. If appropriate consideration
22 has not yet been given but is underway, then there is a
23 noncompliance.

24 And so, I mean, maybe, Mr. Lamb, do you agree
25 with me that so far appropriate consideration hasn't been

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1 given?

2 MR. LAMB: Mr. Webster, this is John Lamb
3 again. I told you the FSAR has the design level that was
4 the maximum for the last 100 years. They looked at all
5 the noreasters and hurricanes. And the 22 feet is the
6 design level. Hurricane Sandy did not exceed that
7 design level.

8 MR. WEBSTER: That's correct. And that's
9 what I am saying. That is the design level because that
10 wasn't the worst. That's not -- the 22 feet isn't the
11 worst storm that's ever been experienced at the site.
12 That's the design level. The worst problems are going
13 to be experienced at the site. The design level results
14 from the historic record that included the maximum flood
15 height has been 4.5.

16 MR. LAMB: The plant was designed to be at
17 23 feet because of the 22-foot design levels.

18 MR. WEBSTER: That's correct.

19 MR. LAMB: So they matched GDC2 when they
20 were licensed, and that hasn't changed.

21 MR. WEBSTER: No. It has because let me
22 read GDC2 again. Right? "It requires appropriate
23 consideration of the most severe natural phenomena that
24 have been historically recorded for the site and
25 surrounding area with sufficient margin." Okay? I

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1 agree with you that they met GDC2 when they designed the
2 plant, but my contention is that GDC2 doesn't just
3 apply -- GDC2 is an ongoing requirement.

4 And so when the natural flood -- when a more
5 severe natural phenomenon is observed at the plant, the
6 design basis should be updated. And that's what
7 appropriate consideration is.

8 Now, as I say, it may be, then, if the staff
9 looks at and recalculates the probable maximum flood,
10 that it comes up with a number that is less than or the
11 same as the current maximum flood. That's fine. That
12 would be appropriate consideration. But at the moment,
13 all the staff has done is compared the Hurricane Sandy
14 level with the design flood. That is not appropriate
15 consideration because it doesn't consider how the worst
16 ever experienced, which is Sandy, could change the
17 maximum flood number.

18 MR. LAMB: Mr. Webster, this is John. I
19 disagree that Hurricane Sandy was the worst natural
20 phenomenon at Oyster Creek. It's the 1956 hurricane
21 that they designed for, which was the worst case.

22 MR. WEBSTER: I know. What was --

23 MR. LAMB: It did not exceed that level.

24 MR. WEBSTER: Well, I'm quoting from this
25 1968 document, which says, "The maximum flood height

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1 recorded at this facility is 4.5 feet above MSL." Do you
2 disagree with that document?

3 MR. LAMB: I tell you it was designed for
4 22 feet at the design level.

5 MR. WEBSTER: Yes. Let me reread what I
6 read from this document. "Flood protection is provided
7 so the plant can be safely shut down for a flooding level
8 as high as approximately 23 feet above mean sea level.
9 The maximum flood height recorded at this facility is 4.5
10 feet above mean sea level." Okay?

11 So yes, I agree with you that the design
12 height was 22 feet, but that 22 feet was based on a maximum
13 flood level that had been actually observed for 4.5 feet.
14 That document is dated 1968.

15 Unless the staff has other documents that
16 contradict this document, I think the Board should take
17 account of this document. Does the staff have documents
18 that contradict this document?

19 CHAIRMAN HOWE: Mr. Webster, we understand
20 your point with regard to this. Mr. Lamb has provided
21 you some information regarding what the design documents
22 were.

23 I will also make a note as indicated as a
24 part of the lessons learned from the events in Japan. We
25 have made a request for information from the licensee,

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1 which is to reevaluate the flooding hazards at the site.
2 I think you are aware of that. You mentioned that the
3 due date for that flooding reassessment was in 2015.

4 As the NRC evaluated the schedule and the
5 priorities for the timetable for licensees to submit that
6 information, we determined that it was appropriate to
7 have that type of a schedule.

8 That being said, as I said, we understand
9 your point with regard to your question on the
10 consideration of GDC2. And when the PRB reconvenes, we
11 will evaluate that point.

12 MR. WEBSTER: Okay. Good. Well, I thank
13 you, Mr. Chairman. I mean, I think that's the important
14 thing, that GDC2 -- I mean, the general reevaluation is
15 not triggered by GDC2. You know, the general
16 reevaluation of flood hazards is based on I think a few
17 different lessons learned arising from the Japan
18 situation. And GDC2 and those situations don't trigger
19 reevaluation of the GDC2. So I think that this is a
20 slightly different situation or slightly different
21 trigger than the reevaluation caused by Fukushima
22 lessons learned.

23 And, as I say, it is my interpretation of
24 these regulations that plants are supposed to be in
25 compliance with these design criteria on an ongoing

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1 basis. And the staff should keep the design basis
2 current, not just -- it doesn't just get fixed at the time
3 of design. It needs to be updated periodically for new
4 issues that come along. And in this case, GDC2 appears
5 to anticipate updating of the flood levels when floods
6 greater than the historical maximum are recorded.

7 And neither the staff nor the licensee has
8 addressed this. So we're asking the PRB for a ruling
9 about whether the plant is currently in compliance,
10 whether the staff has given, the staff or the licensee,
11 whoever you think this applies to, has given, appropriate
12 consideration of the most severe or whether the design
13 reflects appropriate consideration of the most severe
14 natural phenomena that have been historically recorded.

15 Again, just to reiterate, merely comparing
16 the 7.5 feet with the 22 feet is not appropriate
17 consideration. The appropriate consideration is to
18 look first about whether the Hurricane Sandy event was
19 indeed the most severe natural phenomenon that had been
20 recorded. I believe it was based on this 1968 document.

21 And so if true that Hurricane Sandy is the
22 most severe natural phenomenon that had been -- most
23 severe natural flooding that has been observed, then
24 appropriate consideration is to reevaluate what the
25 maximum flood is. And so far that hasn't been done. And

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1 so we hope the PRB will fully address that issue.

2 CHAIRMAN HOWE: Mr. Webster, as I indicated
3 before, we understand your point. And the PRB will
4 evaluate the request that you have made.

5 MR. WEBSTER: Okay. Well, I think at that
6 point, I think that all of the other points -- I mean,
7 I think the reporting obligation is gone where we believe
8 that it would be appropriate for the staff to interpret,
9 the PRB to interpret this reporting to include situations
10 where the off site -- let me back up a little bit.

11 There is the issue about the reporting
12 obligation. The reporting obligation requires the
13 licensee to report any event that results in a major loss
14 of emergency assessment capability, off-site response
15 capability, or off-site communication capability.

16 Here, as we noted at the presentation to the
17 PRB, Exelon did provide two event reports that discussed
18 the lack of sirens or the impairment of the sirens but
19 didn't discuss any other degradation of off-site
20 response capability. We believe that a complete report
21 would have at least mentioned that, in addition to
22 degradation of the sirens, there is a degradation of
23 off-site response capability due to blocked roads,
24 widespread flooding, you know, lots of other problems.

25 So, that said, I think there is some play

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1 in the interpretation of the regulation because it does
2 talk about notification of the event. So, you know, I
3 can see how the staff can get to its result there that
4 Exelon had no obligation to report, to go beyond
5 reporting the siren failures in the event itself, but I
6 would note that from our perspective, it would be
7 possible for the staff to interpret these regulations in
8 a way that provides the staff with as much information
9 as possible during emergency events, rather than
10 allowing licensees to merely share minimal information.

11 I think those are really my main points. So
12 I don't want to take up your time discussing other things.
13 I mean, we really don't have any new information to
14 provide on the other issues. I do note on the reactor
15 pressure vessel cracks that there is an implication in
16 the response that the licensee did change its aging
17 management plan because it does state that it is only
18 qualified to the next outage and that we are going to
19 verify that at the next outage.

20 So I think we can infer from that that there
21 was a change in the -- yes. It's on page 8 of Mr. Lamb's
22 recommended decision. It states, "The licensee
23 concluded that the N9 nozzle weld overlay can safely
24 operate from one operating site for 24 months. And
25 subsequent analyses will be performed to support safe

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1 operation for continued operating cycles." So it does
2 say that the AMP was abated.

3 We have no information at all on how the
4 licensee reached its conclusion. And I guess I just want
5 to check. The only thing I want to check there is if the
6 staff agrees with the licensee's conclusion.

7 CHAIRMAN HOWE: Gordon, can you speak to
8 the inspection report that reviewed the licensee's
9 activities related to that?

10 MR. HUNEGS: Sure, Allen. This is Gordon
11 Hunegs, Reactor Projects Branch Chief.

12 And we had what we term an in-service
13 inspector person trained in NDE [non-destructive
14 examination] and very familiar with processes to conduct
15 these kinds of inspections review that specific rate on
16 site. And the conclusion that was reached based on his
17 assessment of it was that licensee met code requirements.
18 That's ASME code requirements for determining that that
19 nozzle, N9 nozzle, was operable.

20 So when you ask "How was that conclusion
21 reached?"; Mr. Webster, that was reached through an
22 inspection process using our procedures and a technical
23 expert on the subject.

24 MR. WEBSTER: Okay. Could I just clarify?
25 That wasn't precisely my question. My question

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1 precisely is not whether the nozzle was determined to be
2 operable as of now. It was how its operability is
3 projected over the next 24 months.

4 MR. HUNEGS: Okay. So you are asking how
5 was the operability projected over the next 24 months.
6 That is also -- as part of the evaluation process, our
7 inspectors work at code requirements. And there are
8 calculations that are done based on the observations that
9 they had from the NDE that they can make a conclusion that
10 that nozzle would remain operable for that period of
11 time.

12 MR. WEBSTER: Okay. Let me just be very
13 clear that the decision here said that the licensee
14 concluded that the N9 nozzle weld overlay can safely
15 operate.

16 MR. HUNEGS: We looked at that decision.

17 MR. WEBSTER: Okay. And you can assure the
18 staff has reviewed that conclusion and concurs with it?

19 MR. HUNEGS: Absolutely.

20 MR. WEBSTER: Okay. Okay. I think that
21 is all I have, Mr. Chairman. So I don't want to take up
22 unnecessarily any of your time unless there are some
23 questions from the staff or from the licensee.

24 CHAIRMAN HOWE: Okay. Mr. Webster, thank
25 you. Let me ask at this time if anyone from the NRC staff

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1 at headquarters has any questions for petitioner.

2 MS. MENSAH: This is Tanya Mensah. I am
3 the 2.206 Coordinator.

4 Mr. Webster, I just wanted to clarify
5 because at the beginning of your presentation, you raised
6 what you called process concerns that you would be
7 interested in having the NRC consider. So I just wanted
8 to let you know that the NRC is in the process of revising
9 the management directive and that input similar to what
10 you provided has been provided by other petitioners in
11 that there is -- in terms of the composition of the Board,
12 we do have technical experts, who may or may not have been
13 involved in the issues that have been raised in the
14 petition.

15 However, the way the management directive
16 is written is that the technical experts by themselves
17 don't make the Board. It consists of a chairperson.
18 That is an SES manager. It consists of an OGC adviser.
19 It has a coordinator to ensure that the staff are
20 following the process and going through the criteria to
21 determine if it meets the criteria for review or
22 rejection. And depending upon the, you know, issues
23 raised, it could also have a number of representatives
24 from other offices, such as the Office of Investigations
25 or Office of Enforcement.

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1 So those are all the ways that the
2 management directive tries to guide the staff in forming
3 the Petition Review Board to ensure that there is
4 diversity in thought and some independence of that,
5 whatever the technical staff are aware of that was
6 required through our processes.

7 So I just wanted to raise that just for
8 clarification. And thank you for bringing that to our
9 attention.

10 MR. WEBSTER: Thank you.

11 CHAIRMAN HOWE: Is there any other NRC
12 staff that is on the phone that has any questions or
13 comments at this point in time?

14 (No response.)

15 CHAIRMAN HOWE: I'll take that as no
16 additional questions or comments from the staff at this
17 point in time. The licensee was on the call also. Do
18 you have any questions or comments at this time?

19 MR. BARSTOW: This is Jim Barstow for the
20 licensee. No comments or questions.

21 CHAIRMAN HOWE: Okay. NRC?

22 MR. WEBSTER: Mr. Chairman, can I just ask
23 if the Oyster Creek residents have any questions or
24 comments?

25 MR. BROWN: We do not.

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1 MR. WEBSTER: Sorry.

2 CHAIRMAN HOWE: All right. Thank you.

3 For the NRC Operations Center, could you
4 please unmute the lines at this point in time? Okay.
5 There were two other individuals that were on the phone
6 line, petitioners, Paula and Jeff, I believe. Do you
7 have any questions about the 2.206 process at this point?

8 MS. GOTSCH: Not at this point. Thank you.

9 MR. BROWN: Not I. Thank you.

10 CHAIRMAN HOWE: Okay. Thank you. Okay.

11 One other thing. This teleconference is
12 being transcribed. Does the Court Reporter have any
13 questions or need any clarifications at this time?

14 THE REPORTER: This is the Court Reporter.
15 I do not.

16 CHAIRMAN HOWE: All right. Thank you.
17 All right.

18 At this point, Mr. Webster, thank you.
19 And, petitioners, thank you for taking the time to
20 provide the NRC staff with clarifying information on the
21 petition that you have submitted.

22 MR. WEBSTER: Thank you, Mr. Chairman, for
23 the opportunity to present once more.

24 CHAIRMAN HOWE: And unless there are any
25 other comments or questions at this point in time, we will

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1 conclude the meeting and terminate the teleconference
2 here.

3 (No response.)

4 CHAIRMAN HOWE: Okay. Thank you very
5 much.

6 (Whereupon, the foregoing matter was
7 concluded at 9:01 a.m.)
8
9

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